

ART. XXI.—*Two Jacobite prisoners in Carlisle in 1746.*
By W. A. J. PREVOST.

Read at Carlisle, July 10th, 1964.

MAJOR DONALD MACDONALD of Tirnadris,¹ hereinafter referred to as Tirnadris, was one of those Highland gentlemen whose loyalty to the Stuarts was their undoing. He was one of the first to rally to the Pretender's standard and was the officer who literally opened the campaign of the '45 by capturing Captain Scott and a detachment of the Royal Scots on 16 August 1745 at High Bridge in Glen Spean in Inverness-shire. Afterwards, with the rank of Major in Keppoch's Regiment, he marched into England, fought at Clifton and was present at the Battle of Falkirk on 17 January 1746 when he was taken prisoner. The day after the action he was brought into Edinburgh by a party of dragoons and carried to the castle² where, with other so-called rebels, he was kept confined for over six months till such time as the arrangements for trying the Jacobite prisoners had been completed.

On Friday, 8 August 1746, a "corps" of about 127 prisoners left Edinburgh under escort for Carlisle.³ This number included 29 who had been imprisoned in the castle and among whom were Tirnadris, Sir Archibald Primrose of Dunipace and Major Donald Macdonald of Kinlochmoidart, hereinafter referred to as Kinlochmoidart.⁴ It is said that Tirnadris and the rest of his party

¹ Tirnadris, thorny land, variously spelt Tiendrish, Teradrish, Tirandrish on O.S. map, etc. A place between Laggan and High Bridge in Inverness-shire, conveniently situated for the skirmish on 16 August 1745.

² *Caledonian Mercury*, 24 January 1746.

³ *Caledonian Mercury*, Monday, 11 August 1746. A second party of over 45 prisoners followed four days later.

⁴ Kinlochmoidart was never in England with the Prince and was captured at Lesmahagow on his way south. *Caledonian Mercury*, 13 November 1745, reported that "yesterday" Kinlochmoidart had been brought to Edinburgh Castle.

were in Carlisle on 12 August⁵ when the Commission of Oyer and Terminer for trying the prisoners was opened, and when from 12 to 16 of that month the Grand Jury found bills of indictment against 119 of the rebels.⁶ These men, according to a report in the *Caledonian Mercury* of 25 August, "are all now confined in the Castle of Carlisle in one room, and strongly ironed; only Sir Archibald Primrose and Captain Hay are allowed the County Jail."

On 9, 10 and 11 September most of the 119 prisoners were arraigned. Kinlochmoidart, the so-called Bishop Coppock, possibly Tirnadris and nine others were arraigned on the eleventh, and on the 12 September the trials began.⁷

Tirnadris was tried on 15 September⁸ and an entry in Baron Clarke's notebook⁹ records that he was found guilty. "A principal man tried by Brother Denison . . . his Defence was Force, but the Jury made no doubt." Force, a plea which was often the prisoner's only defence in these trials, is clearly explained in a contemporary report: "Macdonald of Tyendrish proved, that he was taken away twice by force, the last time by Keppoch's brother. But two soldiers swore, that at the battle of

⁵ R. C. Jarvis, *The Carlisle Jacobite Trials of 1746* (CW2 lxi 265), writes that about 140 of the prisoners from Scotland did not come into Carlisle until 13 August. Indeed, a convoy left Edinburgh on 14 August as reported in a letter of that date by Andrew Fletcher to the Duke of Newcastle. "I can now acquaint your grace, that all the prisoners and witnesses are at Carlisle or on the road to it. The last division of them who arrived yesterday from the north at this place, set out this morning for Carlisle. The whole prisoners sent are about 270, and the number of the witnesses who I have one way or other prevailed on to go to Carlisle are about 160, exclusive of about 30 of the Prisoners who have already agreed to be witnesses, and no doubt more of them will squeek if properly applied as the Danger approaches . . ." (State Papers, Scotland. Letters and Papers 54, no. 33. Photo. copies in Edinburgh Record Office.)

⁶ *Caledonian Mercury*, 25 August 1746, and *Scots Magazine*, September 1746, 437, which also records that on 12 August there were 385 prisoners in the Castle and County Jail.

⁷ *Gentleman's Magazine*, September 1746, 494, 495. R. C. Jarvis, *op. cit.*, 272, writes that the sum total of prisoners who were tried or pleaded guilty was 125.

⁸ *Gentleman's Magazine*, October 1746, 555, and *Caledonian Mercury*, 18 and 25 September 1746.

⁹ MS. Baron Clarke's Note-book in Tullie House, transcribed by Mr Kenneth Smith to whom I am indebted for this note.

Preston, he was against putting a stop to the shedding of blood.”¹⁰ Incidentally, Thomas Coppock was tried and convicted on 13 September after a long trial which lasted six hours and “the jury, whom he doubted not to puzzle, found him guilty in two minutes”.¹¹ Kinlochmoidart was convicted on 24 September when Baron Clarke noted that he too had been found guilty, also “after a very long trial of six hours”. These three men, together with six others, were executed at Carlisle on 18 October 1746.

Macdonald of Tirnadris was imprisoned in Carlisle Castle for almost exactly eight weeks. During this period he was allowed and able to write letters to his wife and friends, some of which have been printed in *The Lyon in Mourning*, a collection of speeches, letters, journals, etc., “relative to the Affairs”.¹² This collection was the work of the Rev. Robert Forbes (1708-1775), a Scottish Episcopalian incumbent who lived and laboured all his active life in Leith. Forbes, who was an ardent Jacobite, had attempted to join Prince Charles Edward when he landed in the Highlands but was arrested and imprisoned in Edinburgh Castle until after Culloden, when he was released.¹³ Forbes and Tirnadris were confined in the same room in the castle¹⁴ so that it might not be untrue to say that the former was afterwards one of the more intimate and understanding of the Highlander’s circle of Edinburgh friends. Moreover Forbes, as he himself relates, was able to help the prisoner with money “which I was so happy to make out for him among my acquaintances upon July 20th and 21st, 1746, ten pounds

¹⁰ *Scots Magazine*, September 1746, 440. See Appendix A.

¹¹ *Caledonian Mercury*, 18 September 1746. *Gentleman’s Magazine*, September 1746, 495, gives date of trial as 12 September.

¹² Robert Forbes, *The Lyon in Mourning* (edited by Henry Paton), Scottish History Society, 1895, i 34-43.

¹³ *Book of the Old Edinburgh Club* xix 169.

¹⁴ R. Chambers, *History of the Rebellion of 1745/46* (1869 edition), 462. The accommodation provided for these prisoners may have been that as entered in “A Report of the Main Bridge, Bull’s and Sally port Guards, October 3, 1746,” which noted “17 Rebels in the Black Hole and Hospital.” National Library, MS. 288.

sterling".¹⁵ After his friend's removal to Carlisle in August, Forbes retained a watching brief and was kept informed of the progress of the trials from letters received in Edinburgh.

On 24 August Tirnadris wrote to Forbes at Lady Bruce's¹⁶ lodgings in Leith informing him that . . . "our trials come on the ninth of Sept. next . . . The whole gentlemen who came from Scotland are all together in one floor with upwards of one hundred private men,¹⁷ so that we are much thronged. They have not all got irons as yet; but they have not forgot me . . . You'll make my compliments to Lady Bruce and Mr Clerk's family,¹⁸ but especially to Miss Mally Clerk, and tell her that not withstanding of my irons I could dance a Highland reel with her . . ."¹⁹

Early in September an undated letter from Tirnadris to his wife, sent care of Mr John Moir, merchant in Edinburgh, told her that "Ranald,²⁰ nor the other witness, I believe, have yet come to town, but Mr Steward expects them this night. I shall despatch Ranald, or the other witness to you, as soon as my trial is over . . . In any event I shall acquaint you as soon as my trial comes on . . .,"²¹ a promise which was kept, as witness a letter dated 16 September to John Graham, Esq., at Multries

¹⁵ Robert Forbes, *op. cit.*, 39.

¹⁶ Dame Magdalene Scott, widow of Sir William Bruce of Kinross, a noted Jacobite, in whose family Mr Forbes lived until his marriage. Lady Bruce's house in Leith, when advertised for sale in the *Courant*, October 1761, consisted of 13 firerooms, stables and chaise house. It was surrounded and searched on 28 September 1746, for information had been received that Lady Bruce was sheltering the Prince.

¹⁷ G. G. Mounsey, *Authentic Account of the Occupation of Carlisle in 1745* (1846), 248-249, writes that 125 indicted prisoners were imprisoned in one room.

¹⁸ Captain Hugh Clerk (1709-1750), a brother of Sir John Clerk of Penicuik (1676-1750), and a merchant in Leith. Mally or Mary was his youngest daughter and a great admirer of the Prince. With Lady Bruce and other ladies she visited the historic Flora Macdonald who, in July 1747, was a prisoner on board the *Bridgewater* in Leith harbour before setting sail for London.

¹⁹ R. Forbes, *op. cit.*, 37-38.

²⁰ Ranald, son of Tirnadris.

²¹ Angus Macdonald, M.D., *A Family Memoir of the Macdonalds of Keppoch* (edited by C. R. Markham, 1885), 66.

Hall,²² Edinburgh. “. . . let you know that I was yesterday tried by the Lords, and after long pleadings brought in guilty²³; indeed Mr Lockheart²⁴ discharged his part most handsomely, though he was overruled.” Tirnadris informed Graham that he had written to his wife, begging her to return home to manage their affairs and that . . . “though she came here that she could not get access to me”.²⁵ Another letter written on the same day to Mr Moir and Mr Robert Forbes also told them of the results of his trial but in addition that the prosecution witnesses had given false evidence against him.²⁶

With the exception of two, all the condemned men to the number of eighty-nine were still confined in the “one long room in the castle”,²⁷ and it was doubtless in this room that special precautions for securing these wretched men were provided, as described in the *Caledonian Mercury* of 25 September: “Large bars of iron are fix’d along the wall of the prison of the Castle of Carlisle and chains of seven feet long are made ready, and each rebel found guilty is to be fastened to one of these bars with one of the chains. All the soldiers in the castle have orders to keep their arms continually loaden.”

In spite of all their chains and fetters Tirnadris, Coppock and some other prisoners managed to free them-

²² Moutree's or Multrie's Hill, on the site of which village the Edinburgh Register House was built in 1772.

²³ *Gentleman's Magazine*, October 1746, 555, confirms this date.

²⁴ Alexander Lockhart, advocate, afterwards Lord Covington, and his friend James Ferguson, afterwards Lord Pittfour, “rendered themselves conspicuous by becoming voluntary counsel for the unfortunate prisoners tried at Carlisle in 1746, for their concern in the Rebellion, and especially by the ingenious means they devised to shake the wholesale accusation against them.” Kay's *Portraits* i (new edition, 1877) 202.

The story goes that the two advocates were so shocked at the indiscriminate conviction of prisoners, whose trials were “mockeries” of justice, that one of them ordered his servant to dress himself in tartans and to skulk about in the neighbourhood of Carlisle, till he was arrested and accused of being a rebel. As such the man was found guilty by the jury and would have been condemned had not his master intervened. This apparently “staggered even the Carlisle jury”. Cassell's *Old and New Edinburgh* i 170.

²⁵ Angus Macdonald, *op. cit.*, 67.

²⁶ R. Forbes, *op. cit.*, 39-40.

²⁷ R. C. Jarvis, *op. cit.*, 272.

selves, and though it is said that Tirnadris had succeeded in bribing the guard,²⁸ for some reason or another the attempt to escape failed.²⁹ A report from Carlisle dated 27 September³⁰ refers to this incident and describes how Coppock and six other men had sawn off their irons by a most ingenious method, which consisted of converting a case-knife into a saw by tapping the edge of the blade on the brim of a glass. Tirnadris, in a letter to Forbes from the castle dated 28 September,³¹ does not mention this frustrated effort to regain his freedom.

One of the last letters written by Tirnadris is dated 17 October 1746 and is addressed to John Moir in Edinburgh.³² “. . . You’ll manage what money Mr Stewart is due to me as you see proper, for my poor wife will want money much to pay her rents and other debts. I have given Mr Wright fourteen pounds sterling and half a dozen shirts, in order to be sent my poor wife by Mr Graham at Multries of Hill. I have wrote just now to Mr Graham and sent letters inclosed to my poor wife and my brother . . .”³³ A pathetic postscript, obviously added by another hand, notes that “He is to die tomorrow”. This letter was carefully copied by Robert Forbes who, possibly at the same time, transcribed from the original or from a copy, “The Speech of Donald MacDonell of Tiendrish”,³⁴ which had found its way to Leith. This declaration, which Tirnadris had intended to make before his “publick, cruell, barbarous and, in the eyes of the world, an ignominious death”, was never heard on the dreadful occasion of the Carlisle executions

²⁸ Seton and Arnot, *The Prisoners of the '45*, Scottish History Society (Third Series) i 81.

²⁹ R. C. Jarvis, *op. cit.*, 272, writes . . . The notorious Thomas Coppock and two other prisoners “endeavour’d to corrupt the centree and had filed off their Irons”.

³⁰ *Gentleman's Magazine*, October 1746, 555.

³¹ R. Forbes, *op. cit.*, 41.

³² *Ibid.*

³³ Lyon Office MSS. Papers relating to the Macdonalds of Keppoch which show that Tirnadris had a brother, Alastair. Angus Macdonald, *op. cit.*, shows two brothers, John and Angus.

³⁴ R. Forbes, *op. cit.*, 34-36.

at Harraby,³⁵ though an eyewitness reported in Edinburgh that "Mr Coppock harangued the multitude of spectators",³⁶ to whom he threw the manuscript of the sermon after he had finished his oration.³⁷ No other speechifying was allowed, but in the end this mattered little for "A true copy of the Paper left by Donald MacDonell of Tiendrish who was executed at Carlisle upon Saturday, October the 18th, 1746", was printed and published in London before the year was out.³⁸ It is noteworthy that a contemporary copy of this declaration is amongst the Clerk of Penicuik manuscripts in Edinburgh Record Office.³⁹

It is well known that there were a number of Jacobite sympathisers who were active in Cumberland during the '45, and at the time it was no secret that Mrs Warwick, of Warwick Hall, was a fervent partisan who entertained Prince Charles Edward to dinner while he was besieging the city, and it seems almost certain that the Warwicks⁴⁰ welcomed into their house a Mrs Douglas⁴¹ and Macdonald's son Ranald who was a witness at, or of, his father's trial. That both Mrs Douglas and Ranald went to Carlisle is certain, for Ranald has recorded in an account of his wanderings after Culloden⁴² how he and Mrs Douglas went in a chaise to Carlisle where they

³⁵ Angus Macdonald, *op. cit.*, 68.

³⁶ *Caledonian Mercury*, 21 October 1746. Report "by a gentleman arrived from Carlisle". Coppock's speech, which the sheriff had retrieved from the crowd, was carefully recorded by Robert Forbes, *op. cit.*, 60-64.

³⁷ Mounsey, *op. cit.*, 264.

³⁸ *True Copies of the Dying Declarations of Arthur, Lord Balmerino, etc.*, (London, 1746) pt. i 44-47.

³⁹ Clerk of Penicuik, Box 120/3182. Another contemporary (?) manuscript copy is in the National Library, MS. 2960 f. 163. A note by the editor of this MS. collection states that Tirnadris "intended to make this speech at the time of his execution but was not allowed", possibly quoting from Angus Macdonald, *op. cit.*

⁴⁰ For Francis and Jane Warwick see CW2 lix 132-136.

⁴¹ It is possible that Mrs Douglas was the sister referred to by G. Mounsey, *op. cit.*, as staying at Warwick Hall "whilst the fate of her brother was pending". Lyon Office MSS., *op. cit.*, record only one sister, nameless in Clan Donald histories, who married Donald Macdonald of Bohuntin.

⁴² Angus Macdonald, *op. cit.*, 75-81. "The Adventures of Ranald Macdonald from seven years of age till his arrival at Warwick Hall." Written by himself, A.D. 1749.

“dined with some French officers”,⁴³ a very sketchy reference to what must have been a harrowing and unforgettable experience for a young boy who was then only seven or eight years of age. Clan histories record that within a year Mr Warwick adopted Ranald who was in due course sent to Douay to study for the priesthood but died before he was old enough to be ordained.

It is a well-known presumption that Tirnadris was the prototype of Fergus MacIvor in Sir Walter Scott’s *Waverley*,⁴⁴ and in view of the fact that Sir Walter was well acquainted with a number of people who must have known the story of the Highlander’s trial and execution, this is no doubt correct. However, the statement in the official guide to Carlisle Castle that Major Macdonald of Keppoch was imprisoned in two cells within the east wall of the keep⁴⁵ is surely not strictly in accordance with the prisoner’s own account. His place of imprisonment till the trials were over was in the Long or Great Hall in the inner ward of the castle. This hall was pulled down before 1827 and it is to be regretted that no description or measurements of the original building were ever recorded.⁴⁶ Other relics of the Jacobite trials have also disappeared. For many years after the executions several severed heads adorned the city gates, and this gruesome spectacle is the subject of the following letter, dated from

⁴³ French officers were in Carlisle till February 1747 when orders were issued for their despatch to Calais. Seton and Arnot, *op. cit.*, i 242-243. A footnote, which can refer only to Tirnadris, in Alexander Mackenzie’s *History of the Macdonalds and Lords of the Isles* (1881) 463, names a Donald Macdonald of Kinlochmoidart as being the officer concerned in the story of Rosemary Dacre and the White Cockade, *vide* CWI viii 237-244, the story made use of by Scott in *The Monastery*. Mackenzie’s pedigree appears to differ from the pedigree of the Macdonalds of Keppoch which shows in particular the ancestry of the Tirnadris family as given by Angus Macdonald, *op. cit.* Both Tirnadris and Angus were of Keppoch and closely related.

⁴⁴ See J. G. Lockhart, *Memoirs of Sir Walter Scott* (Macmillan, 1914), i 39; and Cassell’s *Old and New Edinburgh* ii 123-125, and iii 192-193 for Sir Walter’s friendship with various members of the Clerk family, and in particular with Lady Clerk (1745-1834), the daughter of Joseph Dacre of Kirkclinton, Cumberland.

⁴⁵ Carlisle Castle, Ministry of Works Official Guide-book (1960) 20.

⁴⁶ Information given to me by Mr Kenneth Smith.

Corby Castle, 13 December 1836, from Henry Howard to Sir Cuthbert Sharp, Post Office, Newcastle.⁴⁷

Dear Sir Cuthbert,

Harraby Hill, about a mile from Carlisle on the Penrith road with the River Pettrell running under it, was not long ago the Place of Execution. It was there that those who were taken at Carlisle in the Rebellion of 1745 were executed. I saw in 1818 an old man of the name of Joseph Liddell, then living at Scotby and in his 94 year, who had been at those executions. He stated that on one Saturday, the market day, 7 (read 9) were put to death, on the next market day at Brampton 7 (read 6) also and the Saturday following again at Carlisle 7 (read 11) more; there were also seven (read 5) others executed at Penrith, but whether he attended these or not I am not able to recollect or ascertain. Of those executed at Carlisle Major Macdonald of Keppock, whom Sir Walter Scott has personified under the name of Fergus McIvor, was one. His sisters staid some time at Warwick Hall with Mr Francis Warwick, the last of that ancient family.

Mr F. Warwick was married to Jane, my grandfather Thomas Howard's eldest daughter by his first wife Barbara Lowther, eldest daughter of the 1st Viscount Lonsdale. When the McDonalds went abroad to Halonvent (?)⁴⁸ they left their Brother's sword at Warwick Hall as a memorial. This was given to me by my aunt's legatees. It is a broad sword, well in hand, of Toledo make with a basket hilt,⁴⁹ and inscribed with the name of Andrea Ferrara. The leather within the hilt bears the mark of frequent use by the owner, and impressions from his warm hand.

I recollect about 1766 that two heads were remaining on the English gates at Carlisle of which the report was that one was Major McDonald's.⁵⁰ I do not recollect seeing any on the Scotch

⁴⁷ Sharp MSS., Dean and Chapter of Durham, lxiii f. 473, for which I am indebted to Mr C. Roy Hudleston. For Henry Howard (1757-1842) and Sir Cuthbert Sharp (1781-1849) see *D.N.B.*

⁴⁸ Perhaps Hailoncourt, Dept. de Haute-Marne, France.

⁴⁹ Macdonald's sword was not made in Toledo. "Blades of this description were made in Germany for export, the name Andrea Ferrara in a variety of spellings being used apparently as a sign of quality. Andrea dei Ferari was a sword-smith of Belluno on the Piave river on the edge of the mountains north of Venice. He was active from about 1550 until after 1583. The story that he was Spanish probably derives from the fact that he worked with his brother Giovan Donato in the foundry of Giovan Battista detto il Barcelona. Genuine blades by Andrea dei Ferari would probably be of rapier form and quite unsuitable for use with a basket hilt." Mr A. V. B. Norman, Scottish United Services Museum.

⁵⁰ Mounsey, *op. cit.*, 264, records that the heads of Tirnadris and Kinlochmoidart were placed on the Scotch Gate.

gates. On my return from abroad in 1784 they were gone. The mode of fixing them according to Joseph Liddell was by driving an iron spike through the head, which had a small circular plate on which the neck rested, and a similar plate rivetted at the top of the skull and the spike was then soldered down in the stone.

The first time I was introduced to Sir Walter Scott he wrote on a paper, which I preserve, 4 lines which he believed to be the only verses David Hume had ever attempted . . . they were written with a diamond on a pane of glass in the old Bush Inn, Carlisle, and are as follows:

Here chicks in eggs for breakfast sprawl.
Here godless boys God's glories squall.
Here Scotchmen's heads do guard the wall,
But Corby's walks atone for all.

[Note. The rest of the letter deals with Lord William Howard.]

I remain, Dr Sir, truly yours
 Henry Howard.

Sir Cuthbert Sharp. You are [at] liberty to make what use you like of any part of this letter.

Henry Clerk or Clark.

Henry Clerk, who has been described as a gentleman, lived in the Canongate in Edinburgh, and he was there on 17 September 1745 when the Jacobites entered and took possession of the city. According to his own account he was persuaded to join the Pretender's army to which he acted as Commissary, with a commission in M'Intosh's Regiment.⁵¹ However, it was not long before Clerk regretted his rash decision to serve the Jacobite cause and early in October he and his wife sneaked out of Edinburgh and went into hiding in Argyllshire. Early in November, when the Pretender's army was well on its way to England, Clerk decided to return to Edinburgh, but he only managed to get as far as Doune in Perthshire where he was seized by MacGregor of Glen Gyle,⁵²

⁵¹ Seton and Arnot, *op. cit.*, i 19.

⁵² Gregor MacGregor, the nephew of Rob Roy, was also in charge of Doune Castle wherein were imprisoned men captured by the Jacobites at the battle of Falkirk in January 1746. Hamish Miles, *Fair Perthshire* (1930), 22, 32.

who was in the district raising reinforcements for the Prince. Three weeks later he was moved to Perth and thence to Inverness, and either in January or February was again taken prisoner but on this occasion by Hanoverian troops, who in due course carried him to Edinburgh Castle.

In company with Macdonald of Tirnadriss, Kinlochmoidart and the other gentlemen prisoners, Clerk was taken to Carlisle for trial. He was arraigned on Saturday, 20 September 1746,⁵³ when he pleaded guilty to the charge of carrying arms in the rebel army and to robbing a Mr Scot's house. He was sentenced to death on 24 September.⁵⁴

Henry Clerk, anticipating the result of his plea of guilty, decided to appeal to the King for mercy,⁵⁵ and his petition, together with copies of affidavits of the witnesses for his defence, was sent off on 22 September with a covering letter to his cousin, Sir John Clerk at Edinburgh, who was implored to intercede on Henry's behalf. It would seem that Clerk's case was not altogether hopeless and the documents show that the arrangements which had been made for conducting his defence are evidence that not all the legal procedure at Carlisle was a mockery, an opinion which was broadcast in Edinburgh only a few days later. "Several of the Gentlemen are arrived from Carlisle who greatly commend the behaviour of the Judges and King's Council, and tell us, that the Judges and the King's Council were equally satisfied with the behaviour of the Scots Council; and that time is given to every person who pled guilty or were convicted, to apply to the Crown for mercy, except four, viz. Thomas Coppoch, John Mac-

⁵³ *Gentleman's Magazine*, October 1746, 555.

⁵⁴ Mounsey, *op. cit.*, 259.

⁵⁵ On 16 September 46 Tirnadriss wrote to John Graham in Edinburgh suggesting that his wife, "with other ladies of distinction", should wait upon General Husk in his favour. This and any other appeal was useless and in a last desperate effort to save her husband's life it is said that his wife "pleaded for his pardon in vain *at the feet of George II . . .*" Cassell's *Edinburgh, op. cit.*, i 334.

naughton, James Brand and John Henderson,⁵⁶ who are ordered for execution on Friday se'nnight."⁵⁷

Henry Clerk did not live long enough either to enjoy a pardon or to suffer death by execution.⁵⁸ Indeed he may have died before Sir John Clerk had taken any action in forwarding the petition to London. This seems a reasonable explanation of what actually happened, for Francis Buchanan of Arnprior, who had been sentenced to death on the same day as Clerk, petitioned the King for mercy but was one of the nine men executed at Harraby on 18 October, his reprieve arriving two hours after all was over.⁵⁹ At any rate, Sir John noted on what was then a useless bundle of papers . . . "Letters from Henry Clerk at Carlyle 1746. This poor lad, being condemned, dyed of feever in the prisone of Carlyle."⁶⁰ The letter, the petition and three affidavits are printed below. The address was written on the back of the petition.

"The Honourable

Sir John Clark, one of the Lord Barons of His Majestie's Court of Exchquer for Scotland att Ednr.

Hast Hast.

"Honoured Sir,

Your goodness I hope will forgive this trouble when I inform yow of my present melancholly situation. I was brought from Scotland with other Prisoners to this place to stand Tryal for the High Treason charged upon us. I for my part determined not to give the Judges any trouble, but throw my self upon his Majesty's mercy, and in pursuance of the Resolution I pleaded guilty to the Indictment on Saturday last, And to

⁵⁶ Having read Baron Clarke's note that John Henderson was found guilty and that the "Jury did not stay a minute to debate . . . never went from the bar", it is an anti-climax to read later on in the proceedings the reference to "John Thoris . . . a little deformed Boy . . . acquitted by favour of the King's Counsel. The Pretender ask'd this boy what use he could be of . . . to which he answer'd 'Sir, tho' my body is Small my Heart is as big as any Man's you have'."

⁵⁷ *Caledonian Mercury*, 29 September 1746.

⁵⁸ Henry Clerk died in prison before 14 November 1746. *A List of Persons concerned in the Rebellion*, Scottish History Society, 1890, 246.

⁵⁹ *Caledonian Mercury*, 4 November 1746.

⁶⁰ See Appendix B.

morrow I expect the judges will pronounce sentence of death upon me.

My case in short is this, that for severall years past my place of residence has been Edinburgh and unhappily for me I was there when the Rebels took possession of that city in September last. A few days after happened the fatal Battle of Preston which made them entire masters of that part of the United Kingdom except the Castles. This gave them an uncontroled liberty of essaying all their Art to inveigle and draw in innocent people into their destructive schemes, And tho it is notorious that no person whatever was more firmly attached to his Majesty and his illustrious family than I was all the former part of my life, yet I must with grief acknowledge that they caught me at an unguarded minute and made me so far comply as to be much in their company in their camp but never accepted of any office or command among them.

After I had recovered my self I sincerely repented of what I had done and that I might get rid of them altogether I privately left Edinburgh and went with my wife to Argyleshire where we continued till we were informed that the Rebels had gone for England. Upon which we sett out on our return home, but misfortunately was taken prisoner at Down by a party of the Rebels there, after which they carried me to Perth and from thence north to Inverness. But all that time I absolutely refused to have any office among them or to be under their command.

This is the sum of my case and for proof of most of what I have said I appeal to the inclosed affidavits, sworn before the judges here. This I plead upon not to free my self altogether but to extenuate my guilt so as I may be a proper object of his Majesty's compassion, which, if he extend towards me, I do in the most solemn and sincere manner promise that I shall spend the remainder of that Life which he bestowe in promoting his Majesty's Interest to the utmost of my power.

Honrd Sir, I must apply and humbly beg of you to get my Petition presented to his Majesty. It is upon you alone I depend for this. I know your generous and compassionate Heart too well to doubt that you will exert your self to relieve a poor unhappy man as I am, under a heavy load of affliction. I am heavy loaded with Irons. This my last, with my love to you, Lady and Family.

Castle of Carlisle,
Septer 22, 1746.

I am, Hond Sir,
Your most affect and most obedt cousin
and sevt till death of
Henry Clark."⁶¹

⁶¹ Clerk of Penicuik. Box 123/3266.

The Petition.

“Unto the Kings Most Excellent Majesty, The Humble Petition of Henry Clark, Present Prisoner in the Castle of Carlisle, Sheweth . . . That tho’ your petitioner had all the abhorrence and aversions to the schemes and designs of those concern’d in disturbing the peace of your Majestie’s Government in the late unnatural Rebellion, yett such was his misfortune that he was by a train of accidents carried into, and continued in their compaignie so long as that, tho’ he was unwillingly brought amongst them, yet his being their rendred him justly suspected, so as to be taken up and indicted for High Treason. He was too sensible of the Highnousness of his crime of even in any degree countenancing the Enemy of your Majesties mild Government and Royall Familly by continuing amongst the Rebels, even tho’ in ane unactive manner to give your Majestie’s judges any trouble, and therefore acquiesced in the charge, and throws himself upon your Majestie’s mercy.

The petitioner cannot pretend to make use of any arguments to justify his continuing amongst the Rebels other than that the situation they were in at that time rendered it impossible for him to make his escape from them, as will appear from the annexed affidavits, and he humbly hopes the circumstances of his case will render him a fit object of Your Majestie’s compassion and clemency which, if exercis’d towards him, he will give all the evendence of his gratitude that his situation can admit of.

May it therefore please your most Sacred Majestie to extend your Royal Clemency to the unfortunate petitioner, who untill this unhappay time had been a faithfull and dutifull subject, and who shall ever pray that your Majestie may enjoy a long and happy reign, and that there may never be wanting of your Royal Line to make these nations happy.

Henry Clark.”⁶²

Copy Affidavits in favour of Henry Clark, 1746.

(1) “On behalf of Henry Clark, Prisoner in the Castle of Carlisle.”

“Mrs Jean Forbes maketh oath that it consists to her knowledge that Henry Clark, prisoner in the Castle of Carlisle, was at Edinburgh during the moneths of August, Septemr and till about the . . . day of Octr 1745 years when he and his wife went from that city to Argile. There the deponent [had] occasion

⁶² Clerk of Penicuik. Box 123/3266.

to see him every day during the fores'd space, as he lived next dorr to her house in the Cannongate of Edinr, and depones that he never discovered any appearance of his having joined the Rebels, and gives for a reason that she constantly saw him in his ordinary dress wout any white cockade or arms, and the deponent furder sayeth that the sd Henry Clark was always repute a loyal subject to his Majesty and the present happy establishment.

Signed Jean Forbes. Sworn in Court at Carlisle the 20 day of Sepr 1746 before before signed Cha. Clarke."⁶³

(2) "On behalf of Henry Clerk, Prisoner for High Treason in the Castle of Carlisle."

"Allan Stewart, Innkeeper at Down, maketh oath that about the 10th or 12th Novr 1745 Henry Clark, presently prisoner in the Castle of Carlisle, with his wife and a servant came to the deponent's house on their return from Argileshire to Edinr, and that after their horses were drawn out again for their proceeding on their journey McGrigor of Glengyle, Commander of a rebel garison at that place, came to the deponent's house and ordered Mr Clerk's horses to be unsaddled and again put up in the stable and stopt Mr Clark from going away, and the deponent knows that Mr Clark was then detained at Doun for about three weeks and then was sent prisoner from that place to Perth with a party of the Rebel Camorons. Signed Allan Stewart. Sworn in Court at Carlisle the 20th of Sepr 1746 before signed T. Parker."⁶⁴

(3) "Mrs Cecil Lyon maketh oath that she had occaison to see Henry Clerk, now prisoner at Carlisle, in Perth in the month of December one thousand seven hundred and forty five years, and heard it said that he had 'been sent to that place from Down, and the deponent sayeth that he never appeared to her as one that was joined with the Rebels, nor did she ever see him act in any command or march with them, but one the contraire seem'd to her to be under constraint among them, and the deponent further sayeth that all the while she seed Henry Clerk was at Perth the town was in possession of the Rebels and all the ports thereof were guarded, so that no person cou'd goe out or come in without their liberty.. Sign'd Allan Stuart [*sic*].

Sworn in Court at Carlisle the 20th day of September 1746, before signed Tho. Parker."⁶⁵

⁶³ *Ibid.*, Charles Clarke. Called to the bar in 1723. Died 17 May 1750. One of the four judges at the trials.

⁶⁴ *Ibid.*, Thomas Parker (c. 1695-1784). Called to the bar in 1724. Head of the Court of Exchequer as lord chief baron in 1742. Resigned in 1772. See *D.N.B.*

⁶⁵ Clerk of Penicuik. Box 123/3263.

APPENDIX A: "Force".

A number of other prisoners who were tried at Carlisle pleaded force. Amongst those recorded by Baron Clarke in his notebook was Thomas Coppock, "Curate". After a short account of how Coppock was persuaded to join the rebels at Manchester, Baron Clarke noted that he had been found guilty and his "Defence; originally forced in by the Rebels, under that Terror continued. Left at Carlisle by For[c]e". Coppock was not the only unwilling defender of Carlisle as the following story of another Macdonald of Keppoch clearly indicates. This man was Captain Donald Macdonald, an officer with Tirnadris in Keppoch's Regiment, who had been forced to submit to military training under pain of death. He had marched into England with the Prince, was made prisoner at the surrender of Carlisle and taken to London. When in prison awaiting trial he is reported to have said that he had been honoured with the Prince's commission "which put me at the head of a company; but if I had imagined he had not been better established than I find he was, the De'el take me if I would have staid behind at Carlisle; at the same time I was reduced to a sad dilemma, for if I had refused to stay, I was liable to be put to death for mutiny; and if I did stay, and should be taken, I was liable to be executed as a traitor, which I find is like to be the case . . ." He was executed on Kennington Common on 22 August 1746. The *Gentleman's Magazine*, September 1746, 440, has much to say about this officer and his career.

A threat to use force, in which Tirnadris was involved, is contained in the following letter from Angus MacDonell, second son to "Glengerry", dated 30 September at Delchannie and addressed to The Baillie of Urquhart.⁶⁶

"This serves to give you notice, that I am this far on my way to Glengerry, and being clad with the Prince's orders to burn and harrass all People that does not immediately join the Standart and as I have particular orders to raise your Country, I do by these begg the Favour of you on receipt of this to have at least 100 men ready in 5 days after receipt of this to join my Standart at Invergarry, and the contrary to my Inclinations, in case of not due Obedience to this my demand, I shall march to your Country with the Gentlemen here in Company, Keppoch's Brother and Tirndrish, etc., and shall put my orders in Execution with all Rigour. And as I have the Greatest Regard for Grant and all his Concerns, I begg you'll neither give your

⁶⁶ *Origins of the 'Forty-Five, 1737-46*, Scottish History Society (Second Series (1916), edited by W. B. Blaikie, 278.

Country nor me any Trouble, I do not chuse to give, and your ready Compliance with this will much oblige him, who is sincerely, Dr Sir your most humble servant. P.S. Let me have your answer per bearer, which will determine me how to behave."

APPENDIX B.

It is difficult to believe that the following "Instructions to be observed by the Persons appointed to take Care of the Rebel Prisoners &c in Great Britain"⁶⁷ could have been strictly adhered to in Carlisle Castle. These instructions, together with three samples of forms to be used for prison records and weekly and monthly returns, were issued from Tower Hill in London on 28 February 1746 and distributed to all concerned. Briefly, these regulations were as follows:

1. Rebel prisoners were to be secured in the same manner as were other criminals for treason.
2. A weekly account of prisoners was to be sent to the Commissioners for taking care of sick and wounded seaman, and for exchanging prisoners of war.
3. Prisoners were to be subsisted according to a "Scheme of Provisions" for daily issues to each man. The ration was to consist of 1 lb. of Wheaten Bread, $\frac{1}{2}$ lb. of Marketable Beef and $\frac{1}{4}$ lb. of Gloucester or other cheese equivalent to it. "N.B. the meat to be boiled into broth, with oatmeal, salt, &c." Care was to be taken that these provisions were properly dressed and the prisoners were to be furnished with as much good water as they desired. They were to have a sufficiency of clean straw to lie on, and this was to be changed every fortnight, "for all of which there will be allowed four pence a man".
4. "The Prisoners are frequently to be Mustered, and such Chequed out of Subsistence, for the Benefit of the Crown, as refuse to answer to their Call."
5. The sick or wounded were to be separated from the other prisoners, furnished with beds and bedding, diet and nursing, and eight pence a man a day was allowed for their maintenance.
6. A skilful surgeon was to be employed, for "which service he will be allowed $\frac{6}{8}$ for the Cure of each man". This service covered anything from treating fevers, attending to broken limbs and amputations.
7. If any prisoner should happen to die he was to be buried at the cheapest rate.

⁶⁷ National Library MS. 287.