
The First Earl of Callendar's Treasure: 1651.

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Just before sunset on 15 July 1651 a detachment of some 260 of Cromwell's men stormed [Callendar House](#), killing 62 of the garrison and injuring another 13. Among the dead was Lieutenant Galbraith of the King's army. He had been acting as the governor of the fortified house in the absence of the Earl of Callendar who had been with the main army behind the royal entrenchments at Torwood ([Bailey 1992](#)). The Earl's absence muted the victory of the Parliamentary commanders and the troops were disappointed at the small amount of booty that they were able to recover from the damaged building. Callendar House had been left vulnerably isolated from the King's main forces and as a precaution all the moveable valuables had long since been carried off to the north. Indeed, they had been taken under armed escort all the way up to Inverness.

Inverness must have seemed quite remote at the time but the defences at Torwood did not hold Cromwell back for long. His army bypassed them by crossing the Forth at Queensferry. With few options left to it, the King's army tried to regain the initiative by invading England, Cromwell's power base. The ploy failed and on 3 September Cromwell won the decisive battle at Worcester. Charles II managed to escape to France, his cause in tatters. Due to internal disputes in the Scottish camp the Earl of Callendar had remained in Scotland and escaped the immediate aftermath of the battle.

The defeat of the Scots' army at Worcester effectively ended all of the armed struggle in southern Scotland. Most of the members of the Committee of Estates, all that was left in Scotland of the Scottish parliament, were captured at Alyth. Dundee fell soon afterwards. The few remaining forces had deeply divided loyalties and were split between several leaders, notably Huntly, Balcarres and Callendar (Fleming 1919 vol 2, 138). Callendar claimed absolute precedence over the other two, who merely ignored his command (Dow 1979, 18). Despite this the Highlanders still held out. Acting independently the clans were able to continue a guerrilla-style war. This was a difficult time for Callendar as he was opposed by both the Parliamentary forces and part of the Royal forces. He was summoned to attend a meeting of the Estates on the 8th October at a secure place in the Isle of Bute. From Revin he diplomatically wrote that he was unable to attend (HMC 1876, 645). So, as it turned out, was just about everyone else. Finding themselves powerless to offer any effectual resistance to General Monck, Cromwell's representative in Scotland, the leading Scots gave in their submission. Callendar waited to see which way the wind would blow and kept a low profile. General Monck carried the war to the north where he met with stub-

born resistance. Inverness now seemed a far less stable location than Falkirk and Callendar promptly dispatched Sir Alexander Livingston of Dalderse to retrieve his precious property. Alexander was an illegitimate son of the Earl of Callendar, from whom he had received the lands of Dalderse. He was therefore eminently trustworthy for the task. All the crops had been harvested and so a sizeable party of Callendar's retainers and tenants was available to provide the escort. They left Inverness in mid-October and proceeded by way of Badenoch and Atholl. Before reaching Atholl a detachment of Camerons happened upon them on the moors at the Brae of Mar. This clan was still for the King and so Alexander Livingston should have had little reason for alarm, after all, he and his natural father had been in the King's service until recently. The Camerons did not see things so clearly. Callendar's vacillations and diplomatic intrigues had deliberately blurred his allegiances. At any event, the rich baggage train before them offered the Camerons a greater opportunity for financial remuneration than did the campaign against the Parliamentarians. A fierce skirmish ensued in which Alexander Livingston was badly wounded. Callendar's men fought hard but eventually they were overwhelmed by the sheer weight of numbers.

For several hours they were forcibly detained whilst the baggage train was sacked. The Highlanders took not only the bundles of possessions but also, for ease of movement, the train of horses upon which they were placed. A rich haul it was too! It included "*a vast dale of Silver plates, Gold Jewels and other Valueable things*" (Stewart 1974, 85). The plates evidently formed the bulk of the loot as they are mentioned in the other accounts: "*a good deale of plate, cloaths, papers, and other moveables*" (Abbotsford Club 1842, 171). The packhorses were useful for carrying all this, but the other horses were more valuable, and they went too. As did the very clothes in which Callendar's men were dressed. Alexander Livingston was left, on foot, nursing his wound in his under-garments. What a sad sight the party must have made when they arrived at the nearest settlement!



Illus: Robert Gordon's Map of Scotland dated to 1654 (National Library of Scotland) with Inverness, Braes of Mar and Falkirk highlighted.

This despicable incident, coming so soon after the partial destruction of Callendar House, added much to the Earl's troubles. No matter which diplomatic road he trod he would be subject to reprisals from one side or the other. The Cromwellians too were bemused and quickly used the propaganda aspects of this act of lawlessness to emphasize the justice of their own course of action:

"The Highlanders under Marquesse Huntley and Lord Balcarras, now beginning to despair of any prosperous successe or action upon the English (having habituated themselves to the evil custome of Plundering and Robbery), are now betaking themselves to the High-wayes to play the Tories and Robbers; acting their designs (for want of practice) even upon their own Countrey-men; insomuch that indeed none can pass through the North or High-lands with safety, as appears in some of their late carriages, one in falling upon some Houshold stuff, Plate, and Goods belonging to the Lord Calendar, with his son, Sir Alex. Livingstoun, and some other Gentlemen, who were conducting it through the High-lands, to carry beyond Murray; and the Goods thus seized on by these desperate High-landers were all taken away, the Gentlemen stripped, and the said Sir Alexander hurt. The Marquesse may do well to make his own peace in time, lest his partaking with such Robbers render him in short time unpardonable." (Firth 1895, 338).

The identity of the robbers was not then known to Callendar, though clearly they were Highlanders. They appeared to be too well organized to be mere brigands. In November Callendar went to a meeting of the Scottish parliament at Finlarge, only to find that there were just two other lords there, the Earl of Home and Lord Curdross (Firth 1895, 26). While there he must have made enquiries about his son's assailants. Shortly afterwards he received a report that Lochiel, the clan chief of the Camerons, had received a gift of a fine new horse from a group of his men. That horse answered the description of the one which had been forcibly taken from Alexander Livingston. Now Callendar knew who to blame, but given the state of unrest in the country there was nothing that he could do about it at that time other than to voice his complaint.

Powerless and much impoverished, Callendar decided to sue for peace. The internal machinations of the Scots had effectively debarred him from political office or active service for the duration of the troubles with England (McCrie 1848, 270). It was only his awesome reputation as a professional soldier that the Cromwellians could hold against him. In the second week of November 1651 he surrendered himself to General Monck and was allowed to return to Callendar House (ibid, 288). The war in the north continued and the Cromwellians remained concerned that trouble might flare up again in central Scotland. Colonel Lilburne was assigned by Cromwell to police the area. The activities of Callendar, Argyll, Wemyss and Home were carefully monitored, as they were suspected of conspiring with the Highlanders.

A small garrison was stationed at Falkirk to keep an eye on things there and to secure the vital communications route. In February 1653 Colonel Lilburne's suspicions seemed to be confirmed: "*Upon some information I have seiz'd the Earle of Calendar, but whether itt will hold true against him or nott I know nott*" (Firth 1899, 44; Thurloe 1742, vol 2 95). He was taken in by Lieutenant-Colonel Mason and examined by Colonel Corbet, but on this occasion there was insufficient proof against Callendar and he was soon released.

Callendar was not intimidated by this incident and remained active in state and domestic affairs. In June he interceded with Colonel Lilburne on behalf of his kinsman the Earl of Dunfermline (Bannatyne Club 1875, 375). His contacts with the rebels and exiles continued in secret (ibid, 378). November saw a daring act of resistance in Falkirk when two officers from the garrison there were kidnapped from the house in which they had been billeted (Forth 1895, 270; Bailey 1992, 26). Lilburne was furious, but we do not know whether Callendar had anything to do with it. Reports reached Lilburne that Callendar was about to move north to join the rebels (ibid, 302, 305) and in April 1654 he was arrested again. He was imprisoned in Burntisland Castle before being transferred to Edinburgh Castle with Argyll. Yet again the Coldstream Guards reoccupied Callendar House.

Illus 2: Bleau's Map of Stirlingshire was dedicated to the Earl of Callendar in 1654.



On the first day of May, Cromwell's 'Act of Grace' to the people of Scotland was proclaimed at the Market Cross of Edinburgh. It specifically exempted from pardon a number of people who had been the principal adherents of the exiled king, or who had taken part in the 'Engagement' of 1648. James, Earl of Callendar, appeared on this list (APS 1872 vol 6 pt 2, 817; Nicoll 1836, 125). His property was immediately placed in trust to be disposed of (APS 1872 vol 6 pt 2, 820). Callendar remained at Edinburgh Castle. On 8 May some of his fellow prisoners bribed their jailer and the sentry and escaped by means of a rope constructed out of their sheets and blankets. Callendar decided that, at 59 years of age, he was too old to risk the climb. He was right to do so for one of those who did die from the fall (Lamont 1810, 90).

After six months confinement Callendar was finally liberated on parole by permission of General Monck. The following year Monck allowed him to go to London to petition Cromwell for the restoration of his estates.

General Monck to the Protector - "*May itt please your Highnesse, - The Earle of Calander being come downe hither, I have taken security of 2 peaceable Noblemen in Scotland in 6000 li bond for his future*

demeanour, besides which hee hath engaged himselfe unto mee as a Gentleman, that hee will not act against your Highnesse or the present Government, soe that I beleive his Lordshipp will carry himselfe peaceably" (Firth 1899, 319; see Thurloe 1742 vol 3; Green 1881, 277).

He eventually got an interview with Cromwell, the Lord Protector, in May 1655, and on 19th of that month he wrote to the Earl of Lothian:

"My Lord, Siens my last to your Lordship, I have kissed the Lord Protecteur his hands, bay Collonel Lockerd his miens, who haith infinety oblidge me. I am apoyntit to sie him the nixst wyck; I wische I may within a fortnicht Jor he is full of wechttty affairs; and when Collonel Lokerd is gon from this, I will be leuist desarteid. He intends to be going the letter end of this monnaith, or begining of the nixst. Your Lordship s letters haith purchased me moir frinds then I exspectid; for witche and former favoirs I shall constantly remain, my Lord, your most affectioned and houble seruant." (Bannatyne Club 1875, 391).



Illus 3: James Livingston, Earl of Callendar.

This was only the start of a protracted bureaucratic exercise that Callendar was obliged to follow. On 10 August his petition was read:

"I have been 6 months prisoner in Burnt Island Castle and Edinburgh. and now 10 months prisoner on bond, without maintenance, or the use of my household stuff or evidences, so that my condition is too hard to express. I was never prisoner-of-war, and I never violated the passes given me by Gen. Monk in 1651, or by Col. Lilburne. I

never corresponded with those lately in arms, nor acceded to their courses, and can find security for peaceable living. My estate was never sequestered, nor was there ground therefor, and so I differ from prisoners-of-war, and fined and forfeited persons. I beg restoration to liberty and to my estate, to prevent the irreparable inconvenience of growing debt." (Green 1881, 277).

It was heard again on 25 September, and again three days later, and on 11th October, 14th, 29th and 30th November (ibid, 352, 356, 378; Green 1882, 21, 41, 44). On the 14th November it was referred to the Scotch Committee and Callendar provided a summary of his activities which had led up to the taking of his estates and which had included periods of service for the English parliament. He noted bitterly that if he had not surrendered so early, and *"If he had gone to the hills and joined with those in arms, his condition had been better, for they have all got discharge of fine and forfeiture, and enjoy their estates"* (ibid, 21). His financial situation was worsening and he added *"that his evidences, writings, and moveables may [should] be restored, his debts being great, and no interest paid for 3 years; that his stewards may pay him the 2 years' rent of his estate, and legal proceedings against him be*

discharged". On 12 December it looked as though a decision had been made: "that the confiscation of his estate be discharged, all sequestration taken off, his deeds and evidences, and as much of his personal estate as remains in specie restored, and the steward required to pay him as much of his last 2 years' rents as has not been accounted for to the trustees for settling the estates of excepted persons in Scotland." (Green 1882, 53).

That morning Callendar had sent another letter stressing his dire straits:

"My estate being useless, my debts have grown to 10,500 l. with two years' interest, a great burden to 800 l. a year. I beg my rents for 1654, so far as not paid in, and those for 1655; if these are seized (with what I had for relief of my engagements for the Earl of Dunfermline's debts) my condition will be no better than if still forfeited." (Ibid, 54).

The committee's report confirmed this:

"Breviate of the Earl of Callendar's estate. Rents infu11900 l., from which the few duties and monthly assessments are to be deducted. Debts 10,500 l. with 1,260 l. for 2 years' interest. The coal mine worth 100 l. a year drowned and ruined. The personal estate is very weak, because he was plundered, but there are evidences and writings. For the lands of the Earl of Dunfermline which he holds in trust for payment of debts, he has agreed with the trustees for a yearly payment of 266l. 13s. 4d."

The penultimate reference is particularly interesting as it implies that Callendar still intended to file a case against the Camerons for the incident back in 1651.

He was detained in London throughout these months and had in consequence to have his pass renewed several times by General Monck so as not to forfeit his bond by not returning to Leith within the original six months that had been specified (Green 1881, 241, 371; Green 1882, 21, 62). In January 1656 he returned to Scotland. From Edinburgh he wrote to Cromwell's secretary to thank him for his assistance, and to politely remind him of the committee's decision:

"The great civilities and favours I have already received, encourage me to acquaint your honor with the success of my business since my arrival here, knowing that there is none more zealous than yourselfe in the accomplishing and putting in execution his highness' actes and orders." (Thurloe 1742, vol 6, 5).

Untangling the financial burdens of the estate was not a quick process. On 10 June 1656 the Commissioners for excepted estates in Scotland noted that they were to discharge Callendar's property. They gave the estate an annual value of £1,554 10 7, but with debts of £24,317 4 5 (Green 1882, 361-2). In January the following year they were still working on the handover (ibid, 363). Finally, in April 1657, an Act was passed pardoning Callendar and releasing his estates (APS 1872 vol 6 pt 2, 783). He found, however, on entering into possession that everything was in the greatest disorder, and his lands were

heavily encumbered with debts. The cost of the garrisons at his home and at the town nearby had been taken from out of the estate's income. Now, more than ever, he needed compensation for the theft of his treasure by the Camerons.

While Callendar had been down in London the war of attrition in Scotland had been going the way of the Protectorate. One by one the intransigent rebels had been crushed and in 1655 Lochiel had agreed a bond for the Camerons. Still able to resist if he chose, he was given reasonable terms, one of which granted him and his clansmen full indemnity for all the riots, depredations and crimes committed during the wars. In this manner he expected to live peaceably with the new administration. With the Camerons firmly incorporated into the Protectorate the Earl of Callendar felt able to proceed with his case for compensation against Lochiel. He was held responsible for the action of the Camerons as the clan chief. The legal proceedings were slowly set in motion and eventually Lochiel was summoned to appear before the criminal judges as an accessory to the crime. Lochiel, however, had no intention of allowing the case to be brought and invoked his treaty of submission which gave him the indemnity for events in 1651. General Monck felt obliged to honour this and on 8 April 1658 wrote to the Right Honourable the Earl of Callendar:

"My Lord, - His Highness' Counceill here are given to understand that your Lordship hath raised criminall letters against Ewen Cameron of Locheill and others, for ane alleaged ryot done against Sir Alexander Livingstone in the year 1650: Upon consideration whereof, and of the practice informer times, for those intrusted with the Government of this nation, to give indemnity to all thefts and robberyes comitted in time of war, that so such things, being in oblivion, the publick peace might be the better preserved: The said Counceil, looking on it as of consequence to the publick peace that men be not criminally prosecuted for things of that nature, done in time of war, have thought fitt to signify unto your Lordship their sense thereof; and for the reasons aforsaid to desire your Lordship to desist prosecution against the said Laird of Locheill, or others, for any aile aged riot in the year 1650, being in the time of war; or otherwise, to shew cause to the Counceill to the contrary. Signed in name and by order of the Counceill. GEORGE MONCK." (Abbotsford Club 1842, 160).

Notwithstanding this reproach, and perhaps because it actually gave the wrong year for the 'riot', Callendar still submitted a writ of libel on 11 June 1658 (Stewart 1974, 85). This process was also doomed to failure. The Earl of Roxburghe could only sympathise with Callendar: *"I am sorry the vexatione you haue hade with the Excheuquer, and that all your affayres may go to your contentment, wherby you may be encouraged to liue in the world as is expected by your freindes"* (Bannatyne Club 1875, 417).

On 3rd September that year Oliver Cromwell died and was succeeded in the Protectorate by his son Richard. An uneasy period followed in which General Monck kept Scotland loyal to the new Lord Protector. However, the generals in England forced Richard Cromwell to abdicate and a spell of confusion resulted. Monck maintained his firm grip on Scotland and the north. Troops

were still stationed at Callendar House and at Falkirk, partly paid for by the Earl of Callendar:

<i>"for Coalles furnished to the garrison of the Callendar</i>	<i>£227.00.00</i>
<i>for Coalles to the guard Capitaine Colteme kept in the towne</i>	<i>£036.00.00"</i>

(NLS ms9638/95 dated 20th Oct 1658 - 20 April 1659).

As a precaution against potential trouble Monck, in August 1659, had several of the most prominent Scottish nobles arrested. Included in these was Callendar who was soon set at liberty upon giving his bond for his future behaviour (Nicoll 1836, 247). Callendar also represented the magistrates of Stirling signifying their peaceful intent. Having secured Scotland, Monck then set about the scheme which within the year led to the restoration of the monarchy. In this interval, however, Sir Alexander Livingston of Dalderse died. He had been the principal witness against the Camerons and his death weakened the case which Monck's departure was to revive.

Callendar's first priority after the Restoration was to ensure the succession of his titles and in November 1660 he obtained a new patent from Charles II at Whitehall in favour of his nephew. On his return to Scotland he was encouraged by the Duke of Lauderdale to pursue his claim against Lochiel, their mutual enemy. He assured Callendar that he would have all his political support. The time was ripe for the two leaders of the opposing faction, the Chancellor, the Earl of Glencairn, and the Commissioner, Middleton, were both away at court. In their place in Scotland was Lord Rothes who was of Lauderdale's faction. The first Scottish parliament after the Restoration was held on New Year's Day 1661. Callendar was chosen to be one of the Lords of the Articles. He petitioned the Parliament to resume the case against Lochiel and received their consent (Abbotsford Club 1842, 171). On 5 February "*Upon a petition of the Earle of Callendars a warrand to sumond the Clancameron at the mercat croces*" was issued (APS 1820 vol 7 app 11, 11). The case proceeded:

"and, notwithstanding it was plead for Locheill that he could not be lyable either as principall or accessory to that riot, in so far as it was committed by a detachment of the King's troops in the time of ane open war, where he was neither present in person. Nor gave any orders about it; that he att most was but the Collonell of one regiment, for which he could not be made answerable in law. while not onely his regiment. but the whole army. was commanded by the King's Generall. who sent out that detachment, and invested others with the command, whereby it was out of his power to have prevented what happened; and that if any person was criminal, it was either the General, or the person authorized by him: I say, notwithstanding that all this, and a great deale more, was argued for him, both by his lawers and his friends in the Parliament, yet so powerfully did Lauderdale's faction work there, in the absence of the Commissioner and Chancellour, that upon the earl of Callendar's offering to prove that Locheill actually received some part of the goods, the Parliament, by a majority of votes, found him guilty, and lyable in the restitution; and funder declared by their sentence, that upon Callander s makeing out the fact alleadged, they would receive his oath in litem, that is, a prooffe of the extent of his damages by his own oath. This sentence

was exceedingly severe, not to say illegal, for, supposing that Locheill had committed that violence in the time of peace, att any time preceeding May 1660; yet his Majesty's indemnity having pardoned what was criminal in the action, he could be onely lyable in simple restitution, but not to the extent or value that the party putt upon his losses, as made out by his own oath!

The Parliament further granted commission to the Sherriff of Cromarty, and to the Commissioner for the burgh of Montrose, to examine the witnesses to be adduced by the Earl of Callendar for proveing that Locheill had received a part of those goods; but his Lordship being unable to make out that poynt, Locheill, after a great deale of trouble and charges, was acquitted, in spite of all that Lauderdale and his faction could doe against him. And thus we see that he was worse used by a loyall Parliament, called by a King for whom he had often hazarded both his life and fortune, than he formerly was by the Usurpers, who, rightly judgeing of the affair by the time and circumstances of action, would not so much as sustain process against him" (Abbotsford Club 1842, 171).

This was a long-winded process and in the meantime Callendar had returned to public life. Despite his advanced years he became quite active, taking an appointment as a commissioner for the plantation of kirks and the valuation of teinds and in April he was made a member of the Scottish Privy Council. He later attended, and dismissed, the General Assembly of the church on Parliament's behalf (Nicoll 1836, 326, 333). In May he was one of the chief mourners at Montrose's burial in St Giles' Church, Edinburgh.

Whilst all this kept him busy, with a raised income, his lack of success against Lochiel left him in financial straits. Pecuniary reward did come, however, in the summer months of that year. The commission appointed to inquire into the losses which the loyal landowners had sustained from the actions of the Interregnum government concluded that he was due a refund of 12,000 pounds Scots, the amount of a fine imposed on him for his part in the 'Engagement'. An act was also passed by parliament on 12 July empowering the commissioners of excise for the county of Stirling to relieve Callendar from all other burdens that had been laid upon him as punishment for his loyalty to the King and granting him restitution (Livingston 1920, 174).

So although he never recovered his family heirlooms, nor yet any substantial compensation for them, the Earl of Callendar slowly recovered his financial position as well as his rank and influence. All the hard work of his earlier years had been largely wasted, and when his own country had needed him his countrymen had refused to let him be of use. This must have been an exasperating experience. In September 1661 he was prepared to leave the country again for foreign service and wrote offering himself to the Queen of Bohemia, his childhood friend whom he had served as secretary some 20 or so years earlier (HMC 1872, II8). However, he was to remain in Scotland for the rest of his life.

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