

# Crime & Punishment



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## Dornoch's prisons

It is an unfortunate fact of life that wherever you find people, you will also find crime. Dornoch's small population and its remoteness from other large centres of population meant that crime was never really a serious problem. Yet, as the head burgh of the County of Sutherland, Dornoch had its own court and prison.

### The Tolbooth

We do not know exactly when a prison was first built in Dornoch, but there was certainly a tolbooth in the town by 1603. A tolbooth was originally a **booth** at a local fair or market where **tolls** were collected and people who disobeyed the rules of the fair were detained. Over the years these tolbooths became the buildings where local courts were held and criminals imprisoned.



*Merchant measuring cloth at the town's plaiden ell.*

Dornoch's original tolbooth (which also served as the council house) stood just to the east of the present mercat cross in the High Street. This is not a surprising location as the local markets and fairs were held in and around the Cathedral cemetery. The tolbooth remained on this site until the early 19<sup>th</sup> century when it was cleared away as part of the improvements being made to the town by the Countess of Sutherland and her husband, the Marquis of Stafford (the future Duke of Sutherland).

### Dornoch Castle

After the demolition of the old tolbooth, the prison, court-room and council-house moved to Dornoch Castle which had been made available for this use by the Marquis of Stafford. The prison was to remain in the Castle until 1850 when it was transferred just along the road to its brand new location – today's Dornoch Jail gift shop.

### Dornoch Jail

This new prison was purpose-built and cost the County of Sutherland £2929, 19s. 3d. to construct. The new building had:

*“11 cells for criminals, two rooms for civil prisoners [usually debtors], a sick room, an exercising gallery, an airing yard, accommodation for a keeper, and other conveniences.”*

However, despite the amount of money involved in its construction, the actual cost of running the prison on a daily basis and the lack of crime in the area meant that the government decided it was not worthwhile keeping Dornoch Jail open. It was finally closed on 29 March 1880 – only thirty years after it first opened for business.

### Modern Dornoch

Sheriff and District Courts still sit on a regular basis at Dornoch, and there are cells for the temporary detention of prisoners in the police station on Argyll Street; but, some 400 years after the old tolbooth first stood next to the town's ancient mercat cross, modern Dornoch is no longer responsible for the long-term imprisonment of those who have broken the law.

## Criminals and their crimes

So, what sort of crimes were committed in Dornoch many years ago that led to the detention of the perpetrators in the tolbooth or Dornoch Castle? It has to be said that not all the prisoners were local: many 'guests' of the town had been arrested elsewhere in northern Scotland and were detained in Dornoch before being transferred to Inverness for trial.

### Murderers

For example, in April 1826 the town's magistrates provided clothing for Alexander Macpherson and Margaret Gray who were being held in Dornoch while on their way to face trial at the Justiciary Circuit Court at Inverness on charges of child murder.

Four years later, in May 1830, acting on information received from another prisoner, the authorities in Dornoch frustrated an escape attempt by one Hugh MacLeod, who had committed 'an atrocious' murder in Assynt while carrying out a robbery. In October the following year, MacLeod was convicted at Inverness and hanged almost immediately after his trial for his crime.

### Patrick Sellar

There is, however, little doubt as to the identity of Dornoch's most notorious prisoner. In May 1815, Patrick Sellar, the Marquis of Stafford's **factor**, was detained in the prison on the orders of Sheriff-substitute, Robert MacKid. In his capacity as factor, Sellar had recently been responsible for clearing many of Stafford's tenants from their homes in Strathnaver. These 'clearances' had, according to a number of witnesses, been carried out with an unnecessary degree of force which had contributed to the deaths of two elderly tenants after their houses had been burned to the ground.

Sellar was soon released from Dornoch Jail on bail and on 23 April 1816 appeared before the Circuit Court at Inverness charged with '**culpable homicide** and oppression and real injury, as well as wickedly and maliciously setting on fire and burning'. The jury, largely consisting of local landowners and magistrates, took only fifteen minutes after they had retired to find Sellar not guilty on all charges – which was hardly surprising given Sellar's connection with the Marquis of Stafford.

### Petty offenders

Most of the unfortunates detained in prison at Dornoch were petty offenders. Between 1827 and 1829 there were a total of eighty prisoners detained in the Castle, forty of whom were civil debtors or 'excise delinquents' - individuals convicted of manufacturing or selling illegal alcohol. Most of the rest would have been found guilty of drunkenness, vagrancy or minor assault.

## The town stocks

There was another form of punishment available to the magistrates in Dornoch that did not involve imprisoning petty offenders – the stocks! The guilty person would have his or her legs secured in the stock holes and be forced to sit there in public for a set period of time. Local residents who disapproved of the guilty person's crime could then throw rotten fruit or vegetables at the trapped victim: occasionally other kinds of unpleasant waste would be flung at the sitting target (what this alternative waste might have been can be left to your imagination!).

Today you can find a set of imitation stocks at Historylinks Museum. If you are brave enough, why not sit in these stocks and experience for yourself what it must have been like - you will also probably discover who your true friends are!



## Great escapes

What is clear from the records of the time is that the Castle did not provide particularly secure accommodation for the prisoners, as there are many reports of prisoners escaping:

- In January 1818, two men managed to escape through the attic of the prison onto a nearby roof and lowered themselves to the ground by means of a ladder (apparently provided by the brother of one of the prisoners). The two men were never recaptured and the two jailers responsible for security were dismissed from their posts.
- Ten years later four men escaped by using a poker to break open the cupboard where the prison keys were kept. They then unlocked the main door of the jail and simply walked out.

## Security measures

Various attempts were made to improve security during this period including mounting a night watch on the jail 'between sunset and 6 am', and providing the night watchman with a 'large rattle' so he could raise the alarm in the event of another escape! Prison security was obviously not a high priority in Dornoch at this time - which is not really surprising. As we have seen, most of the prisoners were petty offenders and the prison guards, all of whom were local men with little or no experience of prison security, probably knew most of the prisoners well and were unlikely to be too hard on people they had grown up with.

## The execution of Janet Horne

During the 16<sup>th</sup> and 17<sup>th</sup> centuries thousands of Scots (mainly women) were tried and executed for the crime of witchcraft. Today it seems almost impossible that our ancestors believed in the existence of witches, but we must remember that ignorance and superstition were widespread throughout Europe during this period. Many unusual events that could not be explained logically were assumed to be caused by supernatural powers wielded by servants of the Devil, that is, by witches and warlocks. Often those accused of witchcraft were people who were somehow different from their neighbours; they might have been old women living alone, or individuals suffering from some physical disability that alarmed other people.

By the 18<sup>th</sup> century, the persecution of so-called witches had largely died out in Scotland, but superstition and prejudice remained in the more remote parts of the country, particularly in the Highlands. It was this prejudice and superstition that led, in 1727, to the terrible death of Janet Horne at Dornoch, the last 'witch' to be executed in Scotland.



Janet Horne was an old woman originally from the Parish of Loth who had been a lady's maid when she was young. Janet's daughter suffered from a deformity in one of her hands that, according to witnesses, made her hand look like a horse's hoof. As Janet grew older her behaviour became more eccentric and locals began to look on her with growing suspicion and distrust. Soon stories began to circulate that Janet was a witch who transformed her daughter into a pony that she rode to midnight meetings with other witches and the Devil himself. Janet's daughter's hand was, according to some locals, proof that Janet had somehow failed to change her daughter completely back into human form.

As a result of these ridiculous accusations Janet and her daughter were imprisoned in Dornoch (in the old tolbooth) prior to standing trial for witchcraft. Janet's daughter managed to escape from prison (no difficult task as we have seen), but her mother stood trial and was found guilty of witchcraft and sentenced to death.

On a cold spring morning in 1727 (the stone that marks the site of her execution on the outskirts of Littletown mistakenly gives the date as 1722) this poor old woman was stripped, covered in tar and feathers and then paraded round the town on the back of a cart. When she arrived at the spot where she was to be executed, it is said that she tried to warm her hands on the fire that was to burn her in order to keep warm on such a cold day.

Unaware of where she was or what was happening to her, Janet Horne was burned at the stake because she was seen to be different from everyone else. Her death is surely the most shameful and tragic event in Dornoch's long history.

**CRIME & PUNISHMENT SOURCE SHEET****Source A:**

From: *The Minutes of Dornoch Town Council on 28 May 1810* (adapted)

*The Inquiry into the escape of Angus Mackay from Rogart imprisoned for debt in the Tolbooth of Dornoch finds that the Tolbooth Keepers were inattentive to their Duty, both by allowing the Prisoner to be at large in the Council House and by giving the Keys of the Tolbooth to any other person, and that they neglected to tell of the escape of the Prisoner to any of the Magistrates or to the Town Clerk, therefore the Council Fine Kenneth Macleod and Robert Sutherland the sum of one pound sterling and grant warrant for committing them Prisoners in the Tolbooth of Dornoch for eight days from this date and thereafter until payment of the said fines by each of them.*

**Source B:**

From: *Old Dornoch: Its Traditions and Legends*, by H Mackay, published in 1920 (adapted)

*Janet Horne was the witch's name. The neighbours began to whisper among themselves that she was involved in the 'Black Art' and that the Evil One himself kept company with her. One devilish crime after another was blamed on Janet, until finally she turned her daughter into a pony and had her **shod** by the devil. She was dragged to Dornoch to stand trial for this latest outrage before the Sheriff Depute of the county in the old Court House in the High Street. The prosecution noted that the fingers of her daughter's hands were joined together. Janet pleaded that this was due to a burning accident when her daughter was a child, but the prosecution did not believe this and said that this was the hand on which the Devil, after her mother had turned her into a pony, had shod her. Janet was convicted, and sentenced to be rolled in tar, then in feathers, and then to be burned with fire. This dreadful sentence was carried out on the links which is marked today with a stone.*

**Source C:**

From: *The Minutes of Dornoch Town Council on 5 October 1819*

*Hugh Leslie and John Sutherland, Jailors in Dornoch, complained to the Council that visitors to the prisoners had access to the prison at all times of the day and night and use it as if it was a public house, and requested that the Council advise them on this matter. The Council directed that the Jailors should remain with the prisoners at all times, but that no visitor be admitted or allowed to remain with a prisoner without the written order of the Magistrates unless it be between 9 and 10 in the morning or between 1 and 2 or 5 and 6 in the afternoon. Moreover, no **intoxicating liquor** of any sort be taken in by visitors without permission of the Magistrates, or any greatcoat, plaid or other covering under which such liquor may be concealed.*

**Source D:**

From: *The Minutes of Dornoch Town Council on 31 July 1821*

*Jailors John MacLeod and John Sutherland were called to account for the extraordinary circumstances of admitting during the silence of the night a young lady into the presence of Dr James Anderson, a prisoner in the Jail of Dornoch. MacLeod said that on the night of Wednesday 25 July, a person whom he did not recognise came to his house and asked him to admit to the jail a person who wished to enter the building. When he got there he found a young lady much agitated and shedding tears who begged permission to visit Dr Anderson. MacLeod, who admitted he was much moved by the lady's plight, allowed her, without thinking of the consequences, to visit Dr Anderson for a short time. She was taken to Dr Anderson's room which he shared with Donald Murray, Merchant in Dornoch. After a period of conversation between the lady and Dr Anderson, MacLeod requested that she leave. But the lady refused, so MacLeod locked the door, leaving the said three prisoners there together.*

## Glossary

**booth:** *a covered stall at a fair or market*

**culpable homicide:** *murder*

**effusion:** *the pouring out (of liquid)*

**factor:** *manager of a landed estate*

**intoxicating liquor:** *alcohol*

**shod:** *to fit a horse with shoes*

**tolls:** *taxes paid to use or sell something*

## CRIME & PUNISHMENT SOURCE QUIZ

Write your answers on this sheet.

### Look at Source A

1. Why was Angus Mackay in prison?

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2. Give three ways in which the Tolbooth Keepers were 'inattentive to their Duty'?

(a) 

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(b) 

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(c) 

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3. What punishment was handed out to the two Keepers by the Council?

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### Look at Source B

4. What did local people believe Janet Horne was involved in?

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5. What was Janet accused of doing to her daughter?

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6. How did Janet explain her daughter's strange hand?

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7. Describe how Janet was to be punished.

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8. Imagine you were at Janet Horne's execution. Write a paragraph describing what happened to her and the reaction of those who watched her die.

**Look at Source C**

9. Why did the jailors complain to the Town Council?

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10. What did the Council instruct the jailors to do?

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11. What was not to be allowed into the prison?

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**Look at Source D**

12. What were the two jailors accused of?

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13. Why did John MacLeod allow the lady to visit Dr Anderson?

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14. What did MacLeod do after the lady refused to leave?

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15. Using **Sources A, C and D** explain why you think it would have been easy to escape from Dornoch Jail. Give examples from each of the sources to support your answer.

**CRIME & PUNISHMENT WORD PUZZLE**

Use the clues to unscramble the following letters to find words, names, places etc. mentioned in your worksheet. If there is more than one word in the answer, the number of letters in each word is given in brackets.

- |                         |       |                             |
|-------------------------|-------|-----------------------------|
| 1. <b>COSSTK</b>        | _____ | a form of punishment        |
| 2. <b>TRALTE</b>        | _____ | an alarm!                   |
| 3. <b>DOMEICHI</b>      | _____ | murder                      |
| 4. <b>BHTOLOTO</b>      | _____ | old prison                  |
| 5. <b>CAKWROL</b>       | _____ | male witch                  |
| 6. <b>COOCHLENTSARD</b> | _____ | old prison (7,6)            |
| 7. <b>ACCESELNRA</b>    | _____ | Highland tragedy            |
| 8. <b>LAPLIKSETRRAC</b> | _____ | land manager (7,6)          |
| 9. <b>NOTHEEJARN</b>    | _____ | a female witch (5,5)        |
| 10. <b>CHIFTRORFUSE</b> | _____ | still sits in Dornoch (7,5) |

**CRIME & PUNISHMENT DATES**

What event took place on each of these dates? Find the answers in your worksheet and write them here.

- 1603 \_\_\_\_\_
- 1727 \_\_\_\_\_
- 1815 \_\_\_\_\_
- 1818 \_\_\_\_\_
- 1826 \_\_\_\_\_
- 1828 \_\_\_\_\_
- 1830 \_\_\_\_\_
- 1850 \_\_\_\_\_
- 1880 \_\_\_\_\_