Smugglers and Excisemen: The History of Whisky in Scotland, 1644 to 1823

Sandra White, The University of Western Ontario

Supervisor: Forster, Benjamin, The University of Western Ontario
: Rhoden, Nancy, The University of Western Ontario

A thesis submitted in partial fulfillment of the requirements for the Master of Arts degree in History

© Sandra White 2020

Follow this and additional works at: https://ir.lib.uwo.ca/etd

Part of the Social History Commons

Recommended Citation
https://ir.lib.uwo.ca/etd/7274

This Dissertation/Thesis is brought to you for free and open access by Scholarship@Western. It has been accepted for inclusion in Electronic Thesis and Dissertation Repository by an authorized administrator of Scholarship@Western. For more information, please contact wlsadmin@uwo.ca.
Abstract

This thesis aims to fill in gaps in the study of whisky history that exist and explore how whisky culture was used by Scots to protest taxes, the Act of Union, the British government, English influence in Scotland, and to assert nationality. Throughout the 18th century, whisky was used as a political tool by the illegal and legal whisky trades and the Scottish and British governments for political and financial gains. How whisky was politicised and used is examined throughout this study to understand better how whisky moved from a cottage handicraft to a commercial industry. Excisemen played a critical role in how illicit distillers, smugglers, and legal distillers operated, and how the British government finally gained control over the illegal whisky trade. Early authors viewed these men as anti-heroes, but through the use of the Board of Excise records, court documents and private correspondence, this study re-evaluates their importance and place in whisky's history.

Keywords: whisky, Scotland, Scotch, politics, 1707 Act of Union, 1715 Jacobite Rebellion, 1745 Jacobite Rebellion, 1746 Act of Proscription, Malt Tax Riots, Malt Riot, smuggling, illegal whisky, illicit whisky, excise, excisemen, Board of Excise
Summary

This thesis explores the history of whisky, and excise laws and excisemen from 1700 to 1823. The role of excise laws and excisemen are as important to the history of whisky as illicit distillers and smugglers. Without knowing the complicated history of whisky, and how excise fits into that history, it is difficult to appreciate how Scotch whisky became so popular. Scotch whisky is steeped in rebellions, riots, illicit stills, smuggling and violence all to protect whisky from high taxes and poor-quality whisky that threatened to outprice and outpace good quality whisky. Many Scots, who were otherwise law-abiding citizens, were willing to commit crimes to produce good quality whisky without government interference and industrialized ideas. They used whisky as a political pawn to protest the British government’s whisky taxes and the authority of excise officers within the Scottish borders. Whisky was ingrained in Scottish culture as it was used in wedding, funeral and christening rituals; it was also used for medicinal purposes, to heal the sick or wounded. Whisky was an important aspect of Scottish life, and high taxes threatened the poor Scot’s way of life which they wanted to protect. The history of whisky is not merely the story of the amber liquid, but the history of Scotland and the Scottish culture.
Acknowledgments

I would like to thank Dr. Benjamin Forster, my thesis supervisor, for his kindness and patience throughout the thesis process. Also, for agreeing to be my supervisor despite his retirement and providing edits and feedback when he could have been sipping margaritas poolside. Dr. Forster’s insight and revisions were critical to my thesis, and I thank him for all his help and work during the past year.

Secondly, I would like to thank my second reader Dr. Nancy Rhoden, whose kindness and encouragement helped me throughout my entire program. Thank you for the invaluable feedback on my thesis.

I would also like to thank Dr. Sandra den Otter, from Queen’s University in Kingston, who introduced me to the idea of whisky as an academic study. Without her introduction I would never have realized the importance of the history of food and drink.

To my sister Janice who has always shown me unconditional love and encouragement and believed in all my wild dreams when others may not have. And, to my Mom and Dad whose support, and care of my fur-baby Bailey, enabled me to spend three months conducting research in Scotland to complete this thesis and allowed me to attend university in the first place.
Glossary

Abv: Alcohol by Volume, a standard of measurement for the alcohol content of alcoholic beverages.

Alembic- to purify from the Arabic al-ambiq, derived from the Greek work ambix.

Aqua vitae- Latin for water of life, the term used for an alcoholic drink.

Baile- Gaelic term for village or town. Used to describe Highland farming communities.

Barber-Surgeon- medical practitioners who could perform surgeries, such as bloodletting, amputations, teeth extractions and other surgeries. They also cut hair, shaved men and could give an enema. Physicians seldom conducted surgery in the Middle Ages, rather it was the job of the barber-surgeon who owned razors and had a steady hand for shaving with a straight razor or cutting off a leg. The traditional barber’s pole indicated barbers who performed surgery.

Boll- a unit of measure for volume used in the Middle Ages in Scotland. A boll of barley would be equal to 320 pounds, oat equaled 264 pounds, and flour equaled 140 pounds.

Brouges-a type of working shoe, with a low heel and made out of leather with perforations.

Calvinists- a branch of Presbyterianism that follows the preaching and practices of John Calvin, who was leader during the Protestant Reformation. Followers of his teachings are Presbyterians.

Charging- means to fill a still with wash. The continuous still allowed wash to be fed into the still so it was always charged.

Clan- Scot Gaelic for family evolved from the Celtic tribal society. Everyone within a clan were not always related, but everyone was loyal to the clan chief.

Convertible husbandry- this method of farming is the conversion of arable fields to be temporarily converted into grass for pasture. It was important to fallow land for pasture to utilise fertilizer which was used in greater quantities after the new farming techniques were applied to farming.

Cudgel- is a club type weapon, usually made of wood and is short and thick.

Currency- England and Scotland used the same currency since King James VI and I united the crowns in 1603. The only currency symbols used in this thesis are £, s, and d, and mean pound, shilling and pence. The letter d. means denarius or denarii that remains from the Roman period, as they were Roman coins.

Cutting the head- means keeping the frothing foam from rising over the washback.

Dirk- a long knife used in combat and worn as a personal side arm.
Divine Right of Kings- a political doctrine that monarchs derive their authority from God and can only be held accountable for their actions by God and not by parliament or other earthly authorities.

Draff- dregs or refuse. In the case of whisky, it refers to the garbage, or refuse, from the malting process.

Episcopalian- a hierarchy system of church governance, with bishops holding authority over local churches. This is the system of the Church of England.

Fallow- a field left unsown for at least one season to ensure its fertility for the next season. This was part of the crop rotation system used in Scotland before the Scientific Revolution brought changes to farming.

Footwalk- today the term means a paved surface meant for walking along. However, in the 18th century it referred to the foot patrol excise officers were expected to carry out each day.

Gaidhealtachd- the area of Scotland in which Scottish Gaelic is spoken. Usually refers to the Highlands and Islands especially where the Scottish Gaelic-speaking culture.

Gaugers- a term used for excisemen, as part of their job was to gauge how much malt or wash was being used by distillers. Before 1823 malt and wash were taxed, so an exciseman needed to gauge how much was used and tax the distiller appropriately.

Gilles- an open toed shoe, like a sandal, that laced up the calf.

“Great distillers”- a nickname the Stein family used for their network of family and close friends in the industry.

High Streets- the main streets used for business in Britain, the busiest streets during the day, so hiding a still in a High Street church was a brazen act.

HMRC- Her/His Majesty’s Revenue and Customs. All whisky made in Scotland must be registered with HMRC, which means the brand can be searched through their website. If it does not appear on the registry website it is deemed fake Scotch whisky.

Hogmanay- a three-day celebration to end the year and ring in the new one. It begins on December 31 and ends on January 2. The celebration includes gift giving, visiting friends, family and neighbours; with people entering your home it was customary to offer a dram or two of whisky.

Jacobite- the name supporters of James Stuart called themselves during the Glorious Revolution. Jacobus is Latin for James.

Kirk- Scottish name for church
Kirk Session- the lowest court of the Presbyterian Church. The Kirk also had authority to levy fines, whip, or even put someone to death for more serious crimes—generally adultery and refusing the authority of the Session.

Laird- equivalent to the English Lord, and was the generic term used for land and estate owners from whom lower-class Scots rented their land and homes from.

Magnate- is from the Latin term magnas which means a great man. Magnate refers to the nobility that ruled Scotland and England.

Malt liquor- a spirit made from malted barley.

Malt-house- a building where grains are converted into malt for customers. It was common for beer producers, whisky distillers, and bakeries to purchase malted barley, or other grains, instead of having to make it themselves. Most villages and towns had a malt house.

Maltmen- men employed at malt houses who turned grains into malt, for bakeries, beer producers and whisky distillers.

Outride- to ride better, faster or farther.

Parritch- is porridge, or what is sometimes called oatmeal. It is a traditional breakfast cereal.

Peat- a brown deposit resembling soil, that is dried out and burned for heat.

Plaid- a large piece of tartan cloth, which is worn as a type of kilt, sometimes also used to refer to a blanket.

Polytheistic- the worship and belief in multiple deities

Presbyterian- a denomination of the Christian faith, governed by ordained church elders, who are elected by the congregation. Presbyterianism is Calvinist in background.

Quaich- a small, two or three handled shallow dish used in Scottish ceremonies where two people hold the dish and share a sip of whisky.

Rebuke- a form of punishment given by the Kirk Session and could be done privately or publicly.

Sowens- (or sowans) a Scot Gaelic fermented oat dish. The husk of the oat soaked in water until it fermented. The liquid was poured off and bottled for consumption, while the starchy mass leftover was boiled until thick and served with salt and butter as a type of porridge.

Subsistence agriculture/farming- growing crops and raising livestock to meet the needs of the farmer rather than to produce a surplus. In 18th century Scotland Highland farmers relied on subsistence agriculture for the community’s survival, in bailes, which provided little surplus. Any surplus was used to barter with.
Teutonic- a Germanic language that comprises of languages still spoken today such as English, German and Dutch.

Transportation- or penal transportation, was a punishment given out to criminals where they were relocated to colonies—or penal colonies set up specifically to house criminals—to work as indentured servants. Australia and North America were two of the most popular areas criminals were sent.

Trews- Gaelic for trouser.

Treasury Bills- a type of legal investment that matures within a fixed time period, and then can be cashed in.

Whiskey- Irish and American spelling. However, the addition of an ‘e’ did not become widely used until the early 19th century.

Whisky- In Scotland, and Canada, whisky is spelled without an ‘e’.
Table of Contents

Abstract ........................................................................................................................................... ii

Acknowledgments ........................................................................................................................ iv

Glossary ......................................................................................................................................... v

Table of Contents .......................................................................................................................... ix

Introduction ..................................................................................................................................... 1

1.1 Literary Review ....................................................................................................................... 12

Chapter 1 British Politics and Scottish Cultural Resistance ...................................................... 19

Chapter 2 The Origins and Production of Whisky in Scotland .............................................. 48

Chapter 3 A Country Divided: How two whisky regions were created in Scotland ........ 72

Chapter 4 The British Government’s attempts to control the illegal whisky trade ............ 97

4.1 Table 1 Whisky Taxes ............................................................................................................. 120

Conclusion .................................................................................................................................... 128

Bibliography ................................................................................................................................. 140

Curriculum Vitate .......................................................................................................................... 155
Introduction

For nearly 150 years illegal whisky flooded Scotland, as illicit still operators and smugglers tried to avoid paying the high taxes the British government placed on whisky. The British government deemed whisky to be a luxury, and therefore subject to taxes the same as tea, French brandy, and sugar—the three other prized items for smugglers. The illicit whisky era, from 1700 to 1823, is only a small fraction of Scotland’s history, as the kingdom dates back to at least the ninth century; however this period has dominated popular culture because of the romanticisation of illicit distillers and smugglers fighting against an English government, as the British government was thought of in Scotland. They have been idealised and idolized since Robert Burns and Walter Scott began writing poems praising illicit distillers and smugglers. In novels by Charlotte Turner Smith or J. Meade Falkner, smugglers and illicit whisky makers were the dashing heroes. British authors were making heroes out of criminals, heroes that fought the evils of the government which helped whisky to become the epitome of romantic Scottish traditions, particularly Highland. The reality was much darker though, as illicit still operators and smugglers often used violence against the excisemen sent to collect whisky taxes and find illegal operations. The government did not look upon smugglers and illicit distillers as heroes, but rather a scourge that needed to be eradicated even though the “heroes” were supported by the community, and by their families and other allies. The

---

1 There was a small percentage of illicit stills in operation between 1644 and 1707, but few cases court cases were discovered. So, authors such as David Phillipson and Gavin Smith mark the illegal whisky trade as running from 1700 to 1823. This does not, however, include the smuggling trade which has a history spanning as long as taxes have existed.

2 Smith was a novelist who wrote The Old Manor House in 1793.

3 Falkner was a novelist who wrote Moonfleet in 1898.
government and excisemen had to fight against communities, which often included the clergy, when attempting to apprehend smugglers and illicit whisky producers as they all worked together to aid in the criminal activity.\(^4\) This was more prevalent in the Highlands, where whisky co-operations existed. Whisky co-operations were a group of Scots who worked together to produce whisky sharing the costs—including raw materials, stills and any fines they received—and profits. These co-operations\(^5\) worked together to create enough whisky for the entire community, so it fell on the community as a whole to help hide their illegal activities. Although not all Highland illicit stills were operated as co-operations. In communities where the Act of Union and the British government were hated, it was much more common to find the people as a whole helping or being involved in, the illegal whisky trade. At the height of the illegal whisky trade, whisky had become an essential part of Scottish culture, and government interference, in the form of regulatory laws and taxation, was seen especially in the Highlands, as the British government attempting to change the Scottish way of life.

The word whisky was Anglicised from the Scot Gaelic name *uisge beatha*, sometimes written as *uisgebaugh*, which means “water of life”.\(^6\) Scot Gaelic was the dominant language of Scotland until the sixteenth century, and the term *uisge beatha* was translated from the Latin *aqua vitae*, a term widely used in the Middle Ages to describe alcohol. Most European countries had a version of aqua vitae; the French had wine because grapes grow well in their climate, the Germans had beer, made from their hops and barley and the Dutch had jenever which is a juniper infused

---

\(^4\) This was more of an issue in the Highlands where people lived in baile communities, and worked together for the good of the entire community to produce enough food, ale and whisky for everyone’s survival. No evidence was discovered to show whether anyone in bailes went against the will of the community to help illicit distillers and smugglers be apprehended.

\(^5\) Whisky co-operatives were not legal entities, and generally only existed as illegal operations.

alcohol similar to gin. Each country created a liquor, such as beer or wine, from locally grown ingredients, and in Scotland barley grew well and was inexpensive. This thesis will examine how whisky gained importance in Scotland, and why it was important enough that many Scots fought for the right to produce and consume whisky without government interference.

By 1700 there were three unofficial whisky regions in Scotland: Highlands, Lowlands, and the Islay Isles. The Lowlands and Highlands are the focus of this thesis, as they have a unique history that helped shaped political unrest in the country. This is not to say that Islay did not take part in the turmoil, nor that their history is not unique; however, their particular history had special circumstances that would require separate analysis. Many people will recognise that today there are five whisky regions: the Highlands, the Lowlands, Campbeltown, the Islay Isles and Speyside. However, these are a modern construct, and therefore this thesis will treat Campbeltown and Speyside as part of the Highland region as they were in the eighteenth century. Also, because of the thousands of legal and illegal stills in operation it was necessary to limit the number of distilleries discussed, in order to analyse the whisky industry from 1644 to 1824 more intensively. So, the main focus will be on Ferintosh, Cardow and Oban distilleries in the Highlands, and Canononmills, Kilbagie and Kennetpans distilleries in the Lowlands.

Whisky was produced at the end of the harvest and used excess grains, or the grains unfit for human consumption, so it did not divert large quantities of grain needed for food. Scots used

---

7 Spirits such as gin and whisky were distilled while beer and wine were fermented.
whisky as medicine to cure headaches, fevers, cuts and rashes. Barber-surgeons used whisky to sterilize equipment and wounds, and patients were given whisky prior to amputations. Whisky was also used for social events—weddings, funerals and christenings—and enough whisky\textsuperscript{10} and women needed to produce enough whisky for their family and social needs. A woman was judged by her ability to produce enough whisky to keep her family and guests supplied throughout the year. When a marriage occurred in a community, the women were expected to provide enough whisky to flow throughout the evening. Before the industrialisation of whisky production, whisky was not intended to be consumed for inebriation. However, during social occasions, large quantities of whisky could be consumed in celebration to the point of drunkenness. And if there were not enough whisky for the entire evening, the women of the community were considered poor wives because it was part of their household chores to produce enough good quality whisky for all occasions. Of course, ale was also being consumed at these events, as it was the most popular drink amongst the lower classes in Scotland until the eighteenth century when it was replaced by whisky in popularity.\textsuperscript{11} The rise in demand for whisky was aided by the shorter shelf-life of ale and the malt tax. The short shelf-life of ale meant housewives had to make small batches of ale every few weeks. Breweries tried to mask

\textsuperscript{10} The spelling of whisky is the traditional version, without an ‘e’. The spelling of whisky remained without an ‘e’ until 1908 when the Royal Commission on Whisky and other Potable Spirits formed to settle a debate that began in 1860, when a Scot invented blended whisky. Blended whisky had a flavour similar to Irish whisky, and Irish distillers quickly started a campaign to have barred from being called whisky, to keep their whisky distinct and separate from the blended Scotch whisky. In 1878 Irish distillers wrote a book called “Truths about Whisky” in which they claim blended whisky should not be called whisky. It was not until 1908 that the British government recognized Irish distillers concerns and formed the commission. Unfortunately, the Irish distillers lost and blended whisky could be called whisky. However, when the commission wrote their report, they accidentally added an ‘e’ several times throughout the report. The Irish were angry over the failure to have blended whisky called by a different name, so they began to use an ‘e’ on their labels to differentiate from what they considered an imposter whisky. This is another example of the politicization of whisky, which continues today. Joseph V. Micallef, “Is it Whisky or Whiskey And Why It Matters,” in Forbes Magazine, May 17 2018, https://www.forbes.com/sites/joemicallef/2018/05/17/is-it-whisky-or-whiskey-and-why-it-matters/#657934687561

\textsuperscript{11} Scots also consumed beer (which was different to ale), mead, cider and other spirits throughout the 18th and 19th centuries, though whisky was consumed at higher rates.
the taste of soured ale by adding herbs and spices, such as ginger and curcuma, but ale continued to decay which could not be disguised.\textsuperscript{12} The invention of distillation (which is the critical difference between ale and whisky), meant the same ingredients could be distilled into whisky and kept indefinitely. Ale also had a transportation issue as “the jostling, juggling and change in temperature of transport by ship, horse, or cart”\textsuperscript{13} helped ale sour quicker.\textsuperscript{14} Ale was, therefore, sold within the parish it was made unlike whisky that did not change, age or sour after it was completed, making it a better option for smuggling and importation. When the malt tax was enforced in 1725, the second aid in whisky’s rise in popularity, whisky producers took their still underground in large numbers creating the ‘golden age’ of illegal whisky. Unlike ale, whisky did not sour once produced nor did transportation alter the flavour of whisky, making it a better option for illicit trade than ale. Illegal whisky, therefore, avoided the hefty malt tax remaining a cheap drink. Even legal whisky distillers used techniques, such as mixing malted and unmalted grains, to keep their tax bill low and the cost of their whisky low.

Ale may have been a more popular drink for Scots before the eighteenth century, but whisky was part of the Scottish culture being used in social rituals and ceremonies long before it became

\textsuperscript{12} Ale and beer were also affected by the weather and authors of cookbooks dedicated several pages in their work to ensure brewers knew when the best time to brew was, and how best to store ale and beer. In \textit{The London and Country Brewer}, 1736, the anonymous author writes “the Weather or Air has not only a Power or Influence in Brewings; but also after the Drink is in the Barrel…retarding the fineness of Malt Liquors…if we brew in cold Weather, and the Drink is to stand in a Cellar of Clay, or where Springs rise, or Waters lye or pass through, such a Place by consequence will check the due working of the Drink, chill, flat, deaden and hinder it from becoming fine. So likewise if Beer or Ale is brewed in hot Weather…then it is very likely it will not keep long, but be muddy and stale…October is the best of all of the Months to brew.” \textit{The London and Country Brewer}, 1736 \url{http://www.gutenberg.org/files/8900/8900-h/8900-h.htm\#link2H.4.0017}


\textsuperscript{14} Hops became a vital introduction to the brewing industry as its addition to ale and beer gave it a longer shelf-life. Other inventions and techniques were introduced during the Industrial Revolution that allowed ale and beer to sour and decay slower (though even today the issue of souring beer exists), which meant they could be bottled and transported world-wide. Bennet, \textit{Ale, Beer, and Brewsters}, 30.
the most popular drink. It was also whisky, and not ale or wine, that Scottish people used as a symbol to protest against British impositions throughout the eighteenth century. Whisky producers took their operations underground when the British government’s taxation threatened their ability to make and consume whisky free from government interference. Before unification whisky, and ale, had been free from taxes in Scotland, however in England malt and ale were a taxable commodity. During unification talks malt and whisky taxes were a hotly debated subject, and almost ended the idea of a united Scotland and England. Throughout the eighteenth century, whisky was valuable as medicine and as part of Scottish social rituals, but whisky also became highly political in Scotland. The unification talks showed that whisky was now a political entity.

The eighteenth century was a period of political instability in Scotland, and the economy was floundering. There was a great divide between the ruling and working classes, and as the economy grew worse, the divide grew larger, which led to protests and rebellions throughout Scotland. People protested against the Act of Union, and high taxation on whisky; they rebelled against food shortages, and the loss of their sovereignty. The Scottish people were angry, poor and starving throughout the eighteenth century. Their country was divided by language, culture, geography, politics and whisky. There was an animosity between the Lowlanders and the Highlanders, as the south became more Anglicised, adopting the English language, dress and customs. There was also a divide between Highland and Lowland distillation which grew out

---

15 In the early part of the eighteenth century whisky was uncommon in England.
16 Lowlanders had been speaking Scots, a language closely related to English, from at least the middle ages. However, according to Atina L.K. Nihtinen in “Scotland’s Linguistic Past and Present: Paradoxes and Consequences” by the 18th century Lowlanders were speaking English. Language in Scotland has a long and varied history that is not examined in this thesis, but it is important to note that Scots and English are sister languages which allowed the two areas to communicate before Lowlanders spoke English. Atina L.K. Nihtinen “Scotland’s Linguistic Past and Present: Paradoxes and Consequences”, (2005).
of the Industrial Revolution and Agricultural Revolution when distillers in the south embraced new technology and moved from the traditional distillation practices that Highland distillers continued to use. It is important to understand why there was such a difference in distillation techniques between the two areas as it relates to the role of capitalisation and technology, and it also relates to the already existing division between the two regions. Whisky highlighted that division and was often part of the unrest in Scotland, and whisky was used to protest against the British government, English rule and unfair taxation.

Many authors have explored the social and medicinal uses for whisky; however, there has been little discussion of whisky’s connection with the political events in eighteenth century Scotland. Scottish politics had a direct link to whisky production in the eighteenth and early nineteenth centuries, and whisky affected those political events as well. The political scope of this thesis will focus on four major events of the eighteenth century: the 1707 Act of Union, the 1715 and 1745 Jacobite Rebellions and the 1746 Act of Proscription. These events changed Scotland’s political landscape, their society and the whisky industry. Whisky influenced the political events and the events helped shape the whisky trade. This thesis will also examine the Scot/Anglo relationship and its connection to the whisky industry as it played a crucial role in how each whisky region approached whisky distillation and it influenced the political events of the eighteenth century. The relationship that the north had with England differed from the south and informed how whisky shifted throughout the eighteenth century.

The golden age of illicit whisky in Scotland occurred from 1725, when the first British malt tax was levied in Scotland, to 1823 when the British government found a working tax system that ended the illegal whisky trade. The periodization of this thesis, though, is from 1644
to 1824 to provide an overview of whisky production and consumption before unification until new tax laws enable anyone to afford to produce legal whisky. To understand why so many Scots were willing to risk high fines, long prison terms or transportation it is necessary to understand whisky culture in Scotland before unification, and this thesis explores Scottish culture and politics before the Act of Union in 1707 to show the importance of whisky. After unification whisky became a highly charged political product, sending a large majority of producers underground. This continued until the 1823 tax laws that saw many illegal operations become legal businessmen.

The periodization of this thesis ends in 1823 to show readers how the Liverpool government’s tax laws were utilized by illegal whisky producers to create legal whisky business and to show how some people involved in the illicit whisky trade refused to end their criminal activities. It was important to show that, although the government created laws that encouraged distillers to turn legitimate some illegal still operators and smugglers felt it was traitorous to license illegal operations and made it difficult for anyone who made the change. Another essential reason this study ended in 1824 is that a new problem was gripping Britain, which was alcoholism and the Temperance Movement was emerging to demand changes to liquor laws and whisky culture. The Temperance Movement would help prove that whisky was a political entity, though, it is an important subject that requires a thorough analysis that would change the scope of this thesis. So, by ending this study in 1824, the scope of the thesis remains focused on Scottish whisky culture the illegal whisky trade.

As the political events of the eighteenth century informed the way distillers created whisky in Scotland it was important that the examination of the political climate in Scotland be
placed early in the thesis, so readers have a clear understanding of those events and the rise of
the illicit whisky trade. So, chapter one examines eighteenth century Scottish politics, and the
Scot/English relationship before delving into the history of whisky as that relationship played a
large role in how the whisky industry was shaped. The eighteenth century was a time of political
instability in Scotland, as protests against English rule in Scotland and rebellions were
widespread, and whisky can be found at the heart of the strife. Whisky was not the cause of the
1715 or 1745 Jacobite Rebellion. However, whisky producers were often involved in these
rebellions and used that volatility to politicise whisky which is discussed throughout this thesis.

Ale and whisky were two of the most popular drinks in Scotland throughout the
eighteenth century, though ale was considered a drink for the lower-class while whisky was
consumed by all classes. Although the brewing industry is connected, has a similar history to,
and the two drinks share similar ingredients and process of production whisky this thesis does
not examine ale. Ale and whisky are made using the malt, mash and fermentation steps. Whisky,
though, requires a fourth step of distillation to give it a distinct flavour and aroma from ale. The
whisky and brewing industries may share a similar production process and history; however,
they have unique identities, and Scotch ale requires a separate analysis and discussion.

The remaining chapters examine the history of whisky in Scotland further, with chapter
two focusing on how whisky was produced before the Industrial Revolution and how the
inventions of that revolution changed whisky production. The Industrial Revolution, which saw
Scotland change from an agrarian and handicraft lifestyle to an industrial and manufacturing
economy, played a significant role in the divide that grew between Highland and Lowland
distillers, which was a continuation of the political divide that already existed. Through the
examination of whisky production and the changes to equipment and practices, a clear understanding of why the two largest areas in Scotland diverged in their whisky production becomes clear. In chapter three that divergence is explored to understand better why illegal whisky was more prevalent in the Highlands than in the Lowlands. Chapter four examines the numerous whisky laws enacted throughout the eighteenth century and how distilleries from the Lowlands and Highlands reacted to them, and how those laws shaped the modern whisky industry.

To maintain the scope of this thesis three other key areas have not been thoroughly examined: the role of women in the history of whisky, the Excise Board and the Highland Clearances. It was also a deliberate choice to focus on the social and economics of Scotland throughout the eighteenth century and less on statistics, though statistical evidence is very useful when examining social and economic history. These topics are unique, and an exhaustive examination of any of these subjects would change the scope of this thesis.

Whisky has a long and complicated history in Scotland, and for several centuries, women were key to its production. Initially, the outline of this thesis included the role of women in whisky production. However, during the research, it became clear that their role was too extensive and extraordinary to examine thoroughly in this thesis. Women were once master distillers, working in inns, public houses and perfumeries, to create spirits and fragrances. However, by the eighteenth-century women were relegated to home distillation and eventually were pushed from whisky production almost entirely. Though women's role in whisky production is an essential part of whisky's history, and their role in whisky throughout the
eighteenth century will be discussed to a small degree, the scope of this thesis did not allow for an exhaustive analysis of their position in whisky's history.

The Excise Board in Scotland is another area that could not be thoroughly examined, as customs and excise is an intensive project of its own. The history of excise is extensive and without careful consideration of how much, and what, information to include excise could fundamentally alter this thesis from a history of whisky to the history of excise in Britain. The role of excisemen is, however, examined in greater detail as they held a significant role in whisky's history and how the British government gained control over the illegal whisky trade. Excise officers were experts in spirit tax laws and regulations governing the emerging whisky industry, though they were undervalued throughout the eighteenth century by the British government. The excisemen's role as civil servants is explored in this thesis, without becoming an institutional history of excise.

The Highland Clearances saw the displacement of hundreds of thousands of Highlanders, to make way for a new style of farming. The new style of farming emerged through the agricultural revolution and the scientific enlightenment that espoused better farming practices that would result in higher crop yields, better husbandry and greater profits. For landowners to enjoy the benefits of new farming techniques, they first had to rid themselves of tenant farmers, known as cottars, so they were evicted to pastor livestock and fence in once open fields. The Highland Clearances is a sensitive and extensive subject, and this thesis could not provide for a complete analysis of the topic without losing the foundation of the leading research questions and the intent of this thesis.
Literature Review:

The research phase of this thesis was designed to utilise primary sources, especially Records of the Board of Excise, House of Commons records which printed Commission Reports on excise and whisky and excise officer’s private records, to fill the gap that exists in the secondary sources. As previously stated, whisky is an understudied academic subject, and it was necessary to rely on primary sources to answer many of the research questions related to taxes. The Board of Excise documents were invaluable to the research, as these documents included court cases, as well as tax collected. Through these documents, the number of charges and the amount of taxes owed, the amount of whisky excisemen ceased and the names of people charged can be tracked which helps explain why the British government found it necessary to spend money and resources on apprehending illicit still operators and smugglers. The Board of Excise documentation also showed that it was not only the illegal whisky producers charged with crimes, but that also legal distillers found themselves on the wrong side of the law as well. This was a surprising discovery which gave a unique view and showed a closer connection between the two types of distillers than thought before the research phase of this thesis.

The study of Scotch whisky has generally focused on the biggest and most famous distillery companies, such as Glenlivet and Johnny Walker\textsuperscript{17}, whisky’s effect on tourism, and on the science of whisky. Even philosophers have published books about whisky discussing the

\textsuperscript{17} This is due in part because their history has been better preserved than other distilleries, and archives such as Diageo, National Records of Scotland, and The National Archives hold many records referencing Glenlivet and Johnny Walkers early history making it easier for authors such as Paul Pacult, who wrote \textit{A Double Scotch: How Chivas Regal and the Glenlivet Became Global Icons}, to research.
ethics, metaphysics and aesthetics of whisky. However, the historical study of whisky overall is uneven. When the history of whisky has been studied, authors focus on the era when Prime Minister Pitt the Younger waged war on illicit stills and smugglers, or the Temperance Movement that emerged in the early nineteenth century.

In her 1997 article titled “The Politics of Whisky: Scottish Distillers, the Excise, and the Pettite State” Vivien E. Dietz, Professor of History at Davidson College in North Carolina, explores Prime Minister Pitt’s attempt to end the illegal whisky industry in the 1780s. Dietz asks the question “Could a war be waged against the fraud plaguing excise returns analogous to that initiated by the Commutation Act of customs returns?” Although Dietz’s article is an excellent study of Prime Minister Pitt and the political aspects of controlling the illegal market in the 1780s, it is typical of the historiography of whisky: it ignores the whys of the illegal whisky trade. Why were illegal whisky producers and smugglers willing to risk their freedom and lives to make and sell whisky without paying excise and licensing fees? Why was the rate of illegal whisky production higher in the Highlands than in the Lowlands? Why were some people willing to pay for illegal whisky, in steadily increasing numbers after 1707, instead of purchasing...

---

18 Fritz Allhoff, professor of philosophy at Michigan University, and Marcus P. Adams, professor of philosophy at State University of New York, edited Whisky and Philosophy: A Small Batch of Spirited Ideas, a collection of articles written by philosophers on whisky.

19 The Scottish Temperance Movement was created as a result of the large quantities of cheap whisky that emerged because of the industrialisation of Lowland distilleries. A shift occurred, because whisky was readily available, from handcrafted whisky consumed slowly throughout the year to large quantities being drank with the explicit aim to become inebriated. Alcoholism rates rose as whisky become cheap to purchase, and the Temperance Movement was formed to combat the myriad of outcomes of drunken behaviour—such as crime, family abuses, unemployment and homelessness. Norma Davies Logan, “Drink and Society: Scotland 1870-1914,” (PhD diss., University of Glasgow, 1963).

the legal whisky? These are questions that shape the history of whisky as a social construct in Scotland. People risked a lot to produce illegal whisky and others to purchase the illicit product.

T.M Devine wrote “The Rise and Fall of Illicit Whisky-Making in Northern Scotland, c. 1780-1840” in 1975, which is an examination of the illegal Highland whisky market and how it threatened the legal Lowland market. Devine shows the reader how whisky production suited the agrarian country and how government interference affected whisky production, both legal and illegal. He writes, “John Stein of Kilbagie, the greatest distiller in Scotland at the time, admitted to a select committee of the house of commons that ‘owing to the interference of Highland spirits we have been unable to find sales’”. Stein was a Lowland distiller, one of the most influential, and he had a vested interest in controlling the importation of Highland whisky to the Lowlands. Devine balances biased statements, such as this one, with statistics and evidence to show that although Stein may have been partisan, there was a real concern for Lowland whisky producers running legal distilleries competing with illegally produced whisky. Devine also attempts to show how vital whisky was in parts of Scotland, by stating “in Kintyre and Perthsire, rentals in the seventeenth century were often paid in aqua vitae…In the Western Isles, distilled spirit was a necessary part of social life and a specific for all ills”. However, this is a narrow view of whisky’s growing value, and this thesis will examine whisky’s increasing influence on Scotland as a whole from the broader period of 1700 to 1824. The socio-economics of the Highlands versus the Lowlands is also an important factor in why such a division in whisky existed, because high taxes on whisky were more difficult for the poorer classes than the affluent classes.

---

22 Devine, “The Rise and Fall of Illicit Whisky”, 156.
This thesis will examine the socio-economics of the Highlands and Lowlands to help explain the deep whisky divide, that was shaped by regional economics and class systems. The period Devine writes about, 1780-1840, was a time of great upheaval and changes to whisky production that was created by the British government’s attempts to control the illegal whisky market. Prime Minister Pitt, under King George’s orders, introduced several new tax laws and created the Highland divide to limit the amount of illegal Highland whisky entering the Lowland area and to encourage more legal distillation. To gain a greater understanding of how and why these changes were made, and why Lowland distillers were concerned with Highland smuggling, it is essential to examine the political and social changes being made in Scotland throughout the eighteenth century.

*Scotch: The Formative Years*, by Ross Wilson, is a misnomer as it suggests this book will be an analysis of the early years of whisky when it was emerging as an important spirit in Scotland. However, Wilson’s book is an examination of blended whiskies which appeared in the 1890s—long after whisky’s formative years. Wilson, a journalist, wrote

> Scotch whisky achieved its world fame and acceptance through the skill and acumen of the blenders. The distillers certainly did their share; they produced superlative spirits. There lay part of the disadvantage: none of the hundred or more of them was able to produce year after year a consistently uniform beverage in sufficient quantity to make world-wide appeal for itself alone.\(^{23}\)

This is the opening paragraph of Wilson’s book, and is a misleading one, as he does not provide evidence proving his theory that distillers were inconsistent in whisky production, nor does he prove there were insufficient quantities of whisky. On the contrary, illegal Highland whisky was popular and abundant since parliamentary and court documents indicate that it threatened the

legalised Lowland whisky market. Wilson’s book is, however, a good analysis of blended whisky and the fight blenders had in keeping the name whisky on their product. Where it fails is in explaining the formative earlier years of whisky and how vital the eighteenth century was to the whisky industry.

Charles MacLean and Daniel MacCannell’s *Scotland’s Secret History: The Illicit Distilling and Smuggling of Whisky*, is an excellent introduction to the history of whisky and the illicit whisky trade. The book is written in two sections, the first written by MacLean, and explores the political events of the eighteenth century which affected whisky production. MacLean discusses the 1707 Act of Union, the Jacobite Rebellions, the Napoleonic wars and the general unrest of the eighteenth century in Scotland. MacCannell, a historian and filmmaker, discusses the history of Cabrach, an area often referred to as “no man’s land”, because of its location on the Highland/ Lowland border, and its wild and unkempt landscape which made it the perfect hiding place for illegal activities. MacCannell explains the significance of Cabrach in this section and why it was a haven for smugglers and illicit whisky producers. The book also features seven short articles, by various authors, on topics such as the lost distilleries of Scotland, smugglers caves, and folklore stories passed down for centuries. Although *Scotland’s Secret History* reads like a museum shop guide to whisky, it is an informative history written in an informal style to appeal to a broader audience and ignite an interest in whisky’s history.

The formative years of whisky happened during the eighteenth century, when Scotland fought for sovereignty in a newly united Great Britain, opposed whisky taxation and struggled

---

for a Stuart king to return to the throne. These events helped to shape whisky production and to politicise whisky in Scotland. Historians and journalists have often ignored these events when writing about whisky’s long history in Scotland, and this thesis will attempt to fill the gaps left by other historians and analyse whisky’s history as both a political and social spirit.

In the book *The Politics of Wine in Britain: A New Cultural History*, Charles Ludington wrote:

> My starting premise is that wine, in both England and Scotland, was a symbol of political power and legitimacy because it had long represented the court, the aristocracy, and the Church. This symbolism became more acute when the authority of these institutions was challenged in the mid-seventeenth century, as supporters and detractors of the established order fought each other physically, verbally, and symbolically. And of all the symbols that were argued over and with, wine was perhaps the most potent and lasting…the taste for wine was a blatant political statement because it structured social relationships.\(^{25}\)

Although Ludington is discussing wine, this thesis will argue that his arguments could, and should, be discussed in terms of whisky in Scotland and that it was whisky and not wine that was a political symbol in Scotland. It will be argued that by the eighteenth century whisky was a political symbol used to protest English rule and unfair taxation. Wine was produced in Europe and imported into Scotland, which made it too expensive for the average Scot to purchase. However, barley was hardy and easily grown in the harsh Scottish climate, fresh water was plentiful, and peat was easily accessible, which were the only ingredients required to produce whisky. So whisky was reasonably cheap to produce, making it the preferred drink of the lower-class Scots. Although whisky was generally thought to be a drink of the poor or the sick, before the eighteenth century some of the aristocracy were having whisky produced on their land.

---

though wine was generally considered the drink of rich, powerful, and influential people. Wine may have been the drink of the ruling class, but whisky was the drink of the working class Scots, and this thesis will examine their role in the whisky industry and whether their use of rebellion and resistance as it related to whisky was a “blatant political statement”\textsuperscript{26} and whether whisky “structured social relationships”.\textsuperscript{27} Where they once were powerless whisky gave lower class Scots a voice in the political arena. By moving their stills underground and rebelling against whisky taxes, the average Scot discovered they could affect political change where once they had no authority. Whisky became an effective political tool to protest against the British government.

\textsuperscript{26} Ludington, \textit{The Politics of Wine}, 2.
\textsuperscript{27} Ludington, \textit{The Politics of Wine}, 2.
Whisky, no doubt, is a devil, but why has this devil so many worshippers?  
Lord Cockburn 1845

Chapter 1
British Politics and Scottish Cultural Resistance

Whisky not only affected Scottish politics, but the economic and political changes throughout the eighteenth century had a profound effect on the development of the whisky industry. The political landscape also gave rise to Scottish nationalism as many Scots attempted to protect their sovereignty and their whisky. Scots used whisky culture to resist English rule, which many Scots had feared would be the outcome of unification. By the eighteenth century though, the struggle was largely a Highland one, as southern Scots had become more Anglicised in their dress and language. The inhabitants of the Lowlands had adopted the European way of dress popular in England, no longer wearing the traditional tartan and spoke English making it easier to trade with England.¹ This was partly out of necessity, as the Lowlanders lived close to England and it was more prudent to cultivate a better Anglo-Scot liaison. The Highland people resisted closer ties to England, out of fear of English influence over the Scottish government, a long history of anti-English sentiment, the loss of sovereignty, and the loss of their Celtic traditions. Scotland had witnessed Wales’ loss of sovereignty and identity since their unification with England in 1536 and although Lowland Scots had foregone their Celtic roots Highlanders had not, and they wanted to protect those roots.² While the southern part of Scotland had prospered from closer ties with

¹ Charles W.J. Withers believes the difference between the people of the Highlands and Lowlands really began as early as the 1300s, as the Highlands emerged as a distinct area from the Lothians and border towns in the south. The southern area was affected by the proximity to and events in England which aided in the shift to a more Anglicised lifestyle, while in the Highlands the Celtic traditions and Gaelic language separated them from the Anglicised changes.
England, in the Highland (and other areas) the people remained reliant upon the land to make a living and stayed quite poor. To the Highland people, and in some other areas of Scotland, unification with England meant oppression. Taxes was one of the biggest concerns of unification.

Scotland levied lower taxes on a narrower variety of items, unlike England, which charged taxes on daily-use items such as soap, hair powder, sugar, malt, tea, and paper, to larger items such as carriages, windows and horses. Particularly objectionable was the idea of a tax on malt and whisky, which the more impoverished Scots could ill afford. Outside of the Lowlands much of Scotland still relied on a barter system to acquire goods and services. Taxes would devastate the already poor people in the north, who had little cash to pay excise on staple items. Unification also threatened the Celtic traditions that shaped Highland life, such as the clan system, their religious beliefs, their way of dress, their reliance on lairds, and even their King. Among the tension and fear that accompanied the idea of unification, whisky became a symbol of cultural resistance in the Highlands, and in other areas of Scotland as well. To understand how and why whisky was used in this manner, the political and military events of the eighteenth century must be understood as it was through this landscape that whisky was used as a nationalistic symbol of resistance.

---

3 By the 1700s people in the Lowlands were using the currency system while the Highlanders relied on the barter system, which further separated them the people of the south.

4 This is not an exhaustive list, though, it shows that most of these items were luxuries that only the wealthy could afford. As J.V. Becket and Michael Turner stated in “Taxation and Economic Growth in Eighteenth-Century England,” taxes were placed on items most in-demand and “tax avoidance was in the hands of the purchaser”. So, poor English could, for the most part, avoid paying taxes by avoiding luxury items. Soap may have been taxed, but it was a product housewives made in the eighteenth century, so it did not have to be purchased. English taxes were levied on a wider variety of items than in Scotland, though taxes were on things that were used “out of habit and not survival needs”. Malt tax was an unavoidable tax for the poor. Still, the British government did not heed the calls of both Scots and English to change the malt tax, because the “governments preferred instead to accept the argument that since every man could choose to spend his money as he pleased there was no necessity to spend it on beer.” J.V. Beckett and Michael Turner, “Taxation and Economic Growth in Eighteenth-Century England,” The Economic History Review, vol. 43 (1990), 391.
Before an examination of whisky or the political climate of eighteenth century Scotland can take place, it is essential to outline the social classes of the Scots and the clan system as the structure of society helped influence the divide in politics, culture, language and religion. At the top of the hierarchy was the ruling class made up of the royal family, headed by the monarch followed by the princes and princesses and other close relatives of the king or queen. They ruled Scotland with help from the next rank within the ruling class known as the aristocracy, sometimes referred to as nobility or peers, which included the hereditary titles of dukes, earls, marquis, and viscounts. The nobility was the monarch's representative throughout Scotland, and they ruled over their land in the king or queen's name ensuring his/her laws were followed. Members of the peerage were also part of the ruling class that made up the House of Parliament in eighteenth century Scotland. The next rank was laird, the Scot term for lord which meant they owned large estates. Lairds were one of the most important ranks, as tenant farmers rented land from lairds, who ruled over the land and adjudicated court cases from their castles. Lairds were not part of the nobility by the eighteenth century, but were wealthy and educated men. Next in rank was the tacksman, who leased large tracks of land from a laird, and in turn, he would sub-let portions of that land to tenants. A tacksman was often related to the laird and held a hereditary position. Part of their job was to collect rent money for lairds and to raise troops in times of war. So, under the tacksman were the tenants known as cottars. The cottars were peasant farmers and would provide labour for the tacksman during harvest, in lieu of paying rent. Working to pay the rent was part of the barter system that was

---

5 The social structure of Scotland was complicated and this is not an complete list of the ranks of each social class, as it does not mention the professionals—like lawyers, clerk, civil servants, or clergy—nor does it discuss the subsects of the working class, or farming people. The clan system, which was an important aspect of the Highland culture, is discussed later.

still prevalent in the Highlands throughout much of the eighteenth century and was important to the survival of the northern people. Cottars worked their own farms and small plots of land as well. This social structure worked for several centuries in Scotland and continued to be used until the latter half of the eighteenth century in the Highlands. By the 1750s two new social classes had emerged, through the Industrial Revolution that brought new industries and manufacturing to the Lowlands, who were now using a monetary system of economics. The first was the working-class who worked in the new factories, and the second class was the new middle-class businessmen who built the new industries and manufacturing companies that capitalised on domestic products. The social structure of Scotland played a critical role in much of the political unrest and nationalism, as class was a factor in how Scots reacted to the Jacobite movement, the Act of Union, English rule in Scotland, and whisky taxes.

The first recorded mention of whisky in Scotland can be found in the records of the Exchequer Rolls of Scotland in 1494 where it was written: “to Friar John Cor, by order of the King, to make aqua vitae VIII bolls of malt.” Friar Cor was a monk at Londores Abbey, a monastery, that produced whisky in the county of Fife and the surrounding area. It is unlikely that King James IV’s order of whisky would have been the first-ever ordered, as the monks would have had to develop a reputation as distillers to have gained the attention of the King. To achieve such a reputation, the monks would most likely have been learning the art of distillation for years, if not decades. Although no evidence has been found before the 1494 Exchequer

---

7 In the Lowlands, and in the Highlands in the later part of the eighteenth century, the social class structure continued to be used, however tacksmen and cottars were no longer used.
8 Malt is the first stage of distillation where grains, barley, corn or wheat are soaked in water and spread out on the malting floor where it is left to germinate for up to seven days before being placed in a kiln to be dried. This is where the term malt liquor comes from, and in sixteenth century Scotland referred to beer and whisky.
records, most experts agree that whisky was part of the common diet from at least the fifteenth century. And, by the mid-sixteenth century whisky had become important enough that local and federal governments enacted various laws to control whisky production in times of dearth.

From the 1550s to the 1570s, poor weather caused severe food shortages, including grains in a time when whisky consumption was rising amongst the Scots. The town of Inverness prohibited the distillation of malt\(^9\) liquors in 1569 and 1574, to keep grains for food consumption.\(^{10}\) Other areas of Scotland would follow Inverness’ example and ban distillation during periods of grain shortages. And by 1579 the Scottish Parliament passed legislation to restrict distillation of grains so as not to divert harvested barley, corn and wheat away from food consumption. The statute stated:

\[
\text{Forasmuch as it appears the victual shall be scant this present year, and understanding that there is a great quantity of malt consumed in the whole parts of this realm by making of aquavitae…no manner of person within burgh or land, nor others whatsoever, make, brew nor distill aquavitae from December 1, 1579 until October 1 1580, under the pain of confiscation of the said aquavitae and breaking of the whole equipment of the makers, brewers and distillers thereof; providing always that it shall be lawful to every earl, lord, baron or gentleman, or other such degree, to make, brew and distill the said aquavitae of their own malt and stuff within their own houses, for their own use.}\(^{11}\)
\]

To prevent a famine the government halted whisky production, as it was a drain on the food supply. Whether the consumption of whisky by the upper class was too low to affect the grain shortages, or if the government did not see fit to regulate their consumption is unclear. However,

---


\(^{10}\) “1579, 20 October, Edinburgh, Parliamentary Register”, in *Records of the Parliaments of Scotland to 1707*, https://www.rps.ac.uk/trans/1579/10/74
what this legislation shows is that even amongst the upper-class whisky was now being consumed in sufficient quantities to have gained the attention of the government. By the 1570s whisky had become an essential part of the Scottish diet and a commodity which the government would eventually discover had great monetary value.

By the sixteenth century whisky had become part of the political realm, as laws were enacted to protect grains from whisky production during periods of dearth, but it was not until 1644 that the Scottish government realized its value as a taxable commodity. Barber-surgeons, monks and housewives had known whisky had a value for centuries and had sold or bartered excess whisky to provide for their families, medical practice or monasteries. Whisky could be sold for a higher profit than barley would fetch at markets, but whisky had been free of government taxation. However, in 1644 the Scottish government realised there was potential revenue in Scotch whisky, and when the government required funds for a war against the England, they passed the “Act of Excyse” in 1644.12

Scotland was at war with England, in what is now called the Wars of the Three Kingdoms, a series of battles from 1639 to 1651 between England, Scotland and Ireland. Charles I was one of the most disliked kings in the history of England, Ireland and Scotland and each country waged war against him during this period. The Wars of the Three Kingdoms began in Scotland as the Bishops’ War, as the Scots rebelled against Charles when he forced reforms on the Church of Scotland.13 As the monarch of England, Charles was head of the Church of

---

12 Kirk is the Scot word for church, and refers to the local Presbyterian churches in Scotland. The ecclesiastical polity of the Church of Scotland was Presbyterian, which meant elected elders (presbyters) governed over the kirk,
England, however in Scotland the church was governed by elected church officials and not by
the King. Charles began forcing the Anglicisation of the Scottish kirk in an attempt to rule over
the Church of Scotland.\textsuperscript{14} He forced the Scots to use the English prayer book, \textit{The Book of
Common Prayer}, and to use an Episcopalian system of governance which meant bishops would
rule over the Scottish kirk under the King’s orders.\textsuperscript{15} In 1639 the King’s bishops were expelled
from Scotland, and the Bishops’ War began, which led to the Wars of Three Kingdoms.
Although the Bishops’ War and the Wars of the Three Kingdoms fall outside of the scope of this
thesis, it is important to briefly mention as it led to the first tax law on whisky when money was
needed to fund the war.

To pay for the war against King Charles, the Scottish Parliament needed to raise funds,
and because of whisky’s popularity, it was an untapped commodity that had the potential to raise
the required funds. The Excise Act was passed on January 31, 1644, taxing Scotch whisky for
the first time. The statute stated:

\begin{quote}
The Convention of estates considering that this Kingdome haveing entered into a
solemne league and Covenant for reformation and defence of religion the honour and
happiness of the Kingis mātie and the peace and libertie of the Kingdoms of Scotland
England and Ireland. And in pursuaneace of these endis being forced to levey ane armie
to be sent into England…for the present supplee of futre refeefe of the necessities of
these armies and efter serious delivertaion have [the Kingdome has] agreed that…be way
of excise.\textsuperscript{16}
\end{quote}

\begin{flushright}
\textsuperscript{13}Somerset Fry, \textit{The History of Scotland}, 53.
\textsuperscript{14}Trevor Royle, \textit{The British Civil War: the Wars of the Three Kingdoms, 1638-1660}, (New York, NY: Palgrave
MacMilan, 2004), 34.
\textsuperscript{15}\textit{Act of Parliament and Commission, anenet the excise and the collecting thereof}, 29. July 1644, (Edinburgh, UK:
Evan Tyler, 1644).
\end{flushright}
The excise was levied at 2s and 8d for “everie pynt of aquavytie or strong watteris sold within the country”.\textsuperscript{17} This first tax on whisky, and beer, was not protested to the extent later taxes would be, as the wording of the legislation showed that the war was essential if Scots were to have religious freedom from the Church of England, which is what the War of the Three Kingdoms began as for the Scots—freedom of religion.\textsuperscript{18} A few Scottish whisky distillers moved their stills underground with the introduction of the 1644 tax, although this was rare. This had been a tax imposed by the Scottish government, so it was more palatable to Scots than later whisky taxes levied by the British government. The most important reason that Scots did not protest on a large scale though, was because the wording of the tax stated that only whisky sold was to be taxed. During this period whisky was mainly a cottage handicraft, produced primarily by women as part of their household chores and it was mostly consumed in the home, making it exempt from taxation. The 1579 legislation and the 1644 tax show that whisky continued to grow in importance over time and by the late sixteenth and early seventeenth centuries whisky had become important to Scottish life and their government. The importance of whisky continued to grow in Scotland and during unification talks it was one of the most important topics of discussion.

Before unification, Scotland and England shared a monarch, which fostered fears of English influence over Scottish politics. The unification of the crowns saw nationalism begin to

\textsuperscript{16} Act of Parliament and Commission.

\textsuperscript{17} This was a complicated war, and Scotland began the war against King Charles. However, when the English parliament gathered an army against the King with plans to oust him from power Scotland would change sides and aid King Charles. They believed in the Divine Right of Kings, which meant Charles was the rightful King and only God could remove him from power and punish him for any wrongdoing. However, when the King proposed a whisky tax in 1641, to raise money to fight the Irish and Scots, both the English and Scottish advisors stated the taxation was an “unjust and pernicious attempt to extort great payments form the subject by way of excise, and a commission issued under the deal to that purpose.” By 1644 when money was required to continue this complicated war the tax went mostly unopposed by the Scottish government. Royle, The British Civil War, 32.
rise throughout Scotland, concentrated in the Highlands although other areas participated as well, as Scots attempted to protect their sovereignty and their whisky. When Queen Elizabeth I died in 1603 without an heir, James VI of Scotland was crowned King James I of England, uniting the two kingdoms under the same king.\textsuperscript{19} Scots quickly worried about what England’s influence would be over Scotland. Their fears were not unfounded as for centuries the English and Scots had been invading and warring with each other, causing a great deal of mistrust and suspicion on both sides of the border. When the crowns of Scotland and England were united, many Scots feared their King, who was now a distant ruler living in London and ruling through second parties, would be influenced by the English and force changes on Scots. James had attempted to force changes on the Church of Scotland, as his son Charles I would do, to bring it in line with the Church of England\textsuperscript{20}, so the Scots’ fears were relevant. James wanted the churches united, and while he attempted to reform the Church of Scotland, he also began campaigning to unite the governments, but he failed to gain support for uniting governments or the churches. His successors, Charles I\textsuperscript{21} and then Charles II, would also attempt unification, but their unification plans failed as well.

\textsuperscript{18} Royle, \textit{The British Civil War}, 35.

\textsuperscript{19} As a Scot James followed the Calvinist doctrine of the Church of Scotland, however by 1616 he had become more Anglican which may have helped inform his decisions with regards to the Church of Scotland. James, like his son Charles, felt the Church of England treated a monarch properly—as head of the church and state. James believed in an absolutist monarchy, and being head of the Church of England gave him more power. In the Church of Scotland he was not treated as a monarch, but as a member of the church (like every other Scot). Alan R. MacDonald, “James VI and I, the Church of Scotland, and British Ecclesiastical Convergence,” in \textit{The Historical Journal}, vol 48 (2005), 887.

\textsuperscript{20} Charles I could not gain support as he was a very unpopular monarch. In Scotland he had tried to make drastic changes to the Church of Scotland, as he wanted the same power over the Scottish kirks as he had over the English church. He was head of the Church of England, since King Henry VIII made himself head of the new Protestant Church of England. He also forced the English \textit{The Book of Common Prayer} into the Church of Scotland, which infuriated the Scots. So, he could not muster enough support for unification. Trevor Royle, \textit{Civil War: the War of the Three Kingdoms, 1638-1660} (London, UK: Brown, 2004).
After years of wars and invasions between Scotland and England, a level of mistrust existed that plagued any unification talk. The unification of the crowns furthered Scottish distrust of the English and did nothing to calm their worries about English influence over Scotland's government and people.\textsuperscript{22} As previously stated, the crowns were united in 1603, when King James VI of Scotland became King James I of England. James moved to London and returned only once in his twenty-two-year reign.\textsuperscript{23} Scots were angered. However, despite James’ attempts to Anglicise Scotland, he remained popular in Scotland, and his failure to return every three years as promised only encouraged fears of English influence over him.\textsuperscript{24} Because the Scots believed in the Divine Right of Kings, which meant only God could judge a monarch, it was difficult for most Scots to blame James for the changes he forced onto them and instead it was easier to blame English influence over the king. Whether that influence was real or imagined, when King James introduced new laws or statues that the Scottish Parliament or ordinary people disliked, it was blamed on the English as opposed to the King. James I was able to maintain his popularity because of the inherent distrust of the English that lingered in the Highlands, and elsewhere in Scotland. This led to a rise in nationalist feelings in Scotland, especially in the Highlands.

The English Parliament did nothing to appease the fears of the Scots, to improve the Anglo/Scot relationship, or to reassure the Scottish Parliament that they were not attempting to

\textsuperscript{21} Not all Scots distrusted the English; as stated in the introduction by the 1600s southern Scots had become more Anglicised (in their dress, culture, and speech), but in the north and in the islands where the Celtic culture remained strong the English were still feared and mistrusted.

\textsuperscript{22} Peter C. Herman, “The Reign of King James VI/I (1603-25),” in \textit{A Short History of Early Modern England}, (Chichester, UK: John Wiley & Sons Ltd., 2011), 149.

\textsuperscript{23} In his farewell speech to Scotland he had promised to return to Scotland once every three years, and instead returned once in 22 years. Herman, “The Reign of King James.”
influence Scottish politics. On the contrary, they sometimes heightened those fears and spurred the growing nationalist sentiment. One such occasion was in 1688, with the Glorious Revolution that resulted in the usurpation of King James II’s throne. Members of the English parliament planned the revolution to place William of Orange onto the English throne, which fostered further anger in Scotland because the revolution left King James in exile and unable to remain King of Scotland. This solidified the fear of English influence over Scotland's government, as they were not consulted before the revolution. A vast majority of Scots believed James was the rightful King of Scotland and refused to accept William as their king and the Scottish Jacobite movement was the result.

James' Catholicism worried the English who feared he would try to force England back to the Church of Rome, while many Scots were Catholic or believed in the Divine Rights of Kings. After the Protestant Reformation brought religious changes around the 1550s and Calvinism replaced Catholicism through most of Scotland, Catholicism remained the popular religion in the Highlands. So, James’ Catholicism was less of an issue to Highlanders than in the Lowlands. The English government had attempted to bar James from the line of succession because of his Catholic conversion. James had agreed to raise his two daughters as Protestants, to mollify the English. When James remarried after his first wife's death, he married the Catholic Mary of Modena and had his first son, James Francis Edward, on June 10, 1688.25 This birth brought fears of a Catholic Stuart dynasty for Protestant England.26 A plot to remove James from the throne of England, and as a by-product from the throne of Scotland, was formed. Several MPs

25 James and Mary had a total of 10 Catholic children, which would have brought a Catholic Stuart dynasty.
wrote to the Protestant Dutch Prince William of Orange inviting him to usurp the throne.27 Supporters of James formed the Jacobite Army, to fight with their King when war began on November 5, 1688. The Glorious Revolution lasted one month and ended with James fleeing to safety in France, and William and his wife Mary being crowned King and Queen of England and Scotland.28 The Jacobites did not accept the defeat and quickly began planning an attack to return the Stuart King to his throne. The Jacobites would mount rebellions in 1689, 1708, 1715, 1719, and 1745 (all failing) and James would die September 16, 1707, without gaining his throne back. After his death, King Louis XIV of France publicly declared James Edward King of Scotland, England and Ireland, giving hope that should the Jacobites wage another rebellion France would support them.29 The public declaration angered and worried William, whose own reign was shaky as long as the Stuarts had support from European nations. With this in mind in February 1702, William III ordered unification talks to start between Scottish and English envoys.30 William died on March 8, 1702 and did not live long enough to see unification come to fruition.

Unification was one of Queen Anne’s priorities when she was crowned queen after William’s death (Mary had died in 1694 and the couple had no children). She had commissioners appointed from Scotland and England to begin negotiations. The Scots had long resisted unification. However, the later part of the seventeenth century had been one of wars, bad

28 By allowing James to flee William and his government could claim James willingly abdicated his throne and the government had no choice but to appoint an appropriate monarch.
weather, poor investments and poor harvests. This period is called the seven ill years.\textsuperscript{31} The weather had drastically worsened, with temperatures dropping causing crops to fail which meant extreme food shortages; cottars were unable to pay their rents because they had no crops to sell, or excess grain to produce whisky that they could have used to pay rent.\textsuperscript{32} The economy was in such a crisis the government passed new laws to stimulate the economy. The Bank of Scotland was created to lend support to businesses, and the Darien Scheme, which was a colonization program, was planned to bring money to Scots.\textsuperscript{33} The government and Scottish people invested close to £500,000, but by 1701 the idea was abandoned when the country was close to bankruptcy.\textsuperscript{34} The Darien Scheme and seven ill years changed Scotland’s position on a Scot/English union, and many who had once opposed the union now saw the financial benefits. Businessmen from the Lowlands, Members of Parliament and the aristocracy, and other people who had invested in Darien had hoped that unification would help recapture some of their losses.\textsuperscript{35} Not every Scot had changed their minds about unification though. In the Highlands, where anti-union and nationalist sentiment was strongest, it was highly opposed. Despite the poor economic status of the Highlands, the northern people had always shunned Anglicisation,

\textsuperscript{31} Scots were so poor they were forced to eat rotting meat, grass, or anything they could find just to survive. It is estimated the nearly 15% of the population died during the 1690s. K.J. Cullen, \textit{Famine in Scotland: The “Ill Years” of the 1690s}, (Edinburgh, UK: Edinburgh University Press, 2010), 56.
\textsuperscript{32} K.J. Cullen, \textit{Famine in Scotland}, 56.
\textsuperscript{33} The Scheme failed to get much support outside of Scotland, where, however, the support was intense—an expression of Scottish nationalist sentiment.
\textsuperscript{34} Ben Johnson, “The Darien Scheme,” in \textit{Historic UK}, September 9, 2019, \url{https://www.historic-uk.com/HistoryUK/HistoryofScotland/The-Darien-Scheme/}
\textsuperscript{35} When the Darien Scheme was first introduced the English Parliament and English investors had supported the plan, investing money into the scheme. However, the East India Company had opposed the plan and petitioned the English government to withdraw their support which they did. The East India Company generated a great deal of wealth for England and her people, so the English government was unlikely to go against the company’s wishes. This left the Scots in a bad financial situation, although “almost every Scot who had £5 to spare invested in the Darien scheme” so it went ahead. When it failed, the Scots who lost their savings blamed the English for its failure and Scotland’s poor economics. During unification talks Scot MPs demanded reimbursement payments for the Scot money lost in Darien. Johnson, “The Darien Scheme.”
although it had brought prosperity to the south, and unification was equated to not just giving up their sovereignty but becoming English. Scottish merchants were the largest group of pro-unionists as they would benefit the most if England would open their colonial trade routes to Scotland. Not everyone in the Lowlands embraced unification either however, especially in Glasgow where protests were held to show their dissatisfaction with the Act of Union.

Unification talks followed in 1702, though they floundered on issues of trade, taxes, religion, the line of succession to the throne, and Scotland’s economic issues.36 The Scots were expected to give up their parliament, and for that, they demanded complete access to trade with all of the English colonies, fair taxation, and compensation from the English for their part in the failed Darien. Both sides refused to budge on their demands, and by February 1703, the commission was adjourned, never to reconvene.37

The failed unification talks highlighted key subjects the Scottish negotiators felt they needed to protect Scotland from English influence, and in 1703 the controversial Act of Security was proposed.38 The team of negotiators were mostly pro-unionists, with few anti-unionists appointed. Queen Anne and her English advisors picked the Scot and English negotiators, so, unsurprisingly, this time unification was successful. George Lockhart, who was a Scot MP, and a Jacobite, and one of the few anti-unionist on the team of Scot negotiators stated that "the whole

---

37 For the English, the line of succession was perhaps the most pressing issue, as Mary and Anne died without a living heir. The English government agreed to the Protestant Sophia of Hanover and her heirs for the line of succession in 1689 in the 1701 Act of Settlement. The English expected the Scots to follow their lead; however, they were concerned the Scots would offer the crown to the Stuarts. The Scots had not been consulted in the line of succession talks, and they had yet to agree on a line of succession. If unification could be agreed on the Hanoverian line of succession would be settled, England and Scotland would be united under one monarch, and the English thought this would end the Stuart threat forever. William. "The Making of the Treaty of Union of 1707."
nation appears against the union". Even pro-unionists admitted that most of Scotland were opposed to unification. John Clerk, a unionist, stated that "at least three-fourths of the Kingdom" was against the union. The Act of Security stated that if the "Scottish grievances over religion, liberty, and trade were not met" the line of succession would be different than England's. This was an effort to protect their kirk from Anglicization, protect their culture and to force the English to open up colonial trade routes to Scotland if unification were to come to fruition. The Scots had been angered that the English parliament had settled the line of succession without Scottish consultation. So, the Act of Security was a response to the English 1701 Act of Settlement. The Security Act can be seen as an act of nationalistic defiance.

Although Queen Anne signed the Security Act, she also passed the Alien Act in 1705, which was drawn up by the English government in retaliation. The Alien Act stated that if the Scots did not agree to unification negotiations and accept the Hanoverian line of succession by December 25, 1705, a variety of harsh legal and economic penalties would be invoked. The Scots remained in financial difficulties, and the penalties would have been disastrous for their weak economy. The Scots and English returned to the negotiating table in 1706, which defused the Alien Act penalties and ensured the issues raised in the Security Act were addressed.

---

41 "Act of Security".
43 The Alien Act stated that "Scots would also lose the privileges of Englishmen under English Law—thus endangering rights to any property they held in England". Essentially this Act declared Scots aliens in England and would not allow Scot children to inherit their father’s English land or titles. These were threats that sparked renewed negotiations.
44 When the Act of Union was ratified the Church of Scotland was protected, which had been a significant point for the Scots.
The English negotiators agreed to the Scots’ demands to protect the Church of Scotland, but taxation was a much more difficult topic to negotiate for two reasons. One was that Scotland remained financially unstable. The second reason that made the issue of taxes more difficult was that the English not only paid a higher taxation rate, but they also paid taxes on items the Scots did not—such as the window tax and a spirit tax. This time the English commissioners were more amenable to the Scot’s concerns though, and the commissioners were able to come to an agreement. The agreement made tax exemptions for a variety of items, including whisky. Three articles of the agreement were written to cover taxes on liquor: articles seven, thirteen and fourteen. Article seven stated “all Parts of the united Kingdom be for ever, from, and after the Union, liable to the same Excises upon all excisable Liquors”. In article thirteen Scot liquor producers were given a reprieve from taxation until June 24, 1707, after which time they would begin to pay the same amount of tax on their liquor as the English. It was not much of a reprieve considering that the Act of Union was set to come into effect on May 1, 1707. The most interesting article was fourteen, which read:

That the Kingdom of Scotland be not charged with any other Duties, laid on by the Parliament of England before the Union, except those consented to in this Treaty; in regard it is agreed, that all necessary Provisions shall be made by the Parliament of Scotland, for the public Charge and Service of that Kingdom, for the Year one thousand seven hundred and seven; providing nevertheless…That any Malt to be made and consumed in that part of the united Kingdom now called Scotland, shall not be charged with any Imposition on Malt during this war.

46 Article Seven also allowed beer to be taxed at a lower rate in Scotland, without explanation. Also, excisable liquor meant both spirit sold and produced. “Acts of the Old Scottish Parliament”, Union with England Act 1707, http://www.legislation.gov.uk/aosp/1707/7
47 “Negotiating the Articles of Union”.

34
The war was the War of the Spanish Succession, which lasted until 1714.\(^{49}\) England, and her allies, went to war to remove Phillip from the Spanish throne, which would also curb the power of France when Phillip inherited his grandfather’s French throne. However, to achieve this, England’s involvement required Scottish troops. This made the English more amenable to the Scottish negotiators’ taxation demands. Malt was used to produce beer, whisky and even bread, and could have raised a significant amount of money for war, as these were staple items in Scotland. However, a malt tax would have placed undue hardships on the already poor Scots, who could not afford to pay higher prices for beer, whisky and bread. The fact that the Scots were able to negotiate an exemption for liquor and malt taxes shows the importance of whisky (and beer) had in the Act of Union negotiations. It also shows that malt was a significant enough product in Scotland that the Scottish commissioners required special assurances to safeguard it.

An agreement was signed on January 16, 1707, finally uniting the governments of Scotland and England under the Parliament of Great Britain, though there were protests in Scotland. In October 1706 the articles, which were being debated in the Scottish Parliament, were published causing civil unrest throughout Scotland. Scottish parliamentary approval was a foregone conclusion by October 1706 though, as the threat of the Alien Act meant the majority of MPs were no longer willing to risk denying the Act of Union, and as the ruling class had more to lose from the Alien Act than average citizens.\(^{50}\) The ruling class, businessmen and professionals, such as doctors and lawyers, had been the leading members of the pro-unionist

---

\(^{49}\) The Spanish King died without an heir and had bequeathed his crown to Phillip, the grandson of the French King, who would gain the French crown from his aged grandfather—potentially uniting two of the most powerful nations in Europe.

\(^{50}\) Queen Anne and her closest advisors were pushing for a quick debate in both Scotland and England. There were concerns in both countries of the quick pace Anne and her ministers were demanding without proper consideration. “Act of Union 1707”.
group as they had the most to gain through open trading with England and access to colonial trade. However, the Jacobite cause was always a threat in Scotland, and many MPs and Lords within the Scottish government were Jacobite and they continued to urge against unification. Clergy members used their positions in kirs around Scotland to spread discontent as well.\(^{51}\)

While the articles were being debated in both the English and Scottish parliament the clergy were able to build a following of anti-unionists. The people of Scotland were not afraid to voice their disapproval of the act, and in November and December a large portion of the Scottish population, including Highlanders and many Lowlanders, petitioned against unification, sending ninety-six petitions to parliament, but the act was passed.\(^{52}\) When the union was ratified many household and small whisky producers moved their operations underground, as they wanted to prepare for the day when the exemptions ended. They expected the English would force a tax on whisky and malt, despite the exemptions written into the Act of Union. The mood was tense throughout Scotland over unification as many Scots felt their Members of Parliament accepted bribes from the English for unification to be finalized.\(^{53}\) They were not too far from the truth. England had agreed to compensate Scotland with £398,085 for the loses from Darien, which did not go to help the common people. As well the Earl of Glasgow received £20,000, the Duke of


\(^{52}\) There were no petitions in favour of unification received by the Scottish parliament. Despite the petitions the yes vote was victorious with 110 votes for and 69 against.

\(^{53}\) Robert Burns wrote “Such a Parcel of Rogues in a Nation” in 1786, in which he wrote: “Fareweel to a’ our Scottish fame / Fareweel our ancient glory; / Fareweel ev’n to the Scottish name… O would, or I had seen the day / That Treason thus could sell us, / My auld grey head had lien in clay / Wi’ Bruce and Loyal Wallace! / But pith and power, till my last hour / I’ll mak this declaration; / We're bought and sold for English gold / Such a parcel of rogues in a nation.” Many Scots felt unification had betrayed their forefathers’ efforts to remain a separate nation. Burns captures the sentiment of the Scottish people after unification, as rumours of financial bribes being given to Members of Parliament ran throughout the country, making people feels as though they were actually bought for English gold. Robert Burns “Such a Parcel of Rogues In a Nation, (1786), in Robert Burns Country, September 10, 2019, http://www.robertburns.org/works/87.shtml
Queensberry was given £12,325, and others were given payments as well. But the poor and starving Scots received nothing.\textsuperscript{54} This left a feeling of mistrust throughout Scotland as many Scots felt betrayed by their MPs because they took English money and lined their own pockets. Martial law had to be enforced to quell the riots that ensued after the union was ratified. Peace may have been forced, but, it did nothing to appease the feelings of betrayal that a large portion of Scots felt. Nor did it stop the currents of nationalism. The tensions surrounding whisky as a cultural expression became evident in the early years of the union.

Peace was tentative, and by 1713 whisky created a new focal point of agitation and anger in Scotland, as the issue of a malt tax was on the agenda in the British parliament. On May 11, 1713, the British government, which most Scots sarcastically referred to as the ‘English government’\textsuperscript{55}, voted to extend the English tax on malt to Scotland, against the advice of the Scottish representatives who knew this would cause a crisis in Scotland.\textsuperscript{56} Scot MPs claimed the tax would be oppressive to the poor Scots, and that the suggested tax was unjust, as imposing the English tax on Scottish malt did not take into account “the inferiority of Scotch grain, or the ability of the people…to pay a tax, which in several places was nearly equal to the value of the raw article”.\textsuperscript{57} Nor did it factor into the account the economic differences between Scotland and England. The majority of Scots simply could not afford a tax equal to that in England. The Scottish Lords and MPs knew Scots were still unhappy with the union, feared English rule in

\textsuperscript{56} With England being represented by 486 MPs and Scotland reduced to 45 (Wales had 27 MPs) it is easy to see why Scots were so negative about the British government being English. John Adolphus, \textit{The Political State of The British Empire}, (London, UK: A. Strahan Publishing, 1818).
\textsuperscript{57} \textit{The Farmer's Magazine: A Periodical Work, Exclusively Devoted to Agriculture, and Rural Affairs, 1804}, (Edinburgh, UK: D. Willison, 1804), 52.
Scotland, felt the British government was too English, and that a malt tax in Scotland would be met with resistance. A malt tax would mean Scots, most of whom remained quite poor, would pay more for their beer, whisky and even bread. Many Scot MPs began campaigning for the dissolution of the union. Some MPs and Lords tried to calm matters by having a modified malt tax bill created before the campaign for dissolution took hold, yet a crisis erupted in Scotland. Unfortunately, the bill to extend the English malt tax into Scotland passed on May 22, 1713, without any concessions or changes.

The Duke of Argyll, the Earl of Mar, the Earl of Seafield and William Cochrane represented a group of Scottish Lords against the Act of Union, when they met with the Queen to air their grievance over the malt tax. This group of Scottish Lords explained to the Queen that passing this bill, which had yet to be signed by Her Majesty, would ruin the Scottish people who relied on malt and were too poor to pay a high tax on a staple item. They also tried to impress upon the Queen that the malt tax could mean the end of the British Union. James Oglivy, Earl of Seafield, outlined to Queen Anne a list of grievances unification had caused on the Scots, and these were cited as the reason for breaking the Act of Union. One of the top issues for Scots, and the representatives who met with the Queen, was the issue of the malt tax, which Scot MPs feared would cause great discontent as Scots felt this was a serious injustice to pay taxes on a staple item. The issues raised during the Act of Union riots were never actually addressed and

---


59 The Earl of Seafield was the first person to suggest a dissolution bill in the Scottish Parliament, so he was the spokesperson to the Queen.
resolved, and the issue of a malt tax threatened to end the peace, which the military had forced after unification. Queen Anne, however, refused the demands of the Scottish contingent for a modified tax or the request for dissolution of the union; undeterred, the House of Lords took up the debate, and on June 1 a request for a dissolution bill was brought forward.\textsuperscript{60} The dissolution bill outlined a list of grievances from Scotland, top of which was the issue of the malt tax, suggesting that to Scots the malt tax was the most serious of injustices. Unfortunately, the dissolution bill lost by a mere four votes\textsuperscript{61} and the malt bill was enacted on June 10, 1713. Although the malt tax was now officially extended to Scotland, it was largely ignored. Taxes were left uncollected, and the British government did not stress the issue as the tensions between England and Scotland were already strained and the government was concerned that riots might result.\textsuperscript{62}

The uneasy peace in Scotland would not last, however, and on September 6, 1715, the Earl of Mar raised James VIII’s standard at Braemar starting a Jacobite Rebellion.\textsuperscript{63} It should not have surprised the British government that a rebellion broke out, as the dispute over the malt tax was smouldering, and people were still demanding the union’s abolishment. But most significantly King George I\textsuperscript{64} had been crowned King of the United Kingdom. Most Scots were still unhappy with the line of succession, and they felt the English had bullied them into an agreement through the heavy-handed Alien Act. Many English were unhappy with the

\begin{tiny}
\textsuperscript{61} House of Lords, HLRO Manuscript Minutes, H.L., “Attempt to dissolve the union with Scotland, 1713,” The National Archives, June 1, 1713, \url{http://www.nationalarchives.gov.uk/pathways/citizenship/rise_parliament/uniting.htm}
\textsuperscript{63} Braemar is a small Highland village.
\textsuperscript{64} On his mother Sophia’s death on June 8, 1714 George become head of the line of succession. So, when Queen Anne died August 1, 1714, George I become the first monarch of the House of Hanover.
\end{tiny}
Hanoverian line as well, and riots during George’s coronation broke out across Britain. These were largely ignored though, as a potential Jacobite rebellion was of greater concern.65 The Jacobites were planning a rebellion, and on August 23, 1715, James wrote to James FitzJames, the Duke of Berwick, informing him that it was “now or never”.66 The time had come for rebellion.67 The Jacobite army rapidly gained control over a major part of Scotland and when James arrived in Scotland on December 22, he was crowned King of Scotland. Although the 1715 Rebellion failed, it served to show that there was still a great deal of anger in Scotland that needed to be addressed.

With the 1715 Jacobite Rebellion failing the British government had mistakenly thought Scotland was finally at peace and failed to address the issues that caused the unrest throughout Scotland. There was still a great deal of anger throughout Scotland, especially in the Highlands, that centered around the Glorious Revolution, the line of succession, taxes and the Act of Union. Because the British government, specifically the Queen and her advisors, failed to acknowledge and address why so many Scots were unhappy peace could not last. Some English MPs went so far as to antagonise the unhappy Scots, by claiming Scots only needed strong leadership to control them. Thomas Pelham-Holles, Duke of Newcastle, described “Scotland as a nation with ‘the reputation of so much complaisance for the powers in being’.”68 Yet Scots had only grown angrier, which boiled over when the British government demanded the enforcement of the malt

---

65 Rioters were not completely ignored, as many were arrested and fined. However, in general they were thought of as fairly harmless as they were not part of a greater plot against the King—namely Jacobite.
67 The Jacobite cause and rebellions are part of a much larger history, and only a small fraction is discussed in this thesis.
68 Watson, “Patriotism and Partisanship.”
whisky tax. In 1725\(^{69}\) officials were set to begin collecting the hated tax which would cause the price of beer, whisky and bread to rise significantly.\(^{70}\) Scotland was barely recovering from Darien and the seven ill years, and its people were impoverished compared with the wealthier English. Widespread rioting broke out across Scotland, but the worst unrest was in Glasgow, where the majority of people had opposed the Act of Union. This was such an unpopular act in Glasgow that local officials had banned groups larger than three people, to avoid potential riots.\(^{71}\) So, when it had become clear that the British government would no longer tolerate uncollected and unpaid taxes, people in Glasgow began to riot, and this quickly spread throughout the country. The British government hired excisemen to begin collecting what was considered an English tax; the government wanted to harmonise taxes across Britain, and the malt tax—charged 3d on a barrel of malt\(^{72}\)—was imposed on Scots in 1725.\(^{73}\) The government had high hopes for the malt tax in Scotland. Not only did they feel it would raise at least £20,000, but they also thought it would help control illegal operations and smuggling which had become a serious issue throughout the country. The Scottish people saw the tax as more English meddling in Scottish affairs. Prior to the government taxing whisky, housewives could sell excess whisky for cash, and whisky was also used to pay rents to landowners, to trade for other essential items, or to buy new farm equipment or animals. So, when the British government began taxing whisky it was not just a simple drink being threatened, but a family’s livelihood.

---

\(^{69}\) The exact date is unknown.  
\(^{72}\) 3d was three pennies, and was half the rate that English citizens paid.  
\(^{73}\) Carter, “23 June 1725: The Malt Tax riots.”
Scots had first attempted to have the tax repealed through peaceful means, by writing letters to the government and directly to George I, explaining how the tax would place hardship on the Scottish people. The letters explained that the tax would hurt one of the few profitable commodities Scotland had at the time, whisky, and they explained that the malt tax would reinforce the belief that Scotland was placed lower in the Union than England. As discussed in chapter two, excess whisky was often sold at markets or bartered for other goods and was even used to pay rent. The malt tax was a representation of the grievances Scots had complained about since the first attempts at unification: that a unified government would work for the English benefit over Scotland’s needs. Pamphlets and newspaper articles were written to voice concerns that if the tax went through, British oppression would increase. It was not until these measures failed that Scots turned to violence.

The first excise officers arrived in Glasgow and other Scottish towns on June 23, 1725, ready to begin their job of gauging how much whisky was being produced and collect the appropriate taxes. Excisemen, whether English or Scot, were all considered part of a foreign government and therefore not to be trusted. The excise officers were, as Chris Carter wrote, “met with a wall of hostility and rocks, as some of the town’s people had laid at the door of every malt-house [in Glasgow] great heaps of stones” and threatened excisemen accordingly. Glasgow was not the only city to erupt into protests; in Edinburgh, Stirling, Dundee and Renfrew serious violence broke out as citizens supported the maltmen, who went on strike in protest. In Glasgow protestors went to the home of MP Daniel Campbell, who supported the malt tax,

---

75 Campbell was a wealthy businessman before entering politics in 1702. He had been a supporter of unification and had been part of the negotiating team. Before unification Campbell represented Inverary as an MP, and after (when many other MPs had lost their jobs due to reorganisation of Scottish burghs) he represented the Glasgow burghs in
where they looted his things and destroyed his home—they even broke into his cellar where they proceeded to drink his expensive wine collection! The violence spread across the city, and eventually the protestors broke in the local armoury where they stole weapons to arm themselves. The armed rioters roamed the streets of Glasgow looking for the hated excisemen. According to newspaper accounts the excisemen were either scared off or hid throughout the riots. Any exciseman found hiding was “unmercifully beaten and abused”. After two weeks of violence and riots, the British government once again ordered military troops into Glasgow, Edinburgh and other Scottish cities. In Edinburgh, many of the leaders were arrested which scared the rest of the striking maltmen to return to work within the week, and in Glasgow, faced with four hundred soldiers, the rioters lost their nerve, and order returned to the streets. The Glaswegian leaders of the riots were given a lifetime ban from living in Glasgow, and many of the minor players in the riots were publicly whipped for the role they played. The government blamed the Highlanders for the violence that had occurred, so when the malt riots ended, they introduced the Disarming Act. The Disarming Act banned Highlanders from carrying any weapon in public, in an era when most men carried at least a knife or pistol for protection. This was a band-aid approach to dealing with the violence and protests that plagued the young nation. Although much of the malt riot violence was centered in the Lowlands, especially in Glasgow,

---

78 The cost of damages to Glasgow was estimated at £10,000 which meant the city had to sell off some land to pay the damages, just over £6000 went to Campbell as compensation for the damage rioters caused to his home.
the Disarming Act treated Highlanders as scapegoats for all of the violence and unrest throughout Scotland. The Highland population was an easy target as the largest proportion of anti-unionists and Jacobites resided in the north. It also unfairly targeted the Highland people, who were among the poorest people in Scotland and who could ill afford to pay the new malt tax. It was little wonder that the majority of illegal whisky distilling occurred in the Highlands throughout the eighteenth century.

The Disarming Act did not end the violence, especially since the government continued to introduce new taxes and ignore the issues which fueled the nationalistic and Jacobite movements. In 1745 the last Jacobite Rebellion took place. As long as a Stuart lived there was hope for those opposed to the Act of Union, high taxes, the line of succession, and the current government. James’ son, Charles the Prince Regent, arrived in Scotland on July 23, 1745\textsuperscript{81}, and not long after James was declared, once again, King of Scotland and Charles was recognized as the Prince Regent.\textsuperscript{82} King George was concerned about the Jacobite cause finally succeeding when the 1745 rebellion began, because his army was in France, Scotland had been left virtually unprotected, and the attack had been unexpected. Early victories bolstered the young Charles\textsuperscript{83}, and he wrote two declarations: one on October 9 that dissolved what he called “the pretended Union”\textsuperscript{84} and one other on October 10\textsuperscript{th} that dissolved the Act of Settlement that made the

\textsuperscript{81} Szechi, The Jacobites, 106.
\textsuperscript{82} “Prince Regent” meant that Charles could make decisions in the King’s name.
\textsuperscript{83} To bolster support for the Jacobites and to discredit the Hanoverian Court, Charles had the 1695 Parliamentary enquiry of the Glencoe Massacre published. The massacre happened after the 1689 Jacobite Rebellion when government forces murdered 38 members of the Clan MacDonald of Glencoe because they weren't quick enough pledging an oath of allegiance to William. Charles used this information to gain support and prove the English were trying to oppress the Scots.
\textsuperscript{84} Pittock, Great Battles, 58.
Hanoverians British monarchs. However, his authority was only recognised by Jacobites and the French government, and his declarations raised the morale and hopes of his army.

All was not well within the Jacobite Army though, as the Scot advisors clashed with Charles’ European advisors which he had brought with him to Scotland. His reliance on his French and Irish advisors angered the Scots who felt that the Prince ignored their vital knowledge. Under French influence, the Jacobite army invaded England to try to seize the throne and reinstall a Stuart King. When they retreated to Scotland in the face of the English army, the tactical aim was to do battle on familiar territory. Fighting in Scotland would shorten the valuable supply links, reducing the risk of resupplies being intercepted and stolen by the Government Army. The final battle would take place at Culloden. The Battle of Culloden was over in less than one hour and was a decisive battle this time—for the Government Army. The Jacobite Army failed. Their troops were exhausted and hungry. They were poorly led, trained and equipped, and battlefield tactics were inadequate. When the battle began the Jacobite Army had been reduced to 5000 men, as many soldiers deserted the cause under the poor leadership of Charles, versus the estimated 9,000 troops of the Government Army. The hope for a Stuart King, Scottish independence—and for many a Catholic monarch ruling Britain—died on the battlefield of Culloden. The British Parliament introduced a number of acts to suppress any further rebellions. The Heritable Jurisdiction Act, the Dress Act, and the Act of Proscription

---

87 Highlanders were blamed for the 1745 Rebellion, and when the government meted out punishment, it was directly targeted at Highlanders. The government thought all of the Jacobite Army were from the North, although they were made up of Irish, English, French and other European nations. This misconception continued into the nineteenth century, as is evident with the memorial built on the site of the Battle of Culloden in 1881, which still stands today; the inscription reads “The graves of the gallant Highlanders who fought for Scotland & Prince Charlie are marked by the names of their Clans.”
came immediately after the rebellion ended and were intended to punish and finally gain control over the unruly Highlanders.\textsuperscript{88}

Relations were strained between Highlanders and Lowlanders and between Scotland and England. Highlanders viewed the Anglicisation of the Lowlands as treachery against Scot ancestors, like Wallace and Bruce who had fought against English rule in the thirteenth and fourteenth centuries. Lowlanders viewed the Highland people as uncivilised barbarians, as did the English. It was no wonder, in that atmosphere that violence bubbled just under the surface. Given the Jacobite movement, nationalist sentiment on the rise, unhappiness over unification and anger over whisky taxes, the British government had a difficult job trying to keep the peace. Although the 1745 Jacobite Rebellion was the last real attempt at placing a Stuart King on the throne of Scotland, Charles would continue to plot in exile, but it came to nothing. However, it is clear that the British government never truly understood what drove such a large portion of the population to fight for the Stuart cause, nor was it a priority for government to understand and resolve the problems that caused the rebellions and riots. The Disarming Act, The Heritable Jurisdiction Act, the Dress Act, and the Act of Proscription were methods of suppression without consideration. Of course, that was due in part to the overall prejudice against the poor that existed in both England and Scotland, something that would affect British society and politics for much of the eighteenth and nineteenth centuries. In the north of Scotland, there was extreme

\textsuperscript{88} Thousands of Jacobites were arrested, imprisoned, executed, or transported for life. The Jurisdiction Act and the Act of Proscription decimated the Highland culture by banning much of their traditions, such as by limiting the power of the Clan Chief and banning Highland garb and outlawing all Highland weapons. These acts punished all Highlanders, even ones who fought for the King. It is a common belief that the Act of Proscription outlawed tartan, however the act only stated “Clothes commonly called Highland Clothes (that is to say) the plaid, philibeg or little kilt, trowse, shoulder belts, or any part whatsoever of what peculiarly belong to the highland garb; and that no tartan, or partly-coloured plaid or stuff shall be used for great coats, or for upper coats.” Nothing considered outwardly Highland could be visible. Act of Proscription, 1746, Geo. 19, 2, c. 39.
poverty among the farmers and working class, which is why there had been widespread riots over the malt tax. Poor Scots could not afford to pay a high tariff on an item that was a staple to their diet and if the British government had taken the time to understand that fact, and why they were outraged, the violence might have been more muted and infrequent. Instead, the British government continued to oppress the Scots through laws like the malt tax, the Highland Clearances, the Disarming Act and the Act of Proscription, which was meant to keep Scots, especially Highlanders, from rebelling. However, the oppressive laws and acts did not keep the Scots from protesting or rebelling and provided them with a focus for a cultural rebellion that took the form of illegal whisky trade.
Chapter 2

The Origins and Production of Whisky in Scotland

Whisky distillation remained virtually unchanged from when King James IV ordered his eight bolls of barley be made into whisky in 1494, until the Industrial Revolution introduced new styles of stills. In the first half of the eighteenth century, the same four steps to the production process remained: malting, mashing, fermentation and distillation. All whisky regions produced their whisky the same way. What altered the flavour of whisky was the ingredients used—Highland water tasted different than the Lowland water, and the amount of peat used varied among whisky producers—but both regions would use the same process to create their product. However, the Industrial Revolution, starting in the mid-eighteenth century, would alter whisky distillation and create a deeper divide between the Highland and Lowland whisky regions. The divide between the two largest areas of Scotland had been growing since around the sixteenth century when the Lowlands became more Anglicised. The Highlanders continued with Celtic traditions that had been part of the Scot culture for centuries. The differences between the two areas, culturally, socially and politically, affected the whisky industry and brought nationalism to the forefront. In the eighteenth century, when the Lowlands embraced the new technology and sciences emerging from the Industrial Revolution, the Highlands continued to create whisky traditionally. The differences between Highland and Lowland whisky, and how it is created, and why Scotland is broken into whisky regions, are an integral part of the history of Scotch. Without the events of the eighteenth century and the schism between the Highlands and the Lowlands
there would never have been a need for Scotch to be labelled by region. As businessmen, professionals and the ruling class in the Lowlands embraced the benefits of unification, those unhappy with the union, in general the working class and the poor, embraced nationalism.¹

Whisky culture became a symbol of that unhappiness and the nationalist movement, as a way to protest against governmental controls. To understand why the schism between Lowland and Highland distillers existed, beyond the political and cultural differences, there needs to be a basic understanding of whisky production and how the two areas treated the new technology developing through the Industrial Revolution. The advancements in whisky production helped create alienation between the two largest regions in Scotland, which necessitated governmental controls and the establishment of whisky regions. The Industrial Revolution allowed changes to how whisky was produced, which had a significant effect on the quality and quantity of whisky produced, which helped solidify the already existing schism between the Highlands and Lowlands.

There are many theories as to how whisky was developed in Scotland. However, they remain theories with no evidence to prove how whisky arrived in the country. John French wrote in 1651, that “I Shall not stand here to shew whence the Art of Distillation had its original, as being a thing not easily to be proved.”² The origins of whisky in Scotland may be undiscoverable, but a look at the theories provides insight into the history of Scotch whisky. Distillation was first developed in the Middle East, where people were trying to recreate gold, discover the elixir of life, and make perfume, and it spread to Europe through travelling monks.

¹ Some of the elite were unhappy with unification as well, especially in the Highlands.
explorers, and crusaders.³ Where monks travelled to spread Christianity, they took with them the art of distillation.⁴ One popular theory is that monks came to Scotland, via Ireland, to spread the Christian faith and they brought stills and Irish whisky recipes with them.⁵ This theory is not compelling though. Irish monks did arrive in Scotland, but did they bring Irish whisky and introduce whisky distillation to the Scots? For this theory to be true, the flavours of Irish and Scotch whisky would be more similar, as would the processing methods. Why did the Irish distil their whisky three times and the Scots only distil twice, if Irish monks introduced whisky to Scotland? The Irish also used a mixture of malted and unmalted barley, while the Scots used only malted barley⁶ until the Industrial Revolution when Lowland distillers would introduce the use of unmalted barley. The Scots dried their malted barley using a peat fire, which imparts a smoky flavour into the whisky, while the Irish dry their barley in a smokeless kiln.⁷ If Irish monks brought whisky to Scotland they would have taught the inhabitants the same process used in Ireland, so the whisky would be more similar.

Monks were not the only Irish people to move into Scotland, and the MacBeth, or MacBeatha as it was often written⁸, family could just have likely brought the ideas of distillation with them when they came to Scotland around 1300 A.D. This was an important Celtic family,

³ M.P.E.M Berthelot, “The Discovery of Alcohol and Distillation,” The Popular Science Monthly, vol. 43 (1893), 85. ⁴ It is thought that monks brought distillation to Europe around 600 A.D., although dates vary. ⁵ Berthelot, “The Discovery of Alcohol”, 87. ⁶ This would change during the Industrial Revolution as some distillers began experimenting with malted and unmalted barley to enhance production using new styles of stills. ⁷ Eunice Fried. “Scotch vs. Irish” Black Enterprise vol. 23, no. 2 (1992), 106. ⁸ The family name MacBeth or MacBeatha is also known as Beaton in English or Bethune in French. “Hereditary Physicians in Celtic Medicine”. The Royal College of Physicians of Edinburgh, accessed April 29, 2020. https://www.rcpe.ac.uk/heritage/hereditary-physicians-celtic-medicine
who are said to have “provided medical services to the Royal House of Scotland”\textsuperscript{9} from King Robert I, known as Robert the Bruce, to King James VI and I. The MacBeth family of physicians were skilled in medicines and surgery. There is a Scot Gaelic saying “Clann ‘ic Beatha a’ghrinn, / Luchd snaidheadth chnamh is chuislean” which translated to English means “MacBeths of the polished ways, / Men who slit bones and veins”\textsuperscript{10} Some people speculate that the MacBeth family brought whisky with them from Ireland, and historians recently discovered a copy of distillation instructions belonging to the family.\textsuperscript{11} Although the MacBeth family did arrive from Ireland, and the discovery of the distillation instructions proves that aqua vitae or uisge beatha was produced as medicine, it cannot be definitively proven that the physicians brought the recipe with them or if they discovered its usage after their arrival.

Scotland had been invaded by Vikings, Romans Anglo-Saxons and Normans, who all liked to drink, and it is possible one of these invading groups brought with them the distillation techniques from the Middle East. Without archaeological or written evidence to prove who introduced distillation to the Scots this is one debate that may never be resolved. It is likely that the Scots used a variety of imported recipes and ideas from various invaders and travellers to create their own version of whisky.

Another common theory in Scotland is that whisky was a natural progression, free from foreign influence, from sowens and derivative of parritch. Parritch was ubiquitous in Scotland,

\textsuperscript{10} Munro and MacIntyre, “The Ancestors of Norman Bethune,” 262.
\textsuperscript{11} Unfortunately, the distillation instructions have yet to be translated from Gaelic into English, so they could not be analysed for this thesis.
so much so that Robert Burns, a famous Scot poet, wrote “the halesome parritch, chief ‘Scotia’s food” in A Cotter’s Saturday Night, 1785\(^{12}\), as it was a cheap and hearty meal. During food shortages parritch could be eaten morning, noon, and night. Sometimes a pot of parritch would sit on a kitchen stove all day to be eaten at any time, or it could be stored in cloth for travelling. After a few days the parritch would begin to ferment, which some believe is the origins of Scotch whisky. However, the Scots also consumed sowens which was a dish made from the oat husks that remained after milling. The husks would be soaked in water and set aside to ferment for three or four days. The liquid would be strained from the fermented husks, turned to a paste-like substance which could be boiled until thickened and eaten.\(^{13}\) The liquid was now a fermented liquor that was consumed with some honey to mask the sour taste. Some people believe this was the beginnings of whisky, and all that was required was the distillation process. Definitive evidence of parritch being the beginnings of whisky or when distillation arrived in Scotland has gone undiscovered, so this popular theory remains uncertain and at present is unprovable as evidence may not have survived. The organic development of whisky distilling in Scotland remains obscure and is likely to remain so.

The recipe for whisky remained virtually the same for centuries, once developed. A 1692 treatise, called “The Whole Art of Distillation”, written by William Y-Worth, a seventeenth century surgeon, stated:

We may truly say this Art is for changing of gross and thick bodies into a thin and Spiritual Nature by which Action the pur Effuvia are separated from the more terrene, Faetid, and impure Feces; and that only by the help of heat; they being thereby resolved into a Vapour, are elevated to the Helm, where they are part condensed by the cold,

---


which is fully accomplished, as they run out of the Beck into the Worm, through the Refrigerating Tub, and so become clear and lucid: This is the end.\textsuperscript{14}

Y-Worth\textsuperscript{15}, as many authors of his age, wrote his treatise as a medical instruction and he includes aqua vitae and uisge beatha recipes for cholic, worms, plague, convulsions and numerous other ills. However, the distillation process remained the same whether making whisky for medicines or a drink, or whether it was produced at home by females or commercially by men.

Eighteenth century England and parts of Scotland were leading the way in the Scientific Revolution, with the emergence of ideas of engineering, physics, math, astronomy, and alchemy—the last being where distillation was placed. The Scientific Revolution brought changes to the way Scots farmed (especially in the Lowlands where improvements were embraced) and to whisky production. Gone were the open fields that allowed anyone to graze their animals and gather fallen grains left over after a harvest which helped sustain the poor citizens. They were replaced with fenced fields, which were no longer open for common use by the poor. Hardier grains were introduced, as well as new types of crops as scientists attempted to create better farming practices, which included better distillation practices as well.\textsuperscript{16} Scientists, such as Antoine Lavoisier, began studying spirits in the eighteenth century trying to discover the chemistry of distillation. In 1789 Lavoisier who analysed exactly how sugars are transformed

\begin{flushright}
\textsuperscript{14}William Y-Worth, \textit{The Whole Art of Distillation Practically Stated, and Adorned with All the New Modes of Working Now in Use}, (London, UK: Joh. Taylor, 1692), 1-2.
\textsuperscript{15}Little is known about Y-Worth, however he wrote numerous treatises on medicines, diseases and other medical advice. His name is written as YWorth, Yworth, or Y-Worth in his works and his son, Theophrastus used the spelling of Yarworth. William Y-Worth wrote from 1650 and 1710, and in 1709 he received a licence to practice surgery. His name disappears from mention after 1710. “Alchemy in the Newtonian circle,” 181, in \textit{Renaissance and Revolution: Humanists, Scholars, Craftsmen and Natural Philosophers in Early Modern Europe}. J.V. Field and Frank A.J.L. James, ed. Cambridge, UK: Cambridge University Press, 1993.
\textsuperscript{16}The new scientific ideas on farming led to the Highland Clearances, which is a highly sensitive and politically charged subject which is outside of the scope of this thesis. However, it is important to understand that the Scientific Revolution played a role in the changes to Scotch whisky.
\end{flushright}
into alcohol, and other scientists were also experimenting with yeast to understand the fermenting process in an effort to tie distillation with chemistry. Dr. A. Fothergill, who was an English physician and author, wrote that “it is not to be expected that every husbandman should be a profound chemist; but I will venture to say, that every gentleman who wishes to improve his estate…ought to be well versed, at least, in the principles of philosophical chemistry.”17 Was the idea of “every husbandman” distilling a new concept? Before the mid-1700s women were predominantly producing whisky, and would remain the principal whisky makers within the home until the height of the illegal whisky trade. Even after whisky went underground many Scottish homes still kept a small still, which remained in the female sphere. Women’s magazines and cookbooks, such as The Lady’s Magazine, Eliza Smith’s The Compleat Housewife and Mary Cole’s Lady’s Complete Guide18, dedicated sections to the art of distillation, because every woman was expected to know how to make spirits in their home. However, the intellectual and philosophical ideas emerging in the late seventeenth to eighteenth centuries began being applied to the agricultural world. Scientists began writing about the art of husbandry, which included new techniques for sowing seeds, new pastoral ideas, new breeding techniques for animals and even about distillation ideas.

The new science asserted that a knowledge of chemistry was required for proper whisky distillation, despite illiterate Scots producing great tasting whisky for several centuries without knowing or having an understanding of chemistry. In 1802 Dr A. Fothergill wrote a treatise titled

“On the Application of Chemistry to Agriculture and Rural Economy” for the Bath Agricultural Society in England claiming that distillation was a complicated process, and women did not possess the mental capacity to carry out such difficult tasks. Fothergill states that “philosophical chemistry in part because the brewing, the making of wine, cider, vinegar &c. are so many chemical processes; which for want of the requisite stock of knowledge, in many cases either fail altogether, or are carried on with little advantage”\(^\text{19}\), which negated the role of women in distillation. Women had been producing whisky for their family and neighbours for at least four centuries, because whisky was uncomplicated and did not require a great deal of attention so other work could be conducted simultaneously. The new scientific ideas helped move whisky into the male sphere. Women had less formal education than men in the eighteenth century and it was thought that women did not possess the capability of understanding the complicated chemistry required for whisky production.\(^\text{20}\) The shift from women distilling in the home to men producing whisky is evident in *The Art of Cookery Made Plain and Easy* by Hannah Glasse, published in 1774, 1780, 1784, and again in 1805. Although men were the main distillers of whisky by the 1750s in Scotland, many women continued to use small home stills to produce enough whisky for medicinal use and to distil other items, so cookbooks continued to print recipes on distillation. Even after the 1781 ban on home stills, women continued to distil things in their home. In 1774, 1780, and 1784 women could learn how to distil anything, including aqua vitae, vinegar or rose water from the chapter “XX Of Distilling”. This chapter, tellingly, was omitted from the 1805 edition of Glasse’s cookbook.\(^\text{21}\) Scientists of the period, such as


Fothergill, did not believe women were capable of understanding chemistry, which they felt was a requirement for distillation. Slowly cookbooks and magazines aimed at female readership discontinued distillation recipes because of the theory that women were incapable of understanding the complicated distillation process.\(^{22}\)

Taxes and the Industrial Revolution, more than scientific thought, changed the whisky industry in Scotland. The same four steps applied to whisky production whether men or women were operating the stills, and those steps remain constant until the end of the eighteenth century when large distillers changed technology and whisky producers tried to avoid paying whisky taxes. The treatise by John French, a self-proclaimed expert on the art of distillation, who compiled a collection of distillation recipes and instructions for medicine and drinking in *The Art of Distillation, or, A treatise of the choicest spagyrical preparations, experiments, and curiosities, performed by way of distillation*, articulated a four-step process. French’s treatise shows that whisky was an important part of family medicine, as most Scots could not afford a doctor or readily reach one, and that the process of distillation changed little from the time it was written to the present day. While the Industrial Revolution changed the process with new still designs, the basic recipe remained the same. French wrote (somewhat more clearly than William Y-Worth, but to the same affect):

> But let us understand what distillation is, of which there are three principal and chief definitions. 1. Distillation is a certain Art of extracting the Liquor, or the humid part of things by vertue of heat (as the matter shall require) being first resolved into a vapour, and then condensed by cold. 2. Distillation is the Art of extracting the spiritual, and essential humidity from the flegmatick, or of the flegmatick, from the spiritual. 3.

\(^{22}\) As women’s magazines and cookbooks began leaving out distillation instructions their male counterparts began printing them instead.
Distillation is the changing of gross thick bodies into a thinner, and liquid substance, or separation of the pure liquor from the impure feces.\textsuperscript{23}

French, like other authors of his era, equated distillation with the spiritual and the four humours of medicine. So, by defining what distillation was, the reader was given to understand the importance of the process because it was not about creating a drink to become intoxicated. Rather it was intended for healing, and a necessity for living.

A further examination of French's instructions will give a better understanding of the whisky-making process, which many Scotch whisky producers use today. It was, in part, the strict adherence to traditional whisky production that separated Highland whisky producers from Lowlanders. In the eighteenth century, most illicit whisky producers used these same four steps to make their illegal whisky. French wrote that the most important part of distillation is heat, because heat is needed to malt barley and extract alcohol from the malt. He stated the "first is only a warmth, as is that of Horse-dung, of the Sun of warm water, and the vapour thereof, which kind of heat serves for putrefaction, and digestion."\textsuperscript{24} This step is malting, where water is added to the barley and left to soak for two or three days in order to convert the starch from barley to sugar, or putrefaction as French called it. During this period the water is drained and replaced with fresh water three times.\textsuperscript{25} After the barley is putrefied it is spread out flat and allowed to germinate and a constant temperature is maintained by continuous stirring. The temperature is important to maintain as the mash will become very hot, and stirring will keep the

\begin{flushleft}
\textsuperscript{24} John French, “The Art of Distillation,” 10.
\end{flushleft}
temperature even; when the malted barley has grown small shoots of new growth, which takes two to three days, it is placed in a kiln until dry. The kiln is placed over a fire of peat, and it will depend upon the producer how much peat is used and for how long. Peat adds a smoky flavour to the whisky, and each distiller would decide how much peat to use depending upon the flavour they wished the final whisky to achieve.26

Peat was an important step in whisky production, especially in Highland whiskies, because it was a natural product and a cheap way to heat the fires needed for whisky making. Scotland has many bogs, moors, and fens, which are wetlands, or large wet grassy areas, where peat develops naturally. Peat is “the partial decomposition of vegetable matter”27 but it is not completely broken down by the acidic wetlands; vegetable matter includes moss, sedges and shrubs. Peat bogs can be over twelve thousand years old, and because peat holds water it helps wetlands expand and grow. Peat is generally hand cut into blocks, which are left to dry; once dry it is ready to be used as fuel and produces a lot of smoke. Since peat is a natural product of Scotland—especially in the Highlands—and extremely cheap in the eighteenth century, it was an economical form of fuel.28 It was also lighter than wood for the illicit distillers who had to travel with their ingredients and fuel source. Highland whiskies were and remain much smokier than their Lowland counterparts because the majority of them used the cheap, light peat for their fires. In the Lowlands peat was used less frequently in the tax-paying distilleries as lightweight fuel sources were much less prized. The Lowlands tended to be wealthier, because they were less

28 Kopp, “Peat”.

58
agrarian by the mid-eighteenth century\textsuperscript{29}, more densely populated and had closer trading
association with England which afforded them the luxury of the less smoky coal and wood for
fuel.\textsuperscript{30} So, while peat is not considered an ingredient in the whisky-making process, it was an
essential part of Highland whisky production and greatly affected the final product as much as
the water, barley and yeast.

The second step is called mashing and is what French described as “extracting the
Liquor, or the humid part of things by vertue of heat.”\textsuperscript{31} The malt is ground into a coarse flour
called grist and hot water is added to extract the sugars that were created in the first step. A good
clean water source was required for whisky distillation, and is the reason distilleries around the
world are built near a water source. Water is an important ingredient in whisky. Highland whisky
flavour is distinctly different from Lowland\textsuperscript{32} in part because the Highland distilleries are known
for their clear spring water, and each spring has a unique taste that imparts flavour to the final
product.\textsuperscript{33} A whisky can be ruined by a poor water source.\textsuperscript{34} The humid mixture of malt and
water is turned into mash and added to a kettle, where it is stirred for several hours creating a

\textsuperscript{29} By the mid-eighteenth century the economy in the Lowlands was driven more by business and depended less on
farming than in previous centuries. Many Lowlanders continued to farm, as the land was fertile. However, many of
these farmers embraced the new scientific ideas and equipment that emerged through the Industrial Revolution. In
contrast, the Highlands traditional community farming was the norm.
\textsuperscript{30} Coal was mined on the coast of the Firth of Forth, in the Lowlands, and in the North of England. So, Scots could
purchase coal for fuel at markets. The use of coal as fuel had risen by the 18\textsuperscript{th} century as wood sources depleted and
new equipment emerged from the Industrial Revolution, like the power steam engines, that required coal to operate.
Scotland, Northern England and South Wales produced vast quantities of coal to keep up with demand.
\textsuperscript{32} This is not meant to imply that Lowland distillers did not have good, clean water sources. The Cannonmills
distiller used the river that flowed through Edinburgh, now referred to as the Water of Leith, Kennetpans used the
River Forth, and Kilbagie used the river Spey. These were good water sources, however they have a very different
flavour profile than spring water would have.
\textsuperscript{33} Moss and Hume, The Making of Scotch, 17
\textsuperscript{34} Dennis McBain, “Making Whisky,” in Scotland’s Secret History: The Illicit Distilling and Smuggling of Whisky,
liquid called wort, which is then drawn from the bottom of the kettle.\textsuperscript{35} The residue left, the husks of the barley and such, is called draff and used to feed farmers’ cattle.\textsuperscript{36} Whisky was an important product for a farming family, because it was used for medicine, and for the animal feed by-product. Nothing went to waste in the whisky process.

The third step in whisky production, that French called “extracting the Liquor”\textsuperscript{37}, was called fermentation, in which the sugars of the wort are transformed into alcohol. The wort is cooled and placed into a wooden fermentation vessel, known today as the washback, where yeast is added to begin the fermentation process. This process creates a frothy mixture that needs to be watched carefully with the head cut down, to prevent it frothing over the vessel.\textsuperscript{38} The fermentation process lasts forty-eight hours, after which the frothing dies down and the liquor ranges between five to ten percent alcohol, which is now called wash.

The final step in whisky production is distillation, which French describes as “separation of the pure liquor from the impure feces.”\textsuperscript{39} The still would heat the liquid which purified and removed any impurities that made their way into the wash. The wash is placed in a still and placed over a fire to heat the liquid. As the liquid boiled its vapours rose through a tube often called a swan neck, and traveled down an arm tube into the worm which was placed in a tub of cold water.\textsuperscript{40} The cooled liquid was dispensed from the worm into a collection vessel and out through the still once again. The whisky from the first distillation was called low wine, and was

\textsuperscript{35} The industrial revolution allowed an improvement to the mashing technique with the invention of a mash tun, that allows the wort to be easily drawn from the bottom of the kettle bowl.

\textsuperscript{36} Moss and Hume. \textit{The Making of Scotch}, 18.

\textsuperscript{37} John French, “The Art of Distillation,” 16.

\textsuperscript{38} Moss and Hume, \textit{The Making of Scotch}, 18.

\textsuperscript{39} John French, “The Art of Distillation,” 16.

\textsuperscript{40} Moss and Hume, \textit{The Making of Scotch}, 20.
so high in alcohol content it was unsafe and unpalatable to consume so it had to be distilled a second time. By sending the wash through the still a second time the liquor was smoother and the alcohol strength was around 65-70% ABV. The whisky was now ready for consumption. Prior to the 1850s whisky was consumed straight out of the still as a clear liquid, and would not gain its amber colour until it was discovered that used wine barrels added both flavour and colour that consumers enjoyed.

Distillation changed very little in a millennium, since the alembic still was invented around 800 AD, and the pot still used in eighteenth century Scotland was much the same. The alembic still consisted of three parts, the cucurbit—a pot that held liquid to be boiled, the head, which sat over the cucurbit into which the vapour rose into, and the tube which led to the collection receptacle. The alembic still was usually made of copper, as it was thought to be the superior metal for distillation and the best material for removing any impurities. Master distillers continue to argue over whether copper is the fourth ingredient in whisky, as some believe copper imparts flavour into the whisky the same as the water source will. Copper remains the metal of choice for pot stills in Scotland, and continues to be used in modern distilleries.

The pot still was popular throughout Scotland, until the Industrial Revolution when larger stills were invented which changed how some producers distilled whisky. The round shaped pot still was small and easily portable, which made it the perfect instrument for making illegal

42 In Ireland whisky is distilled a third time, which gives it a lighter flavour than the robust Scotch whisky. There are exceptions in both countries and some Scotch whisky is distilled three times and some Irish whisky is distilled twice.
whisky because it could be picked up and moved quickly if the alarm sounded that excisemen were in the area. This remained a vital consideration for illegally made whisky.

The Industrial Revolution changed how whisky in Scotland was produced, as new styles of stills were developed that allowed continuous whisky production rather than the batch production which required that the still be shut down between batches for cleaning and then charging. The small pot still, favoured in the Highlands, produced whisky at a slower rate and produced small batches. The invention of the continuous still, by Anthony Perrier, allowed wash to be fed through one end while the finished whisky continuously flowed from the other without ever having to be shut down. Perrier operated Spring Lane Distillery in Cork, Ireland and in 1822 he patented the first continuous still, commonly referred to as the column still. The continuous still no longer resembled the alembic still but, as its nickname suggests, is a straight vertical tank. The column or continuous still was made of steel with copper reserved for the inside tubes. The continuous still was so named because it did not require the completion of the distillation process before producers could begin a new batch. The chambers inside the still

---

44 The alembic still remained virtually unchanged into the 11th century when a coil pipe, called the worm, was added to cool the liquid quicker. The next improvement did not happen until the 14th century when the worm was placed in a cold-water bath, which stabilized the temperature of the distilled liquid. The pot still, which was popular in Scotland, evolved from the alembic still and resembled its style.

45 Although iron ore had been used in Scotland since around 1756, it took 8 tons of coal to produce one ton of iron which made it expensive. Steel continued to be cheaper in Scotland than iron until 1827 when a new method was discovered by James Neilson that required less coal to make. In comparison it took only four tons of coal to produce Welsh iron. In 1825 Scot iron was about 25,000 tons per year while in South Wales they were producing 150,000 tons per year. In 1827 James Neilson discovered a new technique that required less coal to produce iron and by the 1870s Scotland was produced 326,000 tons of iron. Although primary and secondary sources refer to the continuous still as being made from steel it is likely they mean ‘low carbon steel’ (sometimes referred to as mild steel) which emerged in the 19th century, and was a cheaper version of wrought iron and used less carbon to produce. Low carbon steel is also sensitive to rust, which would be why the tubes were made of copper in the continuous still. R.H. Campbell, The rise and fall of Scottish industry. 1707-1939, (Edinburgh, UK: Donald, 1980), 43.

allowed for wash to be constantly pumped into it while a steady supply of completed whisky exited from the other side of the still. Each chamber heated the wash gently which produced a higher alcohol content than the pot still created.\footnote{Moss and Hume, \textit{The Making of Scotch}, 80} Perrier’s still was not popular though, and little else is known about this still. However, his invention was important to the history of whisky production because Perrier’s continuous still paved the way for other inventors to improve upon the design and create a better column style still.

In 1827 Scotsman Robert Stein, a Lowland distiller who will be discussed further in chapter three, patented his own continuous column still which improved upon Perrier’s. Stein’s still was the first commercially used continuous still in Scotland, and was called the patent still which fed the wash through partitions that were divided by haircloth plates.\footnote{“Kilbagie Distillery,” in \textit{The Kennepons Trust}, December 29, 2018. \url{https://www.kennetpans.info/stills/}} The patent still required the wash to be preheated before being placed into the chambers where it was then steamed, causing alcoholic vapours to rise into the tall column style still. The haircloth plates ensured the impurities from the wash were dropped down into the bottom of the still where they could be removed. There were two serious flaws in Stein’s design. Although it was called a “continuous” still the device nevertheless had to be shut down after the distillation process to clean out the residue that had dropped to the bottom. It did not need to be cleaned in the same manner as a pot still, but the residue could not be cleaned out while the still was in operation. The second flaw was that the whisky lacked flavour and the alcohol content was too high to be consumed, despite a second distillation (this will be further examined later). Despite the design flaw the Stein brothers used the patent still in their Kilbagie and Kirkliston distilleries producing...
150,000 gallons of whisky per year which was an increase of “thirty fold”. Other legal whisky companies, using a large pot still, could only produce about 5,000 gallons a year. In the Lowlands, the quest for stills that could produce whisky faster and in larger quantities placed value on the business of whisky production and less on the quality of the product they were producing. In the Highlands value was still being placed on the quality of whisky produced, which further alienated the two regions from one another.

Stein tried to market and sell his patent still across Britain and Ireland, and it was during a sales trip to Dublin that Aeneas Coffey witnessed a demonstration and used Stein’s idea and improved upon it to create the Coffey still. Coffey was an exciseman, and once head of the Dublin excise offices. He survived many skirmishes and attacks, once having even been stabbed by illegal Irish and Ulster-Scot smugglers and distillers. Coffey was considered a good exciseman, and he felt that his position as an excise officer gave him a unique insight into the industry. Coffey readily shared his opinions and ideas on how the government could legalise the whisky industry, and how they could work together with distillers to end illegal production. He advocated for making illegal distilling legal by lowering taxes and licenses costs. However, his ideas were met, in general, with negative responses from Members of Parliament. Yet in 1823 Coffey helped draft the Excise Act, that helped end illegal distilling in Scotland and made it easier for criminal distillers to become legitimate.\footnote{Neil Wilson, “Aeneas Coffey,” \textit{Scotch Whisky Magazine}, September 11, 2018, https://scotchwhisky.com/magazine/whisky-heroes/20740/aeneas-coffey/}

\footnote{“Kilbagie Distillery” in \textit{The Kenntepans Trust}.}


64
began running the Dodder Bank Distillery, Dublin and Dock Distillery and in 1830 opened his own distillery—Aeneas Coffey Whiskey Company—an unusual move for an exciseman. Coffey had a unique view of distillation when he began to design a better continuous still, as he had confiscated many pot stills and spent many hours inspecting the premises of legal distillers as part of his excise duties.

Coffey used his knowledge of distilling, and what he learned of Stein’s patent still, to create an improved continuous still. Coffey added a second column to the continuous still: one column called the analyser and the other the rectifier. The analyser was fed with steam which rose through the various chambers while hot wash entered through the top of the same chamber descending through the other chambers. The steam removed the alcohol content from the wash and carried it through to the rectifier. The alcohol ascended through the second column’s chambers meeting with a supply pipe of cold wash, which acted in a similar manner as the worm of a pot still to cool the alcohol, where the vapours condensed and gathered in the spirit chamber. Coffey was unable to fix the flavour issues that Stein’s still had, as the alcohol created from the Coffey still had less flavour than whisky made in a pot still and was almost pure alcohol.52 A majority of alcohol created through the Coffey still was sold to gin companies for rectification where it became palatable and safer to drink, allowing Lowland distillers using the new style of stills to become richer. To rectify cheap whisky into gin, the spirit is first diluted with water, and then boiled with flavourings and distilled once to remove any impurities left from the steeping.53 As a pure alcohol, of almost 96% abv, it was unsafe for human consumption without

52 Wilson, “Aeneas Coffey.”
rectification, although some Lowland distilleries would attempt to sell this as whisky despite side
effects such as blindness and even death.  

The move from small scale whisky production not only changed Lowland whisky into a
business instead of a handicraft, but it also pushed women further from whisky production.
Women’s roles were changing in Britain and the colonies in the brewing and distillation
industries as men began building factories to make beer, cider, whisky and other spirits. Women
had used excess whisky, beer and ale, to sell or trade for their family’s wellbeing. However,
thanks to the Industrial Revolution men were able to capitalise on these same products to become
wealthy (at least in the Lowlands where industrialisation was embraced).  

Industrialisation transformed other handicrafts as well, such as beer and cider production, butter making, grinding
grains, and spinning of wool. The Industrial Revolution made these female chores superfluous as
men created equipment that performed these duties quicker and in larger quantities. The
traditional role of the housewife was changing, as was the role of the husband, as products
moved from handicraft to commercial business. While this changed the role of the housewife, it
changed their economics as well, as homemakers no longer had customers requiring home spun
wool, or extra butter and whisky to sell or trade. This was a particularly harsh economic
downturn in the Highlands where the barter system was still highly valued and excess products,
such as butter or whisky, were traded for rent, food, or clothing. Now that industrialisation had
made many homemade products commercial items, families had nothing to barter with or with
which to earn extra money to supplement their income. Some women, such as Helen Cumming

---

54 Wilson, “Aeneas Coffey.”

55 Judith Bennet states in her book, Ale, Beer, and Brewsters in England, that the brewing industry had edged
women and had been capitalising on ale and beer as early as the 1300s.
(who will be discussed in more detail), managed to hold some control over her family’s whisky production. The few women who managed to cling to their role as whisky producers were mainly from the Highlands where whisky production continued traditionally. It was the adherence to traditional whisky production that allowed a few women to remain in the industry. Industrialisation left little room for women in whisky distillation, an issue that persists even today as men run most distillers. The invention of faster stills, that produced vast quantities of whisky, transformed whisky production in the Lowlands from the small home distilleries that were run by women as part of their household duties. Lowland whisky was now big business and as a business, women were no longer part of that production.

Although the origins of whisky in Scotland remain undiscovered, it is clear that whisky was an essential element to Scottish culture and traditions by the eighteenth century and remained unaltered from at least 1494 until the Industrial Revolution. The new scientific thought of the Enlightenment era attempted to change distillers’ ideas and opinions about whisky production, insisting that it was a complicated chemical process that required a great deal of scientific knowledge that women could not understand. Scientists wrote treatise and pamphlets explaining how distillation was a scientific process and encouraged men to take over the running of the family still from their wives and female servants. Scientists may have written new instructions for men on distillation with complicated chemistry explanations, but the process remained the same as it had done since the fifteenth century. It was not until the Industrial Revolution that whisky production was changed, as larger and faster stills were created, and

---

56 This is not to say that no women in the Lowlands were involved in whisky production, as some secondary sources, such as The Kennetpans Trust suggest that some of the Stein women were involved in the family business. It is unlikely their role was significant as primary sources and most secondary sources do not cite the Stein women in their works.

67
whisky moved from a domestic product to commercial business. This move created a hardship for families, mostly in the Highlands, who relied on the extra income generated through excess whisky as it moved from handicraft to commercial business. The move also deepened the divide between the Highland and Lowland people, and whisky distillers. Traditions remained important to the Highland people, and although there was a switch from handicraft to illegal whisky production in the Highlands throughout the eighteenth century the area, in general, avoided the commercialisation of whisky. By remaining a small batch industry, despite men taking over the production of illegal whisky, Highland whisky remained a quality product that was prized (which will be discussed in the following chapter). Although the whisky produced through industrialised stills, whether a Perrier, Stein or Coffey, was of inferior quality to that made in the smaller pot still, this did not seem to be an issue that Lowland distillers worried over. Lowland distillers had become wealthy businessmen who placed a higher value on profit than on a quality product. However, as is discussed later, they did attempt to fix the problem of the inferior tasting whisky to compete with higher valued Highland illegal whisky that was sought for its quality and flavour. In the Highlands, the quality of their whisky was more important than profit, which is why very few industrialised distillers existed in the Highlands until the nineteenth century.\footnote{For ease of understanding in the context of this thesis industrialised distillers is synonymous with commercial production. Large industrial distilleries (like Ferintosh, Kilbagie or Canonmills) were not producing whisky for the community but as a commercial enterprise. The smaller, and illegal distillers, were creating whisky for community use—as housewives had done for centuries in Scotland—which they sold for a small price or bartered with.} This meant Highlanders remained economically depressed, and industrialisation could have brought higher profits to their whisky sales, it was avoided. In the Highlands, industrialisation was thought of as English invention, and industrialisation meant acceptance of an Anglicised lifestyle, which most Highlanders were unwilling to embrace even if it meant higher profits.
Most Highland distillers wanted to maintain dominion over whisky to use whisky culture as a form of protest, which is evident by the fact that only one industrialised whisky distiller of note existed in the Highlands—Ferintosh. While there had been a growing divide between the Highland and Lowland people for centuries, over politics, culture, language, dress, taxes and economics, the Industrial Revolution brought whisky into that divide, and the schism grew into a political crisis for the British government. The industrialisation of Lowland whisky also created a new group of businessmen that held influence over the British government, as tax-paying citizens, who used that sway to make demands that benefited large whisky distillers and disadvantaged small distillers. This helped strengthen the schism that already existed between the Highland and Lowland people, politically, culturally, and economically, and this grew into a political crisis for the British government.
Figure 2 one type of whisky still. Accessed from National Trust for Scotland https://www.nts.org.uk/stories/the-illicit-still-game

Figure 3 “the worm”. Accessed from National Trust for Scotland https://www.nts.org.uk/stories/the-illicit-still-game

Figure 4 an example of a small pot still in operation at Glenmorangie Distillery, a Highland distillery in operation since 1843. The pots could be made smaller or larger, depending on the output a distiller desired. Accessed from www.photobucket.com

Figure 4 an example of the continuous still. Accessed from Whisky Science Blog http://whiskyscience.blogspot.com/2013/08/history-of-column-still.html
Figure 5 an example of the continuous still, invented in 1830. The Coffey still was a variation on the Perrier continuous still. Accessed from Wikipedia https://en.wikipedia.org/wiki/Column_still
Chapter 3

A Country Divide: How whisky regions were created in Scotland

As discussed in chapter one, there had been a divide between the two largest areas of Scotland, the Highlands and Lowlands, from at least the fourteenth century—politically and culturally—and by the eighteenth century that divide included whisky. Politically Scotland was divided by the Jacobite movement, the Act of Union, which many conceived as their loss of sovereignty and responses/opinions on the British government. Economics also divided the Scots. By the seventeenth century, the inhabitants of the Lowlands had become more Anglicised in their political ideals and their dress, which helped them trade with the English and prosper. Lowlanders spoke Scots, which was a sister language to English and had allowed Lowlanders to interact with the English before unification, though it was considered a lower-class language by the English.¹ After the 1707 Act of Union, though, Lowlanders were wary of the different dialect between English and Scots, with Scottish MPs mocked in the British parliament for their Scots speech and considered unintelligent and lower-class. So, members of the newly emerging middle class and upper-class Scots, which included Scot Members of Parliament, were educated in the English language to interact better in business and politics.² The Lowlands were a wealthier region that used a monetary system, especially after industrialisation brought manufacturing to

² Lawson, “Scots: A Language or Dialect?”, 143.
the area. This also separated the Lowlands from the Highland people socially and culturally, and created animosity between the people of Scotland. In the Highlands Celtic traditions and the Gaelic language remained strong, and they continued the baile and the subsistence farming structure that used the barter system continued, which also kept Highlanders more impoverished as a people. Highlanders spoke Gaelic well into the eighteenth century, they wore traditional tartan garb and used the clan system of governance. Maintaining these traditions was more difficult after the 1746 Act of Proscription and Dress. The Industrial Revolution in Scotland highlighted these extreme differences because Lowland distillers embraced new technology and applied new scientific ideas to whisky production, such as the continuous still and chemistry principles, because they were already prosperous, which made them even wealthier. At the same time, Highland distillers used pot stills to make small batches of whisky traditionally. It is crucial to understand the differences between the Highland and Lowland people, and the currents of antipathy that existed, as they had a direct impact on whisky production in the eighteenth century, which is why this thesis examined those subjects before delving into whisky itself. The two regions approached whisky distillation in such diverse ways that the British government had difficulties creating uniform whisky laws that would encompass the differences and end the illicit whisky trade. This chapter will examine the differences between Highland and Lowland distillation, how Lowland distillers used new technology to capitalise on whisky production and why Highland whisky differed from the south. It will also explore the role of excisemen in the eighteenth century and how they interacted with legal and illegal distillers. The role of the Excise Board was crucial in helping to end the illicit whisky trade. However, excisemen and their experience were undervalued by the British government until the Earl of Liverpool became Prime Minister in 1812. He used the excisemen’s experiences and opinions to create a new
taxation system that helped end the illicit whisky trade that plagued Scotland for almost 150 years. Their role in whisky's history is as important as the political, social, and economic divide of the north and south, and the Industrial Revolution.

Scotland only had 30% arable land, and the Lowlands enjoyed most of that fertile land, which is likely why two-thirds of Scotland's population lived in the southern area. The Industrial Revolution saw the commercialisation of farms and whisky production in the Lowlands. Farms were expanding with larger fields to grow. This was due in part because the arable land made it more profitable in the south to farm, so they had the funds to install new equipment and implement new scientific ideas to farming not enjoyed in the north. The topography of the Lowlands also allowed for an easier transition to the new style of farming, because southern Scotland enjoys more rolling hills or flatter terrain which accommodated the new crops, enclosed fields and new equipment better than the mountainous Highlands. The new style of farming was more profitable and brought more wealth to farming families, propelling them into the newly emerged middle class. Creating more wealth allowed farmers, and other middle class people, to purchase items otherwise unattainable and created as a handicraft. Whisky, like beer and cider, could now be readily bought at the market instead of being made by housewives or servants.

---

3 The few authors that write about the history of whisky often overlook the important role excise officers played in shaping the modern whisky industry and their role in ending the illicit whisky trade. T.M. Devine, in his article “The rise and fall of illicit whisky-making in northern Scotland, c. 1780-1840”, does a good job explaining the role of excise officers in Scotland. He expands on the role of the exciseman, how taxes were collected in Scotland and the burden of the excisemen. However, what is lacking is how the Excise Board developed and adapted to the inherent difficulties of monitoring Scotland’s legal and illegal whisky operations. Their professionalism and efficiency are often overlooked by authors, especially non-academics who tend to demonise excisemen.


5 Nothing in the research suggested that the animosity between northerners and southerners existed because of the difference in prosperity, although it is logical that money could have been a contributing factor. Although, it is more likely that the animosity stemmed from the Anglicization of the Lowlands, which Maclean alludes to in Scotland’s Secret History.
new, and profitable, farming practices fostered a monetary economy which may have helped the Lowland whisky market to grow as well. New farming ideas espoused by scientists included field enclosures, new crops and crop rotations, convertible husbandry, and new methods of breeding which cost money to implement. The Highland economy relied on small subsistence agriculture, despite more of the land being barren, and the mountains preventing much expansion, unlike Lowlanders who were moving to commercial farming, and an industrial and manufacturing economy by the mid-eighteenth century. In the Highlands a monetary economy and the new farming ideas, scientific techniques and industrial changes were too English, and these new ideas were thought to be another example of English influence in Scotland so the traditional subsistent farms continued. Scientists were attempting to apply ideas discovered through the Scientific Revolution and because of those ideas new foods were introduced in Scotland, that, like turnips, were hardy and more drought proof. Having drought proof crops would mean crop failure was less of an issue, and periods of famine would occur less often. Because of the problematic terrain in the Highlands the people used a system called baile. The Highland baile was a settlement where groups of families farmed jointly to grow barley, oats, and wheat. By the seventeenth century, other crops were introduced such as kale and turnips as part of crop improvements heralded by scientists, which were adapted in the south and the north. Cattle were essential for the Highland farmer, as they were sturdy, produced milk, and could be sold for meat. Highland cows were grazed on common land and did not require a great deal of maintenance; when income was required cattle were taken into southern market towns to sell. The cows were walked through the rough mountainous terrain on foot by 'drovers' who used

---

6 Smout and Fenton, “Scottish Agriculture,” 76.
paths to move the cattle as roads were non-existent (until military infrastructural work) in the Highlands, and it would take several days to weeks to arrive at a market town. This was symbolic of the difficult lifestyle of Highland farmers, as they were a distance from market towns and the terrain did not make growing crops easy.

The difference in the land, farming techniques and capital availability caused an important divide that affected how the two regions utilised the new equipment and scientific ideas emerging through the Industrial Revolution. These differences also played a vital role in how the two largest regions in Scotland diverged in whisky production and techniques throughout the eighteenth century. When agricultural practices started to change, a situation often referred to as the Agricultural Revolution, Lowland farming in Scotland was one of the most unproductive farming systems in Europe. Scots used a runrig system of farming, which meant that land was rented from the landed gentry, called Lairds, and not owned by the farmer. The fields were open, and divided into strips, called rigs, for cultivation and to make the system of farming equitable, the rigs were rotated between the tenant farmers so that no one had use of the best land. Before the seventeenth century Lowlanders lived in settlements called fermetouns, much the same as the baile system of farming in the Highlands. People worked co-operatively in subsistence farming throughout Scotland, but when farming improvements made their way to Scotland in the late seventeenth century the Lowlands evolved to a more English style of

---

7 Improvements to farming eventually reached the Highlands, especially after the war with France from 1790 to 1815 when landowners needed money. Highland improvements happened in two phases, the first phase began around 1750 with enclosures, rental increases, and crofting communities created to accommodate anyone displaced. Becoming a crofter was a demotion in the class scale, as it meant they were no longer farmers working for themselves of their baile and now forced to work in one of the industries. During the second phase, from 1815 to the 1850s, changes were drastic in what is now known as the Highland Clearances which saw the displacement of around 300,000 Highlanders in favour of more pastureland and larger crops. T.M Devine, *The Scottish Clearances: A History of the Dispossessed, 1600-1900*, (London, UK: Allen Lane, 2018) 56-60.
farming. The English style plough was introduced, a smaller more manageable plough that required only two horses or oxen to pull versus the old style that required four oxen to pull. New crops were also introduced, such as potatoes, turnips, cabbage and rye, which were embraced throughout Scotland. In the Lowlands the runrig system was abandoned, as was the co-operative farms, in favour of enclosed fields worked by one farmer. Implementing the new farming techniques meant thousands of Lowlanders were displaced in favour of larger fields for pasturing and growing crops. Marshes were drained in favour of more arable land, and regions in the south began specialised farming, which meant specific areas would concentrate on one type of crop or livestock. The specialised farming meant new types of markets were created that aided the commercialisation of the Lowlands.

The Industrial Revolution changed whisky production in the south of Scotland, and took whisky from a cottage handicraft to a large commercial industry; the installation of continuous stills gave them an output of whisky thirty times higher than a single batch pot still had allowed. The Lowlands paralleled the changes of England throughout the agricultural

---

8 After unification the Society of Improvers was founded, in 1723, to improve agriculture in Scotland. The society was founded by the landed gentry, Dukes, Earls and Lairds. The improvers introduced new styles of ploughs, new roads were built in the Lowlands, and new crops were introduced. Devine, The Scottish Clearances, 45.
10 This process is now known as the Lowland Clearances, and displaced thousands of cottars. Devine, The Scottish Clearances, 65.
11 In the area of Ayrshire they began breeding cattle; along the borders large areas of pasture land, where sheep could be raised became the norm; and the Lothians concentrated on crop farming (mainly grains). Devine, The Scottish Clearances.
12 Altered farming practices in Scotland are an important, but often overlooked, area of whisky history. But, it is important to understand how farming had changed in the south, because it had a direct impact on how and why they made the change to commercial whisky production. Without the improvers changing the style of farming in the south the Industrial Revolution may not have taken hold, as farmers would not have had the money to invest in new stills and expand buildings to accommodate the larger equipment.
revolution, the scientific enlightenment, the industrial revolution, the emergence of the middle
class and the accumulation of wealth through the market economy. Lowland whisky followed
this same path. The Stein family, notable whisky producers, is perhaps the most striking example
of whisky's development. The new continuous still, which the Steins employed, also allowed
whisky to be made quicker than the small-batch pot still, as it never had to be shut down to be
cleaned or reheated afterwards. The Lowland landscape quickly changed as large distilleries
were built; larger buildings were required to accommodate the taller stills.\(^\text{14}\) The industrialised
distilleries created a new group of businessmen and working middle class, who had money to
spend in market towns and conduct business with other working middle class men. Although
these new industrialised distillers employed labourers it was really the middle-class businessmen
that benefited from commercial whisky, as Lowland distillers became wealthier and had money
to spend.\(^\text{15}\) Not only did these men became rich, but they also become influential within the
distillery and political circles. The Stein and Haig families were two of the most influential
names in the whisky industry as they transformed their businesses into industrialized operations,
and became voices for Lowland distillers advocating for southern whisky.

\(^{14}\) While the Agricultural Revolution brought the Lowlands more in line with European farming practices it
displaced thousands of cottars and tenant farmers, who moved from their small family farms to the industrialising
cities like Glasgow or Edinburgh. Some immigrated to the Americas to make a new start. Improvements to farms
meant hardship for a great many Scots, who had rented their land from Lairds and the aristocracy that wanted to
improve their own finances by building better farms. Tens of thousands of Lowlanders were displaced from 1760 to
1830. Devine, \textit{The Scottish Clearances}.

\(^{15}\) Only the number of employees at Kennetpans and Kilbagie Distiller was discovered during research, however the
working-class would not have benefited greatly from industrialised distilling. The Steins employed 500 people
which sounds like a large number, but when that is compared with the tens of thousands of southern Scots who were
displaced because of farming improvements it is a negligible number. We know that Canonmills had employees,
outside of the family that ran the company, as it was the employees who held off the angry mob of protesters in
1784; however those numbers were not recorded.
The Steins, who began as farmers in the Lowlands, expanded their whisky and farming operation. They believed in using every new scientific idea and technological development they could to further their businesses.\textsuperscript{16} By installing new stills at Kennetpans and Kilbagie, two of their largest distilleries, they were able to produce roughly 6,000 tons of whisky annually.\textsuperscript{17} Kilbagie is said to have cost over £40,000 to build, including equipment, and was larger than Kennetpans, making it the largest distillery in Scotland when it opened in 1777. Kilbagie was run as a factory-style distillery producing vast quantities of whisky. It employed 300 men, which did not include additional staff required in the distillery\textsuperscript{18}, and created enough draff from the mashing process to feed “7,000 heads of cattle and 2,000 pigs”.\textsuperscript{19} These numbers show the complete industrialization of the Stein distilleries in the Lowlands, as they moved away from not only single batch pot stills but also a traditional family farm to a large scale farm that co-existed with the factory style distillery. Andrew Stein even installed the first horse-drawn rail system in Scotland to connect Kennetpans with Kilbagie, making it easier to transfer grain and whisky between the two.\textsuperscript{20} However, the higher yield at Kennetpans and Kilbagie meant more whisky was being produced than Scots were purchasing.\textsuperscript{21} One by-product of the Lowlands moving away from subsistence agriculture was that less whisky was made within the home, as was still quite common in the Highlands (even after the 1781 ban on home stills) and much more whisky

\textsuperscript{16} Kennetpans distillery was opened in the 1720s. Unfortunately, the exact year is unknown.
\textsuperscript{17} “Kennetpans and Kilbagie,” in The Kennetpans Trust, November, 12, 2019, https://www.kennetpans.info/kennetpans-and-kilbagie15/
\textsuperscript{18} The number of distillery employees has not been recorded, although with the family running the operation there was little requirement for outside staff.
\textsuperscript{19} The exact date distillation began at Kennetpans is unknown, according to the Kennetpans Trust (a trust attempting to preserve the history of the Stein family). However, by 1733 it was the largest distillery in Scotland. Kilbagie opened in 1777 and was larger than Kennetpans, “Kennetpans and Kilbagie.”
\textsuperscript{21} A continuous still could generate an estimated 150,000 gallons per year while a pot still produced roughly 5,000 per year.
was commercially made and purchased. The Steins began exporting their cheap whisky to London distillers to be rectified into gin, to profit from the excess whisky.\footnote{Gin is made in a similar process to whisky, and the cheap Stein whisky was clear and flavourless, so gin producers needed only to redistill it with the botanicals required for the desired flavour. This rectification is still practiced by some gin producers today, as it saves time and the effort of making the neutral grain spirit required to produce gin.} The Steins were pioneers in exporting alcohol into England, as they were the first to attempt this in 1777, and it proved a profitable enterprise for the Stein family.\footnote{Ian Buxton and Paul S. Hughes, \textit{The Science and Commerce of Whisky}, (Cambridge, UK: The Royal Society of Chemistry Publishing, 2014), 45.} Recognizing that there was money to be made by rectifying excess whisky into gin, James Stein had a gin distillery built at Kilbagie in the 1780s, and began exporting gin into England. The Steins were truly an industrialized family that had moved away from the traditional small pot still and family farm operations.

Unfortunately, Kennetpans and Kilbagie distilleries ran into financial difficulties due to the high taxes introduced by Prime Minister Pitt in the 1780s, and by 1845 the two largest Lowland distillers were closed and left to fall into ruin.\footnote{Kilbagie distillery survived until 1857, however it was no longer owned by the Stein family.}

The Haigs were another Lowland dynastic family of distillers that used the inventions of the Industrial Revolution to advance their distilleries—Canonmills and Haig. Although John Laver, in his book \textit{The House of Haig}, was able to trace the Haig family from 1066 when William, the Duke of Normandy, conquered England, little is known of the family from 1655 to 1751. A record exists showing that Robert Haig, a farmer from Throsk\footnote{Throsk is located in the area of Stirling in central Scotland, between the Highlands and Lowlands and is often called the gateway to the Highland because of that location.}, was brought before the Kirk Sessions for breaking the Sabbath in 1655. Several witnesses stated that “they saw the caldron on the fyre”\footnote{St. Ninian’s Parish Church \textit{Kirk Session Records}, 1655, CH2/337, Stirling Council Archive Services, Stirling, Scotland.} at the Haig farm. Scotland was a very religious country and Sundays were
a day for worship and rest. For his crime he was rebuked before the session. This record shows
that the Haig family were practicing distillation in the seventeenth century, and that Robert or his
wife most likely passed the art on to their children. However, documents mentioning the name
Haig have, to date, been undiscovered, according to Laver, until John Haig, great-great-grandson
of Robert, married Margaret Stein in 1751. It is only after this marriage that the name Haig
appears regularly in documents suggesting that the Stein family were catalysts in helping the
Haig side of the family became a whisky dynasty. While it is unknown whether it was the Stein
family’s influence that helped the Haigs become leading distillers or if they would have created
their dynasty on their own merit, what is known is that the Haigs played a significant role in the
emerging Lowland whisky industry at the end of the eighteenth century and throughout the
nineteenth century.

John Haig died in 1773 from a heart attack, and left behind his wife and eleven children
aged four to fourteen27, so Margaret convinced her father to give her five boys apprenticeships at
Kilbagie distillery. It is unlikely that the Haig brothers’ first exposure to whisky production was
when they began their apprenticeships after their father’s death, because (as has already been
established) it was common for Scottish households to have a small still during this period. So,
although they likely learned whisky distillation from their parents or Haig grandparents, they
learned the business of whisky from their Stein grandfather. This experience may have
influenced them more than distillation knowledge, as after each of their apprenticeships all five
brothers opened at least one distillery of their own. Few of the Haig family distilleries remain
today but during the mid-1700s and 1800s the Haigs owned some of the largest distilleries in

Scotland and were producing almost as much whisky as Kilbagie; they owned Canonmills, Sunbury, Leith, Cameronbridge\(^{28}\), John Haig & Co, and several other distilleries in England and Ireland.\(^{29}\) James became one of the leading spokesmen for the Lowland industry, especially when Prime Minister Pitt began addressing the issue of illegal whisky in Scotland during the 1780s. James opened his first distillery, Canonmills in Edinburgh, in 1782, and quickly established it as one of the largest distilleries in Scotland, rivaling Kilbagie for its output. Today James is remembered not for his distilleries, but for his voice as the spokesperson for Lowland distillers. He lobbied the British government for excise laws that gave these distillers an advantage in the whisky market (see chapter four). Most of the Haig distilleries opened in the eighteenth century were closed by the 1850s. However, their impact on the whisky industry is remembered through Canonmills and James’ actions as a spokesperson.\(^{30}\)

Meanwhile in the Highlands whisky remained a handicraft industry using the traditional pot still and was considered a superior product by connoisseurs of whisky produced at an industrialized distillery, despite most of it being made illegally. Many of today’s top whisky distilleries were created from illegal operations and by smugglers, such as Glenturret, Bowmore, Glenlivet and Highland Park. Perhaps the most famous illegally operated stills turned legal are Cardow and Glenlivet, and none quite so proud of their illicit past as the former. In 1811 John

\(^{28}\) Cameronbridge is one of the only remaining Haig distilleries in Scotland today, and recently launched Haig Club to commemorate John Haig their founder.

\(^{29}\) One of the Haig sisters, Margaret, married into the Jameson family of distillers and immigrated to Ireland where they opened the Jameson whisky distillery, which remains one of the most popular brands of Irish whisky. The three dynastic Scotch whisky families were linked through marriage, and promoted Scotch whisky (and Irish whiskey) through their distilleries and lobbying to the British government.

\(^{30}\) Many Haig distilleries were opened throughout the nineteenth century, such as Cameronbridge and the Distillers Co. Ltd. However, they fall outside of the periodization of this thesis.
and Helen\textsuperscript{31} Cumming leased a farm in Knockando, a remote area located in the Speyside region of the Highlands. John ran the family farm while Helen ran the illegal distillery. Until the mid-eighteenth century, distillation was the domain of women, as part of their daily chores while men worked in the fields and on farms; with the rise of illegal distillation men took over the operation of stills. The reasons for this have not really been studied and can only be guessed at as records of female distillers are rare. However, if we look at the job of the exciseman, we begin to see a cycle of violence that may have necessitated intense male involvement. In the eighteenth century, women were thought to be unable to commit the type of violence that occurred as stills moved underground. The brutality that occurred when excisemen and those in the illegal whisky trade clashed may have helped push women out of the industry.

The switch from a female domestic chore to a male-dominated commercial industry coincided with men dominating other household products, so men likely took over whisky production to monetise it. This was especially true in the south where industrialised factories were emerging for items such as butter, spun wool, and lace. In the Highlands, where industrialisation was equated with Anglicisation, it was less common for men to take over domestic production in the first half of the eighteenth century. However, once the illegal whisky trade became widespread in the north (1725 to 1823 was the golden age of the illegal trade), it was more common for men to distil than women.\textsuperscript{32} Once illegal whisky switched from a female to male sphere men likely capitalised on their product, as was the case with other once domestic products. Legal whisky was firmly in the male sphere by the 1750s as factory-style distilleries

\textsuperscript{31} Documents concerning the wife of John Cumming have her named as both Helen and Ellen. Despite some primary sources using the name Ellen this thesis will refer to John’s wife as Helen for clarity, but be aware that her name may be written two different ways.
\textsuperscript{32} Moss and Hume. \textit{The Making of Scotch}, 85.
were opened. Ale and cider had also moved into the male sphere, as most spirits had become commercialised by men throughout the eighteenth century leaving little room for women to continue producing and selling, or trading, ale and spirits on a small scale. Men were transforming and capitalising on most homespun products, not just in the brewing and distillation industry, that women had completed for centuries. Butter is another example of how men transformed staple items, that Scots used on a daily basis, into a commercial business and shows that women were being marginalised not just in the brewing and distilling industries. When agricultural changes came to the Lowlands, and eventually to the Highlands, sales in farming products rose, such as meat and dairy products and that increase led to butter being transformed into an economic commodity. Butter, like whisky, had once been used to barter with, but now it had a monetary value that could be sold into a market economy. Yukari Takai states, in Gendered Passes: French-Canadian Migration to Lowell Massachusetts, that women found themselves marginalised in farming activities because they were no longer part of chores such as butter making. It was similar in Scotland whisky production. 33 Though Takai is writing about French-Canadians in the nineteenth century, this theory applies to eighteenth and nineteenth century Scotland, as factories emerged and men capitalised on domestic items.

Helen Cumming was an exception to this theory, as she was famed for her illegal whisky operation and her ability to handle the excisemen who visited her farm. Helen and John Cumming were tenant farmers who leased land in Knockando, in Speyside. In 1781 the British government outlawed home stills, as an attempt at rooting out illegal whisky from Scotland. Prior to the 1781

ban anyone with a still “limited to twelve gallons might by law distill for his own use”.

Some women did continue to run small stills though. Helen was one such women, and she often did it under the nose of excise officers. The Cardow history is not as long as other distilleries, but its short history provides an excellent example of the lengths illicit still operators went to outwit the excisemen. Helen is said to have had the courage of a man and that no man or woman could equal her in evading the excisemen. Although Helen is credited with founding Cardow, it is more likely that the husband and wife ran the illegal family operation together. We know John was involved in the operation because in 1816 he was convicted three times for illegally distilling whisky. Why he was charged and not Helen is unclear, though it is likely because he was the head of the household. We know Helen was the still operator through family records and primary sources, although records focused on her involvement with outwitting the excisemen. Helen is said to have been a cunning woman who was able to hide her whisky-making under the guise of bread baking because the yeast in whisky gives an aroma of bread dough. It is also said that Helen was calm when dealing with excisemen, who often rented a room in her home, and she would simply set them at the table with something to eat and drink, sneak outside and raise a flag on the roof which signalled to the numerous illegal still operators in the area that an exciseman was there. The warning, and the exciseman's attention to eating, gave others the time to hide their stills and prepare for the officer's intrusions.

35 Today Cumming’s whisky is known as Cardhu, however the change in spelling did not come about until 1981 and therefore it will be spelled as Cardow. The name Cardow/Cardhu is Gaelic for black rock.
37 “Court of Session, 1816,” CS234, National Records of Scotland, Edinburgh, Scotland.
38 Communities often worked together to avoid the excise officers, and on one occasion while distilling Helen noticed an officer approaching, she had “just enough time to hide the distilling apparatus, to substitute the materials of bread-making, and to smear her arms and hands with flour. When the knock came at the door, she opened it with a welcoming smile and the words: “Come awa'ben, I'm just baking”. Brian Spiller. Cardhu: The World of Malt Whisky, (Old Woking, UK: Unwin Brothers Ltd., 1985). 15.
Eighteenth and nineteenth century authors often wrote of illegal whisky operations as a battle of good and evil with the criminals as the heroes fighting against the evil English taxman. A large portion of Scottish society adopted that romanticised version of illegal whisky as a fight against the evil English. It was easy for Scots to envision illegal whisky in this way as the fear of English rule over Scotland grew amidst the violence of the seventeenth century, and solidified their mistrust of English authority. David Bremner, in *The Industries of Scotland*, wrote that “man who could 'jink the gauger' was a hero...Even persons in authority winked at the breach of those laws”. Bremner’s account shows how the illegal activities of whisky producers were elevated to acts of heroism, to the point that even some locals in authority, for example judges, landed gentry or civil servants, turned a blind eye. The Scottish Excise Board was formed in 1707, after unification, so it is unsurprising that excise officers were victimised and written as the anti-hero as a form of protest against English rule and taxation by the same people who protested the Act of Union after it was ratified and the extension of malt tax into Scotland in 1725. It was the heroization of the illegal whisky producers that degraded the value of the excise officers, who were charged with securing taxes that were integral to funding wars and government programs. Excisemen played a vital role in eighteenth century bureaucracy according to Paul Craig, in *UK, EU and Global Administrative Law*. Craig explains the important function of the excise officers and that they were exemplary within the civil servant corps and that “from the 1720s more men worked for the Excise than for all other revenue departments taken together”. By 1780, 2800 men, their nationality is not noted other than they

---

were British, were employed in the Excise Board who were required to pass both a written and practical exam, as the laws governing excise were complicated and ever changing so officers needed to be fairly intelligent. Their role was to patrol, generally on foot, all of Britain, unlike customs officers who were only posted to the coasts of Britain, collecting taxes and finding illegal activities on a variety of items. Excise officers were assigned to different regions of Scotland, however these were quite large and the officers spent little time in one spot at any given time. Excise officers were required to ‘footwalk’ survey their assigned area, which encompassed up to sixteen miles each day, or ‘outride’ which was between forty and fifty miles. Despite some officers’ misuse of their position, it is generally thought, as Craig points out, that the Excise Board was professional and efficient despite the lack of respect shown to them by many Scots, and Prime Minister Pitt (which will be discussed later).

The exciseman had no natural allies and they had a rule book they were forced to follow. Many excisemen were want-to-be military officers who were too poor to purchase a commission in the army, so they joined the ranks of the excise instead. The Excise Office hired on merit alone, unlike the army which required money to purchase a commission to hold rank.

Being an exciseman offered a regular salary, though it was a modest one at roughly £40 a year. However, they were compensated with a portion from the seized items which made seizing

---

41 Craig, UK, UE and Global Administrative Law, 81.
42 Craig, UK, UE and Global Administrative Law, 81.
43 Although excisemen had no natural allies, it seems as though illegal whisky distillers were natural allies as no evidence was discovered to suggest that whisky producers worked to undermine their competition. And, while locals used excisemen for their own agendas, as shown in the case of Helen Cummings who helped excisemen find disused stills for bribe money she shared with her community which included other illegal whisky producers, nothing suggests excisemen were used to get back at rival distillers. No evidence, in primary or secondary sources, suggests that rivalries existed between illicit whisky producers.
44 Some records show a range of £30-50 a year was paid to the excise officer. In comparison from 1707 to 1797 general labourers were paid between £18 to £25, police/guards received £13 to £47, skilled labourers could make £30 to £70 while solicitors received £113 to £165 and doctors were paid £52 to £175. Jeffery G. Williamson, Great Britain Nominal Annual Earning, (Bingley, UK: Emerald, 1982), 1-54.
commodities such as whisky extremely profitable and important.\textsuperscript{45} This made the excise officers highly motivated to find smugglers and illicit stills, so they could supplement their pay and earn a decent living.

Much of what we know about the job of exciseman or gauger\textsuperscript{46} comes from private accounts and personal letters written by these men, and we learn that their job was difficult and dangerous. One famous gauger was Malcom Gillespie, who died in 1827 after being hanged for forgery. Gillespie wrote his memoir, which was published posthumously. His account shows how poorly they were paid and how difficult the job could be, and it also shows how entire communities were connected to the illegal whisky trade. Gillespie wrote:

\begin{quote}
for in a country where the inhabitants are almost wholly connected with the illicit trade, it is difficult to find a person among them who can be prevailed upon to give information against his neighbour and nothing short of the Officer’s Share of the Seizure can induce the informant to divulge his secret. It has principally been in this way that I have involved myself in debt.\textsuperscript{47}
\end{quote}

Gillespie attributes his personal debt to having to pay bribes out of pocket to informants, which led to his infamy. Gillespie was hanged on November 16, 1827 after having been found guilty of forging Treasury Bills (he also went down in history as the last person to be hanged at the outdoor gallows in Aberdeen). Gillespie is said to have been ruthless in his dealings with smugglers and illicit still operators, and was hated in the northern-eastern districts where he worked. In the book \textit{The Schweppes Guide to Scotch} author Philip Morrice states that most excise officers were generous in their dealings with supposed criminals, but that Gillespie “was

\textsuperscript{45} Their salary was required to pay for food and lodgings, and any legal fees required to carry out their duties. Although they were allowed to carry weapons for protection, none was provided and officers needed to purchase their own. It is not surprising that some excisemen were susceptible to bribery, as a method to boost their income.

\textsuperscript{46} Official staff records were destroyed in a fire in the 19\textsuperscript{th} century, so much of what is known about these officers was compiled later from other records. https://www.nrscotland.gov.uk/research/guides/customs-and-excise-records

the best-hated gauger in the north-eastern counties”. Gillespie and other excisemen incurred not only debts, but also injuries. According to his memoire Gillespie was wounded forty-two times, a number that “appear[s] to be accurate” proving how dangerous the job of gauger was in Scotland.

Being an exciseman was a frustrating and often fruitless profession, and the criminals were a “highly motivated, hostile and sometimes desperate section of the population, whose activities were either supported or connived at by the majority of the rest”. The illegal distillers and smugglers were also highly organised and acquired the support of their community and sometimes even lairds or tacksman who they rented land from. They worked together against the excise officers to avoid detection, and also for their illegal enterprises to be successful. Gangs of smugglers included men, from the Highlands and Lowlands, women and children. Excisemen were intelligent, as is evident by the extensive entrance exam required to enter the corps, but they were hampered by the law they were required to follow. Coffey is a good example of how intelligent excise officers could be. He understood the whisky industry, and knew that excisemen and the British government needed to work together to create an equitable tax system to end the illegal whisky, which the government largely ignored. Eventually, Coffey used his knowledge, that he likely accumulated from his years of work as an exciseman, to create

---

49 Smith, “Malcom Gillespie.”
51 Although this thesis concentrates on illicit whisky producers and smugglers, it is important to note that the illegal whisky trade included makers of illicit stills, malt houses (if distillers did not have the space or equipment to malt their own barley), and even grain sellers. Robert Armour, from Campbeltown, was a plumber who used his plumbing business to hide the fact that he was building stills for illicit whisky producers. The illicit trade required a web of people, all implicit in avoiding the excisemen and paying whisky taxes. It was truly a well organised group of criminals. Neil Wilson, “Robert Armour, Campbeltown”, in *Scotch Whisky*, May 7, 2018, https://scotchwhisky.com/magazine/whisky-heroes/18859/robert-armour-cambeltown/.
52 Women and children were often used in smuggling organisations to fool the excisemen into thinking it was a family travelling from the Highlands to the Lowlands to avoid further scrutiny. Devine, “The Rise and Fall,” 171.
an industrial type still which took Stein’s invention and made it better. It was essential for excise officers to be literate and have a level of intelligence to read the rule book (with rules and laws that were frequently changing). The job of the excisemen was not an easy one, as the illicit distillers and smugglers were well organised and unhampered by the strict laws and regulations the Excise Board had to adhere to.

Communities often worked together to help illegal distillers avoid the tax man; even clergymen were known to help out smugglers and illicit distillers by hiding barrels of whisky under their pulpits to be moved out of the kirk by coffin. Women and children were also involved in helping smugglers and illicit still operators to avoid excisemen, giving signals when they would witness the arrival of an exciseman into their neighbourhood. They also would help waylay the officer by talking to them or offering them something to eat. Sometimes officers would bribe community members to help them discover illicit stills. Although the person looked as though they were collaborating with the exciseman, in reality the community was aware of the bribe and the officer was taken to a disused still. Distillation equipment had a shelf life, and when it was no longer usable it would be scrapped or left in place to fool excisemen, who, as Richard Woodward stated in “The Cumming Family, Cardhu”, were happy and felt they had actually won because they had parts from a still to offer to their superiors as evidence of illegal distillation and of their success. Whether the officers knew they were being duped is unknown; some inexperienced, and eager, excise officers must have been easier to mislead. However, the more experienced officers probably knew they were being deceived and paid a bribe to keep

54 Contemporary authors used the deception against excisemen as evidence of their ineptitude and wrote excise officers as bumbling fools, although they had to be intelligent to pass the excise exam and be accepted into the Excise Board.
informants on their side. The bribe would be shared with the community, and generally was used to help purchase new equipment. Although perhaps apocryphal, it is said that some wives of excisemen helped inform smugglers and illicit distillers where their husbands were located in exchange for a portion of whisky or food.\textsuperscript{55} Robert Burns, the most famous Scots exciseman, once wrote “Freedom an’ Whiskey gain thegither!”\textsuperscript{56} which best describes why communities worked together in illegal activities, because excisemen and whisky taxes were seen to be forced upon the Scots. Highland Scots were leery of English rule in Scotland and whisky taxes were thought to be an extension of that rule. Burns, despite being an exciseman, was loved and not hated as he wrote about the victimization of the poor Scots. His poems endeared him to the Scottish people, despite his position as an exciseman.

Violence frequently occurred between excisemen and smugglers or illicit still operators; confiscated someone’s whisky could result in bodily harm to an excise officer. Sometimes excise officers were kidnapped to keep them from testifying in court cases against illicit distillers\textsuperscript{57}; if the officers were lucky they would be released after the trial unharmed. Thomas Carswell, an exciseman, was murdered by a smuggling gang known as the Hawkhurst Gang in 1739 while escorting them to prison.\textsuperscript{58} Another excise officer, William May, boarded a suspected smuggling ship in 1749 and was hit over the head before being tossed into the sea, and his body was never discovered.\textsuperscript{59} These cases are given not just as anecdotes but to show the violence these men faced, and they also give an understanding of why some excisemen chose to accept

\textsuperscript{55} MacLean, \textit{Scotland’s Secret History}, 42-43.  
\textsuperscript{57} Morrice, \textit{The Schweppes Guide}, 48.  
\textsuperscript{59} May, \textit{Smugglers and Smuggling}, 23.
the bribes of illicit whisky producers and smugglers. Given the alternatives it was often easier, and more lucrative, for an exciseman to turn a blind eye to the activities happening in Scotland than to be shot, stabbed or sometimes killed.

High fines did little to stop the illegal whisky trade. By 1812 the government had raised the fine for smuggling and illicit still operations to £20—which would equal roughly £1430 or more today—which was a substantial amount of money. There had to be a high value on the illegal whisky otherwise there would not be a profit worthy of the high fines. According to Charles MacLean, communities often shared the cost of the fine, the same as bribe money was shared communally. MacLean explains, in Scotland’s Secret History: The Illicit Distilling and Smuggling of Whisky, that many Highland stills were run as co-operatives, so everyone shared in the wealth and fines of the whisky produced. In some cases when a smuggler’s or illegal distiller’s case came to court the charges were dropped or only a nominal fine was given, because many of the legal authorities were part of the illegal whisky trade, either directly or indirectly. For example, the of Duke Gordon profited by the numerous illicit stills operating on his lands and so overlooked the illegal activities as his tenants were able to able to meet their rent through the sale of illegal whisky.

60 Secondary sources mention many cases of excise officers being beat, shot or killed, however there had been no discussion of whether these crimes were solved and the criminals convicted. To date I have yet to discovered primary sources which show the outcome of these cases either. It may seem logical that killing an excise officer would bring more trouble for the illicit still operators and smugglers, however smugglers worked in teams and illicit whisky producers had their community backing them. So, it is likely that an investigation would have resulted in witnesses not speaking to authorities, the crimes going undiscovered, or an investigation going unsolved.


63 MacLean, Scotland’s Secret History, 36.
Although the remote areas of the Highlands were the perfect hideout for illegal activities and the area had a reputation for illicit distilling, some Highland whisky was being produced legally in the area, as was the case of Oban distillery. Established in 1794, Oban is one of the oldest Highland distilleries and did not have its start in the illicit whisky trade. It was built in a small fishing village by Hugh and John Stevenson, who were local merchants who also founded the town of Oban. The Stevenson family was involved in the quarry business, masonry, and brewing prior to opening the whisky distillery. The brothers hired a master distiller from the Lowlands who helped them build their whisky distillery as a business, although they continued to use a pot still instead of installing a continuous still as many industrialized Lowland distilleries were doing. While there has been a lot of information about Cardow and numerous other illegal whisky distilleries, the history of Oban has been largely lost, and little is known about the brothers. It is assumed they were a legal operation for three reasons. The first reason is that Oban was built in open view on the bay of the Firth of Lorn, which would have been an unlikely location for an illegal operation. The second reason is that in 1798 to 1799 the House of Commons Committee on Distilleries in Scotland was formed, and Professor Jeffray of Glasgow visited Oban on behalf of the committee to which he reported that “I found things in a much better situation than elsewhere in the Highlands: the distillery had been fitted up for a brewery: the barns were large and the granary ample. The person who had the charge of the work had been bred a distiller in the Lowlands.” Apparently to Jeffray nothing better could be said of a Highland distillery than being run by a Lowland trained distiller. Oban must have been a legal

---

65 Spiller, “Oban.”
66 Spiller, “Oban.”
distillery, which meant they must have paid their taxes although no records have been discovered
to date, and illegal distilleries would not have allowed a scholar from the government to poke
around their operations without a confrontation.

The third reason it is assumed Oban was a legitimate distillery was that in 1819 Hugh
Stevenson transferred his portion of the distillery to his son and entered into politics; it is
unlikely that a person operating an illegal distillery would run for a political office, even if it is
only the office of Provost for Oban. The Stevenson family members were respected people in the
area, and are credited with building the town which grew around Oban distillery. The distillery
was built between a cliff and the sea so it cannot be expanded and remains the same size as it
was in 1794. Oban was a unique distillery because it is one of the smallest, one of the oldest, and
one of the few legal distilleries in the Highlands in a period when most Highland whisky was
illegal. Oban was also unique, in the Highlands, because it was run by a wealthy family, who
owned many businesses and could afford to pay taxes without it causing hardship. They are also
unique because although it was a legal business they continued to use the traditional pot still that
illegal Highland distillers used.\(^6^7\) Their whisky was produced slowly in small batches, yet the
Stevenson brothers still managed to pay taxes and make a profit. Although the difference
between those illegal distilleries and Oban was that the Stevenson family were wealthy and had
other successful businesses before opening Oban distillery. It is important, however, to include
Oban in this study to show that legal distilleries did exist in the Highlands and to see that some

\(^6^7\) Oban remains virtually unchanged today, as the rock cliff and water’s edge means they cannot expand and grow
as other distillers have done, which lends to their uniqueness. They continue to use pot stills for distillation; however
they are now large industrialised stills.
Highland distillers could afford to operate under the law. Of course, it was easier to afford taxes for wealthy businessmen like the Stevenson brothers.

The Industrial, Scientific and the Agricultural Revolutions in the eighteenth century created a revolution for whisky as well. Through new scientific ideas on distillation and larger and faster stills, whisky was transformed in the Lowlands. While the latest ideas and techniques created a new whisky industry in the Lowlands, it also helped solidify the already existing antipathy, and it highlighted the economic disparity, between the Highland and Lowland people. Distillers in the Lowlands became wealthy and influential by embracing commerce. However, in the Highlands, the revolutions were a symbol of English influence over Scotland and the embrace of English over Scottish traditions. Despite the lure of riches most northern distillers continued to use the traditional pot still to make small batches of whisky, to barter with or sell for a small profit. By moving their operations underground illegal whisky producers were able to use whisky to protest against English influence and whisky taxes in Scotland. A by-product of both the illicit and legal whisky trade was that there was no longer room for women distillers. In general, women were unwelcomed in the business world, so when whisky became a commercial industry, women were no longer required to run stills. In the Highlands, the illegal trade could be volatile, so men ran the underground stills. This left women out of the whisky industry, which had been part of Scot women’s chores for at least four hundred years. Only a few women, like Helen Cumming, would participate in this new male sphere of whisky.
Figure 6 The Highland/Lowland divide. Accessed from Wikipedia
https://en.wikipedia.org/wiki/Scottish_Highlands#/media/File:Scottish_Highlands_and_Lowlands.png
Chapter 4

The British Government’s attempts to control the illegal whisky trade

Between 1707 and 1814 the British government created conditions that fostered illegal whisky production and smuggling, and the more laws and taxes that were enacted, the higher the rates of unlawful whisky production and smuggling in Scotland. The rates of illicit whisky grew, in part, because the demand for whisky increased throughout the eighteenth century, and a majority of Scots demanded good quality whisky. As the demand for whisky grew the British government increased taxes on whisky, which in turn increased the demand for illicit whisky. The British government had no choice but to try to find solutions to the issue. These were rarely successful. In 1784 a new wash act was introduced which worsened an already volatile situation. The new act angered Lowland distillers because it was an imbalanced and unfair piece of legislation, that placed legal Highland distilleries, such as Oban, under a different, and cheaper, regulatory system than in the Lowlands. It also took into account that the Highland people were less prosperous and could not afford the higher excise. Pitt also hoped the lower taxes would encourage Highland illegal distillers to become legal businesses. Lowland distillers felt the cheaper system in the Highlands gave them an unfair advantage to southern whisky producers. The few legal distillers that existed in the Highlands were angered because the new act made it illegal for them to compete in the legal Lowland market and made it impossible for their legal whisky to compete with the illicit market. The Wash Act also exempted Highland distillers from
the malt tax if they used less than 450 bolls of malt per year, but it limited those distillers to use only locally grown grains and prohibited stills larger than twenty gallons. It was perfectly respectable in Scotland to purchase illegal Highland whisky. Lords, Members of Parliament, clergy, and other members of the upper and lower classes were unabashed in having illegal whisky in their homes. No one seemed ashamed to purchase illicit whisky. Nonetheless, not all Scot MPs were complicit in the illicit whisky trade, and many were demanding the British government implement laws that would end the trade. The British government had no control over the illicit whisky trade and were failing in their attempts to end illegal whisky making.¹ It was essential that some control over the illegal whisky trade be gained, as the government feared that the trade would lead to much bigger criminal activities. Scotland would never be at peace when the legal Highland and the Lowland distillers were at loggerheads over whisky, with each making separate demands on the government.

The only winners in this on-going battle were the illicit distillers and smugglers, who took advantage of the many government programs that pitted the two legal regions against one another. The government had to gain control over the illicit trade, not just to be able to collect whisky taxes but to ensure criminal activities did not worsen and expand in Scotland. The British government was also losing credibility, the criminals were winning, and citizens were losing confidence in their Prime Minister. Legal measures had failed, and even the upper-class either prospered from the illegal trade or consumed illegal whisky.² A large majority of Scots seemed more than happy to make and consume unlawful whisky. As previously stated, the upper classes

¹ This was not strictly a Scottish problem, as in England members of the aristocracy and ruling class were known to consume illegal spirits, tea, sugar and tobacco. Ludington, The Politics of Wine.
² Documents show that even King George IV consumed the illegal Glenlivet whisky, and during a state visit in 1822 had a case purchased to returned home with. Paul F Pacult, A Double Scotch: how Chivas Regal and the Glenlivet Became Global Icons Hoboken, (NJ: John Wiley & Sons, Inc., 2005).
were unashamed of purchasing or consuming illegal whisky, which was an important factor in why the British government had trouble controlling the illegal market. Landowners, many of whom were MPs and part of the aristocracy, benefited from illegal whisky as it provided people with money (or a valued product to barter with) to pay their rent and continue to farm on their rented land. It would take until 1823 for the British government to get the upper hand over the illegal trade, and even then the illegal trade lingered. British government measures unwittingly played a role in the illegal whisky trade and are as crucial to that history as the illicit still operations and smugglers. This chapter explores the government measures taken to control the illegal whisky trade throughout the eighteenth century, the role of the Commission of Excise in Britain, and how illegal and legal producers of whisky and smugglers used those measures to their advantage.

One reason the British government could not gain control over the illicit trade of whisky was that they had misjudged and misunderstood the importance of whisky in Scottish society. Scots were willing participants in the illegal whisky activities. In Highland Memories, a ten-volume manuscript written by Dr John Mackenzie from 1803 to 1860, Mackenzie states that “laws against smuggling are generally disliked…[and Scots] will cheerfully break the law against smuggling. When I was young everyone I met from my father downwards, even our clergy, either made, bought, sold, or drank cheerfully, smuggled liquor.” Part of the reason why a vast majority of Scots were willing to overlook the law and produce, purchase or consume illegal whisky was that, as discussed in earlier chapters, they did not accept English rule in

---

3 The authority of the Excise Board in Scotland fell under the umbrella of His Majesty’s Customs and Excise and that was under the control of the Lords Commissioners of the Treasury in the British government. The Excise Board operated inland, unlike customs that only operated on the coasts of Britain.

Scotland. So, drinking or producing illegal whisky was a small act of rebellion for many who had been against the 1707 Act of Union or the Hanoverian King.

It was also clear to a large portion of the Scottish population that the British government misunderstood, or did not care, about their culture and the role whisky had played in their rituals and society since at least the fourteenth century. During the early eighteenth century the British government considered alcohol, such as wine and ale, eligible for taxation because it had a wide market and would provide significant revenue for the government.\(^5\) Whisky was included in the excise laws, despite it being viewed by many to be ‘an article of almost necessary consumption in Scotland.’\(^6\) The government deemed whisky a luxury item, and therefore considered that anyone not wishing to pay the tax would simply cut it from their diet and expenses. Most illicit distillers took exception to the idea of whisky as a luxury that could be cut from Scottish life.\(^7\) As discussed earlier, in Scotland whisky was not a luxury being consumed for pleasure (although this would change in the mid-nineteenth century); rather it was an essential part of the Scot’s diet and medicinal regime. The British government did not view whisky as a necessity.

Whisky had become an essential part of Scottish heritage by the seventeenth century. Whisky was part of wedding ceremonies, funerals rights, christenings, other social gatherings and used for medical purposes from at least the fifteenth century. One only has to look at the history of the Quaich to understand the importance whisky played in Scotland, as this double-handled shallow bowl has been used in ceremonies for so long that the exact date of its

---


\(^7\) The British government did not differentiate between the luxury consumption of wine throughout Britain, mostly by the elite, and the consumption of whisky in Scotland. To the British parliament it was simply a taxable commodity without cultural value. When whisky began being exported into England it was a commodity to be purchased, and therefore taxed without the same cultural connotations as it had in Scotland.
introduction is unknown. The Quaich, Gaelic for a cup, originates from the Highlands and is sometimes called the loving cup as it was used in “hospitality ceremonies” to welcome or to say goodbye. During the seventeenth century, the Quaich grew in popularity in the south of Scotland, and places such as Edinburgh and Glasgow adopted the tradition of the Quaich ceremony. Drinking from the Quaich was thought to be a symbol of trust, friendship and love, and was often used in clan gatherings to show allegiance to the Chief, with two people holding the handles while sipping from the cup. Brides and grooms sipped from the Quaich during the wedding ceremony, and people at christenings passed the whisky-filled Quaich to toast the baby.

The Quaich became a Scottish tradition as the importance of whisky grew, and the two have become synonymous with love and trust. Traditions were essential to the Scots, especially in the Highlands, and the British government was infringing on such traditions by enacting laws and taxes that were too expensive for the poor. Literary historian David Daiches said it best: “[t]he proper drinking of Scotch whisky is more than indulgence: it is a toast to civilization, a tribute to the continuity of culture, a manifesto of man’s determination to use the resources of nature to refresh mind and body”. It was this deeply imbedded perspective that allowed Scots to ignore British tax laws, and continue with their illegal whisky production because it was part of their culture and history. Many Scots felt that the British government was trying to destroy the

---

10 The Keepers of the Quaich, https://www.keepersofthequaich.co.uk The Keepers of the Quaich is an organization formed in 1988 to “recognize those that have shown outstanding commitment to the Scotch Whisky industry” and was founded by leading members of the whisky distilling industry.
Gaelic heritage and culture though many of the new British statutes unintentionally helped illicit still operators and smugglers continue their illegal activities.\textsuperscript{12}

One way in which the British government unintentionally aided in the illegal whisky trade was by creating what many refer to as Wade’s Roads.\textsuperscript{13} This was a system of roads that General George Wade, a decorated British officer, convinced the government was necessary to keep the Highlanders under control after the 1715 Jacobite Rebellion. Wade was given orders to disarm the Highlanders and conduct a survey of Scotland. He reported to the government that there were whispers of a new rebellion being planned.\textsuperscript{14} Only Drover roads existed in the Highlands, which were suitable only for driving cattle from the Highlands into the market town to the south, and Wade thought that by building Highland roads military troops could move quickly about the mountainous area. A new road system in the Highlands would connect to the Lowland road system already in existence. During the 1720s and 30s, Wade directed the construction of the first four of the new roads built by the military, and in the 1750s and 60s other road systems were made.\textsuperscript{15} The original four roads were: from Inverness to Fort William (three forts were also part of the construction on this roadway to house a permanent military force); Dunkeld to Inverness, which connected to Fort George at Inverness; Crieff to

\begin{flushleft}
\textsuperscript{12} Withers states that in the eighteenth century “tradition-bearers and poets extended the idea of the Gaidhealtachd beyond the Highland line.” Which was a movement to reinforce the traditions of Scotland throughout all of Scotland and not just in the Highlands and Islands, in the face of the Lowlands Anglicisation. He also states “Gaelic had become the language, and, in wider terms the symbol of a geographical region whose cultural forms and social order were anathema to the standards of civilised, English-speaking, Scotland.” Gaelic became a symbol of the barbarians of the north, as the English and Lowlanders viewed people from the Highland, who clung to their traditions. The eighteenth century Gaelic poet Alexander MacDonald wrote the poem “Miorun mor nan Gall” which translates to “the great ill-will of the Lowlanders” which shows the worry that Highlanders had that Scotland was being Anglicised. Charles W.J. Withers, \textit{Gaelic Scotland: The Transformation of a Culture Region}, (London, UK: Routledge, 2015), 10.

\textsuperscript{13} MacLean, \textit{Scotland’s Secret History}, 12.


\textsuperscript{15} Pollard and Ang, \textit{Walking the Scottish Highlands}, 24.
\end{flushleft}
Dalnarchardoch; and Dalwhinnie and Ruthven to Fort Augustus.\textsuperscript{16} Whisky smugglers were able to use the new roads to their advantage, travelling quickly about the Highlands and into the Lowlands selling illegal whisky. Crieff was a popular market town for smugglers to peddle their whisky and the military-built roads helped them move illegal whisky quickly to purchasers in the city. The new roadways provided a connection between many of the remote areas, towns and villages which enabled military troops, rebels and smugglers to move faster than ever before throughout the Highlands. The government had unwittingly given greater mobility through infrastructure to the very people they were trying to control.

When King George III asked William Pitt to form a government in 1783, he was asked to address, and solve, what the government thought of as the defrauding of British revenue\textsuperscript{17} by the illicit whisky trade. The government’s treasury needed to recover, after the failed war in America, the lost revenue that America had provided for the British government.\textsuperscript{18} Former Prime Minister Lord Shelbourne had formed a committee to address this issue, but the first report was not issued until December 1783, after Pitt had replaced him.\textsuperscript{19} Two more reports were written in March 1784. The committee’s findings stated that the Excise Board collected less than one-third of the appropriate taxes granted by law, and the crown needed to close the loopholes that allowed tax revenue to go uncollected.\textsuperscript{20} The committee’s report identified tea, imported French Brandy,

\textsuperscript{17} Dietz, “The Politics of Whisky,” 36.
\textsuperscript{18} Britain collected taxes from the American colonies on imported goods and profited from colonial exports, such as tobacco and other staple crops, as well. Thomas Churchill Barrow, \textit{Trade and Empire: the British Customs Services in Colonial America, 1660-1775}, (Cambridge, US: Harvard University Press, 1967).
\textsuperscript{19} House of Commons. Reports from Committees of the House of Commons, 1782-1799, (London, UK: House of Commons Papers, 1782-1799).
\textsuperscript{20} Great Britain Parliament. House of Commons. \textit{First report from the Committee, appointed to enquire into the illicit practices used in defrauding the revenue (24\textsuperscript{th} December, 1783)}. London, 1784. Eighteenth century Collections Online, April 10, 2020.
and illegal whisky as the top items being smuggled into and around Great Britain. Pitt believed that by simply lowering taxes on these items smugglers would be disinclined to trade in contraband. He also thought that the “destruction of the illicit market [would] more than compensat[e] for the lower tax rate”. In 1784 Pitt enacted new laws that he hoped would foster the burgeoning legal whisky industry while ending the illegal whisky trade. Ultimately these new laws would lead to further conflict between legal and illicit whisky producers, and between the Highland and Lowland producers.

When Pitt became Prime Minister in 1783, the British national debt was £243 million, and to raise money and end the illegal whisky trade he introduced the Wash Act of 1784. This new act was an attempt to raise revenue, and regulate and control the whisky industry, because the Scottish Commissioners of Excise stated, “that even ‘those Distillers who pay the largest Annual Amount of Duties’ also regularly defrauded the revenue”. If legal distillers were cheating the Excise Board and the illegal distillers avoided taxes altogether, then the government had indeed lost control over the whisky industry and a significant amount of money in taxes. The Highlands are often the topic of discussion concerning illegal distillation, and the majority of illicit stills were located in the north; however, the southern areas of Scotland were not altogether free of unlawful operations, not to mention the illegal whisky smuggled and sold in the Lowlands. If there had been no market in the Lowlands for the illegal whisky produced, there would have been little requirement for smugglers to move illegal whisky from the Highlands. Gangs of smugglers left the Highland areas, according to Devine, and distributed illegal whisky to small markets between Stirling and Glasgow. Glasgow had a large market for illegal whisky,

---

where it was sold at public houses, inns and to private dwellings. Devine also states that the illegality of Highland whisky gave it a romantic appeal that helped promote it to the Lowland elite, “but its main attraction was that it was more palatable than the legal product”.\textsuperscript{23} Although there was a large market for illegal Highland whisky, illegal whisky was produced in the Lowlands as well, although on a smaller scale than in the north.\textsuperscript{24} David Turnock states, in \textit{The Historical Geography of Scotland}, that forty percent of the illicit stills seized from 1780 to 1797 were from the Lowlands.\textsuperscript{25} In 1777 it was estimated that 400 stills were operating in Edinburgh, and only eight were paying taxes.\textsuperscript{26} Illegal Edinburgh stills were hidden in archways, back allies, derelict buildings and one was even found in a High Street Church.\textsuperscript{27} Although that number may seem low when compared with the estimated 20,000 illicit stills operating in the Highlands in the same period, the Edinburgh numbers reveal how out of hand the illegal whisky trade had become. Pitt had an uphill battle trying to eliminate the illicit whisky trade and regulate the new industry, but he hoped the new Wash Act was the answer. The 1784 Wash Act lowered distilling duties, making it more affordable to produce legal whisky, it introduced regulatory rules for the production of legal whisky, and it established the first official geographical whisky regions within the Highlands.

\textsuperscript{24} In the fall of 2019 archaeologists discovered what is believed to have been two illegal whisky operation near Glasgow. Experts believe the long narrow buildings were used as a kiln, to dry grains and to distill whisky. Experts continue to excavate the area and confirmation of the farms have yet to be made, however Matt Ritchie, an archaeologist for Forestry and Land Scotland and responsible for this site, claims the unusually long and narrow buildings are associated with distillation. The archaeological discover helps prove that illegal whisky distillation was conducted in the Lowlands, and was not a strictly Highland entity. “Ruins may have been illicit whisky distilleries, say archaeologist”, BBC News, September 30, 2019, \url{https://www.bbc.com/news/uk-scotland-tayside-central-49879554}.
\textsuperscript{25} David Turnock, \textit{The Historical Geography of Scotland since 1707}, (Cambridge, UK: Cambridge University Press, 2009), 85.
\textsuperscript{26} Lavar, \textit{The House of Haig}, 31.
\textsuperscript{27} Lavar, \textit{The House of Haig}, 31.
Before the enactment of the new Wash Act, another period of poor harvests in Scotland took place, from 1782 to 1784. The government attempted to limit the amount of grains being used for whisky production to provide enough food for the Scottish people. The food shortage also helped prompt the government to create the Wash Act as a measurement to control the whisky industry. Similarly, the period of dearth from 1757 to 1760 had forced many new, and legal, distilleries to close down when the government banned the use of grains for distillation. From 1782 to 1784, the British government enacted relief measures to protect the food supply and protect the poor Scots from starvation. T.M. Devine, in *Clanship to Crofter's War: The Social Transformation of the Scottish Highlands*, stated that "mercantilist governments in the seventeenth century sought to regulate the economy" but that they also sought to prevent social unrest. The British government made £10,000 in grant money available for the purchase of grain for the poor Scots, "another sum to allow food to be sold at prime cost", and white peas were available as part of the relief supplies. In the Highlands the British government sent an emergency supply of meal, a type of flour made from yellow peas, to help alleviate mass starvation. They also, as previously stated, limited the quantity of grains that distilleries could use. The temporary measures the British government enacted during these periods of poor harvest meant that illegal distillation and smuggling thrived because Scots were unwilling to give up consumption of whisky completely, even when food shortages threatened lives. The tension between grain consumption and whisky production was more of an issue in the Lowlands, where continuous production meant large amounts of grains were required. It also highlighted the

29 T.M. Devine, *Clanship to Crofter's War*, 146.
30 Alcoholism was beginning to emerge by this point in history, so their unwillingness to give up whisky could be attributed to addiction as well as nationalistic sentiment.
disparity between the rich and poor in Scotland, as the poor made do with the meagre amount of available food during the period of dearth and the wealthy distillers found ways around the food controls. Some distillers were beginning to experiment with other spirits that required vegetables to be distilled, which angered much of the poor population when food was in short supply.31 Large distillers had also begun importing oats, barley, wheat and corn from other countries throughout the year to offset the harvest season in Scotland, which also caused a great deal of anger throughout the country.

During periods of dearth the rich could afford the expense of imported foods, while the poor people were at risk for severe food shortages and starvation because they were limited to the food available through subsistence farming or what was available to purchase at markets. The poor harvest of 1782 to 1784 highlighted the extreme disparity between the poor and wealthy, especially wealthy whisky distillers who avoided government controls by importing expensive grains. The social structure of Scotland had allowed for a middle class to emerge: merchants, manufacturers and professionals. The new middle class did not fit into the traditional social structure that had been part of Scotland since Kenneth MacAlpin became the first king in 843, and which was the system that still thrived in the Highlands.32 The new middle class is another example of the separation of culture between the people of the Highlands and Lowlands, as the north clung to the traditions that Scotland was built on, while the people of the south created a new social structure that revolved around the market economy. It was the new middle class in which factory-style whisky distillation took place. The new wealth acquired by some members of the middle class afforded them the ability to avoid government controls on grain usage during

the shortage, by importing from other countries. They did not use their money to import grains to help the poor Scots, but rather to continue to produce vast amounts of whisky to make even more money. They placed commerce over humanity, and this led poor Scots to resent the larger whisky distillers. Because there were no government controls over the production of their whisky, illegal whisky producers could continue to making their small batched whisky and did not object to bartering with customers. Because small batches of whisky had always been produced by Scots, even during periods of dearth, the illegal distillers were not as affected by the limited quantities of grain. Since the poor Highland distiller had used not only excess grains, but also grains unsuitable for human consumption for their whisky, it was easier for them to continue to produce whisky despite the shortages of grains. They also continued to distil only small batches of whisky at once, unlike the industrialised distillers who used vast amounts of grains in their factory distilleries. This was one of the factors that allowed illegal whisky and smuggling to survive the poor harvest seasons, and why anger over large distillers grew.

In June 1784 the anger boiled over and a mob of enraged people from Edinburgh marched to Canonmills distillery intent on stealing any grain or vegetables stored there. Canonmills, owned by James Haig, was located in Leith, a port in the north area of Edinburgh. Haig issued a statement claiming that his distillery only used grains and vegetables that were not fit for human consumption.33 There seems to have been no inquiry into the matter after the incident, so there is no proof if Haig’s statement was true or not. Many people did not believe Haig and were intent on finding food stuff at Canonmills. The angry mob, who were made up of the lower class and poor Scots, was held off by armed distillery workers. The crowd regrouped

---

and tried again, and this time the military had to be called in to dispel the mob. One of the rioters was killed in the confrontation, and two of the leaders of the mob were sentenced to be whipped publicly and transported for fourteen years. Desperation was considerable for the impoverished Scots and further government action seemed necessary for social peace.

One exception to any limitations on grain usage and taxation, and one key area the Pitt government needed to address, was the Ferintosh distillery. Many Scots resented Ferintosh during the periods of food shortages because they were exempt from taxes and food shortage measures. Ferintosh was able to continue distilling whisky and even expanded their operations, which meant they were using more grains for whisky when food was in short supply—especially in the Highlands where the distillery was located. Ferintosh was the first legal distillery in Scotland. The date of its founding is unclear but it was established by the late 1600s in Ryefield, in the Highlands, by Duncan Forbes of Culloden. The Forbes family's support of Orange during the Glorious Revolution and subsequent Jacobite Rebellions had given the family and distillery royal privileges, and their whisky was referred to as “the horrid Parliament whisky”\(^\text{34}\) as a derogatory comment on their political beliefs. During the Jacobite Rebellion in 1688 members of the Jacobite army razed Ferintosh to the ground, because Forbes was a Whig and staunch support of William of Orange. As a reward for their support of Orange, the Forbes family were awarded £21,540 as compensation for the destruction of their distillery. The distillery was rebuilt in 1690 and flourished because of the favour the family held with William. The privileges the Forbes family enjoyed included exemption from whisky taxes. This became known simply as the

\[^{34}\text{It is unknown what style of still the Forbes family used, as research did not uncover Ferintosh's style of still. However, with their high outputs it is logical to conclude that a type of continuous still was used. Neil Wilson, “The Forbes Family of Ferintosh”, Scotch Whisky Magazine, July 11, 2018. https://scotchwhisky.com/magazine/whisky-heroes/19844/the-forbes-family-of-ferintosh/}\]
“privilege” by other distillers and angry Scots. To the Stuart supporters, the fact that Forbes supported William in the usurpation of King James’ throne equated them with traitors. To Jacobites and the Gaidhealtachd, Gaelic speaking areas of Scotland, the Forbes cooperation with the English, and acceptance of English privileges after the Glorious Revolution, was evidence of their Anglicisation. This was especially appalling in the Highlands, where the highest concentration of Jacobites lived and where the Celtic traditions were a form of protest against Anglicisation. The Forbes family expanded Ferintosh and owned at least four other distilleries by the 1780s and were producing over 120,000 gallons of whisky per year. Critics of Ferintosh’s privilege estimated that the tax exemption cost the government upwards of £20,000 in lost duties and that money in Forbes’ bank account was tax-free profit.

Ferintosh was often criticized for the privileges they received, especially during periods of famine, but the final straw for the poor Scots came in 1782 when Arthur Forbes, seventh laird of Ferintosh, expanded the distillery during a period of severe food shortages which meant more grain would be required. This was a clear expression of the privilege that the wealthy were afforded because of their status as elite Scots, and a symbol that commerce was supreme. The

---

35 It is unfair to claim all Scots hated Ferintosh whisky and as Gavin Smith, in A-Z of Whisky, states the “Government whisky had some famous patrons. Prince Charles Stuart is said to have “drowned his sorrows in Ferintosh whisky” after his loss at Culloden in 1746, and Smith claims Sir Walter Scott regularly consumed the Forbes whisky. Even Burns wrote about the loss of Ferintosh whisky in his poem “Scotch Drink”. He wrote “Thee, Ferintosh! Oh, sadly lost! / Scotland lament frae coast to coast! / Now colic grips, and barkin’ hoast / For loyal Frobes charter’d boast / Is ta’en awa’!”. Smith seems to be stating that Burns wrote this poem as a lament for the loss of Ferintosh whisky. However, I disagree with this claim as it is more likely that Burns is complaining about the excise laws, that the British government enforced, that led to the closure of Ferintosh. The privileges were granted by the Scottish parliament, on Williams' authority, and now the British government was undoing what the Scots had granted. It is less about the loss of the “Government whisky” and more about the loss of a Scottish parliament proclamation. Despite a large portion of Scots resenting the privileges granted to Ferintosh they would have been equally angered that the British government would reverse a Scot statute. “Scotch Drink” was not necessarily claiming support of Ferintosh, as Burns was a self-proclaimed patriot and a ‘sentimental Jacobite’. Carol McGuirk, “Jacobite History to National Song: Robert Burns and Carolina Oliphant (Baroness Nairne), in The Eighteenth Century, vol 47 (2006), 253; Gavin D. Smith, A-Z of Whisky, (Manchester, UK: Carcanet Press Ltd, 1993), 32.
36 Wilson, “The Forbes Family”.
37 Moss and Hume, The Making of Scotch, 124.
British government finally heeded the critics and abolished the tax exemption of Ferintosh distillery, which resulted in Arthur Forbes claiming over £30,000 in compensation for his losses. In the claim, he stated:

The Lord President spent in the services of the Government during the Rebellion of 1745 about £20,000, besides the loss he sustained by the destruction of his Household furniture, horses, cattle, sheep etc, so that this Right of Exemption is all that the family has for above £30,000 sterling spent in service of Government, which, including the interest charges upon it, amounts to a sum far exceeding any compensation the Memorialist expects.  

During the 1745 Rebellion, Prince Charles and his Jacobite army occupied the Forbes home, Culloden House, where Prince Charles is said to have consumed vast amounts of Ferintosh whisky and wines from Arthur’s wine cellar. In his petition, Arthur was reminding King George III and Pitt of the loyalty his family had shown during the Jacobite threat, and the damage Jacobites had done to his home. Perhaps he was hoping Pitt would reconsider the decision to end Forbes’ privileges; however, Arthur was awarded £21,580 compensation in response to his claims. Forcing Ferintosh to begin to pay taxes was a step in excise reforms in Scotland, although this did little to raise money for British revenue as the distillery closed its doors by 1790. No reason has been discovered as to why they closed the doors, but it can be speculated that the new tax laws were too costly and prohibitive for Ferintosh to compete with illegal whisky and Lowland legal markets.

The Pitt government created the Wash Act, and a 1785 amendment to the act, as a fair and equal system of excise in the hopes that it would end the illegal whisky trade and generate income for the government. Unfortunately, the Wash Act was an unfair and unequal system that

---

38 Wilson, “The Forbes Family”.
39 Wilson, “The Forbes Family”.
no distiller seemed happy with. The Prime Minister had taken the advice of the “great distillers” of the Lowlands, who suggested that the Highlanders had an unfair advantage over their distilleries and those illegal whisky producers were able to flood the market for a lower price because they did not pay excise.\textsuperscript{40} This was an opinion given to the government by Lowland lobbyists, when in fact Lowland distillers had been flooding the market with cheap, and poor quality whisky while Highland whisky (often illegal whisky) was of superior quality because of the slow distillation process. This was the true divide between the two whisky areas that consumers recognized, and is the reason Highland whisky, whether illegal or legal, was so popular. In 1798 General Supervisor of Excise in Scotland, John Levine, stated that slow distillation created a superior whisky and that whisky made quickly gave “an Head Ach, and make any Persons sick that drink but a moderate Quantity”.\textsuperscript{41} Or as one anonymous author put it, cheaper whiskies were “sent into the market, smoking hot from the still, in such a state, that the person must be possessed with the fortitude of Socrates, who can swallow the contents of the cup without having the muscles of his face distorted with convulsions”.\textsuperscript{42} While Highland distillers continued to make whisky in the traditional, slower manner, they produced a product favoured by consumers.

The 1784 Wash Act was an unsuccessful piece of legislation, and Pitt received numerous letters begging for its repeal because in the attempt to please everyone the act pleased no one. This act did not generate the level of protest that the 1725 whisky taxation did, however Lowland and Highland distillers complained bitterly about the new law. Lowland legal distillers

\textsuperscript{40} Dietz, “The Politics of Whisky”, 63.
\textsuperscript{41} Dietz, “The Politics of Whisky”, 63.
complained bitterly about the new act, claiming it gave unfair advantage to the Highlands, and legal Highland distillers complained it was unfair to their whisky. Burns wrote a poem, titled “The Author’s Earnest Cry and Prayer, To the Right Honorable and Honorable, The Scotch Representatives in the House of Commons,” which was a protest against the Wash Act as an unfair and unreasonable tax law and Burns called for distillers to let Pitt know how they felt towards the new law. He wrote “Stand forth, an’ tell yon Premier youth / The honest, open, naked truth”.\(^4^3\) Excise officers complained about the new act, and one was quoted as saying “the House I believe has at present under Consideration a law for regulating the Police of London and Westminster, but I very much doubt if it would be wise in them to frame the law agreeable to the advices of the footpads and Pickpockets.”\(^4^4\) It was a keen observation. The law should not have favoured the demands of distillers. Instead, the government should have heeded the advice of the Scottish Commission of Excise, which was dealing with the daily realities of illegal activities. The Excise Board was a professional and efficient organisation that collected more revenue for the British government than other government divisions by the nineteenth century.\(^4^5\) More to the point, the excise officers were on the front lines of the whisky industry, both legal and illegal, and were better placed to understand the industry and what actions were required to police whisky production. By consulting those in the industry, rather than the excise office, the government constructed a system of industry lobbyists. Some distillers were not above offering bribes to lawmakers involved in creating the Wash Act to push their own agendas. James Stein was charged twice, but acquitted, for bribery: the Solicitor of Excise, John Bonar accused Stein

\(^{4^3}\) Burns, “The Author’s Earnest Cry and Prayer.
\(^{4^5}\) Craig, *UK, EU, and Global Administrative Law*, 79.
of slipping £500 into his pocket. Stein was not unique in this matter, as it was reported that many legal distillers offered bribes to those on the Commission. Lowland distillers bitterly complained in meetings with the Scottish Commissioners of Excise about the illegal activities in the Highlands stating that they could not compete with illegal whisky, but they chose to engage in illegal actions to influence new laws that favoured them.

Lowland distillers had campaigned for lower taxes, and access to the English market—which they were granted—however, this legislation brought English distillation laws to the Lowlands, from which the Highland distillers were exempt because of the “great distiller’s” advice to Pitt. The new act meant that Lowland distilleries would be taxed per gallon of wash, which is the fermented liquid created in the third step of the distillation process. The Highlands were taxed on the capacity of their still. This meant much higher taxes for Lowland whisky, as the continuous still used a great deal more wash than the Highland pot still required. The tax on the wash also meant regular visits by excise officers. Lowland distillers did not like the idea of excise officers entering their premises day or night, at their convenience. They had pushed for entrance into the English market, and this was the price they had to pay for that privilege. However, because of the small size of Highland stills, it was impractical to send excise officers to monitor the thousands of distillers there. Highland stills used small amounts of wash, which made it less profitable for the government to tax their wash rather than the finished product. It was the difficulties of excise officers in the Highlands, and the complaints by the 'great distillers' that prompted Pitt to create two separate whisky regions, that would be taxed separately.

Pitt's Highland line not only charged a lower excise rate on northern whisky, but it limited the number of stills allowed in the region and made it illegal for Highland whisky to be sold outside of the Highland area. The government recognized that the Highland region was a much poorer area than the south and although they had toyed with the idea of outlawing small stills, the government understood that the Highland economy relied on income from the pot still. Instead, northern whisky producers were charged “£1 sterling per gallon of capacity per year”\(^{47}\) which meant they were charged for the amount of finished whisky, compared to the Lowlands who paid £2.10 sterling on the amount of wash used before distillation, and were also charged an extra six pence per gallon on spirits being imported into England.\(^{48}\) The new act stated that stills in the Highlands could not exceed a thirty-gallon capacity, limiting the amount of whisky a legal distiller could produce within a given year because the pot still required charging after each batch which slowed production rates.\(^{49}\) Whether this affected Ferintosh’s closing is unclear, as the size of their stills does not seem to have been recorded. The 1785 amendment to the Wash Act allowed limited still capacity to forty-gallon or under\(^{50}\) to be used in the Highlands while limiting the number of stills to two for each parish, which meant that even if someone wanted to turn legitimate, if two legal stills were already running in their area they would not be granted a license.\(^{51}\) The Highland whisky market was further limited by the Highland line, which outlawed

\(^{47}\) Buxton and Hughes, *The Science and Commerce*, 56.
\(^{48}\) Buxton and Hughes, *The Science and Commerce*, 56.
\(^{49}\) No evidence was discovered during research that clearly stated the size of Highland stills, so the impact of this ban cannot be examined. Pot stills were not made for individual orders, and not premade, so it is a fair assumption that the size of each still depended on the person requesting the still.
\(^{50}\) Dietz “The Politics of Whisky,” 51.
\(^{51}\) A parish in Scotland was the division of the land, much like counties, that the Church and Crown used to administer spiritual and governmental needs (such as taxes). By the 17th century there were 909 parishes in Scotland, with this number rising to 1027 by 1855. The first official census was conducted in 1755, but was “not a census as we understand it today” and so the population of Scotland parishes throughout the 18th century is unreliable. However, the 1755 gave a population for Scotland as 1,265,380. "Parishes and districts," in *Scotland's People*, December 10, 2019, [https://www.scotlandspeople.gov.uk/research-guides/parishes-and-districts](https://www.scotlandspeople.gov.uk/research-guides/parishes-and-districts). “Webster’s
Highland whisky in the Lowlands and England. With only the Highland market to sell in, legal northern distillers could not turn a profit, while the 1785 amendment further restricted whisky sales to the parish in which it was produced! The government felt that limiting the market for Highland whisky would ensure that the lower tax on Highland whisky would not create any unfair advantages over the Lowland distillers. In reality, these measures created an environment ripe for illicit activities and the Highland line pushed legal Highland distillers to participate in the smuggling trade. The legal whisky trade was hampered by laws and regulations, but smuggled whisky could be shipped anywhere without restrictions (unless they were caught, of course).

Some Lowland distillers, chiefly the Stein and Haig distillers who dominated the market, were intent on making as much profit as they could under the Wash Act, as high taxation reduced the margin of profit and required higher production. So, a new type of still called the shallow still, or Millar still as it was sometimes called, was used beginning in the 1790s. The new shallow still had a broad cylindrical base and was only two and a half-inch deep, and could be charged at a faster rate than any other still to date. The shallow still did not hold as much wash as the continuous still. However, it could boil the wash in a shorter time which meant the finished product was bottled and ready for consumption quicker. While the continuous still did not need to be shut down and recharge after each batch of whisky, the shallow still needed to be charged regularly, although this was not an issue because of the shortened boiling time. Lowland


52 The shallow stills had to emptied, cleaned and charged after each batch, unlike the continuous still that was continuously fed wash without having to be cleaned in between batches. However, the fast boiling time meant more whisky was being made, despite cycle of emptying and charging. Ronald B. Weir, “The Distilling Industry in Scotland in the Nineteenth and Early Twentieth Centuries”, PhD diss., (University of Edinburgh, 1974).

distillers using the shallow still were technically within the law. However, they were cheating the government out of revenue with the shallow still because they were creating more whisky, in half the time, but paying less tax. When excisemen gauged how much tax to charge it was calculated per volume of wash that a still could hold. Because the shallow still held a much lower amount of wash than a continuous still, the excise was significantly lower. This was not the only new method these distillers were employing to avoid paying taxes. Some Lowland distillers began adding unmalted grains to the mash. The tax was only paid on the malted grain and not the total grain used, so they were able to avoid the high taxes on malt. Mixing malted and unmalted grain did not improve the flavour of the Lowland whisky and actually created a bitter flavour. To disguise the taste of the coarse whisky being produced, Stein and Haig distillers unscrupulously attempted to hide the bitter taste by adding peat to the malt, giving it a smoky flavour as the favoured Highland whiskies had. Whisky enthusiasts were not fooled or impressed with this cheap, coarse whisky, and most of this whisky had to be shipped to England for rectification. Those who drank this new Lowland whisky did so at risk to their health, as cases of blindness, severe stomach pains and even death could occur after consumption. The term ‘gut rot’ was coined for this whisky because of the stomach pains it caused. The £2.10 excise, and an extra two shillings per gallon on exported whisky to England, caused the Lowland distillers to cut corners and place volume above quality. Lowland distillers had complained bitterly to the Pitt government about the illegal activities of Highland whisky producers but thought nothing of cutting corners on the government themselves. The production practices of

54 Malt was taxed at 7 3/8d per bushel in the 1790s. In 1803 it had risen to 3s 8d, by 1822 the tax was 5s 6d. Devine, “The Rise and Fall,” 159.
Stein and Haig moved them further from the traditions of civil whisky production while edging them closer to the illegal activities they abhorred.

In 1786 the British government introduced the Scottish Distillers Act in response to the letters and complaints Pitt received from Lowland, legal Highland, and even London distillers, as no one was happy with Pitt’s idea of a fair and equal whisky system. Lord Duncan Forbes was vocal in his criticism of the Wash Act and wrote letters to Pitt criticizing the tax, which is not much of a surprise after Ferintosh’s privileges were ended and he was forced to start paying taxes. The Stein and Haig families also wrote letters to Pitt, as did most other large distillers, because despite Pitt’s desire to please everyone he essentially accomplished the opposite. Lowland distillers were demanding Highland taxation system be extended to all of Scotland. Their chief complaint was that the Highland licensing system of £1 per gallon of still capacity, gave the northern producers an unfair advantage—despite the strict rules forced on Highland whisky that prevented legal whisky being sold beyond the Highland line, the two stills per parish rule, and a forty-gallon limit on Highland stills.

When the 1786 Scottish Distillers Act was introduced it implemented the same licensing system across Scotland, although the government charged a slightly higher rate of £1.10 per gallon of still capacity to Lowland distillers. Excise charged to Highland distillers stood at the lower rate of £1 per gallon of still capacity.\textsuperscript{56} It also introduced a fixed rate of the still tax at 20s per gallon capacity in the Highlands and 30s per gallon capacity.\textsuperscript{57} Whisky taxes were now based on the size of the distillers’ still and an annual license, which was “issued on a scale based on the

\textsuperscript{56} House of Commons, \textit{Reports from Committees of the House of Commons, 1782-1799}, (London, UK: House of Commons Papers, 1782-1799), 372.
\textsuperscript{57} Devine, “The Rise and Fall,” 159.
potential production of a particular unit”.

The Scottish Distillers Act did not replace all Highland and Lowland spirit laws and the Highland line remained in place and Lowland distillers still paid tax on exported whisky (at 2s per gallon). The government felt the 1786 changes would satisfy both regions. However, Highlanders were required to sell within their own region, and the British government raised the size of Highland stills to a minimum of fifty gallons. The idea of limiting the size of Highland stills, Pitt had hoped, would reduce the number of illicit stills operating in the Highlands, because most Highland operators used small pot stills. The 1781 ban on home stills had been enacted for the same reason; however, most Highlanders either ignored the law or moved their stills underground. The small home-sized stills remained widely in operation in 1783 when Pitt became Prime Minister, so the idea was that outlawing smaller stills in the Highlands would encourage more people to legalise their operations.

The problem with Pitt's idea was that it ignored or misunderstood the importance of Highland culture. Small pot stills were the traditional distilling apparatus and most Highlanders were unwilling to forego the smaller still for a larger style. They may have been able to produce in larger quantities, but larger stills would affect the taste of the whisky, and that traditional flavour was what made Highland whisky so famous. Highland distillers prided themselves in keeping with the traditions of whisky production passed down through the generations, as the Highland people had with other traditions. Whisky culture remained one of the last vestiges of traditional Scottish life after the Act of Proscription in 1746 outlawed much of the traditional Highland culture. It was illegal to wear tartan garb, arm themselves with the

---

58 The Excise Board stated that the 1786 licensing system excise worked out to only 4d per gallon of finished whisky and in comparison, England paid 4s 2d duty on finished spirits. Devine, “The Rise and Fall,” 157.

59 Devine states that “illicit stills ranged from 40-70 gallons, ‘costing six, eight or ten pounds’. Both copper and tin models were used.” Devine, “The Rise and Fall,” 162.
traditional dirk, or even adhere to the old clan system but whisky remained a symbol of the old Highland ways. Whisky was one of the few Highland items that had not been banned through the Act of Proscription, and the northern people used it as a symbol of their culture. Illegal whisky was as much a protest against taxes as it was a desire to hold onto the past. However, Pitt continued to intermittently amend whisky laws and to raise taxes from 1786 to 1803. By 1803 the annual license duty had risen to £162 “per gallon on the contents of the still”\(^60\) in the Lowlands and £9.15 in the Highlands, which forced many southern distilleries out of business and did not affect the illegal trade.\(^61\) If Pitt's government had taken Highland traditions and culture into account when creating or amending whisky laws they might have found a solution to the illicit trade.

<table>
<thead>
<tr>
<th>Annual Licencing Tax</th>
<th>Whisky Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period</td>
<td>Region</td>
</tr>
<tr>
<td>1786 to 1788</td>
<td>Lowlands</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
</tr>
<tr>
<td>1788 to 1793</td>
<td>Lowlands</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
</tr>
<tr>
<td>1793 to 1795</td>
<td>Lowlands</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
</tr>
<tr>
<td>1795 to 1796</td>
<td>Lowlands</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
</tr>
<tr>
<td>1796 to 1798</td>
<td>Lowlands</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Malt Tax Charged Per Bushel</th>
</tr>
</thead>
<tbody>
<tr>
<td>1790s</td>
</tr>
<tr>
<td>1804</td>
</tr>
<tr>
<td>1822</td>
</tr>
</tbody>
</table>

Table 1: Devine, “The Rise and Fall,” 158-159

Smuggling and illicit whisky production continued to be widespread throughout Scotland from 1800 until 1823, despite the government’s efforts to end illegal trade, but landowners began

\(^60\) The *Reports from Committees* states “each gallon of Still, a duty of £162, per annum would yield £349,920, which is equal to two shillings per gallon of the Spirit” as justification for the high tax. House of Commons, *Reports from Committees*, 13.

\(^61\) House of Commons, *Reports from Committees*, 13.
to weary of the illegal business conducted on their land. Many landowners began to worry about the illicit activities happening on their land because they feared if excise laws were so easily ignored then it was a short step to total anarchy. By the 1820s a campaign of Scottish landowners—headed by Alexander Gordon, 4th Duke of Gordon—began calling for the government to create a cheaper and easier way for distillers to operate legally. These landowners thought that such a system would encourage illegal distillers to legalize. It was a significant change in the mood of Scottish landowners. Gordon, one of the largest landowners in Scotland, owned the Cabrach and Glen Livet regions of Scotland which were two of the largest areas housing the highest percentage of illegal stills.62 These areas of illicit whisky trade had once readily used whisky in place of cash for rent payments. However, by the 1820s Gordon was urging the House of Lords to end the illegal whisky trade by creating a system that would allow anyone to afford a license and to profit from a legal business; in exchange Gordon promised the backing of Scottish landowners, which he had already gained. Robert Jenkinson, 2nd Earl of Liverpool, was the Prime Minister at the time, agreed with Gordon, and set up a new commission on the illegal whisky trade which was tasked with identifying the major issues and proposing a reasonable solution to the problem.

Before the Fifth Commission of Inquiry into the Revenue completed their study, Liverpool’s government introduced the 1822 Illicit Distillers of Scotland Act, to help curb the tide of illegal whisky trade.63 This new act raised the penalties of owning an illegal still and making illegal whisky, and perhaps most significantly, magistrates no longer had the authority to

62 MacLean and MacCannell, Scotland’s Secret History, 52.
reduce fines. Many magistrates in Scotland were either consuming illegal whisky or perhaps taking part in the trade in some way, so by taking the ability to reduce fines away from magistrates they would have no other options than to fine at the government rate. The Illicit Distillation Act levied a fine of £100 for running an illegal still, £200 for smuggling whisky, equaling roughly £12,700 and £25,500 today, which was a large sum of money. Illicit whisky distillation and smuggling were highly profitable; for example during the 1820s whisky sold in the Highland town of Ross cost 5s. In comparison, the same whisky in the Lowland towns of Glasgow and Leith sold for 12s 6d. Despite the profit margins of selling illegal Highland whisky the new fines made it a lot riskier to produce or smuggle whisky. Illicit whisky producers and smugglers could also be sentenced to six months in prison. Moreover, the 1822 act also held landowners accountable for any illegal whisky business conducted on their land by charging them hefty fines—a powerful new incentive to halt the illegal trade. When the new Commission’s report was published in 1823, it showed that even the legal distillers were engaging in illegal activities to make a profit, such as buying Highland whisky only to relabel it under a Lowland name and resell it.

Liverpool may have been persuaded to make lasting changes to the whisky industry as a result of the 1822 visit of King George IV to Scotland, the first time a Scottish/British King visited in nearly two hundred years. Sir Walter Scott—a poet and writer—choreographed the visit to highlight all things Scottish. Everything about this visit was planned with great care and

64 “The Illicit Distillation (Scotland) Act, 1822,” in The United Kingdom of Great Britain and Ireland, 3 George IV, 1822 (London, UK: J. Butterworth and Son, 1822), 245.
66 Devine, “The Rise and Fall,”
67 Miller, Whisky Science, 97.
detail, as Scott hoped not just to highlight the best of Scotland but to have the King lessen the harsh penalties they had suffered since the 1745 Jacobite Rebellion, including Pitt’s whisky taxes. Scott presented King George with a bottle of Glenlivet whisky, which was illegally produced. Whether the King realised he was consuming an illegal whisky is unclear, but George insisted on having nothing but Glenlivet at every meal throughout his stay in Scotland afterwards. It has been reported that the King demanded Glenlivet whisky to take home to England as well. This may have persuaded Liverpool about the need to make significant changes to excise laws—it would have been a public relations nightmare for the King to consume illegal whisky in England openly.68

Liverpool’s new system was the 1823 Excise Act, which created one law for all Scottish distillers. He had taken the recommendations of the Commission and the opinions of the Excise Board seriously when creating the new law. Liverpool even had some excise officers, such as Aeneas Coffey, help to create the new excise law because of their expertise in the industry. However, not all Scots were happy about the new act and illegal activity would continue for several more years. The new act introduced a fixed licensing fee of £10 across Scotland—the same price in the Highlands and the Lowlands with no distinction—making it possible for anyone to afford to license their distilleries.69 The act also reduced the excise on whisky to 2s 5d70 per gallon of finished whisky.71 This new act made it easier and profitable for illegal distillers to make the change to legal operations, and many Highland distillers made the switch.

69 The 1823 Excise Act does not mention the malt tax, and the House of Commons sitting, May 28 1823 discussing the malt and beer tax does not discuss any spirits. House of Commons, “Malt and Beater Tax 28 May 1823”, vol 9 592-598.
70 Devine stated that in 1822 taxes were 5s 6d, so the 1823 reduction was just over fifty percent. Devine, “The Rise and Fall,” 158.
71 MacLean and MacCannell, Scotland’s Secret History, 54.
George Smith took out one of the first legal licenses in 1824 and officially established the Glenlivet Distillery creating one of the most famous Scotch brands in the world. Many of Smith's Highland neighbours threatened him and his new legal distillery. Illicit producers turned legal businessmen were “considered traitors to the cause”\(^7^2\) because they were taking advantage of the new tax laws, which zealot illegal distillers viewed as colluding with the English government. The nationalist movement that had developed and flourished throughout the eighteenth century remained, and some of the illicit still operators and smugglers felt there were still reasons to continue the fight, and that the 1823 tax law was another example of English interference in Scottish affairs. However, some illegal distillers had lost the desire to continue fighting in the form of illicit still operations, and felt that the new law was a fair tax system which was what they had been demanding. Zealot distillers, and smugglers, though, were unwilling to give up the ongoing war against English rule and influence over Scotland, and the idea that any illegal distiller wanted to forego those principles that first drove them underground for the opportunity to make money was anathema to those ideas. Even though the new excise laws were more equitable, many illegal distillers felt it was still a symbol of English rule and the Anglicisation of Scotland, as their forefathers had thought about agricultural and industrial changes in the Lowlands. And, anyone willing to accept the British government's new tax law was an enemy to Scotland and the nationalist movement in their eyes. In the 1860s Smith spoke with a reporter of the London Scotsman and stated:

[illicit distillers] ridiculed the idea that anyone would be found daring enough to commence legal distilling in their midst…the desperate character of the smugglers and the violence of their threats deterred anyone for some time…I was warned before I began

\(^7^2\) MacLean and MacCannell, *Scotland’s Secret History*, 55.
by my civil neighbours that they meant to burn the distillery to the ground and me at the heart of it.\textsuperscript{73}

The fear of retaliation may explain why the first licenses were not taken out until 1824.

Some of the smugglers and illicit whisky producers made good on their threats and burned several newly legalized distilleries or otherwise chased producers out of the area with threats. In 1825 Banks O’Dee Distillery, located in Aberdeen, was burned down, and again in 1826 after they had rebuilt; O’Dee never rebuilt after the second fire. Lochnagar Distillery, from Deeside, was burned to the ground as well. Lochnagar was rebuilt but in 1841 and it was burned down once again. However, unlike O’Dee, in 1845 Locknagar was rebuilt and by 1848 was given a Royal Warrant by Queen Victoria.\textsuperscript{74} That proved that despite smugglers and illegal whisky producers’ attempts to intimidate and ruin legal Highland distillers they could thrive under the 1823 licensing laws. But, despite the new system of taxation that made it cheaper and easier for distillers to turn legitimate, records indicated that between 1824 and 1830 there was a rise in illegal distillation in the Highlands, although smuggling rates were lower as was indicated by fewer cases coming to the magistrate courts.\textsuperscript{75} The reason for the rise in illegal distillation seemed to stem from the same group of people who threatened newly legalized distilleries, and who were holding onto the ideals that took stills underground in the first place. The two main reasons had been high taxation and English rule in Scotland, and while many were satisfied with the new taxation system a large portion of Scots, mainly northerners, would not easily give up on their nationalist or anti-English sentiments. Military troops were moved into high-risk areas, mainly in the Cabrach and Glen Livet areas where illegal operations were always highest, to

\textsuperscript{73} MacLean and MacCannell, \textit{Scotland’s Secret History}, 57.
\textsuperscript{74} Moss and Hume, \textit{The Making of Scotch}, 101.
\textsuperscript{75} MacLean and MacCannell, \textit{Scotland’s Secret History}, 57.
support excise officers and to ensure peace in the Highlands. In 1823 magistrate court records showed 4,563 convictions for illicit whisky production and smuggling, proving that a large number of criminals were still willingly participating in illegal activities. However, many of the smugglers and illicit still operators who had ganged together to threaten new distilleries began tiring of the lawless lifestyle—the stiff penalties may have been a deterrent—and by 1825 the number of convictions had fallen to 873.

The numbers proved that a fair and equitable taxation system could work in Scotland if lobbyists and interest groups did not dominate law-making, if the poor economy of the Highlands was taken into consideration, and the government consulted the Excise Board on what was best for the whisky industry. Liverpool was more successful than his predecessor because he acknowledged the professionalism and efficiency of the Excise Board and used the expertise of excise officers to create his new tax laws. Excisemen may have been hated by legal and illegal Scottish distillers, which was a clear sign they were good at their jobs because inefficient officers would not be a threat to distillers. Still, they were experienced in whisky laws and distillation in Scotland. It was important not to underestimate the knowledge these men gained through footwalks, outrides and visiting legal distilleries as part of their job, as had been the failure of Pitt. By using that knowledge, and not bending to lobbyists or wealthy distillers an equitable tax system was achievable, unlike Pitt who attempted to appease prosperous distillers and partisan

---

76 By moving troops into high-risk areas, the British government was reinforcing the perception that Highlanders were rebellious and unruly, an opinion that dates back to the fourteenth century. In 1380 John of Fordun wrote “The highlanders and people of the islands…are a savage and untamed nations, rude and independent...hostile to the English people and language...and exceedingly cruel.” The idea of the barbarous and violent Highlander persisted for centuries, and even after the Act of Proscription which had been meant to break them the British government did not trust the northern people to remain peaceful. However, there is no suggestion that widespread violence broke out after the 1823 tax reformed other than the concentrated violence against newly legalised whisky distilleries. Ewan J. Innes, “The Social, Economic and Political Reasons for the Decline of Gaelic in Scotland,” in Scottish History, September 25, 2019, http://www.scottishhistory.com/articles/highlands/gaelic/gaelic_print.html

77 Moss and Hume, The Making of Scotch, 83.
people and ultimately failed to create a fair tax system. Liverpool was also successful in his
government's tax laws because he targeted landowners and held them accountable for the illegal
activity on their land. The landed gentry, especially in the Highlands, was no longer viewed as
passive participants in the illicit whisky trade. Instead, they would now be deemed as active in
the trade if they continued to let illegal distillers produce on their land and use illegal whisky as
barter for rent. And, although the 1823 Excise Act did not eliminate smuggling and illicit stills
altogether, as these lingered on for two or three more decades on a much smaller scale, the new
laws allowed anyone to be able to afford a license.

The new laws eliminated the rivalries between legal and illegal distillers, Highland and
Lowland distillers, and the lower class and middle and upper classes. Licenses were not just for
the affluent middle-class, and southern distillers, but a poor Highland farmer, or groups of
Highlanders, could take out a license and build a legal establishment. The new excise law
potentially allowed many poor Scots to cross the social divide into the middle-class, as they
developed new legitimate distilleries. Liverpool's new tax laws also helped reduce the tensions
between the Highlands and the Lowlands, as distillers began working together as one Scottish
whisky industry instead of the 'us and them' attitudes that plagued the eighteenth century. Of
course, it would take more than the 1823 excise laws to end all of the tensions between the north
and south that had developed over centuries. But by eliminating extreme whisky rivalries all
distilleries were now equal under the law. Pitt, by his death in 1806, never witnessed the end of
the illegal whisky trade. However, Liverpool's government, with the enactment of the 1823
Excise Act, had sharply reduced and ultimately all but eliminated the illegal whisky trade.
Wine may have been the preferred drink of the British aristocracy, but whisky was the drink of the Scottish nation. All social classes consumed whisky in Scotland and protested against whisky taxes. MPs and the landed gentry used their positions within the British parliament to make demands for equitable taxation. It was not a surprise that the aristocracy had a political voice in the eighteenth and early nineteenth century, as it was always the elite who made the laws that the lower classes had to follow. What was a surprising discovery was that the ruling class in Scotland, especially in the Highlands, were passive participants in the illicit whisky trade. It was through their actions (or lack of action) that a large number of illegal stills were able to continue their operation and by accepting whisky as rental payments, they were participating in the illicit activities of their tenants. Many of the landed gentry, although not all as lairds owned land and were not part of the aristocracy, held positions in the British government so that they could influence tax laws. It was not until the 1820s when the Duke of Gordon urged Highland landowners to help end illicit activities on their lands and work with the Liverpool government, that lasting changes to the whisky industry were achievable. It was less surprising that the middle-class distillers, who had newly emerged in the mid-eighteenth century, quickly realised that their new position gave them influence in government and they could lobby MPs and the PM for a tax system that benefitted themselves. And, through the research, it is clear that although the lower class was unable to vote and could not hold political office, they had a loud political voice in eighteenth century Scotland. Generally, the lower classes were forced to follow the laws that the elite created, without any opinions or options. However, in the
eighteenth and early nineteenth centuries, the lower-class Scots were able to use their voice to protest against taxes that would make whisky unprofitable to produce legally and too expensive to consume when legal. By moving their operations underground, they were forcing the British government to deal with the problem of unfair taxes that the poor Scots could ill afford. Although the elite and middle class held more political power, it was the poor illegal whisky producers that genuinely affected the British government, because of the lost revenue from whisky taxes and the expense of trying to control the illicit market.

The landed gentry were also motivated by the Agricultural Revolution in both the Lowlands and Highlands, as improvements to farming practices brought more wealth for them. Implementing the new agricultural ideas, such as field enclosures, new crops, and specialised farming meant cottars were evicted from their homes to make room for more extensive pastures and crops. There was no room for small subsistence farmers in commercial agricultural practices, which led to what is now known as the Highland and Lowland Clearances. The Highland and Lowland Clearances displaced thousands of Scots as landowners cleared the land to expand crops and pastoral land. The Clearances were part of the Agricultural Revolution that changed how Scots farmed and was necessary for the creation of commercialized farming but left small tenant farmers without land available and thousands of Scots homeless. When Scots changed their farming practices, large farms focused on one area of farming—instead of subsistence farming—impacted the whisky industry, both legal and illegal.

The illegal whisky trade became a symbol of nationality, as Scots produced and consumed illegal whisky despite the threat of high fines and prison terms. The Scots had feared the English would rule over Scotland after unification, and the whisky tax in 1725 was accepted as proof of that fear becoming reality. Whisky became a symbol to protest against English rule in Scotland. Scots
across all social standings, from the lower classes to the elite, had tried using legal actions to voice their concerns, by writing letters to MPs and the King and printing articles in newspapers before resorting to riots in protest.

Such actions show how important whisky was to the Scottish nation, and that although the elite could afford to purchase wine they still valued whisky. However, these actions failed as the government ignored the letters and had rioters publicly whipped. The most impactful, which lasted well over a century, was the underground illegal whisky trade that avoided taxes while still gaining a large market in both the Highlands and the Lowlands.

The numerous political events of the eighteenth century, specifically 1707 Act of Union, the 1715 and 1745 Jacobite Rebellions and the 1746 Act of Proscription and had an impact on whisky in Scotland. Whisky was used as a pawn in ruling and resistance, a pawn that could threaten to become a queen. If the political events of eighteenth century Scotland are examined in conjunction with the history of whisky, it becomes clear that whisky was a symbol of nationality used to protest against English domination, especially in the Highlands. The Scots did not always begin with rebellion, riots or violence, as can be seen in actions before the Act of Union was ratified, and during the malt riots. It was not until after legal options failed that Scots turned to riots and protests. However, because their voices were ignored, Scots used whisky as a symbol of their frustrations and anger over the government, mainly in the poverty-stricken Highlands where illegal whisky was flagrant from 1725 to 1823. Illegal whisky distillation was evident in the southern area during this period as well, though on a smaller scale than in the Highlands.
Illegal whisky production and smuggling had been prevalent in Scotland for roughly one hundred and twenty years. But it was one of the few acts of rebellion the average Scot had. In Scotland whisky had become an essential part of the culture by the eighteenth century and any threat to it felt like a direct assault on their heritage and way of life. Scots were willing to risk their lives, their farms, and their meagre savings in order to continue to distill whisky. However, many Scots resented that the British government was ruling from London and had little sensitivity to Scottish desires and needs. London’s physical distance from Scotland—especially in the Highlands—presented a serious political problem for the government when riots broke out over whisky taxes and when rebellions erupted over the crown and religion. The distance caused delays in a military response when problems arose because the Highlands were a vast area that was not easily accessible by sea or horse. During riots and rebellions, Scots were able to get the upper hand quickly because of the locational advantages—the military was too far away for a rapid response and by the time troops did arrive protestors had already crowded the streets and caused damage. The government’s response was to improve military and transportation logistics, but the changes also played into the hands of whisky producers.

Whisky was an essential theme in the Scot/Anglo relationship, and this thesis examined its central role. Whisky played a valuable role in the writing of the treaty for 1707 Act of Union and was the reason prior unification talks had failed. The failure of the English to understand the cultural importance of whisky was a key reason that the Anglo/Scot relationship was strained in the eighteenth century. In 1725 when English malt taxes were levied on Scottish malt, the young union was almost undone because Scots rioted against the tax, and signed petitions and wrote letters to the PM and Queen demanding unification be undone. This was a direct result of the British government identifying whisky as a luxury item, the same as wine was classed. Amongst
the aristocracy wine was a luxury, an imported item that the wealthy could afford but did not require should the expense prove too much. However, the Scots used whisky as medicine, for social occasions and in rituals, more importantly, in times of food shortages whisky filled the bellies of the hungry and provided some nutritional value. It was the British government's failure to recognise that whisky was consumed, socially and medicinally, by all classes and was essential to Scottish life that had negative effects on the Scot/Anglo relationship, especially in the Highlands.

England's cultural distance also played a role in how the British government treated whisky, because of the cultural gap between Scotland. This was especially true of the Highlands. Lowlanders had cultivated a relationship with England from at least the seventeenth century and had shifted from the Celtic traditions to an Anglicised lifestyle. The Anglicisation of the Lowlands meant adapting the Scots language to English, their style of dress, and ignoring their traditional Celtic culture. During the eighteenth century, Anglicisation helped in developing factory-style whisky distillation, because they had already adopted a more English style of speech, dress, and farming. Unlike the Highlands, where they had never trusted the English and clung to their Celtic traditions, so they had remained subsistence farmers and a clan society, and avoided industrialisation. When many Lowland distillers became wealthy by embracing the Industrial Revolution and spoke English making trading with England easier, Highland distillers continued to distil in the traditional small-batch pot still and remained poor. The stark differences that developed in the later half of the eighteenth century between the Highlands and Lowlands made a Scot/Anglo relationship difficult, as each region had a different opinion of the English and what they wanted from that relationship. The Lowlanders wanted a closer trading relationship with England, to export whisky into English gin commerce and chose the English
market economy over traditions. Of course, not all Lowlanders wanted a closer relationship with the English as was shown during the malt riots. Many people in Glasgow and Edinburgh protested against Anglicisation along with Highlanders. However, middle-class businessmen muted these protests with industrialisation and manufacturing, which made the Lowlands wealthier and created jobs for the poor southern Scots. Industrialisation created other issues, though, such as extreme poverty, so nationalism was not at the forefront of the poor Lowlanders. In the Highlands, there was a desire for sovereignty, their Celtic traditions, and their untaxed whisky. However, their adherence to traditions and resistance to industrialisation also meant they remained poor.

The method by which taxation and the repression of the illegal whisky trade took place was through the Excise Board, which was charged with collecting taxes and searching out illegal operations for destruction. The research shows that excisemen, whether Scottish or English, took great personal risks when carrying out their duties for the government and this is often overlooked in favour of the romantic archetype of the illegal whisky distillers and smugglers. The excisemen were often beaten, stabbed and sometimes shot when confronting illegal whisky traders. They were seen as the anti-heroes in Scotland, and portrayed as villains in the romance of literature. The job of excise officer was dangerous. Moreover, they were away from home and had to pay expenses from their own pockets which left them little money for their family. Excisemen were treated with contempt in Scotland, and although Robert Burns gained great fame through his poems that disparaged his own career, he still carried with him a walking stick with a long knife concealed within it for protection. Excise officers, whether English or Scot, were agents of the British government and treated as enemies by the community-imbedded smugglers and illegal distillers despite their considerable professionalism and knowledge.
Nationality did not save an exciseman from abuse or assault. They were risking a lot for their job, just as illicit still operators and smugglers were risking much to continue their activities.

The role of the exciseman in eighteenth century Scotland is also often undervalued, as was clear when Pitt, in the 1780s, attempted to create an equitable taxation system which ultimately caused higher rates of illegal whisky production and a deeper divide between the Highlands and Lowlands. Pitt did not value the Excise Board or the excisemen who had their feet on the ground in Scotland. These men were better placed to give advice on how to end the illegal whisky trade. However, Pitt chose to take the opinions of Lowland distillery lobbyists and created the 1784 Excise law that oppressed the Highlands while giving Lowland distilleries the right to export to England—while raising taxes. Essentially Pitt’s new law angered everyone. Pitt’s failure to end the illegal whisky trade was a product of his failure to consult the Excise Board. Only in the making of the 1823 Excise laws were they consulted, and after its introduction the illegal trade slowly dwindled away. This thesis also attempted to change the narrative of the excisemen. Popular fiction had written excisemen as the villains of the eighteenth century, although the reality was that they were intelligent and hardworking people, who risked their lives conducting their job for meagre pay.

By examining the reasons Scots were willing to risk everything to produce whisky, even when that meant they were classified as criminals, this thesis aimed to change the narrative about illegal Scottish whisky from a romantic ideal to a reasonable response to the nationalist movement and a rejection of English influence. Although eighteenth century authors wrote illicit whisky distillers and smugglers as romantic heroes, they were viewed by the British government as criminals. The reality was that these Scots stood somewhere between hero and criminal. They
were fighting for what they felt was the best for all of Scotland (sovereignty) and were unintentional criminals, as they did not distil illegal whisky only to avoid paying taxes but also to rebel against English taxes and influence in Scotland. The production and distribution of whisky was not only a cultural, familial, and a community activity; it was symbolically a rejection of English domination and an assertion of Scottish nationality. Illegal whisky was a particular rejection of English domination. The narrative is complicated by the tensions between Lowland legal producers and Highland illegal producers, but even in that context the Lowlanders were partly complicit in the illegal market, even while they fought for a system that gave them an advantage over the Highland legal and illegal market. Legal Lowland distillers, as was the case with the Steins, sometimes purchased illegal Highland whisky and sold it as their own, while lobbying the government for tighter control over the illegal market and campaigning for access to the English market for financial gains. It was little wonder the government could not conceive of a system that would make both sides happy, although the Excise Board believed neither the Highland nor Lowland whisky producers should have been involved in the creation of a fair whisky taxation system.

The tensions between the Highlands and Lowlands, as previously discussed, had been growing since at least the sixteenth century as the Lowlands became more prosperous. This created an economic divide, as the Highlanders remained impoverished, and the economic gap only grew more substantial with the introduction of the Industrial Revolution. Throughout the eighteenth century Lowland distillers, such as Kilbagie, Kennetpans and Cannonmills, utilised the equipment developing out of the revolution to industrialise their distilleries, turning them into larger and structured businesses. After each batch of whisky was produced it was required to cool the pot still down and clean it before recharging. This took time and patience, unlike the
continuous and column stills which did not require regular cleaning and charging but could continuously produce whisky. By industrialising, and installing the larger stills the owners of these distilleries, the Steins and Haigs, became wealthy businessmen, while Highland distillers remained loyal to the traditions of whisky production. This meant slowly distilling whisky in small pot stills. This did not make them wealthy, but to most of them, whisky was not a business but a cultural icon that should be protected from English influence and taxes. Illegal Highland distillers, such as Cardow, continued to use the smaller pot still. Even legal Highland distillers, such as Oban, continued to use the pot still to produce their whisky.

The research has shown that clinging to the traditions of whisky production was not a rejection of wealth, but a renunciation of Anglicisation. The Lowland distillers who modernised their operations were seen as being too English, and despite the wealth industrialisation brought, Highlanders forewent money to ensure their culture and traditions remained unsullied by the English. There seemed to have been little discussion of this amongst the Lowland distillers though, and they had long since traded their Celtic roots for a wealthier lifestyle. While Highlands thought of Lowland Anglicisation as a treachery, the Lowland distillers did not seem bothered by this characterisation, and nothing in the research suggested that they were ashamed or apologised for their wealth. The Anglicisation of the Lowlands had long been a complaint of Highlanders, who continued to dress in the Celtic fashions, spoke Gaelic, and maintained the traditions of that culture. There had been a fear of English influence over Scotland for several centuries, especially when the Lowlands began adopting their style of dress and forgoing the traditional Scottish way, so the Highland adherence to the Celtic culture, especially in the form of whisky production, was a symbol of nationality. It seems for the Lowland distillers, whisky
was only a symbol of wealth and prosperity though, and that dichotomy with Highland illegal distillers was another reason why the divide in Scotland continued into the nineteenth century.

One of the most surprising details to emerge through the research for this thesis was that it was not just illegal distillers who were willing to break the law to create whisky. Legal distillers operated outside of the law in an attempt to avoid paying the over inflated excise on whisky and malt, as Viven Dietz briefly discusses in “The Politics of Whisky”. Her discussion of the illegal acts of legal distillers is limited to James Stein’s bribery charges, however; little else was discovered through secondary sources about the illegal activities of legal distillers. Lowland distillers, such as the Stein and Haig families, wrote letters and held meetings with Members of Parliament asking them to end illegal distillation on the grounds that the illegals had an unfair advantage over legal distillers who were tax-paying citizens. However, research has shown that the legal Lowland distillers were using tactics, such as the shallow still, to avoid paying excise on their whisky. They even resorted to illegal activities, such as bribery, or utilizing illegal whisky in their products to bend matters in their favour. Without acknowledging that some Lowland distillers used illegal methods an important part of the history of whisky is lost and Lowland distillers look like law-abiding citizens when in reality they were suspect businessmen, looking out for their interests.

The aim of this thesis has been to show how whisky was used as a political entity, that whisky was the most influential spirit in eighteenth century Scotland and that whisky culture was used to protest English influence and taxes in Scotland. It also showed that whisky separated the Highlands and Lowlands into disputing regions, as both areas fought for their own causes—nationalism and culture versus commercialism and the market economy. Whisky held a
significant role in Scotland, much more than a mere alcoholic drink, otherwise the cost of illegally producing or smuggling whisky would not have been worth the effort. The illegal whisky trade, at least in the Highlands, was unique in that it was motivated by nationalism and was not strictly motivated by profits, as other smuggled products were. Perhaps this was even true in the Lowlands, where illegal distillation still took place, but evidence is lacking. If whisky was the luxury some eighteenth century politicians claimed it to be, Scots could easily have given it up, and there would not have been a significant gap in their private lives, their society or their culture. However, the fact that so many Scots, especially in the Highlands, were willing to risk a great deal for whisky meant it was far more important than any luxury item. It is clear that whisky was ingrained in Scottish culture, their medicine, and society. Whisky was indeed a political pawn, used by all sides to advance their own causes, with the only winner being the illegal whisky trade that flourished from 1707 to 1823 despite the British government’s attempts to end the illegal activities. It was not until the Liverpool government acknowledged the value of the Excise Board and the work of the excisemen that an equitable tax law that legal Highland and Lowland distillers were happy with, and most illegal distillers found acceptable.

Of course, a greater sensitivity to Scottish culture on the part of the British government could have avoided much of the illegal whisky. This, of course, would not have stopped all of the illegal production and trade which was rooted in poverty. Most of the illicit still operators were poor farmers and their wives who were trying to make extra money to pay the rent and bills, and for them high taxation would have been their ruin. If taxes were created at a fair rate, legal production would have come to dominate even in the Highlands. When the 1823 excise laws allowed for an affordable license many illegal distillers began switching to legal operations, despite threats to their lives and businesses, and the illegal whisky trade slowly faded away.
If whisky was nothing more than a drink or medicine, it would not have become an international multi-billion-dollar industry which is so firmly fixed in the culture and traditions of Scotland that the term “Scotch whisky” has become widely used. Today, the term scotch has become synonymous with whisky from Scotland and some use the term as a type of whisky instead of whisky produced, bottled, and labelled in Scotland. If whisky was not an important product to Scots, medicinally and socially, the government would not have been compelled to address whisky distillation during a famine or drought. By the eighteenth century whisky was deeply entrenched in Scottish culture. The misunderstanding of whisky’s importance in Scottish culture would lead to riots and the growth of the illegal whisky trade. The British government had assumed whisky was similar to imported wine; and that those that could not afford to pay the high taxes would simply do without. This theory worked for wine, a product consumed by the rich and powerful, as well as many of the middling classes, in Britain. However, prior to the nineteenth century whisky was broadly consumed by the poor and working-class Scot (though all classes of Scots consumed whisky) who could not afford the high taxes levied on their drink. And, because whisky was an important product in Scotland people were not willing, or able, to do without it. It was used to “cure” numerous diseases and ailments, and it was used in wedding, funeral, and christening ceremonies. It was fully embedded in social rituals, and so it became a rallying point, illegally produced and distributed, for social resistance to English domination, especially in the Highlands. By taxing a product so widely used, and important, the British government ensured illegal activities would be widespread throughout Scotland. The illicit stills and smuggling proved that whisky was not a luxury item to Scots, and that it was used as a symbol of nationality to protest against the 1707 Act of Union, English influence over Scotland, and against English taxes.
Bibliography

Primary Sources

Admiralty Court Processes in Foro, 1703-1830. AC9/3547, National Records of Scotland, Edinburgh, Scotland.


Ascanius, or, the Young Adventurer; Containing an Account of the Rebellion, in 1745-6, and the Adventures and Escape of the Young Chevalier after the Battle of Culloden; to Which is Subjoined, Memoirs Relating to the Highlands, with Anecdotes of Rob Roy and His Family. Aberdeen, UK: G. & R. King, 1843.


Circuit Indictments, 1813-1887. AD3/1, National Records of Scotland, Edinburgh, Scotland.


Correspondence between Murdoch Maclaine of Locbuy and George Maclachlan. GD174/1156, Maclaine of Lochbuie Papers, National Records of Scotland, Edinburgh, Scotland.


High Court of Justiciary processes, 1700-1800. JC26, National Records of Scotland, Edinburgh, Scotland.


House of Commons. *Accounts of malt drawback paid, and quantity of proof spirits on which it was paid; of proof spirits distilled, and quantity which paid duty for home consumption, during the last ten years, distinguishing England, Scotland and Ireland; and of the number of bushels of malt which paid duty in Scotland, during the same period.* London, England, House of Commons Papers, 1831-1832.

House of Commons. *Account of Number of Gallons of Wash distilled from Malt, and Proof Spirits made from Malt, in Scotland and Ireland, 1826–7*, House of Commons Papers, 18, 561 (1828), pp. 5, 8; *Seventh report of the Commissioners of Inquiry into the Excise Establishment, and into the management and collection of the excise revenue throughout the United Kingdom.* London, England: British Spirits, Command Papers, 1835.


James VI and I. *By the King: a Proclamation Signifying the Kings Majesties Pleasure, Touching the Report of People to His Coronation.* London, UK: Robert Baker, 1603.

Justiciary Warrant against McDonald Chisholm, 1819. L/INV/HC/91/34, National Records of Scotland, Edinburgh, Scotland.

Justiciary Warrant against William Mackay, 1820. GB0232/L/INV/HC/9/40, National Records of Scotland, Edinburgh, Scotland.


Plan by the Scotch Distillers for Regulating the Distillery. PRO 30/8/319, Chatham Papers, National Records of Scotland, Edinburgh, Scotland.

Privy Council Papers, 1544-1708. PC10-12, National Records of Scotland, Edinburgh, Scotland.

Observations upon a plan for the better Regulation of the Distillery, proposed by the Malt Distillers in London. PRO 30/8/296, Chatham Papers, National Records of Scotland, Edinburgh, Scotland.


Register of the Privy Council 1609, vol. IX. PC 8/1-3, National Records of Scotland, Edinburgh, Scotland.


Secondary Sources


Herman, Peter C. *A Short History of Early Modern England.* Chichester, UK: John Wiley & Sons Ltd., 2011.


Curriculum Vitae

Name: Sandra White

Post-secondary Education and Degrees:

Queen’s University
Kingston, Ontario, Canada
2014-2018 B.A.

The University of Western Ontario
London, Ontario, Canada
2018-2020 M.A.

Honours and Awards:

SSHRC Canada Graduate Scholarship- Masters
2019-2020

Professor Kenneth Hilborn Graduate Student Award for research and Conference Travel
2019

Related Work Experience:

Teaching Assistant
The University of Western Ontario
2018-2020