

Act of Proscription 1746

The Tartan Ban – Fact or Myth?

Introduction

Perhaps the most widely and frequently repeated ‘fact’ surrounding the early history of tartan is that its use was banned by the 1746 Act of Proscription following the defeat of the Jacobites at the Battle of Culloden in April the earlier that year. The Act has also been credited with banning the playing of bagpipes, speaking Gaelic and gathering family members together in public. In fact, the Act banned none of these. This paper will confine itself to a review of evidence for and against the claim that the Act banned the wearing of tartan.

The Act of Proscription

The post-Culloden legislation followed the earlier, and ineffectual, 1716¹ and 1725² Acts and was:

*‘An act for the more effectual disarming the highlands of Scotland; and for the more effectual securing the peace of the said highlands; **and for restraining the use of the highland dress.**’*

Essentially, the third Act was a revision of the earlier 1725 one but with an extra section added to ban what the Government considered to be a martial dress that was central to the Jacobite identity. The relevant section of the Act stated that:

*“That, from and after the first day of August, one thousand seven hundred and forty seven, no Man or Boy, within that Part of Great Britain called Scotland, other than such as should be employed as Officers and Soldiers in his Majesty’s Forces, should, on any Pretence whatsoever, wear or put on the Clothes, commonly called Highland Clothes; (that is to say,) The Plaid, Philebeg or Little Kilt, Trowse, Shoulder belts, or any Part whatsoever of what peculiarly belongs to the Highland Garb, **and that no Tartan, or Party-coloured Plaid or Stuff, should be, used** for Great Coats or for Upper Coats, under the Penalties therein mentioned; and the Time appointed for laying aside the said Highland Dress was, in certain Cases therein mentioned, further prolonged by several Acts, one made in the twentieth, and the other in the twenty-first Year of the Reign of his said late Majesty King George the Second: And whereas it is judged expedient that so much of the Acts above mentioned as restrains the Use of the Highland Dress should be repealed: Be it therefore enacted by the King’s most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That so much of the Acts above-mentioned, or any other Act or Acts of Parliament, as restrains the Use of the Highland Dress, be, and the same are hereby repealed.”*

¹ This Act outlawed anyone in defined parts of Scotland from having “in his or their custody, use, or bear, broad sword or target, poynard, whinger, or durk, side pistol, gun, or other warlike weapon” unless authorised.

² *An act for the more effectual disarming the highlands of Scotland; and for the more effectual securing the peace of the said highlands.*

The highlighted section has been taken by some as evidence that the Act banned tartan; however, a reading of the full text gives a completely different meaning: '**...and that no Tartan, or Party-coloured Plaid or Stuff, should be, used for Great Coats or for Upper Coats,...**' Read in the context of the whole paragraph it is quite clear that this section is the end of a list of Highland Clothes and that there is no mention of tartan cloth being banned. The sharp-eyed reader will also have spotted that the Act applied to **no Man or Boy**; women therefore could continue to wear tartan clothes (Plate 1).



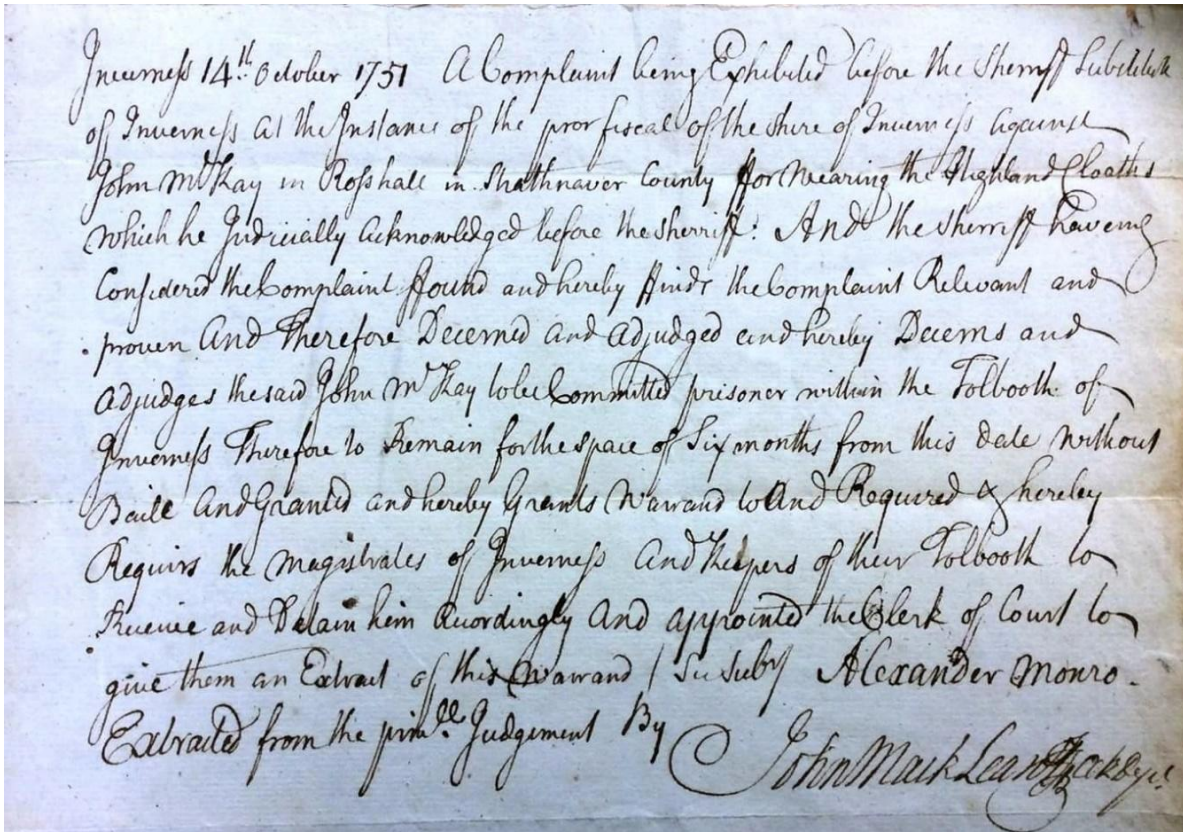
Plate 1. Helen Murray of Ochertyre c1750 wearing a typical mid-18th century tartan dress during the Proscription period.

Not only were Soldiers explicitly exempt from the Dress Act but women were implicitly excluded too. Elsewhere in the Act, Landed Men and the Sons of Landed Men were exempted which accounts for the number of portraits showing men and boys of both Jacobite and Hanoverian persuasions wearing Highland Dress rather than law being ignored by gentry. The Act was repealed in 1782; the accompanying proclamation re-enforces the point that the original Act forbade the wearing of *Highland clothes* and not *tartan*.

"Listen Men. This is bringing before all the Sons of the Gael, the King and Parliament of Britain have forever abolished the act against the Highland Dress; which came down to the Clans from the beginning of the world to the year 1746. This must bring great joy to every Highland Heart. You are no longer bound down to the unmanly dress of the Lowlander. This is declaring to every Man, young and old, simple and gentle, that they may after this put on and wear the Truis, the Little Kilt, the Coat, and the Striped Hose, as also the Belted Plaid, without fear of the Law of the Realm or the spite of the enemies."

Enforcement of the Act

The Act proved difficult to enforce in the remote Highlands and the period of grace proved inadequate and had to be extended (except for landowners and their sons); initially to 1st August 1748, and then to 25th December 1748, for the plaid and kilt and to 1st August 1749, for the other proscribed clothing. John MacKay of Rosshall in Strathnaver was one of those that ignored the Act. In October 1751 he appeared before the sheriff in Inverness for 'wearing the Highland Clothes' (note, it was not for wearing tartan). There is no indication of what clothes he was wearing but, in accordance with the Act, he was convicted and imprisoned for six months (Plate 2).



Inverness 14th October 1751 A Complaint being Exhibited before the Sheriff Substitute of Inverness at the Instance of the poor fiscal of the Shire of Inverness against John MacKay in Rosshall in Strathnaver County for Wearing the Highland Clothes which he Judicially acknowledged before the Sheriff: AND the Sheriff having Considered the Complaint found and hereby finds the Complaint Relevant and proven AND Therefore Deemed and Adjudged and hereby Deems and Adjudges the said John MacKay to be committed prisoner within the Tolbooth of Inverness Therefore to remain for the space of Six months from this date without Baile and Grants and hereby Grants Warrant to and Required & hereby Requires the Magistrates of Inverness and keepers of their Tolbooth to Receive and Detain him accordingly and appointed the Clerk of Court to give them an Extract of this Warrant / In Subj Alexander Moore.
Extracted from the prin^l Judgment by John Mackenzie Clerk.

Plate 2. 14 Oct 1751 - Warrant against John MacKay of Rosshall, Strathnaver for wearing Highland Clothes.

The fact that the Proscription applied to Highland Clothes and not tartan is confirmed in a letter of 22 November 1748 when James Erskine, Sheriff-Depute of Perthshire, wrote to Colin Campbell of Glenure with guidance on enforcing the Act. *'The act prohibiting the use of the plaid and philibeg should be proclaimed at the church doors in Erse You may take all the opportunities you can of letting it be known that tartan may still be worn in cloaks, westcoats, breeches or trows, but that if they use loose plaids they may be of tartan but either all of one colour, or strip'd with other colours than those formerly used, and if they have a mind to use their old plaids, I don't see but they make them into the shape of a cloak and so wear them in that way, which tho' button'd or tied about the neck, if long enough, may be taken up at one side and throwne over the other shoulder by which it will answer most of the purposes of the loose plaid. And if they could come into the way of wearing wide trowsers like the sailors' breeches it would answer all the conveniences of the kilt and philibeg for walking and climbing the hills.'*

Effect of the Act

Margaret Campbell's³ song *An t-Èideadh Gàidhealach* (The Highland Dress) was composed evidently before the Disarming Act came into force. The opening words *Thàinig Achd ro chruaidh oirnn, a-nuas a Sasainn* (Too harsh an Act has come down on us from England) expressed indignation and resentment at the imposition of Lowland dress.

The outrage drew protest from across the political spectrum because the law was applied indiscriminately and gave no advantage to the 'Whigs' and those in the Highlands who had supported the government. Duncan Forbes of Culloden was Lord Chief Justice of Scotland at the time of the '45 Rising. Although a staunch Presbyterian and Hanoverian supporter, he was appalled by the aftermath of the battle and urged George II not to inflict harsh punishment on the Highlanders. His plea was ignored and the effect of the Act was to punish all Highlanders, including members of the 'loyal clans' who'd supported the Government such as the Campbells, Forbes and Munros.

The renown Gaelic poet Duncan Ban Macintyre who lived in Glenorchy in the heart of Campbell country and after service in the Argyll Militia, was even more forthright in lambasting King and Parliament:

'Everyone in parliament was party to treachery
When they imposed on the Campbells the confinement of the breeks,
The very men who served them well the year the squabble came,
When every one of them enlisted in the militia for the government.
But they will scarcely be heard of encamping again with Duke William,
Since he divested us of dress and left us so uncared for.
He has done us every possible ill he could think of, to do us down.'

Over the duration of Act, changes in the use of dress in the Highlands were described in the parish essays in the Statistical Accounts.ⁱ

'In the course of the last 20 years, the dress in this parish both of men and women, has undergone a very considerable change. The men in general wear hats, short jackets, and long trowsers; instead of bonnets, short coats, and philabegs; and instead of the tartan short hose, stockings are pretty much used. The men, such of them especially as follow the fishing, find the change in their dress highly convenient, and it may be presumed that they borrowed it from the seafaring people who frequented these isles.'

Source of the tartan ban myth

It has proved impossible to identify when or where the myth that tartan was banned by the Act first arose but it may lay at the feet of Stewart of Garth's 1822 workⁱⁱ. He includes a quote attributed to Dr Johnson's *Journey to the Highlands* citing an 'Oath administered in 1747 and 1748 in Fort William and other places':

³ Margaret Campbell was the wife of the minister of Ardchattan, Argyll.

'I, A. B., do swear, and as I shall answer to God at the great day of Judgement, I have not, nor shall have, in my possession any gun, sword, pistol, or arm whatsoever, and never use tartan, plaid, or any part of the Highland garb; and if I do so, may I be cursed in my undertakings, family, and property; – may I never see my wife and children, father, mother or relations; – may I be killed in battle as a coward, and lie without Christian burial in a strange land, far from the graves of my forefathers and kindred; may all this come across me if I break my oath.'

Garth's reference is unreliable and not supported by contemporary documents. The author of this paper has been unable to find cited work by Johnson; however, his *A Journey to the Western Islands of Scotland*ⁱⁱⁱ includes a passage⁴ that Garth may have embellished.

Examination of 19th century books on tartan revealed that Proscription was always referred to as banning Highland Dress and *not* tartan. A paper on traditional dyes⁵ included in the Appendix of Dunbar's seminal 1962 work^{iv} states that tartan was banned by the Act; the author himself did not and this error seems to have missed the proof reader's eye. This was probably not the first example and it seems likely that there would have been others in the 1900s.

Conclusion

The banning of tartan following the defeat of the Jacobites at Culloden is one of a number of myths surrounding tartan and Highland Dress for which there is absolutely no proof. In this case, examination of the source material identified the section of the Act that has, and continues to be, misconstrued. Whilst some zealous enforcers of the Act may have regarded tartan and Highland clothes as one and the same, the facts speak for themselves and it is clear that it was not the original intention that the Act should ban the cloth itself and this was never officially applied. The oath quote by Garth can be dismissed as, at best, apocryphal, and at worse, invented. However, because the Highlander was forced into Lowland Dress his everyday link with tartan was irrevocably severed which resulted in a later perception that tartan itself was banned.

Whilst tartan was not banned per se, the suppression of Highland Dress meant that in many cases the traditional link between the Highlander and tartan was broken and that by the time that the Dress Act was Repealed in 1782 the harsh economic realities of the previous 35 year in much of the Highlands meant that traditional weaving techniques and knowledge had fallen into disuse.

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ⁱ MACLEAN, Rev Donald 1796 OSA 17 , pp 293-294.)

ⁱⁱ STEWART OF GARTH D, 1822 *The Sketches of the Highlanders of Scotland*, Constable & Co, Edinburgh. Vol1 p117

ⁱⁱⁱ JOHNSON S, 1775 *A Journey to the Western Islands of Scotland and the Journal of a Tour to the Hebrides*. London

^{iv} DUNBAR J. T. 1962 *The History of Highland Dress*. Oliver & Boyd, Edinburgh

⁴ *The place is said to be known where the black stones lie concealed, on which the old Highland Chiefs, when they made contracts and alliances, used to take the oath, which was considered as more sacred than any other obligation, and which could not be violated without the blackest infamy. In those days of violence and rapine, it was of great importance to impress upon savage minds the sanctity of an oath, by some particular and extraordinary circumstances.*

⁵ Early Scottish Highland Dyes by Annette Kox.