

Prince Charlie's Friends

or

Jacobite Indictments

EDITED BY

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ABERDEEN

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INTRODUCTION.

“Now our Prince has reared his banner,
Now triumphant is our cause;
Now the Scottish Lion rallies,
Let us strike for Prince and laws.”

A CENTURY and a half of years has not in the least diminished the keen interest evinced in the campaign which has given Prince Charles Stuart and his followers such a unique and imperishable place in the history of our country. Scholars, novelists and poets have each added their tribute to his fame, but, notwithstanding all that has been written on the subject, we are only now on the verge of arriving at the truth. The story of the ‘45 has been misrepresented to a great extent; it was an attempt of such daring and brilliancy that even those whose principles compelled them to resist it to the uttermost were lost in admiration. And so it comes to pass that a glamour has been thrown over the rising, as we shall see, totally inconsistent with facts.

The authorities in Scotland had for several years been on the *qui vive*, and the marvel is that any rising took place at all. When Cameron of Lochiel in December, 1743, ordered a large quantity of tartan from a Glasgow firm, suspicion was aroused that a movement of some kind was in contemplation, and this was confirmed by reports that the lairds were preparing accoutrements for their followers. It was only, however, in the spring of 1745 that the officials in Edinburgh got definite intelligence from James Roy Macgregor (son of Rob Roy)—an unhappy man, who had consented to act as a spy upon his Jacobite friends, and the facts supplied by him enabled the Government to take prompt measures, for they immediately issued warrants for the arrest of such chiefs as were noted for their Stuart leanings. The first they secured was Sir Hector Maclean, who was betrayed by John Blair—a trusted Jacobite—one whose treachery put the Government in possession of the most cherished designs of his party. But while the authorities in Scotland had thus acquired knowledge of an important movement in favour of the exiled Stuarts, and had acted with promptitude in issuing the warrants, with a strange fatuity they let the opportunity slip by; their conduct even favouring the suspicion that some of the highest officials in the State were lukewarm supporters of the House of Guelph. It was only after repeated urgent messages from London that they at length tried to put in execution the warrants against the Jacobites, and the story of the attempt to capture the Duke of Perth recalls circumstances every whit as treacherous as that which marked the tragedy of Glencoe. A Campbell was again the hero; little wonder then that the name has, so far as Highlanders are concerned, been regarded with peculiar aversion as synonymous with hypocrisy and deceit.

Captain Duncan Campbell of Inverawe was entrusted with the apprehension of Perth, whose hospitality he had frequently experienced. Presuming on this, he sent a message to the Duke of his intention to dine with him. Perth sent a note in reply expressing the great pleasure it would afford him to be honoured by Campbell's presence, little dreaming of the project in hand. During dinner one of the servants, observing soldiers surrounding the house, reported the matter to the Duke, who paid no attention. After the wine had circulated Campbell told his errand, and Perth good-naturedly replied that he would readily accompany him when he had changed his attire. He entered an adjoining closet for this purpose, and escaped by a back stair, leaving Campbell to report the circumstances to Sir John Cope in these terms:—

“I have this day made an attempt to apprehend the Duke of Perth, and though I had my company under arms at his gate, and some friends in the house with me, by which I thought all secure, trusting too much to his honour he slipt out of our hands into the wood, which I have now surrounded by Sir Patrick Murray's company and mine. Whether we can get him soon taken is a question, but if your Excellency approve of it I am determined he shall have little rest if he keeps the Highlands till we have him. I have writ to Colonel Whitney to secure the Bridge of Stirling and all passes in that neighbourhood, in case he should attempt going into the low country; your Ex: will give the proper orders with regard to the Ferries of Leith and Kinghorn. This unlucky accident gives me great uneasiness, but I hope to retrieve it. I laid the most probable scheme for it I could think of, though it failed; whatever commands your Ex: shall have for me direct to this place, where notice shall be got of me.

“I am, etc,

“DUNCAN CAMPBELL.”

“Crieff, 24th July, 1745.”

Perth's escape proved extremely mortifying to the laird of Inverawe, his fine schemes and the subtle stratagem by means of which the Duke would be secured at all hazard “ended in nought.” To cover his discomfiture, his efforts to capture the fugitive were such as brought forth murmurings among his harrassed soldiers, whose exertions were of none avail.

It is not our purpose to detail at length the circumstances which led Charles to hazard his cause and his person in a rebellion in the North of Scotland. The youthful Prince, in whose veins ran the fiery blood of Sobieski, was utterly disgusted at the faithlessness of the French. He could not understand the diplomatic dissimulation of the Court of Versailles, which hesitated to strike the blow it

professed so anxious to deal, yet did not scruple to place his family in a position so humiliating that his proud spirit rebelled. So he sailed from France, determined to trust himself to his loyal Highlanders. Here again he had been grievously misled, for they were not so ready to throw off the Hanoverian yoke as alleged by unscrupulous partisans. The '15 and its disastrous consequences had taught the chiefs to act with caution, and thus it was that when he arrived in Inverness-shire they held aloof until commanded to his presence—a summons obeyed with manifest reluctance. There is no name connected with the movement which stands so prominent for unselfish loyalty as that of the “Gentle Lochiel”:

“What praise, O Cameron! can the muse ascribe,
 Thou free from censure as thou wast from bribe;
 Unstained, unsullied in a corrupt age,
 Reserved for fame in every poet’s page:
 The sun shall fade, the stars shall lose their light,
 But Cameron’s fame shall never suffer night:
 Bright as thyself it ever shall appear,
 To all good men, to God and Angels dear;
 Thou wast the first that lent thy friendly aid,
 Of no usurper’s bloody laws afraid:
 Thou wast the first and thy example drew,
 The honest, loyal, honourable few.”

True it is, it was the adhesion of the Cameron chief that “set the heather on fire,” and brought about the tragedy of the '45. Persuaded against his better sense, all his arguments scouted, Lochiel was virtually forced to draw his sword in the Stuart cause, and the news spread like wildfire over the mountains to far distant hills and glens. Yet the Highlanders did not flock to the Standard at Glenfinnan in any numbers: they sullenly held aloof until threats and actual violence, as will be seen from the following pages, compelled them to leave their homes and follow their lairds, who taunted them with ingratitude because they did not fly to arms after receiving “shirts, brogues and other things.” Herein lies the marvel of the whole position. At the head of an army composed of men forced from their homes, and reluctantly compelled to take part in an enterprise from which they were ever ready to desert, Prince Charles marched upon Edinburgh, eluding the troops sent against him, and seized the Capital.

The story of the wild melee at Gladsmuir is too well known to need repetition here; it confirmed the position of the victor who now held court in his ancestral halls of Holyrood. Gaily passed the days, and merry were the nights, during the brief sojourn of the “Hope of the Stuarts.” One can well imagine how the accession of each scion of an ancient house thrilled the small circle of the

Prince's court. The Earl of Kellie strutted about with broadsword, white cockade, and gorgeous tartans; Strathallan, appointed Governor of Perth, was there in Lowland dress; Pitsligo, Lord George Murray, the courtly Duke of Perth, and the "dour rankerous" Lord Elcho, with the Lords Nairn and Ogilvie. Lord Lewis Gordon graced the scene before passing to his brother's country to raise the vassals of the "Cock of the North." The dread Laird of Glenbucket arrived with his friend the wild-looking, unshaved Glenmoriston, who, when the Prince hinted that a visit to a barber ere coming into his presence would not have been amiss, replied with spirit—"Sir, it is not by the aid of beardless boys your Royal Highness will recover your father's throne." Never was there such a collection of lairds and kilted followers seen in Edinburgh, for be it noted all wore the tartan, sported the cockade, claymore and pistols. Balls and parties, however, did not much advance the grand object in view, and it may indeed be said that the delay was fatal to the cause. The Highlanders were deserting by the dozen—even the Camerons became infected, and the gentle Lochiel was compelled to personally chastise his followers with whip and rod for attempting to escape to the North. Dr. Cameron, his brother, was sent to the Highlands to bring back deserters, which he did, by not only threatening to burn their houses, but by killing their cattle and taking possession of them for the use of the Jacobite army. Cluny Macpherson, Keppoch, Glengarry's son and Glenmoriston, had all to resort to such methods to recruit their regiments. The last-named wrote to his wife, laying his commands upon her to deal in summary fashion with those who deserted, "by removal, raising the double rents, and other severe measures," declaring that if he lived to return he will raze such from his country and every place where he has interest; Lochgarry and the other leaders sent strong detachments to compel the return of those who had escaped. Such, then, was the condition of the Prince's army when he began his advance into England. He was not a whit dismayed, and cheerfully trudged on foot, talked to the men, tried by the charm of his manner to infuse enthusiasm into the ranks, and it was as much due to the personal influence he had acquired over them, as to the measures adopted, that desertion became less rife.

The rapid and daring advance of the little army, their strange and picturesque garb, certainly struck terror into the people of the districts through which they passed. Exaggerated accounts of the ferocity of the Gael had preceded the expedition, and as the vanguard appeared a general exodus of the villagers ensued, the stampede continuing until it was found that the "petticoated men" meant no harm. Stories have been rife as to unreasonable exactions made by the Highlanders, and deeds of violence have been placed

to their credit. Strange scenes were indeed witnessed in the houses where the Prince's men were quartered, and the story of the sudden appearance of an armed Highlander in the house of a Mr. Hewit in Carlisle may be given as explaining how much of the misrepresentation has arisen. The tale as narrated by one of the parties to her cousin is thus:—The wife and daughter of Hewit were alone in the house, when their attention was attracted by a great uproar in the street. Ere they could investigate the cause the doorway was blocked by a “murderous looking ruffian,” with a drawn sword in his hand. At sight of the glittering blade the ladies screamed for mercy, and falling upon their knees supplicated for, as they supposed, their lives. The strange-looking individual in tartans forthwith sheathed his sword; drew his dirk and pistol, sticking the former in the table and placing the latter beside it. His action was of course misunderstood, the ladies, thinking their last hour had arrived, screamed anew; the Jacobite gesticulated, waved his arms, spoke excitedly an unintelligible gibberish, finally indulging in wild whoops and cries he danced round the apartment—this hilarity, no doubt intended to reassure the women, had the opposite effect. They looked upon the performance as a species of war dance prior to execution, and renewed their entreaties. To conclude the scene in the words of M. Hewit:—

“Then the agsasarated devil got ‘is wapons to put ous derackly to death, and yelled for Tom Fowles a frand of ‘is to help ‘im.” But the Highlander had no murderous designs, he had evidently tried all in his power to make the ladies understand his good intentions, and when he failed he doubtless called them “Tarn Fools” and departed. Another letter-of this lady's, dated 13th January, among the *Additional MSS., British Museum*, shews the difficulty the parties had in communicating with each other:—

“Me father, me mother and meself wear all that stat at horn, and we had at last 90 rabbals in our hous each time, and whenever we refused anything they derackly drew their brodswords and that inded mad ous glad to dow for them.” Many were the ludicrous scenes witnessed during the progress of the Highland army into England, and when we read of stories of violence, allowance must be made for the fact that it was difficult for the two peoples to understand each other. On the one side there was fear and trembling, while it is permissible to suppose that the “sons of the mountains” lost patience with the stupid Sassenachs, who would not realise that no injury was to be done them. Nor must it be forgotten that before the Prince crossed the Border false stories were purposely disseminated having for object an attempt to get the common people to resist and defend their hearths and homes against a foe represented as barbarous savages.

The advance of the Jacobites filled the Royalist leaders with consternation. When they were only supposed to be near the Borders they were in Carlisle; and when the authorities in London thought they were hemmed in by Wade and Cumberland, lo! they appeared at Manchester. Swift of foot, they marched at a swinging pace, which upset all the calculations of their opponents. When passing Falconfield Bridge at Penrith some of the townsmen attempted to count their numbers, and arrived at the conclusion that they did not exceed 3000 men, while others stated that 6000 men passed southward, with thirty-one baggage waggons, and twelve small pieces of artillery.

Thirty years previously the Scots Jacobites had been betrayed by the false assurances of the professed adherents of the Stuarts in England, and the same sad tale of broken promises has again to be recorded. In the '15 a section of the Scots army, under the leadership of Brigadier Mackintosh of Borlum—one of the most able and capable of the commanders in that rising—by a series of forced marches joined those in arms across the Border for the Chevalier de St. George. After the rising had been suppressed there was no section of the Stuart partisans so enthusiastic—on paper—as those south of the Tweed, but when occasion offered, and when Charles, against the wishes of his Scots adherents, crossed the Borders, relying on the promises made, the English again held aloof, for, with the solitary exception of Manchester, no material assistance was received. Nothing daunted, Charles was determined to reach London, where in fear and trembling the King and his ministers debated as to the probability of the Duke of Richmond being able to check the advance of the foe. The Duke's forces were in so sad a plight, that had the fact been known to the chiefs they would have continued their career of victory, and, judging what might have been by his private correspondence, as well as that of those who were entitled to write authoritatively, there is no question that the Highlanders would have swept before them the sleepless, broken-down, starved soldiers of the House of Hanover, and changed the history of our country. But the hand of God was against the race of Stuart—thus far and no farther seems to have been the fiat, and all that was accomplished was the utter humiliation of King George, and a retreat as masterly as was the advance.

The exigencies of their position forced the followers of Charles back again to the Highlands of Scotland, where, amid scenes of fearful carnage, the last flickering hope of the Stuarts vanished. Well, indeed, did their leader merit the praise of Frederick the Great:—

“.. All Europe was astonished at the greatness of your

enterprise; for, though Alexander and other heroes have conquered kingdoms with inferior armies, you are the only one who ever engaged in such an attempt without any . . . However, though Fortune was your foe, Great Britain, and not your Royal Highness, is a loser by it, as the difficulties you have undergone only serve to discover those rare talents and virtues which have gained you the admiration of all mankind, and even the esteem of those amongst your enemies in whom every spark of virtue is not totally extinct.”

The pity of it is that the man of such brilliant achievements should have been the victim of so dire a fate.

The ruthless slaughter which followed Cumberland's victory at Culloden was not to be the final reckoning. Vengeance demanded that the most prominent of the Jacobites should become amendable to the law for high treason recently enacted. Thus another deadly blow was dealt to the cause through the forfeiture of those who followed Prince Charlie, should they not surrender to justice before the 12th July. Numerous witnesses were cited before a Committee of the House of Commons in May, 1746, and their depositions against thirty-nine of the Prince's followers will be found in these pages. The evidence tendered was of a purely formal character, yet it serves to illustrate the progress of events, as well as to show how serious a matter it was to have worn the white cockade.

In Jacobite families anecdotes are handed down concerning the merry pranks played by Charles upon his followers. He was a Stuart of the old race—full of merriment and gaiety; when occasion offered leading the frolic with an abandon which little suggested the great enterprise on hand. O'Sullivan seems to have been the victim of many escapades, and his dignity was so ruffled by the treatment he received, at the hands of the high-spirited Prince and his companions, that he threatened to return to France, and well would it have been for the enterprise had he done so.

The allusions to the personal appearance of the Jacobites are often amusing and quaint. There is the Viscount Dundee, “a low fat man and squint-eyed”; Lord John Drummond, a “pretty tall, jolly man” of dark brown complexion, who is neither “fat nor lean,” and was doubtless the happy medium. Sir William Gordon of Park, rigged out in a “sort of highland clothes”; the traitor Murray of Broughton, in his scarlet dress and white cockade, is described as a “well-looking little man of a fair complexion.” Then there is the veteran laird of Glenbucket, who, very “old and crouched,” rode a grey highland beast, his friend Ardshiel being described as a “big fat man troubled with a lethargy,” while the young laird of Airth was a “pretty tall man,” neither “thin nor fat.”

From the evidence it will be seen that the service rendered by

the Earl of Kellie was not of the highest order, and the men raised by him were incorporated in Roy Stewart's regiment, but his presence among the ranks of the "disaffected" led to his spending upwards of three years in prison. A man of different calibre was the Viscount of Strathallan, appointed Governor of Perth. He had taken part in the '15, and was made prisoner at Sheriffmuir, but this did not deter him from engaging actively for Charles, who appointed his son as A. D. C. He fell at Culloden, where he held a command, and, although attainted, the forfeiture did not take effect—his son James died at Sens in June, 1765.

The career of the Lord Forbes of Pitsligo is one of the most fascinating. A noble of irreproachable character, he buckled on his broadsword in his sixty-eighth year: raised a squadron of horse, marching at their head into England. After Culloden's fatal day he escaped into hiding, and, making a futile attempt to quash his attainder on account of misnomer, was compelled to reside principally among his tenantry. It is impossible to give here even a summary of the stories of his romantic escapes and adventures. Possessing a profound trust in Providence, he seemed on occasions to recklessly defy the emissaries of the law; anon he was forced to seek refuge in a hollow opening under a small bridge, which was scarcely large enough to contain him. Sometimes he assumed the guise of a beggar, and openly wandered over his estate, his secret being so well preserved that more than once he actually received alms from the soldiers who were in pursuit of him. During the closing years of his eventful life he was unmolested by the Government, and died peacefully on 21st December, 1762, in his eighty-fifth year.

Lord Elcho's name is one not much cherished in Jacobite circles, or traditions, although he rendered good service throughout the '45. His rankerous and bitter temper brought about many incidents which are best forgotten. As colonel of the Life Guards he was indefatigable in his exertions to promote their efficiency. Like the other leaders he was extremely jealous of the Irish influence, and, never given to the mincing of words, did not hesitate to express his opinions more freely than prudence warranted. When his attainder compelled him to reside abroad, he was treated with the utmost generosity by his relatives; they granted him £10,000 in lieu of all claims on the Estate of Wemyss—a liberal sum considering the burdens affecting the property. His mother sacrificing her terce on his behalf, for a time he lived with her, but unfortunately his intractable temper led to divisions between them, and so great did her exasperation become, that she endeavoured by every means in her power to break down the family arrangement which had enabled him to enjoy comparative affluence. Nor were his relations with Prince Charles

such as to commend him; they both grew selfish and peevish under misfortune, and Elcho continued in a petulant spirit because the Prince had never repaid the £1500 he advanced to him in 1745.

It is a relief to turn from a character, soured by disappointment, to the career of the Master of Lovat, who was obliged to engage in the rising under circumstances which evoke as much sympathy now as in 1746. Virtually driven into rebellion against his inclinations, the instrument of a designing and unscrupulous father, his filial obedience at all times won for him the respect of all. Writing on the 28th March, 1745, Lord Lovat thus refers to him:—” My eldest son, who is, perhaps, one of the prettiest youths in Britain, does not take a sixpence worth for his pocket, or back, without asking my consent, and he does not fare a bit the worse for that.” It was an implicit obedience to parental authority that forced him into a course he foresaw meant ruin, and one need not be surprised at his “damning” the white cockade with an energy as fierce as that with which, in after life, he fought the enemies of king and country at the head of his Fraser Highlanders. Great zeal and gallantry distinguished his career—the recognition of his splendid services being the satisfaction he had of seeing his ancestral property restored ere he died in 1782.

There was not a braver leader, or a better soldier, than Lord George Murray in the Jacobite army: undoubtedly he was the commanding genius, but unfortunately he was also a man who never outgrew his boyhood. The proud and petulant spirit he exhibited in the schoolroom at Perth in 1710 (when he pleaded with his father to send him to another seminary, because he conceived his tutor had affronted him, through refusing a privilege he was disposed to abuse), was characteristic of his life, and explains the bickerings at Charles’ council table. His career is better known than that of any of the Prince’s friends, for around his doings, sayings, and actions there has waged unenviable and bitter controversy. Reserved and haughty, he had never won affection as did his companion-in-arms, Lord Lewis Gordon.

“O send Lewie Gordon hame” is a ballad which testifies to the warm feelings entertained for this scion of the House of Gordon, and how pathetic is the story of the life of this young man of promise. Being brother of the “Cock of the North,” his appearance at the Court of Charles at Holyrood evoked the greatest enthusiasm. Bred in the navy, he possessed to a large degree the bluff, winning qualities of the sailor, and the zeal with which he joined the Prince’s standard led not a few of his brother’s tenantry to don the white cockade. Yet there were others whom he forced to “fecht for Charlie” by stern measures. The Prince appointed him Lord-Lieutenant of Aberdeen and Banffshires, with a special

commission to endeavour to persuade his brother the Duke of Gordon to throw in his lot with the insurgents. Another plan entrusted to him was the capture of Lord President Forbes, but the laird of Culloden was not to be, caught by either Lord Lewis or Lord Lovat, who also had designs against his person. On his way northwards Lord Lewis was entertained by the Duke of Atholl—the Marquis of Tullibardine—and promised to be entirely guided by his counsels. It was the 25th of October ere he reached Huntly Castle, and writing from thence three days later to Secretary Murray of Broughton, he acquaints the latter with his proceedings. He had met the gentlemen of the district at Aboyne Castle, and also at Gordon of Blelack's house, but was surprised to find how remiss the people were in taking up arms, a circumstance he attributed to the influence of the Presbyterian ministers, against whom he determined to adopt stringent measures.

The doings of Lord Lewis have not hitherto been chronicled. In some measure his actions were guided by the counsels of Glenbucket and his kinsman, the Duke of Perth. To the latter he wrote making apology for his inability to capture the President, or to persuade his brother either to join the Prince, or contribute to the Jacobite exchequer, yet his own zeal in the cause was great as ever. The remissness of the gentlemen to take up arms roused his wrath, while the conduct of the "parsons who inculcated lies in the people's heads" led him to threaten them. Nor did he confine himself to threats of "dire punishment" against the clergy. He summoned them before him to answer for their virulent denunciation of Charles, and dismissed them with the assurance that next time they offended he would deal with them in an effectual manner. While in command in the north his principal achievement was the defeat of Macleod of Macleod at Inverurie. Among the *Culloden Papers* is a letter he wrote upon that occasion to the vanquished chief:—

"Aberdeen, 27 Dec: 1745.

"Sir,— I received your letter by express last night, dated Gordon Castle the 24th. All the care in our power has and shall be taken of your wounded men; and all the prisoners that were taken under their arms shall meet with all the civility in our power. But for Regent Chambers, Forbes of Eight [Edit], and Maitland of Pitrichie, who have acted the Infamous part of spies and informers, and the two last especially, who have given a great deal of bad advice to a certain great man, who shall be nameless, it is neither consistent with my honour or inclination to treat them as prisoners of war. I shall take care to order supplies to be given to all the prisoners who want them, and the wounded men are as well taken care of as our own. I shall send you a list of the prisoners and

wounded, with any useless papers and letters as soon as possible; and any other thing that we can reasonably agree to shall be done with pleasure.”

Disaster was soon to wreck the enterprise. The victory of Falkirk, which caused the brutal Hawley to exclaim, “My heart is broke,” was but the flickering light which was finally extinguished on Drummossie Moor. Although reported captured, Lord Lewis was among those who escaped, and who can now tell the story of his perilous adventures? Sometimes lurking in the secret hiding holes in Gordon Castle, and the Castles of Huntly and Aboyne, again finding refuge in the hills and forests of Birse and Braemar, until he got on board the friendly vessel which bore him away from the land he loved so well. Then came prostration through the sufferings he endured: the fell hand of sickness laid him low, and he wrote to an official high in place to intercede with the king:—

“Dunkirk, Feb. 10, N.S., 1751.

“May it please your Grace—Though I have not the honour of being acquainted with your Grace, yet I hope you will excuse this piece of freedom. It is now a long time since I apply’d to the Duchess of Gordon, my Mother, to assure her of my great desire to get home to Britain. She has already made some interest, and if your Grace would do me the favour to intercede with his Majesty for to grant me a pardon, I will give all the assurances possible of my living all the rest of my life as becomes a peaceable and dutiful subject. My health has been for many months in a bad situation, and all that I desire and beg of your Grace is to have the goodness to consider my misfortunes, having no other purpose but to retire and live with my Mother in a quiet way. General Mordaunt will, I hope, give his assistance. I hope your Grace will excuse this piece of freedom, and I have the honour to subscribe myself with great submission,

“Your Grace’s most obedient and most humble servant,

“Lewis Gordon.”

Ill-health had broken the spirit of the vivacious youth—he pined for the heath-clad hills of Aberdeen and Banffshires. Oh, if he only would be permitted to see Scotland once again he would live so quietly, and it was this yearning for his “ain countrie” that made the exile plead with his brother in the following strain:—

“Sens, November 30th, 1751.

“My Dear Lord Duke—The very bad state of health I have been in for a year has given me a great inclination to return home. Since I had the happiness of seeing you at Paris I have been 16 or 17 times blooded for violent fevers, and now I am subject to violent

cholicks and pains in the stomach. Neither dare I take any severe exercise for fear of having one of these terrible fevers, and I assure you that my constitution is become so tender that I am not fit to follow any publick business. Now, my Lord Duke, I shall begin with humbly begging pardon of you for my foolish behaviour, which I beseech you to forget, and I hope my dear brother, in consideration of my misfortunes and the melancholy state of my health, you will have the goodness to apply to His Majesty for leave to me to come home. I am not so ambitious as to think of the attainder being taken off, and all I want is just to live peaceably in Scotland without ever meddling with public affairs. I am ready to make all the submissions that his Majesty and the ministry asks of anybody, and whatever your Grace promises them in my name I assure you on honour and conscience I shall perform. Now, my dear brother, give me leave to exhort you by our past friendship, and my sincere regard for you to comply with my request, and if it please God that we meet I shall make it my honour and happiness to behave to you with all the humility and gratitude that you can desire from an affectionate brother and a faithful friend. There is one Mr. Brissack lives at Endfield, who is an old acquaintance and a good friend of mine, that will do all in his power to serve me, and if you please you may safely communicate your sentiments about me to him. I am soon to write to Mr. Brissack. In the time of my sickness I was guilty of some silly things, but that is all made up. This letter comes under cover to a friend of mine in the City of London. All I have to add is to wish you, my dear Lord Duke, all health and happiness, and the same to your young family. I beg my humble duty to the Duchess, and I remain, my dear brother, with the utmost respect and regard,

“Your unfortunate brother and faithful friend,

“Lewis Gordon.”

“*N.B.*—The proper direction to me is to ‘Mr. George Grant,’ to the care of Mr. Theodore Hay, Merchant at Boulogne-sur-mer.”

“Mr. George Grant” pled in vain. His relatives had oftentimes tried to make his position as cheerful as possible, yet spies abroad and spies at home prevented their good intentions taking effect. His pathetic letters never reached their destination, for they were intercepted and perused by officials in whose breasts sympathy found but little place. And yet when we read the heart-rending stories with which these men became acquainted, with the piteous tales of misery revealed in the correspondence of proud and high-born lairds, the marvel is that they suppressed appeals with such callous indifference, and by a system of espionage, despicable in the extreme, prevented the friendly aid which might have brightened many noble lives. Lord Lewis lived in hope, unaware of

the fact that his desires were well known to the authorities, and again addressed his brother:—

“Sens, January 17th, 1752.

“My Dear Lord Duke—Some time ago I had the honour to write you a letter which I hope you received, and now I shall begin with wishing your Grace joy of your newborn son, to whom and the Duchess I wish most sincerely health and happiness. Now, my Lord Duke, it is a long time since I had a strong inclination to return home, and for two years past my health has been extremely bad, but for this last year I have been so extremely ill that I am quite incapable of doing business, or of bearing much fatigue. I have repented sincerely of my past conduct, and have suffered very sufficiently for it. Now what I have to beg of you is that in consideration of the melancholy state of my health you will have the generosity and goodness to apply to his Majesty and the Ministry for my leave to come home. All I want is a simple permission to live peaceably in Scotland, and all my ambition is to assure your Grace that all my life shall be employed to live as becomes a dutiful and faithful subject to his Majesty, and you will see by my obedience and submission in every shape to your will that I am deserving of your Grace’s esteem and protection. Moreover I am ready to make all the submission that his Majesty may desire. I think it proper to acquaint you that the Duke of Norfolk has promised to apply for my leave to come home. Having often experienced your Grace’s goodness for me I have no reason to doubt of it upon this occasion, and if I have in any shape disobliged you I most humbly and heartily ask your pardon and forgiveness. I hope you will have the goodness to excuse this trouble. All I shall add is my hearty and sincere wishes for health and prosperity to all your family, and now, my dear Lord Duke, I shall conclude with assuring you that I ever am with the greatest esteem and regard,

“Your most dutiful brother and most faithful friend and servant,

“Lewis Gordon.”

While he still lingered—laid low on the bed of pain and of death—spies reported that he was in Scotland, where his relatives were indeed astonished at his prolonged silence, and the youth, stricken of God, reluctantly concluded they had cast him off. A final appeal in the belief that the balmy genial air of Deeside might even yet prolong life’s flickering flame, had the same fate as the others, so he sorrowfully turned his face to the wall: fate had decreed that “Bonnie Lewie Gordon” was to be laid to rest as an exile in a foreign land, far from kith and kin, and the country he loved so dearly.

The leanings of the Duke of Perth from early infancy were in favour of the Stuarts, and in 1740 he was one of an association engaged to venture lives and fortunes in their behalf, provided the king of France sent over troops to assist in any attempt to recover the British throne. Ample evidence of Perth's zeal, in forcing his tenantry to take up arms, will be found in the proceedings against Macgrouther, Buchanan, and others. He exercised all his influence to prevent the jealous bickerings at the Councils of the Jacobites, and when, through the petulance of Lord George Murray, he became leader of the army, so hearty was his enthusiasm that he much preferred to efface himself and serve as a volunteer. At Culloden, and elsewhere, he behaved with great gallantry, especially when, on the fatal day which blasted the hopes of the Stuarts, the Macdonalds stood sullen and inactive, he placed himself at their head, vowing that if they advanced to the charge he would henceforth call himself Macdonald. The pride of the clan was, however, too deeply wounded, for they retired without striking a blow. Perth escaped from the dreadful slaughter only to perish from wounds and privation. He died on the voyage to France on 5th May, 1746, his estates were confiscated, and his title attained in the person of his younger brother, the "jolly" Lord John, who was colonel of the Royal Scots in the French Service. Recruiting for Lord John's regiment had gone on for several years in Scotland, notwithstanding the utmost vigilance of the Government. When Charles marched into England, Lord John Drummond at the head of a considerable body of men and a train of artillery landed at Montrose. They took part in the battles of Falkirk and Culloden, whence Lord John escaped to France, afterwards serving with distinction in Marshal Saxe's army, dying in 1747.

Lord Ogilvie's connection with the '45 is one of peculiar interest. He joined the Jacobites at Perth with over 600 men, and rendered good service by his loyal performance of duty. He escaped to France, where he commanded a regiment known as "Ogilvie's Regiment," becoming a lieutenant-general in the service. He was pardoned in 1778, but deeming this remission insufficient to "restore his corrupted blood to its original purity," an act of parliament was passed in 1783 to the effect that "the blood of the said David Ogilvie be, and the same is hereby restored to its original purity, as if no such attainder had ever been." He survived for long afterwards, loved and respected as Earl of Airly, and died at Cortachy on 3rd March, 1803.

His brother-in-arms, John, Lord Nairn, was one of the veterans of the '15, whose capture and forfeiture on that occasion had no deterrent effect, for he took up arms immediately on Charles' landing. He fled to France, where he died in July, 1770; his brother

Robert, who assumed the name of Mercer on his marriage with Jean Mercer of Aldie, being killed at Culloden.

A detailed account of the conduct of the traitor Murray of Broughton is beyond the scope of these notes, and the record of his life has still to be written. In his later years he occupied himself in preparing memoirs of the campaign, which have yet to see the light. There are numerous letters extant serving to show how unscrupulous was the man even when acting as secretary to the Prince. After the dispersion of the Jacobites he sought refuge with his kinsman, Hunter of Polmood, where he was seized and brought to London. To save himself he readily consented to betray his friends, and the Government, while not slow to take advantage of the information he placed at their disposal, did not treat him with any great consideration. He was admitted as king's evidence against Lovat, who designated him with contempt as "the most abandoned of mankind." Ample use was made of him as an unscrupulous tool in their purposes, but the authorities paid little attention to his piteous appeals to save his effects. The creditors swooped down on his belongings, "using all means, for the recovery of their debts, that the law allows of"—a circumstance which greatly troubled him, as evidenced by the following letter among the MSS. in the *British Museum*:—

"London, 13th Oct., 1747.

"My Lord—I am extremely sorry to be under the necessity of troubling your Grace with a letter, but the unhappy situation of my affairs in Scotland is such as I hope will plead my excuse. My creditors are now, and have for some time past been, using all means for recovery of their debts that the law allows of, while I am not in a capacity to attend my affairs myself, nor to appoint one with sufficient authority in my name. This, my Lord, makes me have recourse to your Grace to beg my discharge, which alone can prevent the small remains I now have from being carried off by my creditors, which if not at liberty will not be in my power to save how soon the Courts of Justice meets which is the first of next month. At the same time I petition your Grace for this favour, pardon me to present to you the great losses I have sustained at Broughton, of which I have endeavoured to procure pretty exact accounts, and upon a computation, very much below the value, I find they amount to £3819 6s. 8d., without including several things of considerable value not charged. I again beg your Grace will pardon this trouble, and allow me the honour to subscribe myself with the utmost regard and esteem,

"My Lord,

"Your Grace's most obedient and most humble servant,

“John Murray.”

He lived to bitterly rue the treachery which profited him so little, and his succession to the Baronetcy of Stanhope in 1770 was not as balm to his wounded conscience.

How different were the deeds and career of the brave old Glenbucket! Fiercely enthusiastic, he endured the wracking pains of rheumatism (produced through the wounds inflicted by an attempt at assassination by the men of Badenoch many years before) and followed Prince Charlie. Neither age nor infirmity could, however, quell the fiery energetic spirit of this veteran of the '15; mounted on his highland garron there was none more active or vigilant. His was the name to conjure with, and, whether it was heard by the peasantry of Aberdeenshire or the Merse, it conveyed a vague sense of terror and alarm. Even the king trembled in his closet on hearing the uncouth appellation of this highland leader. Recruits Glenbucket wished, and recruits he must have, and any attempt to shirk his call was met with condign punishment, as the treatment of Charles Gordon, Alexander Leath, and John Burnet bears evidence. After the last fight he was compelled to seek refuge in France, but misfortune and disaster did not curb his iron soul, his frail frame contained a dauntless spirit. When compelled to reside at Boulogne-sur-mer in 1749, because of the cheapness in living, he was the only Jacobite who was “jolly and hearty.” His only sorrow was the shocking treatment received by his daughters at home, and his inability to provide for them in France.

Space would fail us were we to record the doings of the Cameron men, who were the “darlings” of the enterprise. “The Camerons are all gentlemen,” says one writer, and certain it is the regiment in a measure was worthy of its chief. Was it not Lochiel’s adhesion which had set the “heather on fire?” Was not the capture of Edinburgh due to the Camerons? Was it not a Cameron who planned and engaged to carry out the daring escalade of the castle frustrated by the burgess Lorimer? and was it not for a Cameron that a young lady of noble lineage left her English home to follow the fortunes of her “Highland Laddie?” Besides, who but an honest Cameron could with gravity grant those receipts (by which we can trace the location of the clan) for pots, brogues, worsted, needles, &c, which were “appropriated for the use of his Majesty’s army,” and would be paid for when the “king enjoyed his own again.” But, alas! there is another side to the story, the truth is the men were as reluctant as the others to join the standard of the Prince.

On the 9th November, 1745, John Cameron declared before the authorities in Edinburgh that “six weeks ago Dr. Cameron, brother to Lochiel, came to Cameron of Dungallon’s, a nephew of

Lochiel's, and now Major in his regiment, and forcibly brought from thence 500 men, mostly of the name of Cameron, threatening that if they did not come off directly he would burn their houses and cut them in pieces. But declares that upon their march several of them deserted, and particularly the night before they left Dalkeith twelve of them made their escape, as did the declarant and other three, now prisoners, from Kelso Tuesday last, and believes most of them will follow if they can get off." John Cameron was not the only clansman to make such a sweeping declaration. On the same day Hugh Cameron was examined and corroborated the above, adding that "he and several others attempted to escape when at Edinburgh, but were seized upon by Lochiel, and some of the Life Guard at a little distance from the city, and Lochiel beat them severely with his whip." A third member of the clan said that "Dr. Cameron killed four of his cows before he consented to go with him." In this manner many of the Camerons were forced to take the field, and making every allowance it is evident there is very little exaggeration in their story, for the facts elicited at the trial of Allan Cameron of Callart show how great was the pressure brought to bear on the tenantry, who very unwillingly:—

"Left their bonny highland hills,
Their wives and bairnies dear,
To draw the sword for Scotland's lord,
The young Chevalier."

Sir Alexander Macdonald and Macleod of Macleod broke their plighted faith, and raised men on behalf of the House of Hanover. A considerable number of Clanranald's men took the field under the chiefs son; while the other branches of Clan Donald were led by young Angus of Glengarry and Donald Macdonald of Lochgarry; the brave and bold Keppoch, whose name was really Alexander, headed his own men, and met a hero's death at Culloden rather than survive their disgraceful conduct; Archibald, son of the "swaggering" Coll of Barrisdale, and the Laird of Glencoe were leaders of their respective bands. How these gentlemen recruited their regiments is told in the declaration of Roger Macdonald, in the *Public Record Office*:—

"Eight days after the battle of Prestonpans Glengarry's son threatened all his father's tenants to burn their houses and hang them if they did not follow the Prince's army, by which means he gathered thirty men and brought them to Edinburgh. But Glengarry's son left the rebels, and he (Roger) with the rest deserted after him, as did also the Laird of Barrisdale from Dalkeith. Glengarry's son's name is Angus—the second son who is married to Strowan's niece."

This Angus was accidentally killed at Falkirk, and while desertion was indeed rife among the Macdonalds, the fact is that he left the army for a time in disgust, but Barrisdale was sent north on a mission to Lovat and others. On 28th September, 1745, there is a pass by Lochgarry to a party of eight men who were sent north to bring back deserters. Yet such as remained greatly distinguished themselves, until their sullen conduct at Culloden brought them undying reproach.

Nor was the laird of Cluny behind in dealing stringently with his poor tenantry. The story of how the chief of the Macphersons was captured by the Jacobites is matter of history, but his subsequent conduct in forcing out his dependents is in marked contrast to the noble generosity of these in his day of straits and adversity. Threatening to destroy their cattle and burn their houses were the methods by which he brought men to fight under the "Bratach Uaine," and unfortunately in many cases he was even better than his word, for his treatment of some of his dependents was cruel in the extreme. Yet around the "hide and seek" life of this chief, who failed to keep the tryst at Culloden, there has arisen much that is mythical and absurd. The romance of the whole story is the remarkable way in which the people of Badenoch protected and preserved, with unexampled kindness, the man who had done them so much injury.

The Maclauchlans and Mackinnons followed the evil example of the other clans. Thirty of the latter tribe deserted for the sufficient reason that "they were sensible of being in a wrong cause." Among those who suffered heavily were the Stewarts of Appin, the name of whose leader, Ardshiel, recalls General John Campbell's kindly service to Isabel Haldane, the lady of Ardshiel. There was Lockhart of Carnwarth specially excepted from all acts of amnesty, and yet had the good fortune to escape the axe of the executioner.

Where is the man who remains unmoved at mention of the pathetic story of the loyal Oliphants of Gask?—

"Thee Nairn and Gask with rapture could I sing
Still true to God, your country and your king,
Loyal and just, sincere as honest truth,
The same in manhood as in early youth."

Father and son joined Charles at Blair Athole on 1st Sept., and the old laird was appointed Depute-Governor of Perth. When, on the occasion of Lord Strathallan's absence, the burgesses sought by fierce attacks to recover the place, he behaved with conspicuous valour. He returned northwards with Charles, and fought at Culloden, whence father and son escaped after a series of exciting

adventures. They sought refuge in France, and under their assumed names of "John Whyte" and "John Brown" there is frequent reference to their life abroad in the reports of Government spies. They endured privation with unflinching courage, but as the days passed by the heart of the elder exile yearned for his own country, and, above all, to be near the "burying place of his ancestors." His desire that his ashes might mingle with those of his kindred was happily attained, for he died at Gask in 1769 in his seventy-sixth year. Lawrence, the younger, was a man of highest spirit; his sturdy loyalty to a hopeless cause and a luckless race; the zeal with which he celebrated Jacobite anniversaries; and the disdain with which he declined to sue for pardon from George of Hanover, unless his own king thought it worth while to write approving of his doing so, exhibits a picture of steadfastness akin to fanaticism. The prompt manner in which he dealt with his "wavering" chaplain Cruickshank, and how he tried to prevent his son Lawrence from going to Court, "because," he writes, "though formerly Jacobites have been presented and continued Jacobites, yet a two-faced person is not a character worthy of imitation," marks him as really the Jacobite *par excellence*.

Romance is kindled anew at the name of the yellow-haired laird of Dunmaglas, who so bravely led the Mackintoshes and fell with his face to the foe, and for whom the beautiful Miss Campbell died through grief. Then there was Malcolm Ross of Pitcalnie, whose ambition it was to acquire the Earldom to which his family aspired, and whose conduct well-nigh broke the heart of Lord President Forbes; while the adventures of the portmanteau of Hay of Restalrig is quite a story in itself, and will for ever bear testimony to the honesty of the guid folks of Aberdeenshire. These then were among the men against whom depositions were made in absence, and whose *persona*, fortunately for themselves, escaped the meshes of the law.

There were others, however, who were not so fortunate. When the highland army retreated to Scotland the Manchester Regiment was left to defend Carlisle. On the capture of this place by the Duke of Cumberland on 30th December, in terms of the capitulation, the governor and officers surrendered themselves at the gates, while the rest of the garrison retired to the cathedral. The depositions at the trial of these Jacobites are abbreviated from the papers of Sir John Strange among the *Egerton MSS.* in the British Museum.

A special commission was appointed, which sat at St. Margaret's Hill, Southwark, on 23rd June, 1746, and during the following two days bills of indictment were found against thirty-six of the principals taken at Carlisle. The indictment narrates that

these men:—

“Not having the fear of God in their hearts, nor having any regard for the duty of their allegiance, but being moved and seduced by the instigation of the devil, as false traitors and rebels against our said present sovereign lord the king, their supreme, true, natural, lawful, and undoubted sovereign lord, entirely withdrawing that cordial love, true and due obedience, fidelity, and allegiance which every subject of right ought to bear towards our said present sovereign lord the king; also devising (and as much as in them lay) most wickedly and traitrously intending to change and subvert the rule and government of this kingdom . . . and also to put and bring our said present sovereign lord and king to death and destruction, and to raise and exalt the person pretended to be Prince of Wales—during the life of the late king James the second of England—to the crown and royal state and dignity of king, and to the imperial rule and government of this kingdom.”

The judges were Sir William Lee, Knight, Chief Justice; Sir John Wills, Chief Justice of Court of Common Pleas; Sir Martin Wright, Knight; Sir James Reynolds, Knight; Sir Thomas Abney; Sir Thomas Burnett; Charles Clarke, Esq.; Edward Clive, Esq.; Sir Thomas de Veil; and Peter Theobald, Esq. After several sittings the Court was adjourned until the 15th July, 1746, when its proceedings were resumed. The counsel for the king were Sir Dudley Ryder, Attorney General; Sir John Strange; the Solicitor General, Hon. W. Murray, afterwards Lord Mansfield; Sir Richard Lloyd; and Mr. Yorke.

The first of the English Jacobites to be arraigned was Francis Townley, a Roman Catholic gentleman of good family, who behaved with conspicuous zeal in defence of Carlisle as colonel of the Manchester Regiment. There can be no doubt that had he been the governor the place would have held out to the very last, for when acquainted with the terms of capitulation he “flew into a great passion with Colonel Hamilton, declaring that it was better to die by the sword than fall into the hands of those damned Hanoverians.” He had acquired great experience in military affairs while in the French army—a circumstance used to his disadvantage when he claimed to be a French officer under commission. Among those to give evidence against him was a man named Maddox, of very bad character, so his defence was principally directed towards rendering this witness’s evidence untrustworthy.

Although there has always been a suspicion, there does not seem proof, that in the matter of the capitulation of Carlisle the Duke of Cumberland had acted dishonourably. Yet when Townley, found guilty of treason, had been executed, a pamphlet was issued

containing verses entitled “Townley’s Ghost”—one of the many apparitions supposed to have appeared to Cumberland, upbraiding him for his breach of faith:—

“Awake, infernal wretch; he cried,
And view this mangled shade
That on thy perjured faith relied
And basely was betrayed.”

George Fletcher met the same fate as Townley, notwithstanding the defence that he had been forced out. He was a respectable tradesman in Salford, of about 28 years of age. Before his death he confessed that his mother had offered him £1000 to keep clear of the Jacobites. Macgrowther was a more fortunate prisoner, and his experience was unique. By every means in their power the authorities seemed determined to place the noose round his neck; to prevent his escape on any grounds of misnomer he was designated “Alexander McGrowther the elder, otherwise called Robinson, otherwise Robeison, otherwise Robertson; gentleman, otherwise farmer, otherwise yeoman.” We learn from his trial something of the manner in which the Jacobite lairds compelled their tenantry to buckle on their claymores on behalf of the Stuarts, and, these circumstances being considered, Macgrowther was only sentenced to banishment. Becoming too ill to be removed, he lingered in prison until the authorities forgot his existence. Influential friends then intervened, he received a remission on nth December, 1749, and passed the closing years of his long life in the neighbourhood of Glenartney, regaling his friends with true hospitality, and telling with glee stories of his experience in the ‘15 and ‘45, especially how he escaped being sent to the plantations.

Henry Kerr of Gredden was one of the most able of the officers of Charles; he behaved with gallantry on every occasion, and luckily he escaped the fate of many of his companions-in-arms, owing to the representations of influential people on his behalf. The Duke of Roxburgh pleaded for his reprieve in the letter given below, the result being that he was ordered to remain for a time in the custody of the Prussian Ambassador: —

“Berwick, July 19th, 1746.

“My Lord—As the trials of the Scotch rebels are so near I am under the necessity of troubling your Grace by letter to intreat your good offices with his Majesty to obtain his most gracious pardon for Mr. Henry Kerr of Gredden, a gentleman related to my Family, whom I am heartily sorry to find in the number of those mad and unfortunate people engaged in the late detestable rebellion. As his crime will not admit it I will not excuse or extenuate his guilt. But as I am confident that his Majesty’s inclination is always to show mercy I will venture to mention to your Grace one circumstance

that may perhaps render him not altogether unworthy of it. He had the misfortune to lose his father when he was a child, and was brought up a Roman Catholic by his mother, who sent him early into the Spanish service, where he continued twenty years Captain, and has never resided at home until within these ten years, when he quitted that service.

“If his Majesty should think fit to pardon him I should look upon it as a signal mark of his favour to me, and much wish that it could be obtained before his trial, in order to preserve his small estate to him, which if done I think I may venture to answer for him that he will ever after think his life a debt to his Majesty to be laid down for his service if ever there should be occasion for it. If your Grace shall move in his favour I shall always retain a grateful sense of it. I am shortly to be in town. I hope soon to have the honour of waiting upon your Grace.

“I am,

“Your Grace’s most obedient, and most humble servant,

“Roxburgh.”

Charles Gordon, Maclauchlan, Cameron, and Burnet, like others in their defence, proved the measures adopted to recruit the Jacobite ranks, while the case of James Stormonth was happily extremely rare, for, notwithstanding the compulsion used, in the field of battle the men as a whole acted with spirit and credit to themselves. Stormonth seems to have been a “queer man” before his marriage with the heiress of Pitscandly. He was a son of Stormonth of Kinclune. On 12th February, 1747, he wrote a long letter to his father from Southwark, wherein he mentions his daily expectation of release, as he was not a “very atrocious offender.” He acknowledged he was condemned to die in a way and manner which would cause no reflection on his relatives. In this letter he gave instructions for the settlement of his affairs; and it is more than apparent that his family life was singularly unhappy. He declared it was needless to descend into reflections as to what brings about this violent death, “for as I could not have family peace I was run to this extreme to procure bread.” His wife, Elizabeth Farquhar of Pitscandly, was able to retain her own estate; her sister, who exerted herself to the utmost on Stormonth’s behalf, was married to a nephew of the Duke of Argyll, which explains how the latter came to interest himself in the fate of Lord Ogilvie’s cowardly officer.

Then there was Charles Oliphant, dressed in the uniform of Lord John Drummond’s officers—short blue coat, red-laced waistcoat, and bonnet with white cockade—who was pressed into the service or “else be hanged.” Mackenzie of Corrie pleaded that

he was the victim of obedience to his master, Lord Cromartie, a *local tyrant*, being the latter's factor; but, notwithstanding his ingenuous defence, his letters prove that he was a Jacobite of "ardent and zealous feelings." Of Law the parson's principles there can be no question, for the clergy of his persuasion acted unflinchingly according to their convictions.

How differently the brother of the Earl of Dunmore met his fate as compared with the resolution of many of inferior rank! The case of William Murray of Taymont illustrates how far influence succeeded when placed in the scales against justice. He surrendered himself a prisoner towards the close of April, being of course confined in the Tower. A true bill was returned against him, and the other prisoners at St. Margaret's Hill, on 23rd August, 1746; the following letter shows that he had evidently been already pardoned, for his brother only tried to secure some alleviation of his condition while in confinement pending his discharge:—

"My Lord—Upon being acquainted with his Majesty's pleasure that my brother should be removed from the Tower to the Castle of Carrisbrook, in the Isle of Wight, I gave directions to enquire about the accommodation he would have there, and I am informed by Col. Auckland, Captain of that Castle, that there is no sort of accommodation there, but what he possesses. I must therefore beg your Grace to renew my former request to His Majesty that my brother be removed to the Town of Newport, under such restrictions as shall be thought proper. I only beg leave to observe that considering the condition annexed to his pardon, there can be no suspicion of his exceeding the bounds prescribed to him.

"I am with great respect,
 "Your Grace's most obedient and most humble servant,
 "DUNMORE."

"Hanover Square, 1st Sept., 1747."

He was soon afterwards discharged; became 3rd Earl of Dunmore on the death of his brother, and by his marriage with Catherine, daughter of Lord Nairn, he carried on the line of the family.

John, Lord Macleod, took part in the rising under circumstances similar to that of the Master of Lovat, and the career of both is curiously alike. On 23rd September, 1745, Forbes of Culloden wrote to the Earl of Cromartie desiring to know whether his son would accept of a captain's commission. Cromartie replied "that he could not help thinking the circumstances in that commission so singular that he could not desire him, nor was it Macleod's own inclination to accept it." There can be no question that Lovat's

intrigues were acquiring a distinct influence over Cromartie, and on 17th October that wily chief wrote one of his usual highly-strained letters, assuring the Earl, "and the worthy Countess, his dear Lord Macleod, and dear Lady Betty and all the rest of the charming family of his sincerest respects and best wishes." He informed the Earl that his son "has a vast respect for the family of Cromartie, and loves Lord Macleod, as he loves himself, and was much vexed that he did not see him."

Whatever reasons Cromartie had for pique at the Government of the day, he marched southwards early in November with his men, accompanied by his son, Lord Macleod, whose exploits are here recorded, and who was taken on the eve of Culloden at the castle of Dunrobin in Sutherland. Macleod, in his narrative of the campaign printed in *Eraser's Earls of Cromartie*, tells how on one occasion he went to Dunblane; his men, thinking he had returned home, marched out of Perth, and notwithstanding all the efforts of their officers declined to return for a considerable time. In fact he says:—"The only way one can keep these troops to their colours is by flattery and good words, and even winking at many disorders which would never have been allowed in a regular army," and he therefore resolved to pretend ignorance of what passed in his absence. He was brought to London, where a true bill was found against him on 13th August, 1746. His own feelings are conclusively shown at his trial, on 20th December following, when he tendered a plea of guilty, and addressing the Court, in words pathetic in their frankness, said:

"My Lords, I stand indicted for one of the most heinous of all crimes, that of rebellion and treason against one of the best of kings, and my only rightful Lord and sovereign. Would to God, my Lords, I could not plead guilty to the charge! But as I cannot, I beg leave to assure your Lordships my heart never was consenting to the unnatural and wicked part I then acted. Remember, my Lords, my youth, and that I am in that state of life when an unhappy father's example is almost a law. But my heart is full from the deep sense I have of his miseries and my own; and I shall only add as I must and do plead guilty to the charge, if, on your Lordships' kind representation of my case, his Majesty shall think fit, in his great goodness, to extend his compassion to me, what of future life and fortune I may ever have shall be entirely devoted to the service of His Majesty, on whose mercy I now absolutely throw myself."

He received a free pardon, but on condition that he conveyed to the Crown on attaining his majority all right and title to the Cromartie Estates, and with this he complied. He entered the service of Sweden, where he attained distinction, being A.D.C. to the king, who created him Count Cromartie. After his return to this

country he raised the 73rd Highlanders, at whose head he rendered distinguished service in India. He was created Major General, and was further rewarded by the restoration of his ancestral property.

We cannot enter into details in regard to Alexander Buchanan, or of the more fortunate Nicholas Glascoe, who, happily for himself, was able to satisfy the authorities that he was a "St. Germain's Bird." And what scenes can be conjured up in the attempts of Rattray of Ranguillan to escape from the service of the Prince, and evade the clutches of his overlord, the "high-minded Moray, the exiled, the dear" of Sir Walter Scott! The supreme moment too when the love of the gardener's wife for her husband was put to severe test, and the upward jerking of her finger revealed the hiding place of Tullibardine's recalcitrant vassal, whose treatment was surely of a stringent order.

Colin Mackenzie's witnesses throw light upon Cromartie's proceedings in Caithness and the north, but a more important prisoner was that patriotic Scot, Charles Kinloch—brother of Sir James Kinloch. A true bill was found against him and his brother, Alexander, on 23rd August, and on 2nd September they were arraigned. They advanced a plea of not guilty, and under the Act of Union challenged the jurisdiction of the Court, claiming to be tried before the High Court of Justiciary in Scotland. The arguments by which their counsel sought to establish their contention were ultimately over-ruled, and Charles was found guilty and sentenced as in the text.

It was Thomas Chaddoch, or Chadwick, who contributed greatly to the amusement of the Jacobite officers. A cultured musician, he could play on several instruments, and was a boon companion as well, but a man of most daring resolution. During his confinement he always took the lead in trying to amuse and cheer his companions. On the morning of his execution, whilst at breakfast with his companion, Berwick, he declared that although his time drew near he was as hearty as ever he had been in his life, nor was he sorry for what he had done, for if it was to do again he would act in the same manner.

Siddal, the Manchester barber, was a Jacobite through hereditary instinct. His father, also Thomas, took a prominent part in a Jacobite riot at Manchester on 10th June, 1715, and was executed therefor at Manchester on 11th February, 1716. In the dying speech of Thomas, the younger, "he praised God that it was permitted him to follow the pious example of his father. It was not from necessity he had joined the Prince, nor did he want an addition of riches to increase his happiness, for he was blessed with an excellent, faithful, and religious wife and five children. He owed it to God, his king and country to serve the Prince, in regard

to whose character he challenged his keenest enemies to impute to him any vice; his only fault was an ill-timed humanity." Siddal, like others, against whom Samuel Maddox gave evidence, accused the latter of gross perjury. He forgave the *pretended* Duke of Cumberland for his dishonourable and unsoldierly conduct in putting them to death in violation of the laws of nations after a written capitulation to the contrary. The clergyman who attended upon him and his friends wrote that from "the time of their condemnation, a decent cheerfulness constantly appeared in their countenances and behaviour, and I believe it may be truly said that no men ever suffered in a righteous cause with greater magnanimity and more Christian fortitude, for the appearance and near approach of a violent death, armed with the utmost terror of pain and torments, made no impression of dread upon their minds. In a word great is the honour they have done the Church, the king, yourself and themselves."

Another to meet his doom with dauntless demeanour was the "mighty gay" Dawson. As a youth attending St. John's College, Cambridge, he ran away and joined the Jacobites at Manchester, proving himself a most active partisan. In the *Scots Magazine* will be found an account of his farewell to his father. When brought to prison, after being condemned, while the officials were putting him in irons, he declared that should they put a ton weight upon him it would not in the least affect his resolution. There is, however, a tragic element connected with his death, commemorated in the plaintive ballad, "Jemmy Dawson." When, on the morning of 30th July, Townley, Morgan, Deacon, Dawson, Berwick, Fletcher, Chadwick, Siddal, and Blood wended their way in sledges to Kennington Common, there followed the melancholy procession the lady who had given her heart and hand to the subject of this note. The victims of the executioner were treated in accordance with the barbarous usage of the time, and when the heart of her lover had been thrown into the fire, she suddenly fell back dead in her coach.

Thomas Deacon, who was executed on the same day, was a son of Dr. Thomas Deacon of Manchester. Two of his brothers were concerned; one, Robert, died at Kendal, and the other, Charles, was reprieved. Deacon, in his speech, declared his happiness in having an opportunity of dying in so just and glorious a cause. His brother, Charles, was compelled to witness his execution, and it is said that when his head was stuck upon Manchester Exchange his father was one of the first to see it, and, saluting it, thanked "God he had a~son who could die for his lawful Prince." Such was the spirit of some of the Jacobites!

David Morgan, one of the prisoners executed on 30th July, was

fifty-one years of age. He was bred to the Bar, but had an indifferent practice, for, possessed of considerable private means, his haughty and reserved manners did not render him popular, nor indeed was his profession in the least congenial to his taste. Although known as the Prince's Counsellor, he declared that he had been taken prisoner when paying a visit at Etherton Hall, in Cheshire, and detained by force, but he could not deny his presence with the rebels at many places, and produced evidence to prove that he attempted to escape. He said that, by the law of England, every man had a right to be tried by his neighbours of same state and condition as himself, but, "God, help me, I am deprived of that benefit, and I am now amongst strangers who know nothing of me." He had served the Crown of England in two campaigns with some reputation. His defence was listened to with attention, but the Solicitor-General in reply accused him of only attempting to escape when the rebels' affairs were desperate, and when his own safety and preservation rendered it imperative. The jury took a similar view, so he received sentence of death. At their execution the prisoners were "allowed neither priest nor parson," which led to a distressing scene when Morgan, carefully adjusting his spectacles, read out in a calm voice, to his fellow-prisoners, the prayers appropriate to the burial service. Like the others, he prepared a speech wherein, with remarkable inconsistency in view of his defence, he entered into an historical account of the reasons which induced him to engage in the enterprise, and he gloried in having had the privilege of seeing the young Prince, with whom he compared the Duke of Cumberland, of course greatly to the latter's disadvantage. Nor did his judges escape scatheless. He reproached them with stupid and inveterate zeal, denounced the infamous Maddox, and impugned the veracity of Captain Vere. His was a case where the best laid "schemes o' mice and men, gang aft agley," and his proud boast that, "in spite of King George and all the people in the world, he would revisit Derby," was vain, for his head was placed on a spike at Temple Bar, a gruesome spectacle to all beholders.

Sir John Wedderburn was indicted for high treason, especially with levying the Excise for the Jacobites. The usual defence of being forced was made; and, if any credence be given to the witnesses on his behalf, the case seems clear. Sir John was son of Sir Alexander Wedderburn, of an Aberdeenshire family of repute. Sir Alexander had suffered much for his revolutionary principles, and to compensate him the Government made him a Receiver of Excise. He was, however, of facile disposition, and on his death the estates were so heavily encumbered that they had to be sold. Sir John, on taking up the succession, was obliged to occupy a small farm, where he lived in a house with a thatched roof and clay

floors; and struggled desperately to maintain himself, his wife, and his nine children. When taken prisoner by the Jacobites he was compelled to act as Receiver of Excise. The receipts he had granted on these occasions were unfortunately used to his disadvantage, for an English jury with these before them credited his witnesses with a humane desire to save his life.

Sir James Kinloch and the laird of Monaltrie had the good fortune to escape the fate of their comrades. The country by this time had become horrified at the proofs advanced of the terrible vengeance taken by the Duke of Cumberland, in murdering so many in cold blood. Even the king felt that the execution of more men would create a hostile spirit generally throughout the land; and so, for the future, the executioner's hand was stayed, for there were many still awaiting their doom. A few of those who acted a double part, especially Lord Lovat, suffered death, but to deal with them is beyond our province here.

The throne had been shaken in a terrible manner, and a troublous time had been passed; but now the power of the Jacobites was shattered, and the bloody scenes recently witnessed were not without effect. It must be apparent from these papers that there were many men who "wadna fecht for Charlie;" few indeed were those who died for love of the cause; more perished through the tyranny of their masters. It must not be forgotten that much still remains to be made public ere one can truly realise the story of the '45. Yet this is certain, the one who came through the fiery ordeal with most credit was the Prince who led such an army, and performed such gallant deeds at the head of men whose hearts were not in the enterprise. It was the personal charm of "Bonnie Prince Charlie," as well as terror of their chiefs, which made deserters, and men prone to desertion, fight as never men fought.

In concluding these notes the writer cannot but sincerely regret that they were penned at intervals during a long and serious illness, when suffering constant pain; and he would have much preferred that one more able to deal with the subject had taken it up, yet he hopes this imperfect (for such he feels it to be) attempt to throw fresh light on a most interesting period will be received with that sympathy which overlooks errors not intentional.

Grateful acknowledgment has to be made to the authorities of the *British Museum* and *Public Record Office* for the courteous way in which they are ever ready to facilitate research.

D. M. R.

Edinburgh, 13th March, 1896.

DEPOSITIONS AGAINST JACOBITES.

DEPOSITIONS AGAINST JACOBITES.

THE EARL OF KELLIE.

Lieut. CHAS. CAMPBELL.—The Earl of Kellie in September or October was frequently seen in Edinburgh with his broadsword, cockade, and highland dress. He dined with the Pretender's son.

Q.—What did the white cockade signify?

Ans.—We thought every man who wore it had joined the rebels. I never saw the Earl of Kellie march with any body of men.

WM. HASTIE (Surgeon).—Alexander, Earl of Kellie: I saw a person so called at Edinburgh, but not in the rebel army. He did not come into England. He was at Edinburgh in the ordinary dress, but with a white cockade. I did not see him do any hostile act. I don't know that any wear cockades but rebels. Upon recollection I saw some surgeons, who were forced out of Edinburgh, wear white cockades. None else that I saw wore white cockades. I never saw him with the rebels, nor in arms.

Q.—In what company?

Ans.—I saw him frequently with gentlemen in the highland dress.

JOHN GRAY.—As to Alexander, Earl of Kellie, last Christmas I saw him drunk in the streets of Perth, a great many highland-men by him. I never saw him act otherwise than being drunk again.

JAMES LOGIE.—I saw a man in the streets of Aberdeen, in February last, called Earl of Kellie. I saw him with a sword by his side. He came in with the rebels. I saw him come into Aberdeen. He was generally called Earl of Kellie. He had no command so far as I know. He did not appear at the head of any body of men. I never heard he was an idiot. I never heard him called Earl of Kellie in his own hearing. He came in with the rest of the gentlemen with about 2000 foot, and 600 horse deemed rebels—drums beating, colours flying, and bagpipes playing. He was not in highland dress. He had a small sword. I never saw any but rebels wear white cockades, nor any that I know for protection. I have seen him three or four days. I did not see him march out of Aberdeen with the rebels, but it was the common notion that he marched out with them.

Q.—Have you not heard that some were forced in that service?

Ans.—I have heard that some private men were forced by Lord Lewis Gordon. He appeared between 50 and 60 [years of age]. I am not very certain that I should know him again.

Q.—Was he given to drinking?

Ans.—I have heard so. I can't say how far he was disordered by drink.

WILLIAM, VISCOUNT OF STRATHALLAN.

JOHN HICKSON (Vintner in Perth).—Viscount Strathallan: I saw him attending the young Pretender at my house in same manner as the Duke of Perth and Lord George Murray did. He was the only man of them not in highland clothes. He dined and supped often with the young Pretender. I did not see him do any hostile act, or at the head of any body of rebels, but I saw him in the street when bodies were in motion. I have not heard that he was made Governor of Perth. I did not see him after the battle of Prestonpans. I can't remember seeing him go out of Perth. It was early in the morning, and they were in a hurry.

Q.—By what appellation did he call the Pretender's son?

Ans.—He called him "His Highness." I did not observe that he had a white cockade. Sometimes the word "Royal" was before "Highness."

JOHN BARCLAY.—I never saw him before the rebellion. I never saw him but at Perth, and then I saw him act as Governor of Perth. I saw him among the rebels there—among a guard of 200 deemed rebels. I saw him on foot with a small sword by his side. He was generally esteemed Governor of Perth under the Pretender. He commanded the Aberdeen battalion deemed rebels.

Q.—Was he Governor of Perth on the King's birthday, the 30th Oct.?

Ans.—I was not there then. He was generally understood to be Lord Strathallan.

LORD PITSLIGO.

Lieut. CHAS. CAMPBELL.—I did not know Lord Pitsligo before the rebellion, but in October and November I saw him (he is an old man) at the head of his men, drawn up along with the Life Guards, a body of horse called Lord Pitsligo's Horse. He had a white cockade and his sword drawn. I heard him called by that name, and he answered to it. I saw him several times, and he was generally understood to be Lord Pitsligo. I saw him several times before as one of the rebels. He is an elderly man about my size.

JOHN VERE.—Lord Pitsligo: He was Colonel of a Regiment of Horse. I saw him first at Ashburn. He marched as part of the rebel

army. I did not know him before, but he was called Lord Pitsligo before me. He was drank to by that name and answered to that name, and was generally called so.

DAVID WEMYSS, LORD ELCHO.

Lieut. CHAS. CAMPBELL.—David, Lord Elcho: I knew him before. I saw him come into Edinburgh on the Pretender's left hand. In September, October, and November last I saw him exercise his Life Guards, and he was Colonel of the Pretender's eldest son's Life Guards. I saw him frequently in highland clothes.

JOHN VERE.—Lord Elcho: I had known him before the rebellion. I saw him first at Macclesfield, then at Leek, then at Derby, and after that on the road to Carlisle. I marched with his regiment—he at the head of it; he drew up the regiment.

WM. HASTIE.—Lord Elcho: I knew him before. I saw him at Edinburgh as an officer of the rebels. He marched into England, and returned with the rebels, it being from November to February.

HUGH DOUGLAS.—I was Lord Elcho's servant. I went with the rebels from Edinburgh to Derby, and back again to Perth. I came from Edinburgh with the rebels, when all the rest came, last winter.

JAMES DRUMMOND, ELDEST SON OF VISCOUNT STRATHALLAN.

JOHN VERE.—James Drummond, heir apparent of Lord Strathallan: He was A.D.C. to the Pretender. I saw him at Macclesfield and other places in December last. I saw him armed with a broadsword and pistols. I saw him go with the Pretender, and give orders to come and help to mend the axletree of the money cart. He marched with the rebels. I did not know him before. He was generally called the Master of Strathallan, and answered to the name.

WM. HASTIE.—James Drummond, eldest son of Viscount Strathallan: I saw a person (so called and understood) in a highland dress, and in arms with a broadsword and pistols in the Pretender's son's army. He had a command, and was generally on horseback. He rode along with the Pretender's son out of Edinburgh, in November, with a great number of rebels. I saw him in England, all the way in the Pretender's son's army, in December last. He went about as an officer. I was along with them in the army from the first of November to February, and saw him all that time.

JAMES LOGIE.—I have seen a man called Master of Strathallan. I take him to be Lord Strathallan's eldest son. I never knew him

before. He was in February last at Aberdeen, in the highland dress, in the High Street. I never heard him say or do anything. He had the highland habit, and wore the white cockade and a broadsword. I did not see him at the head of any body of men. I saw him speaking with several gents, who were rebels. I never saw him give any orders. I knew only that he wore the highland habit. The men, I think, were one day drawn up. I did not see him there. Lord Strathallan's horse were quartered, I heard, a little out of Aberdeen. It was a common report that the Master of Strathallan was quartered in the Old Town of Aberdeen. The men drawn up were foot—all but some of Lord Balmerino's horse. They were drawn up, as I was told, to receive their pay. All men had swords, some had firelocks. Most of the foot had bayonets when they marched.

SIMON FRASER, ELDEST SON OF SIMON, LORD LOVAT.

WM. HASTIE.—Simon Fraser, eldest son and heir apparent of Simon, Lord Lovat: I saw him in the rebellion. I heard him generally called Master of Lovat. I saw him in the latter end of January at St. Ninian's. He joined the Pretender's army with the Frasers, being 2 or 300 in arms, and marched with the rebels.

JOHN GRAY.—Simon Fraser, eldest son of Lord Lovat: I saw a person called Master of Lovat at Perth, in the street, in highland clothes, with a dirk by his side. He belonged to the Frasers, and they belonged to the Pretender, as I suppose. This was at Christmas. I had a conversation with him about my liberty, which he obtained. I understood he was at the head of the Frasers, and came to serve the Pretender.

GEORGE HAY.—As to Simon Fraser, I saw him near Stirling in January last in a room, not with any body of men. One Captain Fitzgerald was prisoner under the Master of Lovat's care, and was kept prisoner for the Pretender. The Master of Lovat did not talk of him as his prisoner. It was the Master of Lovat's room, and he appeared as an officer for the Pretender. I never saw him but in that room. He sat in the room with the prisoner, whom I never heard say he was the Master of Lovat's prisoner. My master told me that Fitzgerald was prisoner to Master of Lovat. My master was used as surgeon for the rebels. I marched with them all the way to Derby.

GEORGE MURRAY, ESQ., CALLED LORD GEORGE
MURRAY, BROTHER TO JAMES, DUKE OF ATHOLE.

CHAS. CAMPBELL.—Lord George Murray was at Edinburgh in the months of September and October, 1745. Lord George Murray

was very often seen in arms with his broadsword and pistols, giving directions in Holyrood House, and particularly one night was going up with a design (as was said) to make an attack upon the Castle. The directions appeared to be military directions on the part of the rebels.

JOHN HICKSON (Vintner in Perth).—Lord George Murray: I saw him come into my house when the Pretender was there in September last, and he was very often with the Pretender's son. I did not see him in arms, but in the highland dress. I believe he had a broadsword and cockade, but I don't positively remember. I did not see him on a march, but in company with some officers. I saw him in company with the Pretender's son, with whom he dined and supped very often. He was treated by the rebel officers as a General Officer. I saw him after the battle of Prestonpans. I knew him many years before. He is brother to the Duke of Athole.

JOHN VERE.—Lord George Murray: I saw him at the same time in arms as a highland man, with a broadsword. I saw him at the head of the rebel army from the 2nd or 3rd to the 20th. He was Major or General, and had a regiment of his own.

WILLIAM HASTIE.—Lord George Murray: I saw the person so called marching in arms with the rebels. He generally went at the head of them.

LEWIS GORDON, ESQ., COMMONLY CALLED LORD
LEWIS GORDON, BROTHER TO COSMO GEORGE, DUKE
OF GORDON.

JOHN GRAY.—As to Lord Lewis Gordon, I know him now. I saw a company of men, who said they were at his command. I was brought prisoner by them before him. He asked my business. I was released upon a promise I should make no discovery. I took Lord Lewis Gordon to be in the service of the Pretender.

Q.—Did they take you prisoner as a person not in the Pretender's interest?

Ans.—Yes. They did not swear me that I would not discover anything, but I gave an obligation that I would not be in arms against the Pretender for six months. Lord Lewis Gordon required this obligation. Lord Lewis Gordon called the Pretender "King," and his son the Prince of Wales. He was generally reputed to be Lord Lewis Gordon, and he styled himself so. The words of the obligation—"I oblige myself not to carry arms against King James the 8th or the Prince of Wales for six months," addressed to Lord Lewis Gordon, Lord Lieutenant of Banff and Aberdeen, and Lord Lewis Gordon attested a copy of the obligation. He gave order for

levying the cess, as I heard, for the men in arms for the Pretender.

JAMES LOGIE.—Lord Lewis Gordon: I knew him before by sight. I saw him 2 or 3 months together at Aberdeen in Oct., Nov., Dec, and January last. He was called Governor of Aberdeen, Lord Lieutenant of Banffshire and Aberdeenshire for the Pretender's son. I saw him frequently. He had possession of the Town House, and was frequently with armed men, about 150 or 130, sometimes 200, sometimes 400, who were deemed rebels. I saw these men come in and go out. He went in and out only with his servants. Excise money (as was the general notion) was collected by his men. Lord Lewis Gordon sent a party of his men to the Custom House officers to demand the keys (as I was informed), and to me they said they came from the Governor of Aberdeen. They called him Governor, but I think they meant the Deputy-Governor, Wm. Moir, and I saw the Collector deliver the keys. I never demanded any money, nor received after this. The merchants told me they paid to persons appointed by Lord Lewis Gordon. He kept possession of the Custom House. He then said they came from Lonmay, the Deputy-Governor. It was the common reputation that the customs were paid to persons appointed by Lord Lewis Gordon. They threatened the Collector with imprisonment if he refused the keys, and said they would carry him to the Governor. I never saw Lord Lewis Gordon with the armed men who came for the keys, but I saw him with the officers, one of whom demanded the keys. I have told the merchants they must be obliged to pay the money over again.

The Deputy-Governor was deemed deputy to Lord Lewis Gordon for the Pretender. No Governor of Aberdeen was appointed by the King.

Q.—Was a Collector of Customs appointed by Lord Lewis Gordon?

Ans.—Wm. Hutton. I heard so Wm. Moir was always called Governor, and was the acting Governor. I believe he did not do anything without Lord Lewis Gordon's knowledge. He was in town all the while Lord Lewis Gordon was in town. He was appointed Deputy Governor, as I heard, by Lord Lewis Gordon. He is, I know, Duke of Gordon's brother.

JAMES DRUMMOND TAKING UPON HIMSELF THE TITLE OF DUKE OF PERTH.

CHAS. CAMPBELL.—(He acquainted the House what persons he had seen in the present rebellion.) Being asked by Mr. Speaker, he said: James, Duke of Perth, came with the Pretender's son into Edinburgh, on his right hand. David, Lord Elcho, was on the

Pretender's left hand. There were a great many with them in arms. Donald Cameron of Lochiel was there; Lord Pitsligo headed a party of Horse with Graham, Lord Dundee. Alexander Macdonald of Keppoch was with his regiment in Edinburgh; saw him frequently there. Gordon of Glenbucket was seen both at Edinburgh and near Carlisle. Lord Ogilvie was seen within three miles of Carlisle. Charles Stewart of Ardshiel was at Edinburgh. The Earl of Kellie was seen at the same time, also Alexander MacDonald of Glencoe. William Fydlar, belonging to the Exchequer, was seen at Edinburgh in a highland dress, also two sons of Rollo of Row House. The eldest son of James Graham, the Earl of Airth; James, Duke of Perth (his surname is Drummond) rode into Edinburgh on the Pretender's son's right hand, and I saw him dine with the Pretender's son, and in arms several times in Edinburgh, giving directions to the rebels.

JOHN HICKSON.—I saw James Drummond, Duke of Perth, in Perth in September, 1745, attending on the young Pretender. He walked, dined, and supped with him. He had highland clothes, white cockade, and broadsword. I believe he had a command; I did not see him do any hostile act. There was none done in that place; I saw him among the people, whom I took to be military men, in Perth. I did not see him give military directions. The Duke of Perth was in company with Sullivan, Kellie, and Sir J. MacDonald, who were reputed rebels, and this in my house. I saw the Duke of Perth with a highland dress and broadsword. I did not see the ceremony of proclaiming the Pretender. The young Pretender came downstairs, asked for Sullivan, and pulled him out of bed. The Duke of Perth came frequently to the Pretender's son and Sullivan.

Q.—Did you know the Duke of Perth before?

Ans.—Yes, a great many years before.

Q.—Did you see him afterwards at Edinburgh?

Ans.—Yes, I saw the Duke of Perth marching with the highland army which fought the battle of Prestonpans. He had a white cockade, and so had the rest. A white cockade was the distinguishing mark.

Q.—Did you know any favour obtained by the Duke of Perth for the prisoners?

Ans.—He came into the place where the prisoners were, and I spoke to him and Lord Nairn out of regard to several officers, because I believed the Duke of Perth had power to do it. The Duke of Perth and Lord Nairn told me that Mr. Sullivan and the foreign officers were against it. The Duke of Perth and Lord Nairn said they would make a point of it. The French officers proposed that

the prisoners should be detained till all should be settled.

Q.—What time was there between the seeing the Duke of Perth at Perth and Edinburgh?

Ans.—I saw him when he left Perth in Sept., and in Edinburgh the day the prisoners were brought there. It was the Monday after the battle of Prestonpans.

Q.—Did the Duke of Perth and Lord Nairn obtain what they proposed?

Ans.—I cannot tell; I left Edinburgh the day after.

Q.—How came you to go to Edinburgh?

Ans.—At the desire of Lady Murray to inquire after her husband, who was in Sir John Cope's army.

Q.—Were the prisoners at Perth when you were there?

Ans.—I came from England the Tuesday after the battle.

Q.—Did not some people at Perth wear white cockades for protection?

Ans.—I cannot say, being confined at my house, nor do I remember it was said so.

(Being asked whether he was not himself engaged in the Pretender's cause, he was directed to withdraw. The opinion of the House was that the question was improper. He was called in again.)

Q.—When did you go from Edinburgh?

Ans.—Tuesday evening.

Q.—Did you send Lady Murray any word?

Ans.—She came to Edinburgh on Monday, and I saw her husband.

JOHN VERE.—I was in the army. As to the Duke of Perth, I saw him at Macclesfield, 3rd Dec I was examined by him, when I was taken. I had seen him before in London. They asked me several questions. What number of troops the Duke had? I told him about 12,000. They then asked me as to the number of each regiment, and the number of regiments at Newcastle. Duke of Perth asked me as to the grounds about Newcastle, the artillery, and other questions. The Pretender's son came in and asked me why I was his enemy. I saw him in arms, he had a black cap, a Turkish scimitar, and he was St. Gent (*sic*), at least they called him so. He was with the rebels. They all had white cockades.

WILLIAM HASTIE.—The Duke of Perth, so called, I saw him

frequently along with the rebels in highland dress. I heard him called Duke of Perth as he was passing by. I saw him among the rebels as they marched.

JAMES GRAHAM OF DUNTROON TAKING ON HIMSELF
THE TITLE OF VISCOUNT DUNDEE.

CHAS. CAMPBELL.—James Graham, called Viscount Dundee: In October and November he was at the head of the Life Guards belonging to the Pretender's son. He commanded a company of those Guards. He is a low fat man, and is squint-eyed.

JOHN VERE.—Lord Dundee: At Leek I saw him and heard him called Lord Dundee, and he was generally so called. On 6th Dec. he was at Leek, and was Captain in the troops of Horse Guards belonging to the Pretender. I saw him on the march with the rebel army.

HUGH DOUGLAS.—James Graham of Duntroon, called Lord Viscount Dundee: I know Lord Dundee. I first saw him at Edinburgh whilst the rebels were there, before they marched out of Edinburgh; he was always called Lord Dundee. He went to Derby with the rebel army and back again. He commanded a troop of the young Pretender's Life Guards. I saw him every day at the head of the troop, marching as a rebel with the rebels. He was Captain of the troops this winter.

JOHN NAIRN, LORD NAIRN.

CHAS. CAMPBELL.—In September and October last I saw the man, called Lord Nairn, once or twice about the Holyrood House; but I never saw him before. He had a white cockade, but was not in highland dress.

JOHN HICKSON.—Lord Nairn: I saw him in Perth the first night of September, with Cameron of Lochiel. He took possession of my house, and likewise of the town. He was in a highland dress. I did not see him do any act of hostility in Perth, but I saw him on the march at the head of the King's officers. He commanded the Guards, who had the care of the prisoners. This was the Lord whom I applied to for favour to the prisoners in the Canongate. There was a guard in the town appointed by the Magistrates, but possession was after taken, as was understood, for the Pretender's son. He is John Nairn. I knew him many years before.

Q.—How soon did the Pretender's son come to the house?

Ans.—Two days after as I believe.

JOHN VERE.—Lord Nairn: He is Colonel of a Regiment of Foot,

and acted as Brigadier on the march of the rebels from Macclesfield to Derby. The young Pretender gave orders to Lord Nairn to line the hedges the 15th December. I saw him every day on the march; he marched with the rebels.

WM. HASTIE.—I saw Lord Nairn all the way with the rebels; he was generally called Lord Nairn, and was among the rebels on the march, as an officer, from November to February.

DAVID, LORD OGILVIE.

CHAS. CAMPBELL.—Lord Ogilvie: On the 10th November I saw him march at the head of 200 men near Carlisle. I saw him frequently at Edinburgh in the same month, and he was called Lord Ogilvie. The men he headed were in arms for the Pretender.

JOHN HICKSON.—David Ogilvie, commonly called Lord Ogilvie: I have known him several years. He was a schoolboy in Perth. He came up stairs in my house next day after the Pretender's son came, and asked for the Pretender, whom he called the Prince Regent. I never saw him in arms. He was in the lowland dress. I don't remember that he had a cockade. He went back to his own county to fetch his men, for the Pretender, as was said. I heard him say he was going home, and hoped in a few days he should bring his men with him. I did not see him above twice with the Pretender's son. He asked for the Pretender's son by the name of "Prince Regent." He called the Pretender's son in my hearing "Royal Highness."

JOHN VERE.—Lord Ogilvie: I never knew him before I saw him with the rebels; but he was called Lord Ogilvie in my hearing, and generally so called. I saw him in arms near the young Pretender, in the rebel army, with his own regiment.

WM. HASTIE.—Lord Ogilvie: I knew him before; he was along with the rebels, as an officer, in arms from November to February.

JOHN DRUMMOND TAKING ON HIMSELF TITLE OF LORD JOHN DRUMMOND.

JOHN GRAY.—I saw Lord John Drummond at Perth in highland clothes, but not giving directions to the rebels. I was 16 days a prisoner at Perth. I saw him at Stirling in highland dress walking the streets. I was taken by Lord Lewis Gordon's men. I saw Lord John Drummond at Aberdeen riding with 500 horses.

Q.—Do you know of any Declaration published by Lord John Drummond at Aberdeen?

Ans.—No.

JAMES BARCLAY.—I saw Lord John Drummond at Stirling in Jan. last. I never saw him before. He was generally understood to be Lord John Drummond. He commanded the Irish Brigade in the French service. He acted as General of the King of France's forces. He marched at the head of that Brigade in January into Stirling. He is generally called the Duke of Perth's brother. He is a pretty tall, jolly man, between 40 and 50, with a dark-brown complexion. I think he is about 40, but I cannot be positive. He is neither fat nor lean.

Q.—Should you be able to distinguish him in a room where there are 100 people?

Ans.—I don't know but that I might, but I am not very positive.

HUGH DOUGLAS.—I don't know Lord John Drummond. I am not acquainted with him, but I have seen him at Perth when the rebels were there. He was called Lord John Drummond—generally at Perth. He was called Duke of Perth's brother at that time and place, this winter. I saw him among the rebels. He commanded the Irish Brigade. I saw him march with them from Stirling to Perth; drums beating sometimes. I did not know him before I saw him at Perth. I am not 16 years old; I was 15 the hindmost day of last February.

ROBERT MERCER, ALIAS NAIRN OF ALDIE.

JOHN HICKSON.—Robert Mercer of Aldie: I saw him often at my house in September last with the Pretender's son at dinner and supper. He and they all called him "Royal Highness." He was in highland clothes. I never saw him in arms; I believe they all had cockades, but I don't remember particular persons. I have known him before.

JOHN VERE.—Robert Mercer, *alias* Nairn: I saw him first at Chongeton, or Congleton, the 4th Dec last. They called him Major Nairn, and he was understood to be Lord Nairn's brother. I saw him in arms marching with the rebels.

CAPTAIN READ.—His name is Nairn. I have known him for the same time. I saw him in arms at Perth in October with a white cockade and a broadsword. I have dined with him at the table of the Duke of Athole. His party are deemed rebels. I did not see him march out; the party marched about the middle of October.

SIR WILLIAM CORDON OF PARK.

JOHN VERE.—Sir William Gordon of Park: I knew him first at Manchester; he was called by that name. He was generally

understood to be that person. I saw him in arms, at Manchester, at the head of his regiment in the rebel army. He is Lieut-Col. to a regiment.

WM. HASTIE.—Sir W. Gordon of Park: I did not know him before the rebellion. I saw him first in England in Dec last, among the rebels, at the head of a body of men. He was generally called Sir Wm. Gordon of Park.

JOHN GRAY.—Sir Wm. Gordon of Park: I saw a person so called in January last. I did not see him do any act of hostility. I saw him go to the prisoners. He had a sort of highland clothes.

JAMES BARCLAY.—Sir Wm. Gordon of Park: I know him, but not before the rebellion. I saw him at Glasgow and at Stirling in January last. He was generally understood to be Sir William Gordon of Park. He acted as Lieut.-Col. of Lord Ogilvie's Regiment, and I saw him march at the head of his men. I saw him another time on the march of the rebels, between October and January. That regiment was in the Pretender's service.

Q.—Did not you see these persons in some action?

Ans.—No, I was at Carlisle when it was besieged. I was with one John Roy Stewart. I never saw him in any battle.

JOHN MURRAY OF BROUGHTON.

CHAS. CAMPBELL.—John Murray of Broughton was frequently seen about Holyrood House. I saw him with a sword and a white cockade. He is commonly reputed to be the Pretender's son's secretary. I frequently saw him in the month of October. The last time I saw him he was in a scarlet dress and a white cockade. He is a well-looking, little man, of a fair complexion. I heard people say he was the Pretender's son's secretary. I don't remember whether he had a highland dress or a broadsword.

JOHN HICKSON.—John Murray of Broughton: I never knew him till he came to my house. He acted as secretary to the young Pretender. I applied to him myself for passes, and obtained them signed by him. I never saw him in arms, but as a gentleman with a sword on. I never saw him dine or sup with the Pretender, but I saw him go in and out of the room where the Pretender's son was. Those passes were signed by Mr. Murray and not by the Pretender. He had the seal. The seal was affixed to every pass—it was the arms of Britain, the same as the King's arms.

JOHN VERE.—John Murray of Broughton: I saw him at Macclesfield. He was called Broughton. I saw him at the Council table; he acted as secretary to the young Pretender. He asked me

many questions. I saw him act as secretary in giving passports, and signing passports. I saw him write his name to a protection in the house where the Pretender's son was. He lay in the same house; he generally went in a chair, but with the rebel army. He acted as secretary at the Council Board.

WM. HASTIE.—John Murray of Broughton: I knew him before I saw him march from Scotland to England, and back again with the rebel army, from November to February. He went along with the Pretender, and marched with the rebel army.

JAMES BARCLAY.—John Murray of Broughton: I have seen him at Edinburgh before the present rebellion. I knew him by sight, though I am not acquainted with him. I saw him several times in arms. I never saw him do any act of office, but I saw him on the march with the rebels as a rebel. They went from Edinburgh in November, and returned to Glasgow in January.

JOHN GORDON, ELDER OF GLENBUCKET.

CHAS. CAMPBELL.—John Gordon: I saw him frequently at Edinburgh in October with the rebels in a highland dress and pistols. I saw him march in a hostile manner at their head. On November . 10th he commanded about 200 of Duke of Gordon's people at Redcliffe. None but rebels wear white cockades. He is an old man much crouched.

JOHN VERE.—John Gordon: He went by the name of Glenbucket, and answered to that name. He rode on a little gray highland beast. He marched with the rebel army between Manchester and Wigan in December last.

WM. HASTIE.—John Gordon: I saw a man generally so called in arms in England at the head of a body of men as part of the rebel army. I saw him at the time, from November to February. I knew him before the rebellion.

JOHN GRAY.—John Gordon: He was called General Gordon of Glenbucket. I had seen him before. He was commissioner of [] for the Pretender at the time of the battle of Falkirk in January last. I have known him 8 years before; he is a very old man.

JAMES BARCLAY.—John Gordon: I know him, but I never saw him before the rebellion. I saw him act as General, and he was called General Gordon. I saw him march with the rebels from Edinburgh into England, and back again to Glasgow, all the way. He is not very tall, but a very old man, and lies forward. He had a white cockade.

DONALD CAMERON, YOUNGER OF LOCHIEL.

CHAS. CAMPBELL.—I was some years personally acquainted with him before the rebellion. When I saw him at Edinburgh (which was in September or October) he marched oftener than once at the head of the Camerons in a highland dress, and I knew him immediately at first sight. He was very active in giving directions to the Camerons. I saw him march at the head of his regiment. He went with the Camerons (the rebels) at the blockade of the Castle. The Camerons were in arms for the Pretender, and wore white cockades.

JOHN HICKSON.—I know Cameron of Lochiel, but don't know whether he hath a father or not. He with Lord Nairn took possession of my house and the town of Perth in September. He is a middle-aged man. The Provost told me it was needless to guard the town, for they would burn it if there was opposition. They marched in and placed sentinels in all the posts.

JOHN VERE.—Donald Cameron of Lochiel: He was called by that name and answered to it. He was one of the Council who examined me 3rd Dec last. He was Major-General of the clans. I saw him then in arms at the head of the Camerons with the rebel army.

WM. HASTIE.—Donald Cameron of Lochiel: I did not know him before the rebellion. I saw him in it. He was generally called Col. Cameron the younger of Lochiel. He acted as an officer upon the rebel march into England and back again.

JAMES BARCLAY.—Donald Cameron of Lochiel: I knew him, but not before the rebellion. I have seen him several times since at Edinburgh, and on the march, between November and January. He was chief of his own clan, and in the march went always at their head, being always called Cameron of Lochiel.

DR. ARCHIBALD CAMERON, BROTHER OF DONALD CAMERON OF LOCHIEL.

JAMES BARCLAY.—Dr. Archibald Cameron: I saw one who was called Dr. Cameron of Lochiel. I did not know him before the rebellion, but I have seen him at Edinburgh in October, and in Glasgow in the beginning of January last. He appeared as one of the rebels, acted as A.D.C. to the Pretender, and marched with the rebels.

ANGUS MACKINNON.—Dr. Archibald Cameron: I knew him before the rebellion. He was A.D.C. to the young Pretender. I saw him act and march all the while with the rebels from October last. I

am not sure of his Christian name, but have heard him called Archibald.

LUDOVIC CAMERON, OF TORCASTLE.

CHAS. CAMPBELL.—Ludovic Cameron of Torcastle: I was acquainted with him at the same time. He is uncle of the younger Lochiel. I met him at Edinburgh before the battle of Prestonpans. He asked me to join him. “No,” said I, “it is not my time yet.” He pressed me again, and I refused. After the battle of Prestonpans he again asked me to join the Pretender’s son. I declined. He said he was going to look after some of his men who had deserted. I saw him with a broadsword and pistol and a white cockade.

JOHN VERE.—I knew an uncle of Lochiel the younger, but I don’t know his designation. I never heard him called by the name of Torcastle. He was Lieutenant-Col. of the Camerons.

ALEXANDER CAMERON OF DUNGALLON.

CHAS. CAMPBELL.—Alexander Cameron of Dungallon: I saw him march at the head of the rebel Camerons in arms for the Pretender’s son. None is called by the name of the seat, but the head of the family.

WM. HASTIE.—Alexander Cameron of Dungallon: I did not know him before. He was generally called Cameron of Dungallon. I saw him as an officer among the rebels, often marching with the rebel army into England and back again, between 1st November and February. I don’t know that his name is Alexander.

ANGUS MACKINNON.—Alexander Cameron of Dungallon: I knew Dungallon by that name only. He was called by that name. I saw him as one of the rebels upon their march all the time from Edinburgh into England and back again in the last winter.

DONALD MACDONALD OF CLANRONALD, YOUNGER
SON OF DONALD MACDONALD OF CLANRONALD.

JOHN HICKSON.—Donald MacDonald the younger of Clanronald: I never saw him till in Perth in September last walking the street. I understood he was come at the head of his men. It was the common report. I did not know him well enough to take much notice of him. I don’t remember that I saw him then with the Pretender’s son, nor did I see him afterwards.

JOHN VERE.—Donald MacDonald the younger of Clanronald: I saw a gentleman who was called Clanronald. He is a young man;

he had a brother there who was called Major MacDonald. I don't know of any other person called Clanronald. He is about 40 or 42. He was considered as the head of that clan. I saw him in arms at the head of his regiment upon the march 10th December last, and afterwards as a colonel. I saw him go off with the Pretender. He was deemed the chief of that family of Clanronald. I cannot say whether this person is the younger or the elder. He was called the captain of the clan.

WM. HASTIE.—Donald MacDonald the younger of Clanronald: There were two brothers of that name—one was always called Clanronald, and the other Mr. MacDonald. I saw them both then in arms. One of them called Clanronald came from Edinburgh into England; an officer in the rebel army as chief of the clan. Mr. MacDonald I saw first upon the return to Scotland. I don't know whether he was an officer; both of them marched with the rebel army. Clanronald commanded at the head of the clan. I call the commanding officer of the clan, when the chief is not there, commander of the clan.

Q.—How do you know he commanded as chief?

Ans.—As the people said. The Stewart Clan was not commanded by their chief, and that commanding officer was called colonel.

JAMES BARCLAY.—Donald MacDonald of Clanronald the younger: I saw him, but not before the rebellion. I saw him at Edinburgh, and he marched out of there with the rebel army in October last. I saw him between Carlisle and Penrith marching with the rebel army, commanding his own clan. He was generally understood to be MacDonald of Clanronald, but I don't know his Christian name, nor heard him called the younger. He was generally understood to be chief of the clan.

ANGUS MACKINNON.—Donald MacDonald of Clanronald the younger: I knew him before the rebellion. I saw him upon 13th October at Edinburgh, and I saw him upon the march of the rebel army as colonel of his own men. He was called younger Clanronald, son of old Clanronald, who did not come into the rebellion. Old Clanronald is called Ronald. I don't know the eldest son's christian name; the younger brother's name is Donald MacDonald. He was a major in the rebel army, and called the son of Clanronald. He is about 21. They sometimes, but very seldom, in my country call two brothers by the same christian name.

DONALD MACDONALD OF LOCHGARRIE.

JOHN HICKSON.—Donald MacDonald of Lochgarrie: I know

him, but not by that name. I know him by the name of Lochgarrie. I don't remember to have seen him in Perth. I saw him when the King's officers were brought prisoners into Edinburgh, in September last. He spoke to me. He walked the streets in his highland dress. He only asked me how I did.

Q.—Was Lochgarrie among those who brought in the King's officers?

Ans.—No.

WM. HASTIE.—Donald MacDonald of Lochgarrie: I did not know him before the rebellion. He was generally called MacDonald of Lochgarrie. He was at the head of the Clan of Glengarrie—not as their chief, but as their commander.

JOHN GRAY.—Donald MacDonald of Lochgarrie: I saw him at that time at Stirling. I knew him before. I saw him go into, and come out of Glenbucket's lodging. I don't know his christian name, but he was called MacDonald of Lochgarrie. He had a shoulder belt. He appeared to be an officer. I heard he was A.D.C. to the Pretender's son. I have heard he had been in Lord Loudoun's Regiment.

HUGH DOUGLAS.—Donald MacDonald of Lochgarrie: I have seen Lochgarrie (but not before the rebellion) among the rebels in England—not very often. He was generally called Lochgarrie. I believe he was head of a clan of Lochgarrie men. I have seen him march at the head of them, this last winter, at a great many places; at Carlisle, Penrith, and on the road marching, with the rebels. I never heard him called Donald MacDonald or MacDonald, but always Lochgarrie.

ANGUS MACKINNON.—Donald MacDonald of Lochgarrie: I did not know him before the rebellion, but I saw him in October last, among the rebels. From October last he was colonel of Glengarrie's men in Glengarrie's son's absence, and commanded the men after the battle of Prestonpans.

ARCHIBALD MACDONELL OF KEPPOCH.

CHAS. CAMPBELL.—Archibald MacDonell of Keppoch: I saw him frequently at Edinburgh, in September and October last, at the head of his regiment—rebels-in-arms for the Pretender's son. I saw him with a white cockade. I knew him personally before.

JOHN VERE.—Archibald MacDonell of Keppoch: I saw Keppoch in Edinburgh. He marched at the head of his clan. He was called Keppoch, answered to the name, and was generally understood to be Keppoch. I saw him in arms from Preston to

Lancaster with the rebels, in December last, as a colonel of his own people.

WM. HASTIE.—Archibald MacDonell of Keppoch: I did not know him before the rebellion. He was generally called MacDonell of Keppoch. He marched from Edinburgh with the rebel army into England and returned back; he only commanded the clan.

ANGUS MACKINNON.—Archibald MacDonell of Keppoch: I did not know him before. He was colonel of the regiment where I was. I saw him from October last with the rebels at the head of his men. He was called Keppoch. I have heard some people so call him. He was generally called Colonel MacDonell of Keppoch.

ARCHIBALD MACDONALD, SON OF COL.
MACDONALD OF BARRISDALE.

CHAS. CAMPBELL.—Archibald MacDonald, son of MacDonald of Barrisdale the younger: I saw him in October and September frequently at Edinburgh, on the part of the rebels. He marched at the head of a party of the MacDonalds with a carbine. He is 18 or 19 years of age. He had a highland dress and a white cockade. I never saw him with a sword drawn. I took him to be the commanding officer of his party.

ANGUS MACKINNON.—Archibald MacDonald, son of MacDonald of Barrisdale: I knew him before, and saw him from October last in the rebel army as a rebel. He is about 20, and was a lieutenant. His Christian name is Archibald.

ALEXANDER MACDONALD OF GLENCOE.

CHAS. CAMPBELL.—Alexander MacDonald of Glencoe: I saw him frequently in arms in Edinburgh in September and October. I saw him march at the head of his company of rebels.'

JOHN VERE.—Alexander MacDonald of Glencoe: He had a regiment. I did not know him before. He was called and answered to the name of Glencoe. I saw him in arms with the rebels between Kendal and []. He marched with his regiment the 18th December last with the Pretender.

EWAN MACPHERSON OF CLUNIE.

CHAS. CAMPBELL.—Ewan MacPherson of Clunie: I saw him at Edinburgh and Radcliffe with 200 MacPhersons, with a carbine, for the Pretender's son. I never saw him in any other than a highland dress. I was sent from Berwick to that County by Lord

Justice Clerk. I never knew him till I saw him at Edinburgh. I saw him several times there. The same person commonly known by that name.

JOHN VERE.—Ewan MacPherson of Clunie: I knew him because 5th December I was put under his charge. He was called Clunie MacPherson, and answered to that name. I saw him in arms upon the march with the rebels in December last.

WM. HASTIE.—Ewan MacPherson of Clunie: I saw him in the rebel army. I did not know him before I saw him at Dalkeith from 1st November to 1st February. He acted as an officer at the head of his clan. It was supposed to be his own clan. He marched into England with the rebel army. His clan was part of the rebel army. He was called MacPherson of Clunie. His christian name is Ewan.

ANGUS MACKINNON.—Ewan MacPherson of Clunie: I saw his men in the rebellion, and I saw a person called Clunie MacPherson at their head. He came along with the rebel army into England. I saw him in October last.

LAUHLAN MACLAUHLAN OF CASTLE LAUHLAN.

CHAS. CAMPBELL.—Lauchlan MacLauchlan of Castle Lauchlan: I saw him in September or October with a white cockade go within the courtyard of Holyrood House. I saw him in company with Lord George Murray and Lord Elcho. I don't know that he had the highland dress.

JOHN VERE.—Lauchlan MacLauchlan of Castle Lauchlan: I knew one Colonel MacLauchlan, but not by the name of Castle Lauchlan. He was called so by several persons in my hearing, and he answered to the name. The 3rd December he waited upon the Pretender. I saw him at Macclesfield. He acted as Colonel to the MacLauchlans in the rebel army. I don't know his Christian name; he was reputed head of the MacLauchlans.

WM. HASTIE.—Lauchlan MacLauchlan of Castle Lauchlan: I saw a person whom I did not know before, who was generally called MacLauchlan. I saw him first in England at Carlisle. He was sent from Carlisle into Scotland. He acted as an officer with the rebels. I saw him in Scotland in January, upon the march, as they came back into Scotland. I never heard him called MacLauchlan of Castle Lauchlan, nor by his Christian name. I saw him first at Carlisle in November. He went from Carlisle in November. At the latter end of January I saw him in the rebel army, and he was after that in their marches acting as an officer.

JOHN MACKINNON OF MACKINNON.

JOHN VERE.—John Mackinnon of Mackinnon: I saw a gentleman called Colonel Mackinnon, chief of the Mackinnons. He was called in my hearing Colonel Mackinnon, and answered to the name. I saw him several times in arms in the rebel army in December last. He commanded the Mackinnons. He acted as colonel of that regiment.

ANGUS MACKINNON.—John Mackinnon of Mackinnon: I saw him in the rebellion, with his men, march in the rebel army, and commanded them. Thirty of his men deserted because they were sensible they were in a wrong cause.

CHARLES STEWART OF ARDSHIEL.

CHAS. CAMPBELL.—Charles Stewart of Ardshiel: In September or October I saw him in Edinburgh. He was reputed to be a colonel. I saw him one day at the head of his regiment—the rebel Stewarts of Appin—with a carbine.

JOHN HICKSON.—Charles Stewart of Ardshiel: I saw him at Perth march at the head of his men when the young Pretender was there in September. He had a highland dress, and arms, and was the commander of those men, who came to join the young Pretender's forces. I did not know him before I saw him at Perth. I saw him often there. He commonly passed by that name (Ardshiel).

JOHN VERE.—Charles Stewart of Ardshiel: I saw a gentleman—a big fat man, troubled with a lethargy. I was told he was Stewart of Ardshiel, and he answered to that name. I saw him march at the head of his regiment in December last.

WM. HASTIE.—Charles Stewart of Ardshiel: I did not know him before I saw him in arms (as one of the rebels) several times upon their march into England and back again. He commanded Stewart of Appin's clan. He was called Stewart of Ardshiel.

ANGUS MACKINNON.—Charles Stewart of Ardshiel: He marched with the rebel army all the time from October.

Q.—If a man deserts his chief, what is the consequence?

Ans.—They run a risk.

GEORGE LOCKHART, ELDEST SON AND HEIR-APPARENT OF GEORGE LOCKHART OF CARNWARTH.

CHAS. CAMPBELL.—George Lockhart: When the rebels were at Edinburgh I saw him several times there. I know no more.

JOHN VERE.—George Lockhart: I have known him at Oxford. I

saw him at Congleton in arms in the rebellion with a broadsword. He was A.D.C. to the young Pretender; I saw him act as such, and he marched with the rebel army.

WM. HASTIE.—George Lockhart: I did not know him before the rebellion. He was called George Lockhart the younger of Carnwarth. He went along with the rebels from Edinburgh. He was in arms. He was A.D.C. (generally called so) to the young Pretender between 1st November and February.

JAMES BARCLAY.—George Lockhart: I know him, but not before the rebellion. In October last I saw him at Edinburgh acting as A.D.C. to the Pretender, and he was with us upon the whole march among the rebels. I never saw him give any orders.

LAWRENCE OLIPHANT THE ELDER OF GASK.

JOHN HICKSON.—Lawrence Oliphant of Gask: I have known him twenty years. I saw him in Perth with the young Pretender. I looked upon him as an officer. I saw him among the men when they were drawn up. He was one among the rebels in the young Pretender's service.

JOHN VERE.—Lawrence Oliphant of Gask: In December I saw a gentleman then called Laird of Gask, who answered to the name. I saw him in arms upon the march of the rebel army. He was called Colonel Oliphant of Gask. I don't know his christian name. He is 50 or thereupon. The eldest son in Scotland is usually called the young laird.

[NOTE.—*I am afraid Mr. Vere as to this gentleman is mistaken, for I am informed he was not in England, and the other witnesses seem fully sufficient as to this gentleman without relying upon Mr. Vere.*]

JOHN GRAY.—Lawrence Oliphant: I saw him at Perth when I was prisoner about Christmas. He signed a warrant against me, as Dep^t. Governor in the Pretender's service, as I understood, to commit me to prison. The name was Oliphant. I don't know his Christian name. I don't know of what place he was designed. I don't know that he signed the warrant, but they told me it was Oliphant of Gask who signed it; the officers showed me the warrant. Oliphant of Gask was reputed to have some command at Perth. I was committed at Perth as a friend to the King.

JAMES BARCLAY.—Lawrence Oliphant: I did not know him before the rebellion, but in February I saw him in Perth. He was Depute-Governor of Perth to Lord Strathallan, under the Pretender. He was so called and reputed. I saw him going to Hickson's when Lord Strathallan was to keep their council there, as was understood. The Aberdeen battalion of about 200 men was then

there. I saw him among those who seemed to belong to the Pretender. I never saw him do any acts, but they called him Depute-Gov^r. He was giving the gunners, who belong to the French, some orders to steer their guns. I don't know him by name as Lawrence, but he was called and understood to be Oliphant the elder of Gask. I never heard him called by the name of Lawrence. I don't know the xtian names of any whom I have spoken of.

JAMES LOGIE.—Lawrence Oliphant: I have seen a gentleman at Aberdeen whom the rebels call Oliphant the elder of Gask. I saw him in February come on horseback into Aberdeen at the head of a troop of horse, I believe in the Pretender's service, with one drum and a standard in the evening 3, 4, or 5 o'clock. It was light enough to distinguish one man from another. I should not know him again if I should see him. The rebels said it was Oliphant the elder of Gask. I know him no otherwise, and I heard of him afterwards as being at Aberdeen, but I don't know. The last party of horse came in at 5, near 6; I cannot be positive. The first came in a little after 4 o'clock; the whole came in between five and six.

Q.—Were any of the King's forces then in Aberdeen?

Ans.—No.

[We can read (it is a common saying) a letter in Aberdeen at 6 in the evening in February.]

Captain JOHN READ.—I am in His Majesty's service. I know the elder of Gask, but not his Christian name, and by the name of Oliphant the elder of Gask. I knew him a year before the rebellion. I have seen him since to the best of my knowledge in Edinburgh, after the battle of Prestonpans in September, or at the battle. I have a paper which I saw him sign (the paper produced). Lord Strathallan delivered me the paper. Oliphant wrote it in my presence. I cannot say whether I took it out of the hand of Oliphant or Lord Strathallan; the paper was brought up and read, signed "Strathallan." This paper was a pass, and was written in Perth.

Q.—Who was meant by the Prince of Wales?

Ans.—The young Pretender. I know Oliphant the younger of Gask, his son, for I saw him. He appeared after the battle of Prestonpans in September last. I saw him after the action. Old Oliphant was dressed in his common clothes, but among the rebels. The son was in a highland dress. I saw both father and son among the rebels as part of the rebels at Perth and Edinburgh. The younger made offers to me to enter into that service.

LAWRENCE OLIPHANT THE YOUNGER OF GASK.

CHAS. CAMPBELL.—Lawrence Oliphant the younger of Gask: In September or October last I saw him at Edinburgh with a white cockade, broadsword, and in a highland dress. He was reputed A.D.C. to the Pretender's son, and I saw him go before him on horseback toward the camp at Duddingston, where the Pretender's son's army was. I did not know him before; he was generally called by that name.

JOHN HLCKSON.—Lawrence Oliphant of Gask: There was a young gentleman there called Lawrence Oliphant, son of Gask; but whether he be elder or younger son I don't know. He answered to the name of Oliphant. He was generally understood to be Gask's son. I saw him in arms. I have heard Oliphant the elder called Gask, but not the elder. I took him to be elder. I took these Oliphants to be father and son because of their ages.

Q.—Was Gask understood to be father of young Oliphant?

Ans.—It was so understood by the rebels. I never heard him called the young laird. I saw him march along as one of the rebels, between Preston and Lancaster, in December last.

Q.—If he had been the young laird, would he not have been so called?

Ans.—I don't know, but he might; I heard him called young Gask.

Q.—Would the grandson be called young laird?

Ans.—If he had been the eldest son, I don't know whether or no he would be called the young laird. I don't know his Christian name. He was understood, and was called Gask's son; some told me he was Gask's son.

WM. HASTIE.—Lawrence Oliphant the younger of Gask: I did not know him before. He came and went back with the rebel army in arms. He was called Oliphant the younger of Gask.

JAMES BARCLAY.—Lawrence Oliphant the younger of Gask: I know a person who was called son of Oliphant the elder of Gask. He marched and continued with the rebel army, from October to January, as a rebel. He was in arms, and A.D.C. to the Pretender. But I never saw him give orders. I don't know his age; I think he is about 20.

HUGH DOUGLAS.—Lawrence Oliphant the younger of Gask: I did not know him before the rebellion. I never saw him but at Perth this last winter. He was called the young laird of Gask. I never heard him called Oliphant. I saw him walking in the streets in highland clothes in company with the rebels. He is, I think, about 26. I never saw him march. I never saw him but once, and then

walking with the rebels after the return from England.

PETER GOLDIE.—Lawrence Oliphant the younger of Gask: I saw him at Ashburn riding single in the rebel army. He went as the others did. He had a white cockade. I don't remember he had a sword. I saw him also at Carlisle with the rebel army. He was called Mr. Oliphant. I have heard some speak of him by the name of Gask. I have seen several in the rebel army without a sword. I saw him at Ashburn in October, and at Carlisle in the same month. At Carlisle I saw him in the streets. He rode with the rebel army to Carlisle. I never saw him ride near the Pretender's son. I never heard him called the younger. He is upwards of 20.

JAMES GRAHAM THE YOUNGER OF AIRTH.

CHAS. CAMPBELL.—James Graham the younger of Airth: In September or October I saw him in a highland dress, a broadsword and pistols. I never saw him march, but I have seen him in company more than once with Duke of Perth and Lord George Murray.

JOHN VERE.—James Graham, younger of Airth: I saw a young gentleman Kilmarnock told me was Mr. Graham, son of Mr. James Graham of Airth. I heard Kilmarnock call him so. I heard him called in his own presence Mr. Graham. I saw him in arms on the march as one of the rebels. I don't know his Christian name.

Q.—Has Mr. Graham of Airth more sons than one?

Ans.—I don't know. The father is laird of Airth; the son is not called laird of Airth. Kilmarnock called him, in the hearing of the young man, son of James Graham of Airth, and he did not deny it .

Q.—Has "Master" a different signification from "Mr.?"

Ans.—The eldest sons of Barons are called "Master," other gentlemen "Mr." Lord Kilmarnock at Leek said to me, "This is the son of Mr. James Graham of Airth, whom you and I met at Falkirk on 14th September." Mr. Graham was there with a lady, whom I took for his wife.

JAMES BARCLAY.—James Graham, younger of Airth: I saw him march out of Edinburgh with the rebels. I did not know him before the rebellion. He wore a sword. I frequently saw him with the rebel army upon the march. He was generally called James Graham the younger of Airth, He appeared to be between 20 and 30—above 20—a pretty tall man, neither thin nor fat. I don't know what command he had. He always rode where the young Pretender was.

JOHN ROY STEWART.

CHAS. CAMPBELL.—John Roy Stewart: In October and November I saw him at the head of his regiment in arms for the Pretender's son, and I have seen him with Lord George Murray in the highland dress. I have seen him in the Pretender's tent. I did not know him before. He commonly went by that name. I was hardly a day without seeing him.

JOHN HICKSON.—John Roy Stewart: I have known him twenty years. I saw him travelling as a private gentleman after the rebels had left Perth on his way to Edinburgh.

Q.—Did you see him with the rebels?

Ans.—I don't remember. He has been in France many years.

Q.—Did he enquire after the Pretender's son.

Ans.—He asked where the Pretender's army (called by him as I suppose, but can't be positive, "the Prince's army") was gone.

JOHN VERE.—John Roy Stewart: I knew him before the rebellion. He was a quartermaster in the King's service. He was colonel of a regiment of 6 companies, as he told me himself. He acted as such. I saw him on the march with the rebels from 3rd December to the 20th.

WM. HASTIE.—John Roy Stewart: I did not know him before. I saw him in arms upon the march of the rebels into England and back again.

JOHN GRAY.—John Roy Stewart: I saw him at Stirling. I knew him before. He was one day in highland clothes, and the other in other clothes. He was understood to be an officer with the rebels. He was formerly a quartermaster in the Scotch Greys or Gardiner's Dragoons, as I have heard. I did not see him do any act of hostility.

Q.—Who were in possession of Stirling then?

Ans.—The town was in the Pretender's possession and the castle in the King's. The Highlanders in the town were supposed to be in the Pretender's service attacking the castle.

JAMES BARCLAY.—John Roy Stewart: I know him. I did not know him before the rebellion. I saw him everywhere after the rebels— marched from Edinburgh to Derby and back to Glasgow with them. He was colonel of a regiment in the young Pretender's service. He was generally reputed to have been quartermaster in the Scots Greys, and generally called Colonel John Roy Stewart in the Pretender's army.

FRANCIS FARQUHARSON OF MONALTRIE.

JOHN VERE.—Francis Farquharson of Monaltrie: I saw a

gentleman called Colonel Farquharson who commanded the Farquharsons. I knew him not before, neither his Christian name, nor the addition of Monaltrie. I saw him in arms upon the march of the rebel army.

Q.—Are there not many Farquharsons in Scotland?

Ans.—I am not of that part of the country. He commanded the Farquharsons as was generally understood in the rebel army in December last. He acted as other rebel colonels did.

JAMES LOGIE.—Francis Farquharson of Monaltrie: I knew him before the rebellion. I saw him at Aberdeen with a white cockade and a broadsword—not in the highland dress. He came in at the head of a body of foot, about 3 o'clock in the afternoon, in December last. I saw him. The body of men were dressed in highland clothes mostly, and were deemed rebels. He stayed several days with them. In Aberdeen they dress as I do; a Lowland town. I say this of my own knowledge. The body of men came into Aberdeen with bagpipes playing, swords drawn, colours flying, and he had his sword drawn.

ALEXANDER MACGILLIVRAY OF DUNMAGLAS.

JOHN GRAY.—Alexander MacGillivray of Dunmaglas: I saw a person called MacGillivray among the Mackintoshes, as was understood. I saw him among those highland men, and they were deemed rebels. I saw men about him in arms at Perth at Christmas last. I never saw him but once. I heard him called to, but not in his hearing. I cannot declare positively that he was in arms, but I thought so. I am not sure he is the person, and I could not know him again.

Q.—Don't the Sutherland people wear highland dress?

Ans.—Yes, and yet are all loyal to a man, as far as I know.

JAMES LOGIE.—Alexander MacGillivray of Dunmaglas: I know him by sight, and knew him very well before the rebellion. I have seen him in the highland habit at Stonehive and Aberdeen. He was in the rebel army, and marched at the head of his men in arms for the Pretender, as I understood. I saw him in arms, and march in the months of December and February.

LAUHLAN MACKINTOSH, MERCHANT, INVERNESS.

JOHN GRAY.—Lauchlan Mackintosh: I knew him and saw him at Perth. He had the highland dress, but I did not see him do any act of hostility. He was in company of persons supposed to be rebels.

Q.—Did any person wear swords but rebels?

Ans.—I cannot say.

JAMES LOGIE.—Lauchlan Mackintosh: I have seen him before the rebellion. I have seen him at Stonehive, Aberdeen, and Dundee in December and February last. He was in the highland habit, broadsword, and white cockade. I saw him with Dunmaglas's men. He was said to be lieut.-colonel to that regiment. I saw him march with them as part of the rebel army in arms.

MALCOLM ROSS, SON OF ALEXANDER ROSS OF
PITCALNIE.

JOHN GRAY.—Malcolm Ross of Pitcalnie: I saw him at Perth, and not in highland clothes. I did not see him act at all, in arms or on march. He was in the town when the rebels were there. He asked me how I came there, but he did not propose to engage me in the Pretender's service.

JAMES LOGIE.—Malcolm Ross of Pitcalnie: I knew him well. I saw him in Aberdeen in February in a highland habit, broadsword, and white cockade. I saw him come into the town with a body of men who were deemed rebels in a warlike manner, and stayed with them there.

ALEXANDER MACLEOD, SON OF JOHN MACLEOD,
ADVOCATE.

WM. HASTIE.—Alexander Macleod, son of John Macleod: I did not know him. I saw him first at Brampton with the rebels in November. He was in arms. I saw him all the way. He was called Mr. Macleod. I heard him called Alexander and son of John Macleod. He was A.D.C. to the young Pretender, as I heard him called. He was generally called A.D.C. to the young Pretender.

ANGUS MACKINNON.—Alexander Macleod, son of John Macleod, advocate: I heard he was among the rebels. I saw him in the rebel army at Kendal. He was A.D.C. to the Pretender's son, and acted as such that day he was at Carlisle. I saw him in arms with the rebels since October last.

JOHN HAY, PORTIONER, OF RESTALRIG, W.S.

CHAS. CAMPBELL.—John Hay, portioner, of Restalrig: In October he put on a white cockade after he returned from Glasgow. He was said to be sent to Glasgow to uplift the taxes. I saw him frequently with a small sword and white cockade, in company with

Duke of Perth, Lord George Murray, and Murray of Broughton. In November I saw him at Dalkeith with a broadsword and white cockade. I never saw him in any body of men. At Edinburgh scarce a day passed .that I did not see him.

JOHN VERE.—John Hay, portioner, of Restalrig, W.S.: I knew him in Edinburgh, and saw him in arms 3rd December last at Sir Peter Davenport's house, and upon the march with the rebel army in arms in December last. Me acted as Deputy Secretary.

ANDREW LUMSDALE, SON OF WILLIAM LUMSDALE,
WRITER IN EDINBURGH.

JOHN VERE.—Andrew Lumsdale, son of William Lumsdale, writer in Edinburgh: I saw a gentleman called Mr. Lumsdale. I don't know his Christian name. I don't know him to be son of Lumsdale, writer in Edinburgh. He acted as one of the Under Secretaries to Mr. Murray. I saw him give receipts for the young Pretender. He was in the rebel army as a rebel in arms. I did not know this man, nor the last, before I saw them in the rebellion.

WM. HASTIE.—Andrew Lumsdale, son of William Lumsdale, writer, Edinburgh: I knew him before. He is reputed Mr. Lumsdale's son. He went with and continued in the rebel army. He was clerk to the Secretary, Murray.

Q.— Could you among 100 people distinguish all those you have named?

Ans.—Yes, I believe I can.

JAMES BARCLAY.—Andrew Lumsdale, son of William Lumsdale: I have seen him. I did not know him before. He went by the name of Lumsdale. He acted as Deputy Secretary to the Pretender's son. I have seen him levy the excise at Glasgow for the Pretender in January. The Pretender was then at Glasgow. I saw him in the army with the rebels upon their march. His name is Lumsdale. I never saw his name written. He was called Lumsdale.

Q.—What business did you follow before the rebellion?

Ans.—I was two years at sea.

PAT. GOLDIE.—Andrew Lumsdale, son of William Lumsdale: I knew him, but not before the rebellion. I saw him in the Secretary's office of Murray, Secretary to the Pretender, in Holyrood House. I saw him several times in the army among the rebels, and several times in October and November. He went by the name of Andrew Lumsdale.

[THE KING AGAINST THE SEVERAL REBEL OFFICERS WHO WERE TAKEN PRISONERS AT CARLISLE AND BROUGHT TO LONDON.]

In June, 1745, the eldest son of the Pretender landed in the West Highlands of Scotland, and soon afterwards MacDonald of Clanronald, Cameron of Lochiel, MacDonell of Keppoch, and other Highland chiefs rose in open rebellion and joined the Pretender's son, and were soon afterwards joined by the Marquis of Tullibardine and his brother, Lord George Murray, Lord Elcho, the person called Duke of Perth, and a great number of Scots, and then marched towards Perth, and from thence towards Edinburgh, by which time they had increased to about 5000 men, and then marched into and took possession of Edinburgh, and there proclaimed the Pretender, and from thence marched to a village called Prestonpans, near Edinburgh, and there on the 21st of September last attacked the King's forces under the command of General Cope, killed a great many of them, defeated them, and took a great many prisoners and sent them into several prisons in the Highlands, and also took the King's horse, cannon, arms, and colours, and in October last the rebels being increased by the junction of other rebels under the command of Lord Kilmarnock, Lord Pitsligo, the person called Lord Nairn, Lord Ogilvie, Gordon of Glenbucket, making together about 5000 men, marched towards England, one part of them by the way of Peebles and Moffat, and the other part by Jedburgh and Kelso, and joined again at Brampton in Cumberland, about 8 miles from Carlisle, whence they marched and laid siege to Carlisle, and opened trenches before and took it on or before 16th November, and there proclaimed the Pretender again, and after staying there five or six days they all marched to Penrith in Cumberland, leaving a garrison in the castle and city of Carlisle, under the command of John Hamilton, who was made by the Pretender's son governor of the castle, and thence proceeded to Kendall, and from thence to Lancaster, and from thence to Preston, and from thence to Wigan and to Manchester, where they halted a day or two, and thence proceeded to Macclesfield in Cheshire, and thence to Leek in Staffordshire, and thence to Ashburn in Derbyshire, and thence to Derby, where they halted, and in all this march they collected the land tax, excise and post revenues, under pain of military execution; issued warrants in the name of the Pretender's son to seize arms and horses, which they seized wherever they found, and took away with them; and proclaimed the Pretender King in all the great towns upon the said march. His Majesty's forces being collected together in Staffordshire under the command of his Royal Highness the Duke, who immediately marched part of his forces towards the rebels, and made preparations to attack them, and stopped their further progress in this kingdom, whereupon the

rebels, after halting two nights and one day at Derby, marched back again to Carlisle the same road they came, and the Duke, with a detachment of his Majesty's forces, pursued them to Clifton, near Penrith, in Cumberland, where a party of the rebels drew up behind hedges and walls to oppose the King's forces till the rebels had got their artillery up, and fired upon and killed several of the King's soldiers with small arms, and then it being dark the rebels marched in the night through Penrith to Carlisle, and from thence to Scotland, leaving a garrison of about four or five hundred men under the command of John Hamilton, who was governor of the castle, and Francis Townley, who was the commandant of the city, in order to defend the same against the King's forces, and thereby retard the march of the King's forces and assist the rebel army in making their escape into Scotland. On the 20th of December last the King's forces under his Royal Highness invested the town and castle of Carlisle, and in about six or seven days, having got some battering cannon, he attacked the city and castle, which was defended by the rebel garrison with cannon and small arms till Monday the thirtieth December last, when the rebels surrendered the town and castle at discretion, and in which defence the several defendants after named acted as officers and did duty as such in mounting guard, and otherwise in defending the town against the King's forces.

FRANCIS TOWNLEY.

[Sir John Strange's opening speech at the trial of Francis Townley.]

May it please your Lordship, and you, Gentlemen of the Jury. I am likewise of counsel on the side of the prosecution against the prisoner at the bar, who stands indicted for levying of war against the King, in his realm, which is declared to be high treason by the express words of the Statute of the *25th of Edwd. 3d.*

And on this occasion the matter to be submitted to the consideration of you, Gentlemen of the Jury, will be plain and easy; for you will not be involved in the difficulties that attend the unravelling of dark and intricate plots, carried on by fictitious names, cant words and cyphers, the result of private and midnight transactions, nor in attending to what the law calls interpretative or constructive levyings of war, which may be matters of doubt and difficulty, but are only called upon to deliver a plain, simple question of fact, which is, whether the prisoner at the bar is one of those who joined in the late rebellion or not. It is with infinite gratitude and pleasure I call it the late rebellion, since I think that by the blessing of God, his Majestie's paternal care of his people,

and the prudent, cautious, and intrepid behaviour of his Royal Highness the Duke, we have all reasonable foundation to think this wicked rebellion is at an end.

In order to bring the prisoner at the bar to justice he is charged—(1) To have assembled with a great multitude of traitors and rebels, armed and arrayed in warlike and hostile manner, with colours displayed, drums beating, pipes playing; (2) To have actually armed, arrayed, and disposed himself in such manner; (3) To have prepared, ordered, waged and levied a publick and cruel war against the King in his realm; (4) To have entered, possessed, kept and defended the city and castle of Carlisle against the King, which facts, if proved, will beyond all dispute amount to high treason, and for this I may appeal to the Counsel for the prisoner.

My Lord Chief-Justice Hale, in his *1st Vol. of Hist. Pl. Cor. 150*, says “that levying of war is partly a question of fact. It must (says he) be such an assembly as carries with it *Specie Belli*, as if they ride or march *vexillis explicatis*, or if they be formed into companies or furnished with military officers, or if they are armed with military weapons, as swords, guns, pikes, &c, and are so circumstanced that it may be reasonably concluded they are in a posture of war, and the reason (says he) is because when they thus arm themselves it is a plain evidence they mean to defend themselves, and make good their attempts by a military force, and to resist and subdue all power that shall be used to suppress them.”

And Lord Coke makes the holding of a fort or castle against the King to be an actual levying of war against him. As this is most indisputably law, it remains only to state to your Lordship and the Jury by what evidence we propose to bring the prisoner at the bar within the guilt of the offence laid in the indictment, and I think I may venture to say that there is not a single circumstance in my Lord Hale’s description of levying war that will not be brought home to the gentleman at the bar.

The late rebellion, as everybody knows, broke out the last summer, and from small beginnings raged over the greatest part of Scotland, till the rebels had possessed themselves of the capital there. An unfortunate action at Prestonpans encouraged their march into England, the besieging and taking of Carlisle, and then advancing southward. The case of the prisoner at the bar takes its rise here; for upon their arrival at Manchester a regiment was there beat up for and formed, and the prisoner at the bar accepted the command of it as colonel of the Manchester Regiment. Then it was that he disposed himself for that service; he armed himself, as will appear, with a sword, a gun, a pair of pistols, and put on a plaid, sash, and a white cockade, the distinguishing marks of the rebel army. The colours that were carried in this regiment had a motto to

this purport. On the one side was inscribed "Liberty and Property," and on the other, as I am instructed, were the words "Church and Country," words (I will argue) of great significance if properly applied in the sense every true Englishman and Protestant understands. But as applied to us they signify the reverse. The word *Liberty* can mean nothing but *slavery*. The word *Property* imports *our being stripped of everything*. The word *Church* could be only meant for introducing the Popish religion and superstition; and the word *Country* (though they would affect to use it otherwise) must stand for an arbitrary Government in opposition to the mild and happy Government under which we live the blessings of a Protestant succession in his Majesty's Royal Family, and in the place of these, to the great dishonour of the nation, reducing these kingdoms to a province of France. With these views it was the rebels (amongst whom the prisoner was one) advanced to Derby, where their hearts failed them, for upon the face of the Duke's approach they retired back through many towns to the great sorrow and danger of his Majesty's loyal subjects, and arrived at Carlisle, then a garrison for the Pretender. Into this city the prisoner entered at the head of his regiment, and was made commandant of the city for the Pretender, and from then acted as such on all occasions.

When the Duke came before the town the prisoner defended it against the King's forces. He drew up his men, placed himself at their head, mounted guard in his turn, made a sally and gave orders for burning a place from whence some of his Majesty's loyal subjects had fired upon the rebels.

When the city was taken he was made prisoner, to be disposed of at his Majesty's pleasure, and upon that occasion acknowledged himself to have been colonel of the Manchester Regiment, and delivered up his commission from the Pretender for that command. And I cannot in justice (to the right reposed in me) conceal that upon the surrender of the place the prisoner at the bar was greatly exasperated, and declared his resolution to have held it out to the last, expressions which you, gentlemen, will hear from the witnesses.

This, gentlemen, is the light in which (if I am rightly instructed) the prisoner will appear; and this is the share he has had in this rebellion. It must be owned our all has been at stake—a great deliverance we have had—and I wish the sense of so great blessings may make us better men for the future. The cause of our religion, our King, and our country require our taking all proper methods of preventing the like confusions, and I must submit it to you whether one of the necessary means for that purpose is not the bringing those to justice who have thus armed themselves to our

destruction. And if we prove this prisoner at the bar to have joined in this treason in the manner that has been opened, though your good nature may incline *you to pity him*, yet I apprehend your justice must condemn him.

SAM. MADDOCK.—I was prevailed upon to join the rebels at Manchester, and after two or three days I repented of what I had done; but in order to make me easy the defendant assured me I should be surgeon and apothecary to the Manchester Regiment. The defendant came with the rebels to Manchester, and was there reputed to be colonel of the Manchester Regiment, and had a servant in livery attending him. They had each a brace of pistols and a sword, and the defendant appeared as colonel all the march to Carlisle. At Carlisle the defendant declared he was £80 out of pocket in paying the men and otherwise on account of the regiment. The defendant was appointed Governor of Carlisle, and acted as such; gave all the orders in Carlisle, made a sally at the English port, and ordered iron works to be made to prevent the Duke's horse approaching the gate, and expressed himself as much exasperated at the Governor of Carlisle's surrendering—saying, "It was better to die by the sword than to fall into the hands of those damned Hanoverians." The defendant and some other rebels between Ashburn and Derby brought from a gentleman's house a sackful of arms.

ROGER MACDONALD.—I saw the defendant often upon the march with the rebel army between Derby and Carlisle at the head of the Manchester Regiment, particularly between Preston and Lancaster, on horseback, armed with a sword and pistols before him, with his colours flying, the motto of which was on one side "Liberty and Property," and on the other "Church and Country." I saw the defendant afterwards among the rebels in Carlisle.

AUSTIN COLEMAN, No. 34.—I was one of the pioneers to the rebel army, and marched with them from Manchester to Derby and back to Carlisle. Saw defendant in the rebel army, first at Macclesfield and afterwards upon the march every day till Carlisle surrendered to the Duke. On the march he was armed with sword and pistols, a plaid, sash, and cockade. Saw him at the head of the Manchester Regiment, of which he was colonel, in the castle of Carlisle when the rebel army marched from thence to Scotland, and he then had a sword, plaid, sash, and cockade.

ORMESBY MACCORMACK, No. 86.—I was drawn up in the Manchester Regiment in the castle of Carlisle before the defendant as their colonel, when a great quantity of arms were given among them, and he had then his plaid, sash, and cockade. Saw him at the guardroom in Carlisle when it was besieged by the Duke, and he was reputed to have, and witness believes he had, the command of

the town of Carlisle.

JAMES WARREN, No. 36; THOS. JAY, No. 58; HUGH MACDUGALL, No. 60.—These all testify as to his presence with the rebels on the march and at Carlisle.

THOS. CRAGG, No. 88.—The defendant marched at the head of a party of men armed with guns to the Town Hall, in Carlisle, which was the guard-room when the King's army besieged it. Prisoner was along with the rebels at Preston in their retreat with a white cockade in his hat. I saw him march out of Preston at the head of the Manchester Regiment on horseback, with pistols before him. Saw him at head of said regiment drawn up on Penrith Moor on foot, with a sword by his side and a gun in his hand. Saw him afterwards upon guard in the town of Carlisle, of which the English had the guard when it was besieged by the Duke of Cumberland.

JOHN DAVISON.—I saw the defendant amongst the rebels in Carlisle with a sword by his side. A carrier's house in Carlisle was burnt, which was said to be done by defendant's orders. Witness complained of it to him, and defendant answered that some people had been firing from thence upon the citadel, which witness looked upon as defendant's reason for having ordered said house to be burnt.

JOHN VERE.—I was taken prisoner by the rebels and carried with them to Carlisle, and was kept confined in the guard-room in the castle during the time it was besieged by the Duke. Several times I saw the defendant come into the guard-room with a sword by his side and a white cockade in his hat, he being commandant of the city of Carlisle. After the town surrendered witness saw the defendant deliver up his commission to Captain Desbrosses, which witness read at that time, and it being shown to him now is sure it is the same.

NOTE.— *This commission was not marked by the witness so as to know his own hand again. The commission appoints defendant to be colonel of his Majesty's forces as there called, and commandant of the town of Carlisle. Is dated 19th December, 1745, signed at top "Charles P.R." and at bottom "C.P.R." and sealed.*

Capt. KNEVIT; Capt. CRAIG.—Upon the surrender of the town of Carlisle these gentlemen and others were ordered by his Royal Highness to view and mark the rebel officers who defended the town, and were there taken so as to know them again, which they did, and knows the prisoner to be one of them: there being no promise of pardon on the surrender.

[Found guilty, and executed 30th July, 1746.]

GEORGE FLETCHER.

SAM. MADDOCK.—When the rebel army came to Manchester the defendant enlisted into the Pretender's service, and was made a captain in the Manchester Regiment. Have heard and believes the defendant gave G150 for his commission, and marched with the rebels to Derby and back to Carlisle on horseback. He acted as a captain in the said regiment on the march; was armed with a brace of pistols and a small sword; wore a laced hat and white cockade, a plaid, laced waistcoat, and his servant in livery carried his gun. At Macclesfield the defendant pulled out a large quantity of gold, and told the witness that so long as that lasted he should never want. During the siege of Carlisle by the Duke the defendant acted there as a captain and paid his company, and frequently mounted guard in the Town Hall, armed as aforesaid.

THOS. BRADBURY.—The defendant was called and reputed to be a captain in the Manchester Regiment in the rebel army, and I saw him along with one of the rebel sergeants and drummers, who were beating up for volunteers in Manchester for the Pretender; and immediately after the sergeant said the words, "God bless the King"—James or Prince Charles I cannot now remember which—the defendant, with the other rebels present, pulled off his hat and huzza'd. There were 1000 people, and but 20 shouted "God save King James."

THOS. CRAGG; ORMESBY MACCORMACK; AUSTIN COLEMAN.—Testify as to the defendant's being with the Manchester Regiment to Derby and Carlisle, having on a plaid, sash, and cockade.

JOSEPH SIKES.—Witness saw the defendant among the rebels at Derby, but knows not whether he had arms or a cockade.

BENJ. BOWKER.—The night the vanguard of the rebels came to Manchester I saw the defendant amongst them, and several other Manchester men in a room at the *Bull Head Inn* with a white cockade in his hat.

Capt. KNEVIT; Capt. CRAIG.—They were ordered by the Duke to view the officers who defended the town, and know defendant to be one of them.

FOR THE DEFENCE.

ANNE ACTON.—Knew him from birth—a boarder with his mother, and carried on the linen trade. Captain Robinson and seven men quartered there; the mother went away. On the return Captain Robinson swore he should go with them—tears in his eyes. One got him by the collar, and I never saw him after. The family loyal

subjects to King George, and Protestants. Took him by the collar going to and on return from Derby. He came alone to his house; when he came back he had boots on, and lay in a room by himself.

JOHN HEYWOOD.—Prisoner 25 years old; good character.

Chas. WERREL.—A warehouse-keeper in London; a fair dealer.

[Sir John Strange's reply on trial of George Fletcher.]

As they have done on the part of the prisoner, it comes to my turn to trouble your Lordship and the Jury with a few words by way of reply; and as a great many things have been thrown out which are not material to the question whether the prisoner has been guilty of high treason or not, I will take notice of them as I go along, in order to lay them out of the case. The point they set out with is, that the prisoner has material witnesses who, they say, he could not compel to appear upon the trial, and that he has not had time to bring up his witnesses. I am surprised there should be any complaint of this kind, for the prisoner had a long indulgence of time, upon his own application and affidavit, to bring his witnesses here, which application he did not renew; and as to saying he could not compel them to come here, he had a right by law by a process to oblige them to come. I don't find there is any proof that any have been served with process for that purpose, for if they had, surely no man would be so sparing of his labour, if he could save a man's life, as not to take a journey for that purpose. He must be tried upon the evidence that is laid before the Jury, and it is upon that evidence they must judge. Both the gentlemen who are counsel for the prisoner plume themselves very much upon what Mr. Attorney-General opened—that the prisoner offered a sum of money for the commission he had; but when the thing was but just mentioned, Mr. Attorney-General was so fair as to stop the witness, who only said he had heard it, and as the circumstance is not proved, you, gentlemen, must take no notice of it as part of the cause. They have said also that several of the witnesses on behalf of the Crown, though they are legal witnesses, are to be considered as witnesses concerned in the crime, and therefore are not to be considered as credible evidence. But for my part, I don't know why these witnesses ought not to meet with credit, for if accomplices are not allowed to be witnesses (and it is a common thing almost at every sessions at the Old Baily) there would be great difficulty in the convicting of any persons of these crimes. Indeed, if this depended solely upon the evidence of a single person who is an accomplice, it would have very little weight, but when it is confirmed by a great many witnesses you will give it its proper weight, and besides those witnesses, you have had a gentleman in the service of the King, who was sent by the Duke of Cumberland to take an account of the names and ranks of the

prisoners. He asked the prisoner his name, and he said his name was George Fletcher. He asked him in what capacity he was, and he said a captain. He went the next day by the Duke's command and called them all over again, and the prisoner at the bar answered to the same name he had given in the day before, and I do not find that his being forced was mentioned at that time. Now, as that objection with regard to accomplices is out of the case, what defence has the prisoner at the bar made? They say that he was always a good and loyal subject to his Majesty King George, and that he was forced into this rebellion, and that this force continued from the beginning to the end, and that he never had any liberty to withdraw himself from it, and if it is as they say, it is your duty to acquit him; and from the proof, or failure of proving these circumstances, you are to judge whether he has been guilty of high treason or not. As to his being forced into the rebellion, which has been made use of in his behalf, though it is a defence, yet in point of law it must be proved in the clearest manner in order to answer the open acts of treason that are proved upon him. In the case of those who supplied Sir John Oldcastle and his accomplices then in rebellion with victuals, they were acquitted because it was found to be done *pro timore mortis et quod recesserunt quam cito potuerunt*. So there must be in point of law a total disinclination to the cause, a laying hold of the first opportunity to desert it. And what proof is there of that in this case? They call a woman servant, who swears that he went into the rebellion by force, and mentions the circumstance of a rebel's taking hold of his collar and saying he should go with them upon the first march from Manchester to Derby, and again upon their return, and going from Manchester to Carlisle, and that he had tears in his eyes; but if you will consider some circumstance I will put you in mind of, it will greatly outweigh that or the other evidence. When the rebels came into Manchester they raised a regiment and got officers, and the prisoner's name was entered down as a captain, which promotion he accepted, and was reviewed as such by the Pretender's son. Do you find that he at any time after that declined this? No; he put on his military accoutrements, mounted guard, acted as an officer in the regiment, and the prisoner was so far from being backward in consenting to this, that when one of the rebel officers was beating up for volunteers, upon his saying "God bless King James" or "Prince Charles," the prisoner pulled off his hat and huzza'd. And although there were a thousand people within hearing, there were but twenty that joined with the prisoner in so doing. When Maddock, whose evidence they do not pretend to dispute now, told him he had a mind to leave them, he pulled out a handful of gold, and said while that lasted he should never want. If I do mistake, I beg to be set right. God forbid I should mention it if it is not

proved that he pulled out a handful of gold and said that as long as that lasted he should not want. If his being laid hold of by the collar (which the maid has fixed on as a circumstance attending both his sallies from Manchester) did amount to an original force, yet it is not to be understood as a force continuing upon him all the time. Had he no opportunity of getting away from them? Was he always surrounded? One time they marched a whole night, and he might have got away, but you find him in the rebel army at the close of the evening, and you find him there in the morning, and then you find him as a rebel officer. The woman tells you that when he came from Derby back to Manchester he came home alone, and lay in a room by himself. If he had had a dislike to the cause, would he not have done as his mother did—go away with her effects? But he would not. They say he has committed no acts of cruelty—that the regiment had marched before, and was not at the skirmish at Clifton, where there were a great many men lost. There were acts of high treason committed before that, and although he is not charged with any particular acts of cruelty, he was actually engaged in this rebellion, and all are principals.

My Lord, I will submit it to your Lordship whether this force, which is sworn to, of one man's taking him by the collar, can be considered as going into a rebellion *pro timore mortis*, for, if there had not been a good deal of inclination to this, he might have defended himself at first or have got from them. They were afterwards formed into companies, and then the prisoner chose his own men. There was no talk of force then, and I think they were hardly such bad politicians as to make a forced man an officer before they had tried him at all. 'Tis hardly to be supposed that they would have nominated such a man to the degree of a captain in the first instance. There is another thing they say, that the evidence against the prisoner is but weak evidence, and not so strong as in the case of Mr. Townley yesterday. But where is the difference? Is he not marching at the head of the Manchester Regiment in a hostile manner, wearing a sword, a plaid, sash, and a white cockade, and acting as an officer in that regiment, and defending Carlisle against the King's forces, which were the substantial circumstances in the case yesterday? Then, as to his dealings, they say he is a man of credit, and so he may be, and they pretend to prove that he is a loyal person to the Government, but I don't know that they have proved any such thing.

Prisoner's Counsel.—Yes, the maid-servant did.

Sir J. Strange.—Consider that is only the opinion of the maidservant, and the other witnesses who have been called for him do not prove that, though it was opined that they would.

Upon the whole, gentlemen, you are to consider whether the

prisoner at the bar is one of those who has been guilty of high treason by joining in the late rebellion; and this is proved by more witnesses than the Statute requires, for this has been proved by six or seven witnesses, and the law requires but two. Therefore, I apprehend the prisoner is proved guilty of this indictment. If there are any alleviating circumstances they do not come under your consideration; what comes under your consideration is upon the facts which have been proved, and therefore I submit it to you upon the evidence.

[Found guilty; executed 30th July, 1746.]

ALEXANDER MACGROUTHER, SENIOR.

JOHN ALLAN, No. 2.—The defendant was a lieutenant in the Duke of Perth's Regiment, and marched with the rebel army from Edinburgh to Carlisle, and was in the trenches in Carlisle when it was besieged and taken by the rebels. He was then armed with a sword and a brace of pistols.

JOHN VERE.—When the town and castle of Carlisle were besieged by the Duke I saw the defendant mount guard in Carlisle as an officer in garrison there in defence of the place, and he was then armed with a firelock, pistols, and broadsword and dirk, between the 20th and 30th of December, when the town surrendered to the Duke.

SAM. MADDOCK.—The defendant was frequently seen to mount guard in Carlisle at the Scotch and English port at the head of parties of the rebels when the town was besieged by the Duke. He was armed with a broadsword, dirk, and a brace of pistols, and wore the highland habit.

DAN. MCFARLAN, No. 15.—I was taken away from my house in Perthshire by a party of rebels and carried with them to Edinburgh, from thence to Dalkeith, where I had a baggage horse given me to lead. When the rebels marched from thence to Carlisle, the defendant was a lieutenant in the regiment called the Duke of Perth's regiment in the rebel army, and marched with that regiment as a lieutenant from Dalkeith to Carlisle, with colours flying, drums beating, and pipes playing before them. The defendant was then armed with sword and pistols, and I saw him amongst the rest of the rebels in possession of Carlisle on the Saturday after the town and castle surrendered to them. The defendant was left in garrison in Carlisle when the rebel army marched further into England. He mounted guard as an officer both in the town and castle before they returned thither, and he continued there in garrison as an officer when it was besieged and until it surrendered to the Duke.

HUGH MCDUGALL, No. 60; ISABEL CAMPBELL, No. 72.—Testify as to defendant's presence in the rebel army in England.

FOR THE DEFENCE.

Sergt. WYNNE.—He was forced in by Duke of Perth as his vassal—only tenant by tack. Had a mind to go from Carlisle. There was a warning by the Lord which would be enforced by burning house and carrying away the effects—a reasonable excuse for being in rebellion. A general meeting of court was called by the Duke, but he did not attend till third court. Then he was surrounded

and carried off. He attempted to escape from Carlisle.

James Morrison.—He was under the command of the Duke of Perth. Defendant lives near me, and is only a tenant to the Duke of Perth. On 28th August the Duke of Perth came to a place within a mile of us, and sent a servant to us to convoy him over the Muir of Linney. Did not obey first or second summons, but on third (the same day) we went, and he proposed our going into the rebellion, which we refused; upon which the Duke of Perth ordered fire to the houses, and said he would tie anyone with cords. I did not go. He was surrounded by the Duke of Perth, Lord Strathallan, and more than 20 highlanders, and carried off. Twelve of us were there, and all carried but me. I was not tied. My son was a tenant, and would not go. Many tenants did not come to the meeting, but their houses were not burnt. I said that I would not go, and he said nothing more to me. I am 68 years old; my son 32, but not hurt. Great number of tenants stayed at home, but houses not burnt. Prisoner and I were children together; five years difference in age.

DUNCAN KRAW.—Defendant was a landholder under the Duke of Perth. It was the custom to obey commands. On 29th August a servant was sent to desire them to come and convoy the Duke over the moor. Second defaults, third summons should be hanged or tied. Then they went to the Duke of Perth, and he bade them go with him. He said he would give them arms, which witness refused, and some were ordered to be tied. Defendant refused. They were surrounded. Prisoner made moan. I did not go. The Duke spoke to all. I had no tenure from the Duke, but hold a house from him. Does not know whether to be a rebel is in tack or not. Were engaged at hay at first and second summons. Some of his tenants stayed behind, and were not forced to gang.

JAMES KING.—Three warnings. Cords produced. Not above a score summoned. All were told they were to go into the rebellion and fight, and prisoner cried. Parties were out to prevent deserting. They understood it was a hunting when they disobeyed.

PETER MACLAREN.—Three warnings. General notion that they must obey. He was a tenant of the Duke of Perth, but not called. Pay 5s. if don't go. I paid one guinea to be exempted, and so did many more, not to cut neighbours' throats.

Chief-justice as to the defence of force.—It does not clearly appear what relation he has to the Duke, but no tenure can be created between two subjects to justify rebellion against their mutual Sovereign. The law as to force rightly laid down by Sir John Strange must be a joining for fear of death and returning the first opportunity. He might have redeemed himself for money. He has not proved any attempt to leave them. He took a commission,

and was set to guard others. It must be a continuing force to mount to an excuse.

[Found guilty, but reprieved.]

HENRY KERR.

JAMES PATERSON.—I know the prisoner, who was called Col. Kerr, very well, and that he was aide-de-camp to Lord George Murray. I saw him with the rebel army upon the march into England, from Dalkeith towards Lauder, and I was sent by Lord Elcho to a gentleman's house, about four miles on this side Dalkeith, to bring away what horses I thought proper for the use of the rebel army, and upon my arrival there the prisoner said that he protected that house, and would not suffer me to take away any horses. At that time the prisoner was armed with a broadsword and a brace of pistols, and was dressed in an English habit, a plain hat and white cockade in it. In the march of the rebel army in and out of England I saw the prisoner almost every day marching along with the rebel army, always on horseback, with pistols before him and a broadsword by his side. The prisoner usually gave orders to Lord Elcho about his marching, and was the most vigilant and active man in the rebel army. That the day of the retreat of the rebel army from Carlisle into Scotland the prisoner was along with it, and gave orders to Lord Elcho's horse to march in the rear of the army. At Inverness, whilst that town was in possession of the rebels, I saw the prisoner there along with them several times before the battle of Culloden, always on foot. Upon the day of the battle of Culloden I saw the prisoner upon the field, along with the rebel army, on horseback, with pistols before him and his broadsword by his side.

ROGER MACDONALD.—I saw the prisoner a year before he was engaged in the rebellion, and saw him often at the Pretender's Court in Holyrood House in Edinburgh, after the battle of Prestonpans. He was sometimes called Colonel Kerr, and at other times aide-de-camp to Lord George Murray. The night the rebel army arrived at Congleton, near Newcastle, in the march towards Derby, a party of rebel army, horse and foot, was sent out to patrol in the road leading to Newcastle, which party the prisoner had the command of, and was armed with sword and pistols, and took Captain Vere prisoner. The day the rebel army retreated from Derby I saw the prisoner along with it, on horseback, armed as aforesaid. I particularly remember the prisoner sent me a horse to ride on. The prisoner did not march in any particular corps, but was about in all parts of the rebel army, and brought orders to them frequently about their marching, &c Saw the prisoner on

horseback, armed with sword and pistols, with the Pretender, when he reviewed the rebel army on Torwood Moor, near Stirling, a little before the battle of Falkirk. On the day of the battle of Falkirk I saw prisoner reconnoitring the King's troops after the rebel army had crossed the Ford of Dunnipace, near Falkirk, and was marching to attack the army under General Hawley. At Inverness, two days before the battle of Culloden, whilst in possession of the rebels, I saw the prisoner there on foot walking in the streets. The prisoner was a very active man in the rebel army, and was looked upon to be one of the best disciplined officers in it.

ALLAN STUART, No. 30.—I know the prisoner very well, and he was aide-de-camp to Lord George Murray. I first saw him in Edinburgh with the rebels before the battle of Prestonpans, and the night before the said battle he went to reconnoitre the King's troops under General Cope, and brought word that there was a deep ditch in front of the King's troops, and that therefore they could not be attacked. That when the army under General Cope gave way, the prisoner was along with the rebels in pursuit of the King's troops on horseback, and with the rebel army in all their marches. He was in England, particularly upon the march from Manchester to Carlisle. That whenever there was a halt anywhere the prisoner was always waiting at the Pretender's quarters for orders, and when Lord George Murray marched into Ross-shire, in order to pursue Lord Loudoun, the prisoner was along with a party of rebels sent for that purpose. That upon the retreat from Ross-shire to Dingwall witness spoke to Colonel Kerr, and had some conversation with him. Saw the prisoner at Inverness with the rebel army frequently, but did not observe how he was armed. At Inverness he heard the prisoner give an account of having surprised some of the Hessians between Blair and Dunkeld, saying he wished Ardsheel's regiment had been with him, because he knew that regiment would obey orders, whereas the Highlanders that were with him fired too soon upon the Hessians, and had not suffered them to advance far enough. When the rebel army gave way at Culloden I saw the prisoner on horseback with his sword drawn, with a short coat on, and a bonnet, calling out to the rebels to rally. Prisoner had the reputation of being a very good officer, and was very active and vigilant in the Pretender's son's service.

WALTER SCOTT, No. 51.—I frequently saw the prisoner in Edinburgh when the rebels were there, dressed in English clothes, armed with a broadsword, white cockade in his hat, and pistols before him when he rode. Saw him very often at Holyrood House, where the Pretender's son kept his Court, acting as one of the Pretender's aide-de-camps by giving orders from the Pretender's son, going with the same and returning to Holyrood House, and continued in that position during all the time the prisoner continued

at Edinburgh.

Capt. CAMPBELL, No. 52.—Testifies as to prisoner's appearance at Edinburgh, and says he once saw him in the Pretender's drawing room in Holyrood House writing.

JAMES GRANT, No. 54.—Saw the prisoner with the rebels in England and Scotland

Capt. EYRE; Lieut. MOORE.—The prisoner told them he was aide-de-camp to the Pretender.

WM. CLARK.—Saw the prisoner with the rebels at Elphinstonpans, near Stirling, with the rebel Life Guards, also at Preston and Glasgow.

ANDREW JOHNSTON.—Saw prisoner at Carlisle, Derby, battle of Falkirk—where he was aide-de-camp—and afterwards at Fochabers, Elgin, and battle of Culloden, armed with a broadsword, and wearing white cockade.

ALEX. RUSSEL; JOHN FALCONER; FRANCIS CHALMERS.—All bear witness to prisoner's presence in rebel army.

Mr. CHAS. LESLIE.—Saw him at Edinburgh in October, 1745, with the rebels, armed as aforesaid. Saw him act as postmaster and inspect the letters of the post office.

ANDREW GIBSON; WM. WILSON; DAVID BELL.—These bear witness as to the prisoner's presence at various places with the rebels.

[Information laid at Inverness—Found guilty, but reprieved.]

ALEXANDER MACGROUTHER, JUNIOR.

JOHN ALLAN, No. 2.—The defendant was a lieutenant in the Duke of Perth's regiment, and marched with the rebel army to Carlisle, and was at his post in the trenches before the town when it was besieged by the rebels.

JOHN VERE; SAM. MADDOCK.—When the town and castle of Carlisle were besieged by the Duke, defendant mounted guard as an officer in garrison in defence of the place, being armed with a firelock, broadsword and pistols between the 20th and 30th.

DAN. MCFARLAN, No. 15.—The defendant marched with the rebel army from Dalkeith to Carlisle, armed with sword and pistols, as a lieutenant in the regiment called the Duke of Perth's, and witness saw him again among the rebels in Carlisle the day they marched into it, &c (as above).

Y. HUGH MCDUGALL, No. 60; C. ALEX. REACH, No. 91; C.

JOHN OGILVY, No. 89; C. THOS. CHALMERS, No. 31; L. WM. MAGGEE, No. 7; La. ISABEL CAMPBELL, No. 72; L. ARCH. LAUDER, No. 131.—All these witnesses testify to defendant's presence with the rebels as an officer in England, and in the defence of Carlisle against the Duke of Cumberland.

WILLIAM MCGHIE.—Saw the prisoner with the rebels at Edinburgh, armed with sword and pistols, and upon the march with the Duke of Perth's regiment to Carlisle, drawing up the rebel soldiers there, and in arms.

[Prisoner died before trial.]

CHARLES GORDON.

JOHN VERE.—I was in Carlisle when it was besieged by the Duke, and the defendant was an officer in the rebel service, in garrison there, and did duty as such in defence of the place against the King's forces, being armed with sword and pistol.

JOHN URQUHART, No. 105.—I was a private man in the garrison of Carlisle when it was besieged by the Duke. Defendant was a lieutenant in the Pretender's service, and was left in garrison there by the rebels when they marched into Scotland. He did duty as an officer in defence of the place when it was besieged by the Duke, being armed as aforesaid.

C. THOMAS CHALMERS, No. 31; C. JOHN OGILVY, No. 89; C. ALEX. FORBES, No. 47; C. JOHN FRASER, No. 48; WM. MAGGEE, No. 7.— These testify as to prisoner's presence in Carlisle defending the place against the King's troops.

WM. WILLS, No. 110.—I saw the cannon fired from the castle of Carlisle upon the King's forces, and defendant was then in the castle among the rest of the rebel officers. He always appeared to be, was called, and acted as an officer in Carlisle.

ALEX. IRVINE, No. 125.—I saw defendant walking about the ramparts of the castle of Carlisle, observing that the sentinels did their duty. Whilst the rebel army was in England he was called, and appeared, as an officer left in garrison there by the rebels.

WM. MCGHIE.—I saw the prisoner with the rebels at Edinburgh, armed with sword and pistols, marching with Lord Ogilvy's regiment towards Carlisle, and afterwards in the castle of Carlisle, drawing up the rebel soldiers there, and upon duty.

SAM. MADDOCK.—I saw prisoner present at a court martial.

FOR THE DEFENCE.

Mr. Gordon a young man of well affected family. His father protested against the rebels, and was imprisoned for it. His eldest brother was with Cope. Was not trusted to guard the Scotch gate, at which only he could escape. Force a good plea, if extended for ever. Lord Hale don't say on which side the continuance of force should be shewn. We prove it originally, let them take it off. No distinction in the degree of high treason. Don't appeal to reason for their conduct in trusting him, for they never acted reasonably. As an officer he was more under their eye, being all the while in a garrison town—so the force continued.

Mr. JODDREL.—His father, in 1715, was on the side of the Government.

JAMES WATT.—The elder brother went with Cope. Prisoner went to the fair with his father's cattle, and was then seized by Glenbucket. Prisoner said he knew no other King but King George, and three took him. His father offered money, and Glenbucket said he wanted men and not money, and damned him. He is 17 years of age. The father imprisoned in November for a protestation against Glenbucket for meddling with the Duke of Gordon's men, he being his bailif of regalities. He was carried on Hussars' saddle, surrounded by 40. No cattle taken or house burnt.

JOHN SLORACH.—I went with him (prisoner) to sell the cattle. Glenbucket's son told him prisoner was to serve the King. What King? King James? I know no King but King George. I went and told the father, and he said perdition catch the old villain. His sisters cried.

JAMES RENNY.— He was brought into Banff on bare horse and guarded. He had no arms, and was so carried out next day.

ANNE GRAHAM.—Quartered at the Grapes, and paid for everything he had, and behaved civilly. The Scotch gate walled up.

The PRISONER.—My heart was never along with them.

Chief-Justice LEE.—It is incumbent on prisoner to shew the continuance of force stronger against them with respect to being trusted as officers.

[Guilty. Recommended on account of his youth. Reprieved.]

ALEXANDER MACLAUHLAN, MAJOR.

ALLAN STEWART, No. 36.—The first time I saw the prisoner with the rebels was as he went from Edinburgh to Haddington and Dunbar, to raise the cess in these places for the rebel army. The prisoner, who was called Major, went with, a party upon that occasion, mounted upon a fine brown stallion, dressed in highland

clothes. The cress was raised by the party with which prisoner marched in this expedition, but whether in going or returning I saw prisoner with said party at Musselburgh, within 3 or 4 miles of Edinburgh. I saw prisoner with the rebel army at Inverness walking in the streets dressed in a highland dress, with his sword, 6 or 7 days before the battle of Culloden.

ROGER MACDONALD, No. 45.—[Deserted by staying to have his horse shod.] The first time I saw the prisoner with the rebels was at Edinburgh whilst in their possession after the battle of Prestonpans, and he was dressed in highland dress, and wore a broadsword. Saw him afterwards with the rebels at Pennycook, about 8 miles from Edinburgh, the first night of the march towards England, dressed and armed as aforesaid. The night before the engagement at Culloden, when the rebel army was drawn up upon Culloden Moor in expectation of the Duke of Cumberland's army, I saw the prisoner upon the said Moor, dressed and armed as aforesaid, but don't know what corps he belonged to.

Capt. CAMPBELL, No. 52; THOS. ARMSTRONG.—Testify to prisoner's appearance in the rebel army. The last named saw him in highland dress with the rebels at Fochabers, and acted as a van officer in that army.

Capt. EYRE; Lieut. MOORE.—After his surrender the prisoner gave to them his name and title as Major in Tullibardine's regiment.

ALEXANDER RUSSEL.—Prisoner was Major in a regiment of the Stewarts in the rebel army, and was with them at Edinburgh and Duddingston, armed with a broadsword and pistols, and sometimes with a blunderbuss, in highland dress and white cockade.

JOHN FALCONER.—I saw prisoner with the rebels at Glasgow and Elgin, armed and dressed as above.

FOR THE DEFENCE.

Mr. GORDON.—He retired to Alex. MacLauchlan's house, a friend of the Government, and (was) there seized. Called himself an officer to be better used. On return of the rebels he quitted his house with his wife, and went in a boat for Isle of Skye, where wife's relations lived. Shipwrecked on the way, and had bloody flux—marched back to his own house, where in April was surprised by the rebels—Macleans.

ALEX. MCMMASTER.—Witness was servant to the prisoner. Messages came in August, 1745, from Lochiel—prisoner went away to Lochiel. Returned in 3 days and went out again the same night, but did not tell whither. I did not see him again till

November, and then at his own house, and he stayed all winter and part of the spring till March; then I and other three lads went with him and his wife in a boat in order to go to Isle of Skye—bad weather put us in at Arisaig—lay 14 days sick—boat stolen. Returned home on foot 25 miles—stayed 4 or 5 days at home, when party came and took him away—about 80 armed. Prisoner had no arms and went unwillingly. He was then ill. They carried him eastward, where Inverness lies. The boat had 4 oars and small sail. The other three were not prisoner's servants, but cottagers and a pedlar. He had two other servants who tended cattle. The names of those present when master taken were:—Hugh Kennedy, John Mackenzie, Dougal McMartin, Hugh McClocklan. The 12 rebels came into the house in night time in hinder part—stayed an hour. When daylight they forced the door open—all family in bed. Thinks the bar was forced open with a pole that stood by—saw him taken in his bed. No part of rebel army came near in the retreat. Four maids and two men servants and I lay in the house when surprised.

LACHLAN DOW—Witness is servant to Allan MacLauchlan in Argyleshire, 30 miles from prisoner's house. It was in August prisoner came and stayed 24 days. We had orders to deny him. Then the laird of MacLauchlan surrounded the house in the night by 30 men armed. The laird said it was to find prisoner, and would search, and found him. Guarded him till light, and then carried him away against his will.

DONALD MUNRO.—Prisoner was sick after Culloden—handcuffed and striped, and wrapped in blankets.

*[Information laid at the town of Inverness—Guilty, but
retrieved.]*

ALLAN CAMERON.

ALLEN STEWART, No. 37.—I remember to have seen prisoner marching along with the rebel army, habited always in highland clothes, but cannot tell any particular place where I saw him.

Capt. CAMPBELL, No. 52.—I know Allan Cameron very well: he was captain in Lochiel's regiment. I frequently saw him along with the rebels at Edinburgh, when they were there, armed with broadsword, pistols and dirk, in highland dress. This Cameron was several nights in this witness's house at Edinburgh during the aforesaid time, and told this witness that he commanded a company in Lochiel's regiment. Saw him one night when he was an officer of the rebel guard in the guard house in Streight Bow. Another night I saw prisoner in company with Lord George

Murray in the Lawn Market, when it was said the rebels were going to make an attack on the castle.

JAMES PARKER.—I saw the prisoner with the rebels at Stirling after the battle of Falkirk, dressed in the highland dress, white cockade, and armed with a broadsword. Saw him afterwards with the rebels at Crieff and Aberfeldy; at Ruthven in Badenoch; at Lochaber, and at the siege of Fort William. Afterwards at Inverness, armed and dressed as aforesaid. The prisoner was an officer of Lochiel's regiment, and was drawn up and reviewed at Inverness by the colonel before the battle of Culloden.

Capt. EYRE; Lieut. MOORE.—These gentlemen were appointed by his Royal Highness to take an account of the rebel officers taken at the battle of Culloden, and, upon examination, the prisoner told them he was a captain in Lochiel's regiment.

WILLIAM CLARK.—Defendant was a captain in Lochiel's regiment in the rebel army, and was afterwards a captain in the Artillery, with which he marched to the attack of Inverness, Fort Augustus, and Fort William, armed and dressed as aforesaid.

ALEX. RUSSEL.—I saw prisoner mount guard at the Abbey, Edinburgh, armed with a fuzee, sword and pistols, dressed in the highland dress and white cockade.

FOR THE DEFENCE.

Mr. GORDON.—Prisoner has wife and 10 children. Tenant of Lochiel, who summoned all in—prisoner refused—rights of superior always absolute. He was always guarded.

ALEX. CAMERON of King George's Guards.—[This witness was not examined, as the prosecution opposed his examination to prove Lochiel's power, as the court said it was improper.]

NIEL MACMILLAN.—I saw prisoner at Lochiel's house in August, September, 1745, and Lochiel said he must go and join the Prince. He refused, and Lochiel took and ordered him to be confined, and I saw him come towards prison. 23rd August at Mawie saw him amongst 50 people with arms, but prisoner had none. They said it was because he refused to join. Four days after I, returning with my horses, met a party guarding prisoner. In April last first saw prisoner amongst 100, and one going behind him held a rope. They said he had deserted so often he would be put to death, and they should have no more trouble with him. This was one mile and half from Fort William. Did not see him in the intermediate time. This was two or three days after the siege of Fort William, going towards Inverness. Prisoner was within 7 miles of Fort William. Has wife and 10 children.

DONALD MACPHERSON.—Beginning of August, 1745, I was at Lochiel's. I keep horses near Fort William. Went to demand a debt of Ewen Cameron. Saw 7 men take him out of prison, and lead him to Lochiel's house. I followed. In going the officer told prisoner if he did not join the Prince, Lochiel would hang him. Prisoner answered he might do so, but *if he had an equal force with Lochiel, he would prevent Lochiel's going into the rebellion.* On 22nd and 23rd I saw him at Mawies surrounded, and, without arms, put into a barn with two sentinels with drawn swords. 4th or 5th September I saw him as I carried my horses from Perth, with 24 men bringing him to Perth. MacMillan and I were bringing back our horses. He had no arms. In April saw him amongst 100, and one had a rope, within a mile and half of Fort William. Saw him as I stood at my own door.

[Information laid at city of Edinburgh—Guilty, but reprieved.]

JOHN BURNETT.

JOHN VERE; SAM. MADDOCK; THOS. CHALMERS, No. 31; JOHN FRAZER, No. 48; ALEX. FORBES, No. 47.—These witnesses say that defendant was one of the rebel officers in garrison in Carlisle—a captain in the rebel train of Artillery—and did duty as such in Carlisle (when the same was besieged by the Duke), armed with a sword and pistol.

AUSTIN COLEMAN, No. 34.—Witness wheeled sods to repair a battery in the castle of Carlisle, where the defendant commanded, and when the Duke's forces appeared upon a hill about half-a-mile from Carlisle, defendant fired the first cannon at them from the English port in Carlisle.

ALEX. REACH, No. 91; JOHN URQUHART, No. 105; JOHN OGILVIE, No. 89.—These witnesses testify to defendant's presence in Carlisle when besieged by the Duke.

JOHN ALLEN, No. 2; WM. WILLS, No. 110.—These witnesses were in the castle of Carlisle when the cannon were fired from thence upon the Duke's army, and then the defendant was there amongst the rest of the rebel officers. Saw him at that time upon the ramparts assisting several times in pointing the guns which were fired upon the Duke's army.

WM. MAGGEE, No. 7.—Testifies as above, and says defendant paid some of the soldiers of his company in Carlisle during the said siege.

ALEX. IRVINE, No. 125.—I saw the cannon fired from the castle of Carlisle upon the Duke's army, and the defendant upon the ramparts, and heard him give directions to the gunners several

times for fixing the guns.

ARCH. LAUDER, No. 131.—I saw defendant assisting in levelling the cannon upon the King's army, and I received 7*d.* a day during the time I was in Carlisle from defendant as my officer.

JOHN WHITE, No. 109; JOHN WILLIAMSON; CHARLES HENDRY; THOMAS GORDON; JOHN MACKINSON; Mr. CHARLES LESLIE.—All these witnesses testify as to prisoner's presence with the rebel army, armed with sword and pistols, in highland clothes, with white cockade, &c

ROGER MACDONALD.—Saw prisoner several times with the rebel Artillery, in the retreat towards Carlisle, both on horse and foot.

ALLAN STEWART.—I saw him a few days after the battle of Prestonpans firing the cannon taken from General Cope at a mark at Holyrood House; and I also saw him on the march with the rebel Artillery on the way to England, but knows not at what particular place nor what arms he carried.

THOMAS DRAKE.—I saw the prisoner at Derby armed with a broadsword, and a belt over his shoulder.

WILLIAM MCGHIE.—I saw him at Edinburgh, armed with a sword, when the Pretender was proclaimed; at the rebel's camp at Duddingston with sword and pistols; upon the march with the rebel Artillery to Carlisle; drawing up the rebel soldiers, and upon guard, and busy among the cannon when they were firing upon the Duke's army.

JOHN DAVISON.—I saw defendant with the rebel officers in Carlisle, when the rebels marched away to Scotland.

FOR THE DEFENCE.

PRISONER.—I was taken prisoner by Glenbucket and forced. Offers a certificate of his character, which rejected, there being no oath.

THOMAS SHAW.—Glenbucket came to the prisoner's house, who had fled, but was found at Kildrummy by 40, and taken away with drawn swords and bound. It was because he and others dissuaded the country people from rising about the middle of September. Was esteemed well affected to the Government.

JOHN MILLS.—I heard him lament his being forced to fly from his house. He had been in the King's army before, and that made them more desirous to get him.

[Found guilty, but reprieved.]

JAMES STORMONTH.

WILLIAM FUDD.—I saw the prisoner with the rebels at Stirling before the battle of Falkirk with a white cockade in his hat, and saw him on the day of the battle of Falkirk marching up on foot along with Ogilvie's first battalion to the battle, and carrying the colours there, and soon after the engagement began I saw the prisoner running away from the battle, having dropped the colours, whereupon Lord Ogilvie cried out, "My colours are gone," and witness saw Major Glascoe take them up. I saw the prisoner marching along with the said battalion to Perth, and saw him there with them

JOHN DOGE.—I saw the prisoner at Stirling, after the battle of Falkirk, in highland dress, with a sword by his side and a white cockade in his hat, walking up and down with other rebel officers. He was called a lieutenant in the first battalion of Lord Ogilvie's regiment.

Capt. EYRE; Lieut. MOORE.—These gentlemen were appointed by his Royal Highness to take an account of the rebel officers taken at, or surrendered to the King's forces, after the battle of Culloden, and the prisoner told them he was an ensign in Lord Ogilvie's regiment.

WM. WILLS.—I saw the prisoner with the rebels at Leith in October, 1745, soon after the battle of Prestonpans, armed with a broadsword, and he had a white cockade in his bonnet. He was called a captain in Lord Ogilvie's regiment. He marched with the rebels to Carlisle. I saw him every day upon the said march, and particularly at Moffat and Riccarby, near Carlisle, along with said regiment, during the siege of that place by the rebels.

JOHN REACH.—I saw him at Leith and Edinburgh, armed and dressed as aforesaid.

JOHN WILLIAMSON.—I knew him to be an officer in Lord Ogilvie's regiment, and saw him upon the march with them to Carlisle, armed and dressed as aforesaid, sometimes with a jockey coat over them.

FOR THE DEFENCE.

THOMAS STARK.—Prisoner came back 8 or 10 days before the retreat from Stirling. Resided in Aberdeen (?) in March. He sent to the sheriff and minister—he was ill—to surrender. He went, and they came in the afternoon, and he said, As I surrender to you I shall be at your call when you please. He stayed till Hessians apprehended him. Living on 1000 merks on his own wife's estate.

Mr. BRUCE.—Reclaimed as a gentleman since married, but a queer man before.

[Found Guilty.]

Memorandum—James Stormonth's Case. He was one of the rebel prisoners at whose trial such favourable circumstances appeared, that Lord Chief Justice Wills wrote in his favour to the Duke of Newcastle: when he was brought out of prison into a messenger's house His Grace the Duke of Argyle spoke to the Duke of Newcastle about him, who in his presence sent for Mr. Stone to know if what was said in the said James Stormonth's favour was true, which Mr. Stone assured his Grace that it was, upon which his Grace was pleased to order Mr. Stone to mark him down for a free pardon; but the hurry he was in going abroad with his Majesty, and Mr. Ramsden (to whom Mr. Stone was so good to recommend it) going soon afterwards with the Duke of Newcastle, those in the office either did not know or forgot it, so that when the Regents met to determine the prisoners' fate, James Stormonth was in the list of those to be transported to the plantations for life.

The Duke of Argyle told the Regents what had passed betwixt the Duke of Newcastle and him about said James Stormonth, and the Duke of Bedford was to write to his Grace about it; meantime his name was scratched out of that list, and his fate is not as yet determined, to the great detriment of the poor man, who has little or nothing to support him.

CHARLES OLIPHANT.

JOHN FARQUHAR, a groom.—I know the prisoner was acting and aiding in the rebellion, and saw him in arms with the rebels at Bannockburn and several other places.

JAMES DRUMMOND.—The prisoner was called lieutenant in Lord John Drummond's regiment, and was with the rebels at Montrose, then in Lowland clothes. Saw him with them at Fort Augustus in highland clothes, armed with a fuzee and sword. Saw him drawn upon Culloden Moor with the rebels the evening before the battle.

JOHN LOW, servant to Lieut. Kerr.—I will prove that the prisoner was a lieutenant, and that I saw him drawn up on the moor near Culloden on the day of the battle along with the rebel army; also at Montrose, Perth, Stirling, Fort Augustus and Inverness, armed as aforesaid.

ANDREW ROBERTSON.—I saw the prisoner with the rebels at Fochabers and Elgin in Moray when the rebel army, and particularly Lord John Murray's regiment, lay there, and were in

possession of those places, and the prisoner wore the uniform of Lord John Drummond's officers, viz:—short blue coats, red vests laced, with bonnets and white cockades.

JOHN DUCKWORTH; DONALD CHISHOLM.—These witnesses saw the prisoner at Montrose, Falkirk, Stirling, Aberdeen, Fochabers and Inverness. He had a sword and pike, and was called a lieutenant in Lord John Drummond's regiment.

WM. MCGHIE.—I have known the prisoner twenty years. He was an officer in the Excise at Aberdeen, and afterwards at Inverness till the rebellion broke out. Saw him at Holyrood House with the rebels in October, 1745, with a small sword by his side and a white cockade in his hat, and he was then waiting until Lord John Drummond's regiment should come over, and he was then to have a commission.

THOMAS HENDERSON.—I saw him at Fort Augustus with the rebels the beginning of April last. He was then delivering out brogues, or shoes, to the men there. Saw him afterwards at the head of his company at Inverness, armed with sword and gun. Saw him drawn up on Culloden Moor the day of the battle.

Capt. EYRE; Lieut. MOORE.—The prisoner upon his examination at Inverness told these gentlemen he was a lieutenant in Lord John Drummond's regiment.

FOR THE DEFENCE.

Mr. GORDON.—A servant to Lord Lyon. Looked upon as a spy and imprisoned in Aberdeen until Lord John Drummond's regiment came, and pressed him into the service, or else be hanged. The King's witnesses contradict each other.

Mr. MORTON.—Compulsion agreed to be a defence if continued, which shall be shewn.

WM. VASS.—In November, 1745, I saw him in guard room at Aberdeen a prisoner. Heard he was to be hanged as a spy. Was guarded on the march to Montrose. Wore a blue coat and laced waistcoat and hat when in Lord Lyon's service, which he left 7 years ago.

JAMES WILSON.—Keeps a public house at Aberdeen. Charged as a spy and put into the guard. Saw him afterwards at liberty, and he wanted me to get him a horse to go to Dundee, which I could not. This was after the retreat from Stirling.

[Found Guilty.]

HENRY AND ROBERT MOIR.

DAVID BELL, drummer to same troop.—The prisoners were both private men in Lord Balmerino's troop of the Pretender's son's Life Guards, and I saw them all the way upon the retreat with the rebel army from Derby back to Scotland. Saw them drawn up with the troop and reviewed by the young Pretender at Glasgow; and saw them both drawn up with the troop at the battle of Falkirk, sword in hand. Afterwards saw them drawn up on Culloden Moor with the troop the day of the battle there.

EDWARD GIBSON, private man of same troop.—Corroborates above. I first saw them at Manchester on the march to Derby, and afterwards all the way in the retreat to Scotland, and particularly at the review at Glasgow. They wore the uniform of said Life Guards, and were armed with sword and pistols.

JOHN BAPTIST TROMENT.—Corroborates above.

[Found guilty.]

ALEXANDER MACKENZIE OF CORIE.

HECTOR CAMPBELL.—I saw the prisoner in April last, at Thurso in Caithness, with about 2 or 300 men of Lord Cromartie's regiment. He was dressed in highland clothes, and was armed with a broadsword and pistols, being esteemed one of the officers of that regiment. Saw him at the guard room in Thurso putting the men in order, and acting as an officer in command.

GEORGE SINCLAIR.—I saw the prisoner in arms at Thurso in Caithness with Lord Macleod's men. Lord Macleod forced witness to attend the said Corie as a guide into the parishes of Wick and Canesbie in Caithness, whither the prisoner went to warn the inhabitants of the said parishes to send their cess and men by a certain day to Thurso; to which parishes and on which errand the witness attended the prisoner, and returned with him to Thurso. Marched afterwards with him to Dunrobin, where I saw him deliver up his arms to Lord Sutherland's men.

DONALD MUNRO.—The prisoner was factor to Lord Cromartie. Saw him with Lord Cromartie's regiment at Strathpeffer in the shire of Ross, and he marched from thence to Perth armed with a broadsword and pistols. He was called a lieutenant in that regiment, and I saw him afterwards in the march from Perth to Stirling armed as aforesaid. Saw him the morning of the battle of Falkirk at Bannockburn drawn up for the march to Falkirk; saw him four days after the battle at Bannockburn, and upon the march from thence to Aberdeen, every day. Saw him with the said regiment at Thurso in Caithness, and at Dunrobin with Lord Cromartie and his officers. He kept back several. Ardlow and

Keppoch offered him a lieutenancy, and said he would not join the army and act only as a servant. Heard officers advise them to give in as officers to be better used.

HUGH ROSS.—Prisoner was an officer in Lord Cromartie's regiment in the rebel army, and was with them at Perth. I afterwards saw him march up with the rebels to the battle of Falkirk, armed with broadsword and pistols.

HENRY EDWARDS.—I saw prisoner with Lord Cromartie's regiment at Perth, when the rebels were in possession of those places, and he was called an officer, and did duty as such. Was dressed in highland clothes, with white cockade, armed with sword and pistols. He rescued me, and gave me good information. He reviewed their firelocks. Lord Cromartie was not there then.

Capt. EYRE; Lieut. MOORE.—Prisoner, upon his examination at Inverness, told these gentlemen he was factor to Lord Cromartie, and lieutenant in his regiment.

FOR THE DEFENCE.

Mr. FORD.—Owing to obedience to his master, a local tyrant. Good principles—usual arms. Representing himself as an officer only for favour. Went only to Perth to sell cattle. Refused lieutenancy to A[rdlow] and K[eppoch].

Mr. ROBINSON.—I knew him seven years. Gatherer of Lord C.'s rent. In October, 1745, he drove out black cattle to Beaulieu, but they came back. Drove them out of the way for fear of A[rdlow] and K[eppoch]. Said it was his misfortune to be factor, else he could have excused himself, but he would keep to his business and not meddle with the army. Saw him again in March when he came to collect feu-duties for Lord C. They called him a treacherous rascal to his master—ever since the rebellion began. Those were his words. He found my servant, but he was taken away again. Always against the rebels.

JOHN CAMPBELL, Esq., Collector of Customs in Robinson's Parish.— He appeared well affected to the Government; advised me to leave the country for fear of insurrection, as friendship to me and Government. In 1738 he discovered an intended fraud.

CHARLES JAMES LEE.—If ever acted as officer, soldier in giving assistance. If a driver of cattle for service of rebel army, need not also be proved to act as soldier, while if acted only as a mere seller of cattle.

[Found guilty.]

GEORGE LAW, THE PARSON.

ALEXANDER SMITH.—I saw the prisoner with the rebels at Fochabers, and along with them on the march from Speyside to Elgin on horseback, where I saw him several times. Saw him afterwards with the rebels at Nairn, and several times wearing a white cockade. He always wore a hat, and he was seldom without a white cockade in it. Reported to be chaplain to the Aberdeenshire squadron of rebels.

HUGH ROSS.—I saw him riding with some of the rebels between Fochabers and Elgin, at which last place I several times saw the prisoner along with the rebels. He was dressed in black clothes, but never saw him with arms or wear any cockade.

JAMES CHARLES, an Aberdeen tailor, of Stonywood's regiment.— I have known the prisoner many years, and on or about the 20th of February last heard him preach at Aberdeen to a congregation mostly of rebels, and then and there heard him pray for the Pretender, and for success to his arms under His Royal Highness Prince Charles—Prince Regent. I saw the prisoner march from Aberdeen with Stonywood's regiment, with a white cockade in his hat. He was reputed to be, and witness believes he was, chaplain to the said regiment. His own son went with him from Aberdeen—wore a white cockade and a small sword, and marched with Stonywood's regiment. Thomas Scott, the prisoner's stepson, was an ensign in the said regiment. The prisoner warned the said regiment, when they lay at Fochabers, that he would preach there on a certain day then named, and desired their attendance. On a Sabbath day, two or three Sundays previous to the battle of Culloden, I heard the prisoner, in a meeting house at Fochabers (the congregation of which were mostly Jacobites), preach and pray for King James the Eighth, and for success to his son Charles the Prince Regent's arms.

JAMES DRUMMOND.—I saw the prisoner ride out of Aberdeen in company with a quartermaster of Stonywood's, and along with that regiment armed with a sword by his side, and his son was with him with a white cockade in his hat, and a small sword by his side. I saw the prisoner and his son every day on the march with the said regiment until they arrived at Fochabers, and at night in company with the officers of said regiment, at their quarters on the said march. I heard the prisoner encouraging the men.

DAVID STEWART.—I saw the prisoner and his son at Fochabers and Elgin with the rebels.

ROBERT BRUCE, of Crichton's regiment.—I have known the prisoner many years. I heard and believe he attended Stonywood's

regiment as chaplain, and marched everywhere with them. Saw him at Perth with the rebels when they lay there.

JOHN INNES.—Saw the prisoner with the rebel army at Turriff.

JOHN MACDONALD; ALEXANDER SHAND; EDWARD SMITH.—These witnesses, all of Fochabers and confined on suspicion only, prove that whilst the rebel army lay there the prisoner was seen by them every day in company with the rebel officers, and that he went with them at night to the Murray side of the Spey, where the rebels lay and retired to every night.

JAMES ROSS, Sen.; JAMES ROSS, Jun.—These witnesses prove the prisoner to be a minister of a non-juring church at Aberdeen before the rebellion. They saw him first at Banff with Stonywood's regiment, and he was reputed to be Stonywood's chaplain. Saw him several times with said regiment afterwards at Fochabers and Elgin. Never saw him upon the march, nor remember to have heard him preach or pray, or to have seen him wear any cockade.

ALLAN STEWART.—I remember to have heard the prisoner either preaching or praying to the rebels at Glasgow, but do not remember if it was for or about the Pretender's son. It was generally reputed the prisoner was one of the preachers in the rebel army, but I do not remember to have seen him anywhere in Scotland but at Glasgow. I saw him at Glasgow when the rebels were in possession of the place, and heard him preach in the Grammar School there to a congregation mostly composed of the rebel army. Knew his usual residence to be at Aberdeen, and heard and believe he followed the rebel army, and was with them in England; particularly at Kendal, where I apprehend he preached in the evening of a Sunday, and that the curate of Kendal preached the same Sunday, in the afternoon, to a crowded audience, and that he was invited and did dine on that day with the young Pretender. That he went from thence with the rebel army.

Capt . EYRE; Lieut. MOORE.—The prisoner when examined at Inverness told them he was a non-juring minister, and was chaplain to Stonywood's regiment.

ALEX. REACH.—I saw prisoner in the beginning of November, 1745, at Dalkeith, with the rebels, when the Pretender's son was there.

[Acquitted.]

ADAM HAY.

HUGH ROSS.—The prisoner was a private man in Lord Pitsligo's horse, and I first saw him at Aberdeen with the rebels armed with a

broadsword. Saw him afterwards with them at Edinburgh, and afterwards upon the march with the rebels into England, particularly at Manchester and Derby. Saw him again at Stirling in the retreat, till which time he was in Pitsligo's horse. Saw him afterwards upon Culloden Moor drawn up there the day before the battle, when the rebel army was drawn up there, dressed in highland dress and armed with a broadsword, but what he then belonged to I cannot tell.

JOHN SMART, servant to the prisoner.—The prisoner went from Buchan in Aberdeenshire; raised about 13 or 14 men, marched them to Fochabers, thence to Elgin, where he joined Stonywood's Regiment of Foot in the rebel army. He was then armed with a broadsword and pistols. Thence he marched with the regiment to Inverness, and the prisoner's men were at the battle of Culloden, but prisoner was at Inverness.

JOHN COWIE.—I saw the prisoner with the rebels at Fochabers in their retreat northwards, and he was then called a captain in Stonywood's regiment, being dressed in highland clothes, and armed with sword and pistols.

JAMES DONALDSON.—I saw prisoner with the rebels at Edinburgh. He was then in Lord Pitsligo's regiment, in highland dress, a white cockade in his hat, and armed with a broadsword. Saw him upon the march with the rebels into England, particularly at Derby and Carlisle, and back again almost every day. Saw him afterwards with the said regiment at Glasgow, Falkirk and Stirling, dressed and armed as aforesaid; afterwards with the rebels at Aberdeen, Fochabers and Elgin.

WALTER SCOTT.—I frequently saw the prisoner at Edinburgh with the rebels when they were in possession of it, dressed in a highland habit, with a white cockade in his bonnet, a sword by his side, but does not know what commission he had. He was formerly a writer in Edinburgh.

JOHN DRUMMOND.—I saw the prisoner in arms with the rebels. He was one of the escort that attended the Duke of Perth from Preston.

JAMES DAVIDSON, servant to Carnousie.—I saw the prisoner in arms with the rebels at Manchester and several other places.

DAVID STEWART.—I saw him in tartan dress at Elgin with the rebels when they lay in that town.

ALAN BOVIE, servant.—I saw prisoner marching armed with the rebel army 4 miles from Manchester, dressed in tartan clothes and white cockade.

Capt. EYRE; Lieut. MOORE.—These gentlemen were appointed

by His Royal Highness to take an account of the rebel officers who were taken at or surrendered to the King's forces after the battle of Culloden. The prisoner then told them his name, and that he was a volunteer in the regiment called Pitsligo's, and afterwards in Stonywood's.

[Guilty—Recommended by the Jury.]

ANDREW SPRULE.

HUGH ROSS.—The prisoner was a volunteer in Lord Pitsligo's horse in the rebel army, and I saw him with them at Manchester dressed in highland clothes, armed with a broadsword. He was drawn up with that regiment opposite the Pretender's lodgings in that town. Saw him frequently with said regiment on the march in Scotland, particularly at Glasgow.

JAMES DONALDSON.—The prisoner was a volunteer in the same regiment, and marched with it into and out of England. I saw him almost every day upon the march or in quarters. He was armed with a broadsword, and a pair of pistols before him. He marched with said regiment out of Manchester towards Derby, and I saw him afterwards with it at Elgin, in the shire of Murray, when it was broke.

Capt. CAMPBELL.—I saw the prisoner at Edinburgh when that place was in the rebels' possession. He wore a white cockade, and was armed with a broadsword, but I know nothing of his command or regiment.

ALLAN STEWART.—I saw prisoner in his boots, dressed in a highland coat, with a sword by his side, protecting Sir Michael Bruce's house, about two miles from Falkirk, from the fury of the highlanders, who would have plundered the same in revenge for Sir Michael's having raised a company of men for the Government. I dined with him there, and heard him declare he belonged to the horse in the rebel service, and that his errand to Sir Michael Bruce's was to protect his house.

JOHN MASON.—I saw the prisoner in arms at Inverness with the rebels.

Capt. EYRE; Lieut. MOORE.—The prisoner told these gentlemen that he was a private man in Lord Pitsligo's horse.

Mr. CHARLES LESLIE.—I saw prisoner with the rebels at Edinburgh in October, 1745. He was then armed with a broadsword, and wore a white cockade.

WILLIAM MACGHIE.—I saw him with the rebels at Edinburgh, and in Pitsligo's horse at Moffat, march into Carlisle with them,

and in the retreat saw him march out north with them, armed with broadsword and pistols.

[Acquitted by Mr. Attorney's consent.]

WILLIAM MURRAY OF TAYMONT.

ROGER MACDONALD, No. 25.—I often saw William Murray of Taymont with the rebels at Holyrood House in Edinburgh, whilst the Pretender's son kept his court there, after the battle of Prestonpans, with a small sword by his side, and I am positive that in the march into England I saw the prisoner at several places, marching along with the rebel army on horseback, with pistols before him and small sword by his side. On the rebels' retreat out of England I saw the prisoner at supper with the Pretender's son at Carlisle, which was the same evening the action happened at Clifton Moor between the King's troops and the rebels. He was generally about the person of the Pretender's son, and I saw the prisoner at Inverness along with the rebels whilst that town was in their possession, before the battle of Culloden, on foot with his sword by his side. Once at Inverness I saw the prisoner at supper at the same table with the Pretender's son, Sir Thomas Sherridan and Sullivan.

JAMES PATERSON, No. 26.—Testifies as above. The prisoner was dressed in a blue coat and a small sword by his side. I saw him with the rebels at Falkirk upon the retreat of the rebel army out of England. I saw him at Inverness before the battle of Culloden frequently, and particularly at the Pretender's son's lodgings several times in that town whilst the rebels kept possession of it. He constantly at Inverness wore his small sword by his side; and, the day before the battle of Culloden, I saw him walking in the rebel camp upon Culloden Moor with some rebel officers, and same day saw him returning to Culloden house on horseback from the camp—the Pretender's son and several persons of distinction being at that time in company and returning together to Culloden house.

ALLAN STEWART, No. 26.—I saw the prisoner at Holyrood house after the battle of Prestonpans, when the Pretender's son kept his court there, with a small sword by his side and dressed in a blue coat. I frequently saw him at the Pretender's son's court at different places, dressed as aforesaid, particularly at Edinburgh and Inverness. Before the battle of Culloden I often saw prisoner dressed and armed along with the rebel army at Inverness. Saw him at dinner at the same table with the Pretender's son at Inverness, before the battle and at other places.

JAMES SCOTT.—I saw him at Edinburgh along with the rebel

army, dressed in blue English clothes, and a small sword by his side.

WILLIAM REED.—Testifies as to prisoner's presence in the rebel army, but cannot recollect the particular places, nor what arms he had, or whether he wore a white cockade.

Capt. EYRE; Lieut. MOORE.—The prisoner told these gentlemen he was a volunteer in the Duke of Perth's regiment.

ANDREW JOHNSTON.—Prisoner generally attended upon the Pretender's son at Edinburgh, and was in the habit of the Pretender's Life Guards. Wore a white cockade, and was armed with a broadsword and pistols when he rode, a small sword when he walked. He marched with the rebels from Edinburgh to Derby and back, and was at the battles of Falkirk and Culloden, and rode off with the Pretender's son.

Mr. CHARLES LESLIE.—I saw prisoner frequently with the rebels at the Abbey in October, 1745, dressed as aforesaid.

DAVID BELL.—I saw prisoner with the rebels at Bannockburn, both before and after the battle of Falkirk, and afterwards with them after the battle of Culloden, about six miles beyond Ruthven in Badenoch.

[Information laid at Inverness—Pleaded guilty; no judgment pronounced.]

JOHN MACKENZIE, COMMONLY CALLED LORD
MACLEOD.

DONALD MUNRO, No. 1; DONALD FRASER, No. 2.—These witnesses were private men in Lord Cromartie's regiment in the rebel army, and marched with the regiment to Perth in November last, at the head of which the prisoner marched with his father. Lord Cromarty was on horseback, with holsters before him. Saw him frequently among the rebels at Perth. From Perth the prisoner marched with the said regiment with a stand of colours to Dunblane, and some of the Camerons marched with them with colours and pipes. The prisoner marched with the regiment to Polmaises by Stirling. This regiment was engaged against the King's forces at Falkirk, and lost a man, prisoner being present with the regiment, but cannot tell whether he had arms or cockade. From Falkirk the prisoner marched with the regiment to Aberdeen and to Inverness, from whence they all went home. In March last the regiment was assembled again, and marched into Sutherland and Caithness, the prisoner along with them. They raised about thirty men, then came back, and most of them were taken prisoners

at Dunrobin Castle—Lord Sutherland's house—by Lord Reay's men.

ANDREW ROBINSON, No. 9.—In November last I saw the prisoner and his father come into Perth, on horseback, dressed in highland habits, pistols before them, and white cockades in their bonnets, which town was then governed by Lord Strathallan for the rebels. I saw them go into a room at Hickson's to several other rebel officers there.

ROGER MACDONALD, No. 9.—I saw the prisoner come into Stirling two days before the battle of Falkirk with his father's regiment and join the rebels there. The prisoner was then in arms, with a shoulder belt on, and a side pistol. I saw the prisoner talking there with the Pretender's son; saw him with the Pretender's son when they reviewed the rebel army at Torwood Moor, near Stirling.

HENRY EDWARDS, No. 21.—In November last, when Lord Strathallan was governor of the town of Perth for the rebels, the Mackenzies under Lord Cromartie came there. A few days after they came I saw the prisoner walking with his father in the streets of Perth, dressed in a highland habit, turned up and collared with green velvet, a broadsword under his arm, a pistol in his belt, and a white cockade in his bonnet. I frequently saw him with some of the rebel officers in the town of Perth when it was in possession of the rebels.

JOHN HAY, No. 50.— I twice saw the Lord Macleod along with the rebels in the town of Perth, when Lord Strathallan was governor for the rebels during the time the Pretender's son was in England. Lord Cromartie's regiment was at Perth at the same time—Lord Cromartie with it. Lord Macleod at both the above times was dressed in a highland habit, with a white cockade. When Lord Cromartie's regiment was at Inverness on their way from the battle of Falkirk to return to their own country, I saw Lord Macleod at Inverness along with his father and the said regiment.

JOHN GRAHAM, No. 4.—I saw Lord Macleod at Inverness long before the battle of Culloden with the rebels on horseback. Saw Lord Macleod at Castle Downie before said battle, and he came thither to see the Master of Lovat, who happened to be from home at that time. There was a great intimacy between Lord Macleod and the Master of Lovat.

JOHN GRAY, No. 5 and 11.—I was forced into the Earl of Cromartie's service in March last, in which I continued about twenty days. Whilst in said regiment, it was in Sutherland and Caithness, I saw Lord Macleod with his father the Earl of Cromartie, but not in arms, particularly at Thurso in Caithness. He

wore a white cockade, as the rest did; and was taken with his father at Dunrobin Castle, into which the prisoner marched at the head of Lord Cromartie's men.

WALTER ROSS.—Upon Saturday night, before the battle of Culloden Lord Macleod came to Lady Swiney's house (where this witness was a servant) in Reisgill in the parish of Latheron, in the shire of Caithness, with a large bag of money, a white cockade in his bonnet, and a pistol by his side, and some officers. The next morning I was forced away from said mistress's house by one Captain Mackenny; carried to Laird of Latheron's house, from thence to the Castle of Dunbeath, and then to Dunrobin, where I was taken prisoner the Tuesday following. When I was carried to Dunrobin Lord Macleod rode before the men that were conducted thither. I believe Captain Mackenny forced me to go with him to Latheron by the directions and orders of Lord Macleod. I have seen the regiment called Lord Cromartie's regiment march through Caithness before I was forced from Lady Swiney's service, and Lord Macleod at the head of them, but don't remember that Lord Macleod was in arms, or had anything but a highland pistol in his hand. He marched at the head of the men into Dunrobin Castle.

HUGH ROSS.—I saw the prisoner at Perth with Lord Cromartie's regiment in highland clothes, white cockade, and a pistol by his side. Saw him afterwards with the said regiment at Bannockburn, and march at the head of it to the battle of Falkirk. Saw him in the retreat with the regiment to Aberdeen, and at Thurso in Caithness, and he was then called colonel of Lord Cromartie's regiment.

HECTOR CAMPBELL.—I saw prisoner at the head of two or three hundred men of Lord Cromartie's regiment at Thurso in Caithness, dressed in highland clothes, and a silver hilted sword; and when said men marched back to Dunrobin the prisoner marched with them on horseback with pistols before.

GEORGE SINCLAIR, and several others.—These speak fully to the prisoner, but as he has given it under his hand he intends to plead guilty, we have not stated their evidence, and he acknowledged himself to be Lieut.-Col. of his father Lord Cromartie's regiment to Captain Eyre and Lieut. Moore, who examined him at Inverness.

[Information laid at the town of Perth. Pleaded guilty—no judgment pronounced.]

ALEXANDER GRANT, BROTHER TO GLENMORISTON.

THOMAS MACKAY.—The prisoner served in the rebel army in Glengarry's regiment, and was in arms with the rebels at Falkirk.

JAMES GRANT.—I saw him under arms with Glengarry's men

who were in the rebellion at a place called Leadhill, near the Duke of Queensberry's, between Glasgow and Carlisle, in the retreat of the rebels from England. Also saw him often with the rebel army, and he always marched with Glengarry's men.

DUNCAN GRANT.—I saw him in arms with Glengarry's men at Edinburgh, Perth, Glasgow, and Stirling, and many other places, in highland dress, armed with sword and pistols. I was in same regiment with the prisoner.

Capt. EYRE; Lieut. MOORE.—Prisoner told them at Inverness he was a private man in Glengarry's regiment.

JOHN URQUHART.—I saw him several times at Edinburgh after the battle of Prestonpans in highland dress, armed with broadsword and pistols.

[Acquitted by Mr. Attorney's consent as coming in under the Duke's proclamation.]

RODERICK MACKENZIE.

DONALD MUNRO, No. 1; DONALD FRAZER, No. 8; Mr. JOHN MACKEY.—These witnesses say that the prisoner marched from the first with Lord Cromartie's regiment to Perth, and was with it at the battle of Falkirk, being constantly with it everywhere else. He marched with said regiment into Caithness to raise men for the Pretender, and returned with it to Dunrobin Castle, where he was taken prisoner with Lord Cromartie.

DUNCAN MACDONALD.—The prisoner was an Ensign in Lord Cromartie's regiment, and mounted guard at Perth before the battle of Falkirk, dressed in highland clothes, a white cockade, and armed with sword and pistols. The prisoner and one Hector Mackenzie, another officer in said regiment, confined the witness one night at Perth on suspicion of his carrying letters from the King's army.

HECTOR CAMPBELL.—I saw prisoner with Cromartie's regiment when it was in Caithness, and often afterwards upon the march from thence to Dunrobin Castle in Sutherland.

Capt. EYRE; Lieut. MOORE.—Prisoner told these gentlemen he was a Lieutenant in Lord Cromartie's regiment for five months.

Lord Chief Justice WILLS.—Not only necessary that the party have a will to get away, but he must also be at liberty to exert that will. If the force continues and there be no opportunity to desert, till the prisoner be taken, it will excuse. But, if an opportunity and that not taken, the original force will not excuse. Strictly it must be such a force as a man can't resist, and strictly a man ought to suffer death rather than run into a rebellion, but it would be hard to lay

that down as a rule in all cases. Circumstances vary cases. All men have not the same degree of courage; fear will work over some more than others.

The Jury are not only to consider of the possibility of a man's escaping, but also the probability. Where doubtful the Jury ought to lean to the favourable side. It was through fear of losing his all, perhaps, that the poor man came to fetch his cattle back again. Every man was retaken that deserted at Falkirk. It might be through fear of being ironed that he made the bargain with Lord Cromartie for that temporary service that has been mentioned.

[Information laid at town of Perth—Not guilty.]

ALEXANDER BUCHANAN.

DONALD CHISHOLM.—I first saw the prisoner with the rebels at Inverness the beginning of April last, and often saw the Duke of Perth's regiment marching up and down the streets of Inverness; the prisoner along with it as an officer, dressed in highland clothes, and armed with a broadsword, pistols and target. I often saw that regiment reviewed there before the Duke of Perth's quarters, and at such reviews the prisoner always marched as an officer. Saw him marching at the head of a division of said regiment from Inverness towards Culloden Moor two days before the battle there.

JAMES DRUMMOND.—The latter end of March last, when the rebels were at Inverness, I several times saw prisoner marching along with a party of the Duke of Perth's regiment down to a green near the water side, where they used to exercise. The prisoner marched with them as an officer and was called the captain, and I have several times seen him with the rest of the officers before the said regiment upon said green, where they exercised, prisoner appearing as an officer, dressed in highland clothes, and armed with sword and target. The day before the battle of Culloden I saw the prisoner standing under arms as an officer in said regiment, which was then drawn out upon Culloden Moor with the rest of the rebel army in lines expecting the Duke of Cumberland.

JAMES PARKER.—Some days after the battle of Falkirk I saw the prisoner with the rebels at Stirling, and he was called a Captain in the Duke of Perth's regiment both by the officers and common men, dressed and armed as aforesaid. Saw him with the officers and a party of the Duke of Perth's regiment that changed the guard there, and it was generally reported among the rebels that the prisoner joined their army about the time of the battle of Falkirk.

ROGER MACDONALD.—Whilst the rebels were at Stirling I first saw the prisoner at Mrs. Young's, a public house there, in

company and drinking with some French officers, and witness looked upon him as one who had joined the rebels. Prisoner was dressed in a highland habit, but I cannot recollect whether he carried arms or wore a white cockade.

Capt. EYRE; Lieut. MOORE.—Prisoner gave these gentlemen his name, and rank of a Captain in the Duke of Perth's regiment.

FOR THE DEFENCE.

Mr. GORDON.—An object of pity rather than resentment.

JOHN BUCHANAN, 17 years old.—Witness is a servant to his father, who lives in Perthshire. In September, 1745, a summons brought by Duke of Perth's officers and prisoner went, the father not being well. I went with him. Duke of Perth met us—can't say what he said, but prisoner followed and lagged behind, and made signs to me to go back, and so we did. He said the Duke intended to carry him into rebellion, but he hoped he should not be obliged. Next morning I saw him, and for eight days he kept out, and only came of evenings for victuals, whilst he desired us to stand sentry. The father desired he should keep out of the way.

When the rebels left the country he came home. A fortnight after Prestonpans they came back—were surprised by a party two miles off his father's (Kilnahaig), where they were at Lime Quarry, and went into K— to refresh. Captain Drummond commanded the party (30), and said, "Though you deserted before you are now my prisoner." They were armed with sword, dirk and pistols, and some guns. Carried him to the church of Calendar, within a mile of my father's. Father had word sent him and came. They drank, and I was ordered by prisoner to get father's horse ready, and he escaped and went home, and I behind him. The party were in two alehouses. Sent two servants and horses for father; neither drunk or sober. Did not see him till two days after, but the lads said they brought him off that night. Next day an officer and 10 came to his father's and asked his mother for the son. She said "Not at home." He said he had orders from Duke of Perth to burn houses, destroy cattle, and hang these before their own doors. House searched but not found, for father and son were got to a Burnside by coals (*sic*). Absconded three days till rebels left the country.

There came again four days after Xmas 40 with officers at daybreak, and brought out prisoner. Had no notice of them. They were armed, and he could not get from them, being surrounded. Prisoner when at Stirling sent word to father that he would give all to get away, and if he did he would not lye at home for quarter year. Desired a message to be sent that father was dangerous, in order to mollify, and get home. I went the next morning with such

a message of his being at point of death. He applied for leave, but could not get it. Said he would try to escape, and did get over ferry, but guard carried us back to guard house. I, not being in highland clothes, was let go. They sent prisoner by boat, and told he was apprehended trying to escape. I went in another boat and overtook him, and he bade me tell his father that he would still escape, if opportunity. Was carried to his old quarters, and pushed in, and they took away his arms. This was about 1st February. Used to wear highland clothes. No burning of house or destroying of cattle. Did not offer to apprehend me. The water was narrow. Believes he all the while intended to desert.

MALCOLM MACLISH.—Summons from Duke of Perth. Prisoner hid himself. Taken at Kilnahaig. Threats to burn, &c, for badness of example. Spoke to Mr. Cuming, Sen., after Xmas, about carrying off prisoner; three men and a boy.

{Information laid at Inverness—Not guilty. Tried 15th Nov., 1746.}

NICHOLAS GLASCOE, OF DILLON'S REGIMENT—
FRENCH SERVICE.

ANDREW ROBINSON.—I was servant to the prisoner, who was called Major Glascoe, and who marched with some French soldiers from Dundee to Stirling. The prisoner overtook upon that march the second battalion of Lord Ogilvie's regiment about five miles from Dundee, and marched with them to Stirling. The prisoner wore a short highland waistcoat and white cockade on said march, with pistols before him, and a sword by his side. I saw the prisoner march into Stirling with some French officers in the rebel service the day after the battle of Falkirk. The prisoner was upon the command at Keith the night that a party of the Duke of Kingston's horse was killed and taken.

JAMES PATERSON, No. 13.—I saw prisoner in arms upon the march with the rebel army from Elgin in Murray towards Forres the day after the Light Horse were taken at Keith, dressed in highland clothes, white cockade, broadsword by his side, and a pair of pistols before him. I asked the prisoner "what news"; to which he replied, "Good news, we have taken twenty-nine or thirty of the King's forces at Keith, and this is one (the horse he rode on)," and that he, the prisoner, commanded the party that took them. I also saw him in arms marching with some of the rebels to the battle at Culloden Moor, and saw him there with them when drawn up on horseback, armed with sword and pistols, and a large white cockade.

JAMES ROSS, No. 55.—I saw prisoner three days together at

Fochabers with Lord John Drummond, before the battle of Culloden, dressed and armed as aforesaid.

LAWRENCE CLARK, No. 58.—I first knew the prisoner in Dillon's regiment in France about fourteen years ago, and saw him at Fochabers two or three times while a party of the rebels lay there.

ROGER MACDONALD.—I saw prisoner with the rebels at Fochabers whilst General Bland and the King's forces lay at Strathbogie, armed and dressed as aforesaid. Saw him go out of Fochabers to patrol, with some other rebel officers, upon an alarm that the King's forces were coming up, on horseback and armed. Saw him with the rebels at Stirling when they besieged the castle.

THOMAS ARMSTRONG.—I saw the prisoner with the rebels at Stirling after the battle of Falkirk. He was Major of Lord Ogilvie's second battalion, and was dressed in highland habit, &c, marching with the rebels through Perth, Aberdeen, and Fochabers, armed as aforesaid. Also with the rebel army when it was drawn up on Culloden Moor the day before the battle.

ALEXANDER SMITH.—Prisoner was Major of Lord Ogilvie's second battalion, and was with them at Stirling, Montrose, Dundee, Strathbogie, and Fochabers, armed and dressed as aforesaid. I saw him draw up said battalion on the young Pretender's birthday at Fochabers, and ride at their head, and order them to fire three times. He commanded, and they obeyed him as their officer. Saw him give money to a Serjeant of said battalion to subsist some of the men.

ROBERT NAIRN.—I saw prisoner with said battalion at Montrose, and on the march from thence to Fochabers, dressed as aforesaid.

WILLIAM FUDD.—Prisoner was with the rebels at Stirling after Falkirk, dressed and armed, &c, also saw him with them from Stirling through Perth, Aberdeen, to Fochabers.

ROBERT MACKAY.—I saw him with the rebel army at Brechin in Angus, dressed, &c From Brechin he marched with the second battalion of Ogilvie's regiment to Fochabers, Elgin and Nairn.

COLIN THOM.—Prisoner marched with said battalion from Auchterarder to Dunblane, then to Stirling, then to Bannockburn, where they joined the rebel army.

JOHN WILSON.—I saw the prisoner ordering the batteries at Montrose by which the Hazard sloop was taken. Also marching with a party of the rebels who guarded the prisoners taken in said sloop, from Brechin to Arbroath.

JOHN COWIE; JAMES SCOTT; WALTER YOUNG; ROBERT IRONS.—These witnesses testify to prisoner's presence in the rebel army, armed and dressed as aforesaid, at Fochabers, Keith, Montrose, Stirling, Perth, Aberdeen, Meldrum, and Culloden Moor.

ALLAN BOWIE, servant to Harry Patullo.—Witness saw Nicholas Glasgoe draw up Lord Ogilvie's second battalion, place himself at their head, and exercise them at Fochabers on a certain day, when his master, Harry Patullo, commissary-general, mustered said battalion.

JOHN MACDONALD; ALEX. SHAND; EDWARD SMITH.—These witnesses, all of Fochabers and confined for suspicion, only declare that Glasgoe commanded the party which attacked the King's troops at Keith. They saw him march his detachment for that service out of Fochabers, and march them back into Fochabers with 75 prisoners and 32 horses. That the detachment were mostly volunteers. They marched out at nightfall and returned from Keith with the prisoners next morning.

Capt. EYRE; Lieut. MOORE.—Prisoner told these gentlemen that he was Major of Lord Ogilvie's second battalion. He told the former (Capt. Eyre) that he was born in France, and therefore not a subject of the King's, but he also told him that he was born at Dublin in Ireland.

ANDREW JOHNSTON; JOHN FALCONER.—Testify to prisoner being with the rebels in arms at Derby, Carlisle, Lancaster, Edinburgh, Glasgow, Fochabers, Elgin, Inverness, and at battles of Falkirk and Culloden.

FRANCIS CHALMERS; EDWARD GIBSON; DAVID BELL; THOMAS HENDERSON.—All these testify to prisoner being armed and dressed as aforesaid at Stirling, Fochabers, Inverness, and Culloden.

Note.—Prisoner was formerly a Lieutenant in Dillon's regiment in French service, but in the rebellion he acted as Major to Lord Ogilvie's second battalion.

FOR THE DEFENCE.

Mr. JODDRELL.—I agree the facts are treason if committed by a subject; but he was a French officer, a native of France, and came over with Lord John Drummond in a French regiment, so owned no local allegiance. When young, could only speak French, and learnt *Irish sort of English* to enable him to be in the Irish regiment in French service.

Born at St. Germain on At York, proved could only speak

French, and therefore acquitted. Birth not shewn here and it turns the proof on the Crown. The French officers were ordered to discipline the rebels; and prisoner as above, being in Militia, declined it, but reprimanded, and ordered to do it. But if (he was) barely born here, and ever since in France and done no act of allegiance, he can't be a rebel.

It is certainly so in all other countries carries it much too far. Our King is King of France, but don't protect these subjects. Prisoner is of licence to serve French King. Is it not a defence? Cartel of Frankfort is a licence. Should not be very strict in requiring proof as we are at war with France, and our law differs from the laws of all other countries.

JOHN O'NEILL.—I knew him (prisoner) in 1725, in Flanders, a cadet in Dillon's, in French service: was then about 10 years old. Spoke natural French and broken English, but not like Irish. Was his bedfellow seven years at Valenciennes. I, coming from Ireland and not speaking French, was recommended to his father, a Captain in same regiment, named Christian Glascoe. He lived chiefly at Paris, and had been from Ireland ever since the wars in Ireland. I was to help him to learn English, he spoke French as a native. Heard call them father and son. Saw the father in 1729 at Valairlxdon, and he said prisoner was born at St. Germain, and was 10 years old when he came into the service.

[Certificate of the Minister of St Germain's offered, but it appearing to be founded on a register, and no copy sent or oath offered, it was rejected.]

Mr. ATTORNEY GENERAL.—He was offered to have passports for witnesses if he made an affidavit.

PRISONER.—Could not do it in honour, it being a submission.

DAVID CARNY.—I knew his father who resided at Paris. Prisoner spoke French naturally. Reported son of Christian who came over from Limerick. I knew him in 1729, in garrison at Strasburgh. In Dillon's regiment they must learn English. He was then a young lad. Heard he was born at St. Germain's, and called *Enfant de St. Germain's* in 1729, which is child of St. Germain's.

Captain MACDERMOT.—I knew him from 1732. Embarked at Dunkirk, 13th November, 1745, under command of Lord J. Drummond in French service. Landed in Scotland. He was ordered by Stapleton to discipline Lord Ogilvie's second battalion. He declined it, and was threatened to be sent back and tried by a council of war, and ordered to do it in name of most Christian King. Always considered he was still under French commission, and believes he had no other. Many French officers got highland

clothes as a protection against the highlanders who joined us. Usual for the officers of that regiment to call themselves Irishmen, though not born there. He was called Major before.

Capt. JOHN BURK.— I knew him five years as Lieutenant in Dillon's. Forced to discipline the Militia. I wore highland habit to avoid danger in travelling in red clothes. He was reported and received pay as a French officer. He was called a St. Germain's bird, an expression imputing his birth there. I always called him townsman, I being born there. The father was agent as well as Captain, and therefore stayed at Paris. His mother bore a French name, and two years ago heard the father say he was born at St. Germain's. If I was asked I should own myself an Irishman for the glory of it, and would never own myself a Frenchman.

Capt. DELEHIDE.—37 years officer in Duke of Berwick's regiment. Prisoner was ten years abroad with his regiment in Germany. He was threatened into disciplining the Militia.

Capt. GARRY.—In a French regiment, officers wore highland clothes. He was called a Garçon Major. Always considered him as acting under French commission, and had no other. In 1727, he was in Arras with his father. Heard the father say prisoner was born in St. Germain's. Spoke French naturally. We claim it as an honour to have Irish blood in our veins. I was born in France, yet, call myself an Irishman.

PRISONER.—I owned myself an Irishman to be better used by Eyre, who is an Irishman.

Chief Justice WILLS.—The evidence is too strong, and he must be acquitted, for he owns no natural allegiance, or local, for he came over as an enemy, and never put himself under our King's protection.

The Court ordered his irons off, and that he should not be discharged, but kept as a prisoner of war.

[Information laid at Fochabers in Moray—Not guilty.]

ROBERT FORBES.

JOHN VERE; SAMUEL MADDock.—These witnesses were in Carlisle when the town was besieged by the Duke of Cumberland, and say the defendant was a Captain in the rebel service, and was in garrison in Carlisle, armed with a sword and a brace of pistols. He did duty in the town as an officer in its defence against the Duke.

C. THOMAS CHALMERS, No. 31; C. ALEX. FORBES, No. 47; C. JOHN FRAZER, No. 48; C. JOHN OGILVY, No. 89; C. JOHN

URQUHART, No. 105; C. JOHN CONNOR, No. 36; Lin. WM. WILLS, No. 110.—Declare they were left in garrison in the castle of Carlisle by the rebels when the rebel army marched from thence to Scotland, and say defendant was one of the rebel officers left in garrison there; was called a Captain, and did duty as such in defence of the town and castle against the King's forces when the Duke besieged it.

Lin. ALEX. IRVINE, No. 125.—I was left in garrison in Carlisle by the rebels when they marched into England, and saw defendant, one of the officers left there, walking about the castle and ramparts, observing that the sentinels did their duty.

Y. HUGH MACDOUGALL, No. 60.—I was kept in Carlisle whilst the rebel army were in England, during which time I saw defendant mount guard, and do duty in the castle of Carlisle as one of the officers left in garrison there.

JOHN DAVISON.—I saw prisoner upon duty in Carlisle, and saw him march at the head of a party of the rebels towards the English gate, with pipes playing before them, with a sword by his side, and a fuzee in his hand. I frequently saw him at the castle yard with other rebel officers, and generally with a sword by his side, and a pistol stuck in his belt.

Chas. HENDRY.—The prisoner was one of the rebel officers in garrison in Carlisle, and commanded the guard to be drawn out upon an alarm that the King's forces were coming to attack the town. He was then armed with a pistol.

FOR THE DEFENCE.

Mr. JODDRELL.—All the evidence confined to Carlisle. He is a farmer of the Duke of Gordon's. Forced out and confined by Glenbucket, and made several attempts to escape—put on woman's clothes—drank the Duke's health and success to his arms.

Mr. GORDON.—He could only escape by Firth of Forth and Stirling Bridge, both of which guarded.

1. GEORGE WYATT.—Lives a mile and half from Strathbogie. Sent Cope hay into Banff, and two of his men into the King's service. A maidservant came to me to assist her master, seized by the rebels. Saw 20 with drawn swords. He offered money and all he had to let him go. He struck one of 'em—put him on horseback, with bridle and saddle, and carried him to Strathbogie. Took him from mother and sister. One shot for deserting. Eight days after ... fair.

2. ALEX. GILL.—I was sent to give notice to gentlemen to keep out of the way of the rebels returning to take them. Saw him fetched in sleep, dragged out bareheaded and coat torn. They charged him as villian for serving Cope, and giving him two men.

3. ROBERT GRAY.—Same as above—kept at Dundee by force.

4. GEORGE KAY.—Saw him at Leith try to get boat to escape.

5. ANNE GRAHAM.—He drank the Duke's health with Dr. Douglas and cursed the Pretender. Helped to dress him in women's clothes to escape, and he had ropes, but stopped by sentinels.

6. JANE SIMPSON.—Helped him to my mother's clothes. Stopped by sentry. Had ropes under arms.

7. Capt. EYRE.—Prisoner helped the surrender.

[Acquitted by Mr. Attorney's consent.]

JAMES CORDON.

JOHN VERE; SAMUEL MADDOCK.—These witnesses were in Carlisle when it was besieged by the Duke, and say defendant was an officer in the rebel service, and belonged to the Artillery, and did duty as such, armed with a sword and pistols during the said siege.

ARCH. LAUDER, No. 131.—Witness was left in garrison in Carlisle when the rebels marched from thence into Scotland, and saw the cannon fired from the castle upon the Duke's army. I saw the defendant, who was a Lieutenant in rebel service, belonging to the Artillery, upon the ramparts in the castle, assist in levelling the cannon upon the Duke's army.

C. JOHN OGILVY, No. 89; C. JOHN FRAZER, No. 48; La. WILLIAM MAGGEE, No. 7; Y. HUGH MCDUGALL, No. 60; CHARLES HENDRY.— These were left in garrison by the rebels when they marched into England, and stayed there until the town surrendered to the Duke. Prisoner, a Lieutenant in Pretender's service, was left in garrison, and did duty as an officer in defence of the place.

[Guilty, but reprieved.]

JAMES RATTRAY.

ANDREW ROBINSON, No. 9.—Prisoner marched with the second battalion of Lord Ogilvy's regiment from Dundee to Stirling, and he wore a white cockade and sword and pistols in said march, and rode mostly on horseback.

ALEX. SMITH.—I saw prisoner with said regiment at Fochabers,

Elgin, Cullen and Aboyne, armed with sword and pistols and white cockade.

JOHN BRUCE.—Prisoner was officer in said battalion after battle of Prestonpans. Commanded a party of the rebels who escorted some cannon from Brechin in Angus towards Perth, and was then armed with sword and pistols.

WM. TODD.—I saw prisoner with a party of rebels at Forfar, having some cannon going to Perth, dressed in highland clothes, and a sword by his side. Saw him afterwards with the rebels at Fochabers, armed and dressed as aforesaid, and appeared to be an officer.

JAMES MORTIMER.—Prisoner was an officer in said regiment, and marched with it to Dundee, Brechin, Aberdeen, Old Meldrum, Fochabers and Elgin, dressed in highland clothes, and armed with sword and pistols.

JAMES SCOTT.—I saw prisoner with said regiment at Elgin, and at Speyside in the shire of Murray, dressed and armed as aforesaid.

WALTER YOUNG.—I saw prisoner with said regiment from Montrose to Stirling, from thence through Perth, Aberdeen, Old Meldrum and Fochabers, dressed and armed as aforesaid.

JOHN ADAM.—I saw him with the rebels upon retreat from Stirling at Brechin on march towards Inverness, &c (as above).

Capt. EYRE; Lieut. MOORE.—Prisoner gave his name to these gentlemen after the battle of Culloden, and said he was a volunteer in Lord Ogilvie's regiment in the rebel army.

ANDREW JOHNSTON.—Prisoner was a volunteer in Lord Ogilvie's regiment in the rebel army, and was with them when they took Carlisle and at Derby. I saw him with them at Perth, Fochabers, and at the battles of Falkirk and Culloden, armed, &c, as aforesaid.

JOHN FALCONER.—I saw him with the rebels at Edinburgh, and he was then in the Pretender's Life Guards, and armed with broadsword and pistols.

FRANCIS CHALMERS.—I saw prisoner in Lord Ogilvie's regiment when the rebels took Carlisle and several times upon the march in England, and at Fochabers and Elgin, armed and dressed as aforesaid.

FOR THE DEFENCE.

Mr. JODDRELL.—Rely on original and continual force. The Marquis of Tullibardine forced all the tenants of Athole prisoners.

Advised many to keep out of the rebellion. This produced a resenting letter threatening military execution. He drove his cattle into the mountains and hid with them. Got violent cold; found out. Deserted in England, and at home at battle of Falkirk. Continued to dissuade; seized again by party sent in the night. He concealed himself in the ceiling, but found out, and carried away prisoner as a deserter. At Elgin he attempted to escape. Deserted before the battle of Culloden, and was 100 miles off. Lived at home until seized by the Duke's Hussars.

Mr. GORDON.—Dissuading others—confirms the force on himself.

I. Mr. BRODIE.—Servant to his father 20 years. Could influence 300 men to go into the rebellion. He and I went to tenants and neighbouring gentlemen to desire them not to join the rebels, latter end of September. In harvest field he received a letter from the Marquis threatening fire. Advised sending cattle away. Sent them and went into the mountains. Stayed eight days. Vomited blood and came home sick. When Tullibardine heard it he sent 50 armed men. Wounded, tied and dragged him, and carried him towards Blair. Sent after him by his wife with clean clothes to Dunkeld. Would not let me speak to him. Saw him again the Monday before Falkirk battle at his house, and he said he deserted and came home on his own feet. Fresh orders came from Tullibardine to raise men, and prisoner sent about to hinder it.

February 1st seized again, being hid in ceiling. Took his gardener first for him, and gardener's wife pointed to the ceiling to save her husband. Was carried away as a deserter. He had no arms when he came home. Carried him surrounded to Kerrymuir on the way to Brechin, whither I followed him, but could have no access at first, but at last met with one who brought me to him, and he ordered me to go home and tell his wife he would come back as soon as he could get released.

His father then at home, but old, and they did not ask for him. They found father in the field, and asked for the son. He would not tell them, and they used him badly—pushed him about and called him an old man —threw him down, but he kept his feet. They left him and came towards the house, and met me within quarter of a mile from the house, upwards of 50 yards from the father. They talked Erse, and I did not understand them. I went from the father a shorter way to the house to tell a party was coming, and then went again towards the field. Letter read. Donald Macdonald, George Leith, John Masterton, May Taylor, Margt. Chalmers, Agnes Mitchel, present, 28th September, at sunrising. Three days after came another letter, addressed to him in the field, 10th October. Carried off.

2. ROWLAND DRUMOND.—It was Marquis's hand, dated 29th Sept^r., 1745, directed to James Rattray, Esq. "Notwithstanding the several messages you have had, and nothing done, I command you to appear, else military execution."

3. JOHN BLACK.—I heard him read the letters, and he told all to abscond and send away cattle. He went to the woods next morning, stayed six or seven days, and came home sick.

10th October 40 [men] came—took off my shoes—went into his house and brought him out with hands tied, and carried him away towards Dunkeld, where Tullibardine was. Did not see him again till Monday before Falkirk. He came home, tired, on foot. Wrote letters to neighbouring gentlemen. I carried one to James Rattray of Tuig (?) who read it to me, and he said he was obliged to prisoner for it. Saw him carried away the second time. Saw him at home at noon, 17th April, 80 miles from Culloden, and he stayed at home till the Hussars took him in beginning of May. Did not see Brodie. Must not go by my house from the field to the prisoner's house.

4. JAMES HOWY.—Had letters in September, and desired tenants to keep themselves and cattle out of the way. He went to hide next morning. Carried off 10th October, market day. Met him on the road, bound, with 50 highlanders, armed. Saw him at home Monday before Falkirk, and he sent letters about to keep back men from joining the rebels. He could have carried in 400 men, being so beloved: none went. Seized a second time. I carried his linen, and by help of an acquaintance delivered it. He bid me tell his wife he would escape as soon as he could. Returned again and stayed at home until taken 1st May.

5. JAMES HABORN.—I saw him at Strathbogie weekly market latter end of February last, but in prison. He asked why, and he said it was for deserting from the Athol men. Strathbogie is 60 miles from prisoner's house.

6. JOHN STUART.—I live three miles from Strathbogie. I saw him tied last day of February. Offered first drink to see him. They said he was a deserter, and they would take more care of him. Saw him at Elgin in April, but not so close a prisoner. He asked me to help him to escape. I undertook it, and 11th and 12th April I went with him to the castle of Brumor (*sic*), where I left him—five days going.

[Information laid at Elgin, Moray—Not guilty.]

COLIN MACKENZIE.

DONALD MUNRO, No. 1; DONALD FRAZER, No. 8.—These

witnesses say that upon return of Lord Cromartie's regiment from Caithness to Dunrobin Castle they saw prisoner with said regiment, in which he was an officer. Prisoner was not in it fourteen days before he was taken at Dunrobin.

HUGH ROSS.—I saw prisoner, who was Captain in Lord Cromartie's regiment in the rebel army, along with said regiment at Thurso in Caithness, where they went to raise men for the Pretender, dressed in highland clothes, a white cockade, and armed with broadsword and pistols. I saw him march on foot with said regiment from Thurso to Dunrobin Castle.

HECTOR CAMPBELL.—I saw prisoner at Thurso, and upon the march to Dunrobin with said regiment.

GEO. SINCLAIR.—Testifies to the very same effect as against Hector Mackenzie, save that prisoner Colin declared that he did not join the party till after battle of Falkirk. He was a Captain in Lord Cromartie's regiment.

Capt. EYRE; Lieut. MOORE.—Prisoner told these gentlemen he was a Captain in Lord Cromartie's regiment.

CROSS-EXAMINATION OF WITNESSES.

1. HECTOR CAMPBELL.—Rebels in possession of the ferries—not easy to have got into Ross-shire. Lord Sutherland's Militia up, and thinks might have been secure if gone to them. But we did not know it, until taken by surprise. Lord Reay's men in arms, but not known.

2. HUGH ROSS.—Prisoner was in Caithness. Stayed a night at a minister's house. Three of us had bread and cheese. No guard on him—two or three rebels stayed at same parson's house. He lives near Lochbroom, and was not in the regiment at Falkirk. Lord Cromartie's men were against rebelling. Barrisdale's men conducted them to Sutherland. He apprehends it was to protect them against Lord Loudoun's men. Could not get into Ross-shire. The march after Barrisdale's men left us was 50 highland miles back and forward. Lord Sutherland and Lord Reay's men were known to be up all the while we were in Caithness. I was taken three miles off from Dunrobin.

3. DONALD MUNRO.—Force used by Keppoch and Ardlow. The Macdonalds kept the passes while we were in Caithness to prevent our desertion.

4. DONALD FRAZER.—I saw him in Caithness in Cromartie's company, and marching in middle of common men to Dunrobin Castle.

FOR THE DEFENCE.

Mr. JODDRELL.—Defendant 18 years old. No evidence till after Falkirk. Forced in just before the march to Caithness. The law does not require proof of continuing force. It only extends to those who prove personal original force, and it must be fear of death, but that depends on circumstances. In October prisoner took up arms to oppose Barrisdale.

1. JAMES ROBINSON.—He was well behaved to the Estate of Sutherland. Letters in October to meet together from Lord Cromartie. They consulted me, and we were of opinion to make no return to it, for fear of provoking enemies. We were in suspense about Lord Cromartie. Prisoner went with 50 others to oppose Barrisdale, and drove him away. Beginning of November Lord Cromartie's son came in a soft way to induce them to join, and insinuated that their opposition to Barrisdale would be their destruction. I advised him against it. All concluded to return fair words, and sent prisoner for four days to conduct Lord Macleod. He returned in four days, and had conducted him over the hills. Our parish continued quiet till 14th March (the prisoner being at home all the while and determined to oppose the rebellion), then orders came to raise my parish of the name of Mackenzie, threatening military execution. About 60 men full armed came with these orders. Prisoner and others skulked to a retired place eight miles off, and I heard he was taken going to a hiding place of his brother's. I was imprisoned on suspicion of having letters, and was carried to their quarters and saw him prisoner, guarded by four men. They said they would make him smart for deserting Lord Macleod. Next day the party came for victuals to the town, and gave him leave to *hark* a word to me, and he whispered that he would desert if he could. We sent a scout to find out a place to advertise them how to get back.

2. JOHN MACRAE.—He helped to oppose Barrisdale in October. In March the rebels heard of message from prisoner's brother to him, and so he was seized, and I saw him prisoner next morning with 50 armed men. His mother could not get access at first, but did after, and begged him to be left as a youth, and offered half she had, but they said he was saucy to their captain and should go. I was employed to find a pass for them to get home if they could escape. I put on a cockade and pretended to be a rebel, and so passed. Saw him at Tain 10 days after, and could not get him away. They said he was a stubborn beast. He was a prisoner, but I got liberty to speak privately to him. He said he was strictly guarded, and was to go over Dornoch Firth next day, and then he could not have any hopes. Always wore highland clothes.

Mr. ATTORNEY GENERAL.—Being only a short time in their company I give it up.

[Information laid at Dornoch in shire of Sutherland—Not guilty.]

WALTER OGILVY.

Y. JOHN ALLAN, No. 2.—Defendant was an Ensign in the Duke of Perth's regiment in the rebel army, and marched with them to Carlisle. I saw him with part of the Duke of Perth's regiment in the trenches, before Carlisle, when the rebels besieged and took it, armed with sword and pistols. The defendant continued in Carlisle, and did duty as an officer in defence of the place against the King's forces, armed as aforesaid, when it was besieged by the Duke.

SAMUEL MADDOCK.—The defendant was one of the rebel officers in garrison in Carlisle when it was besieged by the Duke, during which time I frequently saw him mount guard in the guard room in the castle, at the head of parties of the rebels, armed with broadsword, dirk, blue bonnet, and white cockade.

JOHN VERE.—I frequently saw defendant mount guard as an officer in Carlisle, armed with firelock, a brace of pistols, and a broadsword, between 20th and 30th December last, when it surrendered to the Duke.

C. JOHN CONNOR, No. 36; Lin. ALEX. IRVINE, No. 125; C. ALEX. REACH, No. 91.—These witnesses testify to defendant's presence in Carlisle as a rebel officer.

C. JOHN FRAZER, No. 48; C. JOHN OGILVY, No. 89; La. WM. MAGGEE, No. 7; Lin. WM. WILLS, No. 110; Lin. ARCH. LAUDER, No. 131.—These witnesses say defendant was an Ensign in the Duke of Perth's regiment, and marched with it from Dalkeith to Carlisle, armed with sword and pistols. He was one of the rebel officers left in garrison in Carlisle when the rebel army marched back from thence to Scotland, and he appeared, acted and did duty as an officer in defence of the place when it was besieged by the Duke.

ALLAN STEWART.—I saw prisoner amongst the rebels at Edinburgh a few days after the battle of Prestonpans, armed with a small sword. Saw him afterwards with the rebels at Carlisle, armed as aforesaid.

WM. MCGHIE.—I saw the prisoner at Edinburgh, armed with sword and pistols. Saw him upon the march carry the colours of the Duke of Perth's regiment towards Carlisle, and frequently in

that place draw up the rebel soldiers.

[Withdrew his plea and pleaded guilty. Executed 22nd August, 1746.]

JAMES NICHOLSON.

CHAS. CAMPBELL, Esq.—I saw defendant among the rebels in Edinburgh before the rebel army marched to England, and he was then dressed in highland habit, and armed with sword and pistols.

SAM. MADDOCK.—Defendant was a Lieutenant in Captain Gad's company in the Duke of Perth's regiment, and witness frequently saw him mount guard at the English and Irish ports in Carlisle at the head of parties of Captain Gad's company, when the town was besieged by the King's forces. He wore the highland habit, blue bonnet, and white cockade, and was armed with broadsword, dirk, and side pistol. After the town surrendered to the Duke he endeavoured to make his escape, but was taken by the Duke's army.

JOHN VERE.—When Carlisle was besieged by the Duke I saw defendant, who was an officer in the rebel army, with firelock, pistols and broadsword, mount guard in Carlisle between the 20th and 30th of December last.

JOHN FRAZER.—Testifies as above, and says defendant was a Lieut, in the Duke of Perth's regiment, and marched with it from Dalkeith to Carlisle, armed as aforesaid.

JOHN WHITE, No. 109.—Defendant was at the head of his company when the Pretender was proclaimed there.

C. JOHN URQUHART, No. 105; C. DONALD STEWART, No. 103; La. WILLIAM MAGGEE, No. 7.—These witnesses testify to defendant's presence as a rebel officer, armed as aforesaid, at Carlisle, when it was besieged by the Duke.

ROGER MACDONALD; THOMAS DRAKE; JOHN DAVISON.—These witnesses saw prisoner on the march with the rebels, and at Derby and Carlisle.

WM. MACGHIE.—The prisoner was with the rebels at Edinburgh, and at their camp at Duddington, upon the march of Duke of Perth's regiment to Carlisle, armed with sword and pistols. Frequently saw him upon duty in castle of Carlisle; draw up the rebel soldiers there.

[Withdrew his plea and pleaded guilty. Executed 22nd August, 1746.]

DONALD MACDONALD.

JOHN VERE.—I was left in Carlisle when the rebels marched to Scotland. I saw defendant armed with firelock, pistols, and broadsword, mount guard in Carlisle as an officer in rebel army, between 20th and 30th of December last, when the town was besieged and surrendered to the Duke of Cumberland.

CHAS. CAMPBELL, Esq.—I saw prisoner with the rebels at Edinburgh before they marched into England, and he then appeared to be one of them, and he was then dressed in a highland habit, and was armed with broadsword and pistols.

La. WM. MAGGEE, No. 7; C. JOHN CONNOR, No. 36.—These witnesses were left in Carlisle by the rebels after they had taken it, and when they marched further into England, the defendant was one of the officers left in garrison there to keep possession thereof for the rebels. Defendant did stay in garrison there during all the time the rebel army was in England.

La. DAN. MCFARLAN, No. 15.—This witness by interpreter says as above, and further that he heard the defendant give directions to the private men left in garrison there to be ready to mount guard, and that the prisoner continued in garrison among the other rebel officers when the same was besieged and taken by the Duke.

Y. HUGH MDUGALL, No. 60; C. ALEX. REACH, No. 91; C. JOHN URQUHART, No. 105.—Testify to the same effect as foregoing.

C. THOMAS CHALMERS, No. 31; C. JOHN DONALDSON, No. 42; C. ALEX. FORBES, No. 47; C. JOHN FRAZER, No. 48; C. JOHN OGILVY, No. 89.—These witnesses were left in garrison in Carlisle when the rebels marched to Scotland, and defendant was one of the officers left there, and -did duty as such in defence of the place against the King's forces.

C. DONALD STEWART, No. 103; Lan. ISABELL CAMPBELL, No. 72; Lin. WM. WILLS, No. 110; Lin. ALEX. IRVINE, No. 125; Lin. ARCH. LAUDER, No. 131; Y. JOHN ALLAN, No. 2.—These witnesses declare as above.

JOHN DAVISON.—Often saw prisoner among the rebels at Carlisle, but does not remember seeing him armed, or upon any duty.

Capt CRAIG.—Upon the surrender of the castle to the Duke, prisoner's commission of Captain was taken from him by witness, and it is under the hand and seal of Charles P. R.

[*Withdrew his plea and pleaded guilty. Executed 22nd August, 1746.*]

CHRISTOPHER TAYLOR.

SAMUEL MADDOCK.—The defendant joined the rebel army at Stockport, near Manchester, and there he enlisted in the Manchester regiment as an Ensign in the Pretender's service. He marched from thence to Derby and back again to Carlisle on foot, armed with broadsword, blunderbuss and pistol, with white cockade in his hat. He frequently mounted guard at the head of parties of the Manchester regiment at the Town Hall in Carlisle during the siege thereof by the Duke, armed as aforesaid.

C. AUSTEN COLEMAN, No. 34.—I was enticed into the rebel service at Manchester, and went with them to Derby and back to Carlisle. When the rebels marched from Carlisle to Scotland the Manchester regiment was drawn up in the castle yard before the officers of the regiment, and I then saw the defendant, who was called an Ensign in that regiment, and appeared as such, present on that occasion, with a sword by his side, a plaid sash on, and white cockade in his hat.

[Withdrew his plea and pleaded guilty, and was reprieved.]

WILLIAM BRITTOUGH ALIAS BRITTER.

BENJAMIN BOWKER.—When the vanguard of the rebels came to Manchester, I saw defendant along with them at the "Bull Head Inn," with a white cockade in his hat, and I believe he had then taken on with them.

THOS. CRAGG.—I saw defendant with the rebels at Preston, in the retreat, with a white cockade in his hat, and afterwards at the head of the Manchester regiment as an officer when it was drawn up on Penrith Moor, with a white cockade, plaid sash, and armed with a gun. I afterwards saw him upon guard in Carlisle, when it was besieged by the Duke, and march at the head of an armed party to the guard house.

Capt. KNEVIT; Capt. CRAIG.—These gentlemen and others, upon the surrender of Carlisle, were ordered by his Royal Highness to view and mark the rebel officers who defended the town, which they did, and know the prisoner to be one of them.

SAM. MADDOCK.—I was an officer in the Manchester regiment, and defendant enlisted with the rebels at Manchester as an officer (Ensign) in the Manchester regiment, and marched with it from there to Derby and back to Carlisle, armed with sword and pistols. The defendant frequently mounted guard in Carlisle at the Town Hall at the head of a party of the Manchester regiment, armed as aforesaid, with a white cockade in his hat.

JOHN COLLENS (aged 13, examined by permission of C. J. Lee, Wright and Reynolds).—I frequently saw the defendant amongst the rebels at Manchester, with a white cockade in his hat, also upon the march with the rebels between Manchester and Penrith, armed as aforesaid, with a white cockade in his hat.

C. Ormsby MCCORMACK.—I was taken from Manchester and made to carry a spade, and assist to mend the roads for the rebels' artillery to Derby, and back to Preston, where I was prevailed upon to list in the Manchester regiment. Then I marched with them to Carlisle. The defendant was an Ensign in said regiment, armed as aforesaid; carried the colours upon the march with the rebel army from Preston to Carlisle. When the rebel army marched from Carlisle to Scotland, the Manchester regiment was drawn up in the castle, where arms were distributed to them. The defendant was then present at the head of the men as an officer; had a plaid sash on and a white cockade.

[Found guilty. Had sentence reprieved.]

CHARLES KINLOCH.

ANDREW ROBINSON, No. 9.—I saw the prisoner Charles Kinloch at Dundee, whilst the rebels were in possession of that town. He marched along with the second battalion of Lord Ogilvie's regiment from Dundee to Stirling, wearing a highland habit, a white cockade, and sword. Sometimes the prisoner rode, and if he had not pistols before him, he had them at his side. From Stirling the rebel army marched towards Inverness, part through the highlands, and part by Brechin to Perth, from thence to Aberdeen and Fochabers. The prisoner marched with that part of the rebel army which passed the latter way. In said marches the drums were beating, pipes playing, and colours displayed. The prisoner marched from Aberdeen with the second battalion of Lord Ogilvie's regiment to Fochabers. The night before the battle of Culloden witness saw the prisoner marching up to Inverness with said battalion. Upon Tuesday, the 15th of last April, he saw the whole rebel army drawn up in order of battle on Culloden Moor expecting the Duke of Cumberland. He saw the prisoner at that time drawn up in arms with said rebel army.

THOS. ARMSTRONG.—I saw prisoner at Stirling with the rebels. He was Captain of the Grenadiers in second battalion of Lord Ogilvie's regiment, and was armed with sword and pistols, and wore a white cockade. I saw him with them at Aberdeen, at Speyside, and at Fochabers, armed and dressed as aforesaid. He gave witness is. at Brechin on the march.

ALEX. SMITH.—This witness proves the prisoner to be an

officer, armed and dressed as aforesaid, with the rebels at Stirling.

CHARLES MATHER.—Proves as above, and that prisoner was with the rebels at Stirling, Aberdeen, and at the barracks over against Fochabers, armed, &c, as aforesaid.

JOHN BRUCE.—I saw him march into Brechin at the head of his men in highland clothes, with sword and pistols.

ROBERT NAIRN.—I saw prisoner with the rebels at Montrose, Fochabers, and Culloden Moor, before the battle there, dressed in highland dress, and armed with broadsword and pistols.

WILLIAM TODD.—This witness proves prisoner to have been with the rebels at Stirling, Aberdeen, and Fochabers, always in highland dress, armed with a broadsword. He was called a Captain.

ROBERT MACKEY.—I saw prisoner march with the rebels from Brechin to Fochabers and Elgin, Nairn, as an officer in second battalion [Lord Ogilvie's regiment], dressed and armed as aforesaid.

JOHN WILSON.—I saw him march north with his men after the battle of Falkirk, from Coupar in Angus, dressed in short highland clothes.

JAMES MORTIMER.—I saw the prisoner with the rebels at Aberdeen, Old Meldrum, Fochabers and Elgin, dressed in highland clothes, armed as aforesaid, and called a Captain.

WALTER YOUNG.—I saw prisoner at Stirling, Aberdeen, Fochabers, and Elgin, and he was called Captain in said battalion, was dressed in highland dress, with white cockade, and armed as aforesaid.

ROBERT IRONS.—This witness proves prisoner to be in said command, armed, &c, as aforesaid, at Montrose, Aberdeen, and Speyside.

Capt. EYRE; Lieut MOORE.—These gentlemen were appointed by his Royal Highness to take an account of the rebel prisoners at Inverness who were taken at the battle of Culloden, and the prisoner told these gentlemen he was a Captain in Lord Ogilvie's regiment in the rebel army.

ANDREW JOHNSTON.—The prisoner was Captain in said regiment, and with them at Carlisle, and all the way in England. At the battle of Falkirk—Elgin, Inverness, and Culloden Moor, armed as aforesaid.

JOHN WILLIAMSON.—Prisoner marched with the rebels from Dundee through Perth to Edinburgh, where he believed he turned back.

[Information laid at Fochabers in Shire of Moray. Guilty. To be transported, with choice of place of residence.]

CHARLES DEACON.

SAM. MADDOCK.—When the rebels came to Manchester the defendant put on a small sword, a laced hat with white cockade, and enlisted in the Manchester regiment as Ensign. He marched with the rebel army to Derby and back to Carlisle on horseback, with a brace of pistols, a sword and white cockade. I saw him mount guard at the head of parties of the Manchester regiment in Carlisle, and do duty there as an officer when the town was besieged by the Duke.

AUSTEN COLEMAN, No. 34.—When the rebels marched from Carlisle into Scotland the Manchester regiment was drawn up in the castle yard before the officers, and defendant was then present as an officer, and was then called an Ensign, and had a sword by his side, a plaid sash on, and white cockade.

THOMAS CRAGG, No. 88.—The defendant marched with the rebel army from Preston to Carlisle, and was present at the head of the regiment in the castle of Carlisle when it was drawn up there. I saw him marching to the guard room in Carlisle at the head of parties of said regiment, who were armed with guns, when it was besieged by the Duke.

THOS. BRADBURY.—I saw the prisoner among the rebels at Manchester, armed with a small sword, and wearing a white cockade.

JOHN COLLINS.—Prisoner was seen upon the march with the rebel army by witness, from Manchester as far as Penrith.

[Found guilty. Had sentence reprieved.]

JAMES WILDING.

SAM. MADDOCK.—The defendant joined the rebels at Manchester, and enlisted there as an Ensign in the Manchester regiment, with which he marched on foot to Macclesfield, at which place his father came and brought him a horse, laced hat, sword and brace of pistols; and got him made a Lieutenant of the Pioneers. He acted as such upon the march from Macclesfield to Derby, and back again to Carlisle, armed with a brace of pistols and small sword. He had a laced hat and white cockade. When they came to Carlisle the Pioneers were broke and incorporated in the Manchester regiment. The defendant was made an Ensign in said regiment, and did duty as such. Saw him frequently mount guard at

the English port in Carlisle during the siege thereof by the Duke, armed as aforesaid, with a white cockade in his hat.

JOHN COLLINS.—I saw prisoner with the rebels at Manchester on their retreat, armed as aforesaid. Also upon the march to Penrith on horseback.

THOMAS CRAGG, No. 88.—I saw the defendant upon the march with the rebel army to Carlisle. Saw defendant marching to the guard room there when the King's forces were besieging it at the head of parties of the Manchester regiment.

[Found guilty. Had sentence reprieved]

JOHN SANDERSON.

SAM. MADDOCK.—When the rebels came to Manchester I heard the defendant say he joined the rebels at or near Edinburgh. The defendant was made a Captain in the Manchester regiment, and marched with it from Manchester to Derby and back to Carlisle—sometimes on horseback, at other times on foot, to keep the men together, and acted as a Captain in said regiment upon the march, armed with a broadsword and brace of pistols. He wore a white cockade and laced coat, which he said had lain by him since the last rebellion, and never put it on him till this occasion. He frequently mounted guard at the head of parties of the Manchester regiment at the Town Hall in Carlisle, and acted as an rebel officer in defence of the place when the town was besieged by the Duke, and when the capitulation was making he declared he would go up to the mouth of a cannon to serve the Pretender, and would rather be shot through the head than be at the mercy of the Elector of Hanover.

JOHN COLLENS.— I saw the defendant with the rebel army at Manchester, armed with a brace of pistols, and frequently upon the march with said army at Manchester and Penrith, sometimes on horseback, at other times on foot, at the head of parties of the Manchester regiment.

C. ORMSBY MCCORMACK, No. 86.—I saw the defendant upon the march with the rebel army between Preston and Carlisle, armed with sword and pistols. When the rebel army marched from Carlisle to Scotland, the Manchester regiment was drawn up in the castle yard, where a great many arms were given to them, and the defendant was then present at the head of the men, with a plaid sash and cockade: Witness saw him upon guard as an officer in Carlisle when it was besieged by the Duke.

AUSTEN COLEMAN, No. 34; La. JAMES WARREN, No. 36; THOMAS JAY, No. 58; THOMAS CRAGG, No. 88.—These witnesses

prove prisoner's presence with the rebels as an officer, armed and dressed as aforesaid, at Carlisle, and upon the march with the Manchester regiment.

HUGH MACDUGALL, No. 60.—I saw the defendant upon guard at the town gaol when the town was besieged by the Duke, and he ordered the sentry to take care of the witness, he having been taken up on pretence of writing letters to the English army.

[Found guilty. Had sentence reprieved.]

THOMAS CHADDOCH, OTHERWISE CHADWICK.

SAM. MADDOCK.—When the rebels came first to Manchester the defendant put on a plaid waistcoat, laced hat, and white cockade, and enlisted in the Manchester regiment as a Lieutenant, and was busy there enlisting men. The defendant marched with the rebels to Derby and back to Carlisle, armed with a brace of pistols and small sword and a gun. He wore a white cockade and plaid waistcoat. In the churches at Derby and Lancaster the defendant played several tunes upon the organ —amongst others that called “the 29th of May,” or “*the King shall enjoy his own again,*” which made him much esteemed by the chief officers of the rebels. During the siege of Carlisle by the Duke witness frequently saw him mount guard at the head of parties of the Manchester regiment at the Town Hall, armed as aforesaid, with a white cockade in his hat.

THOS. BRADBURY; BENJAMIN BOWKER.—Saw the defendant among several of the rebels, who were armed with sword and pistols, in the “Bull Head Inn “in Manchester the day the rebels came there, and was reputed then to have joined them.

AUSTEN COLEMAN, No. 34; THOMAS JAY, No. 58; THOMAS CRAGG, No. 88.—These witnesses declare the prisoner was in Carlisle with the rebels when the same was besieged by the Duke, he being a Lieutenant in the Manchester regiment. They saw him upon guard at the Town Hall of Carlisle, armed and dressed as aforesaid, at the head of a party of the Manchester regiment.

Capt. KNEVIT; Capt. CRAIG.—Upon the surrender of Carlisle these gentlemen and others were appointed by his Royal Highness to view and mark the several rebel officers who defended the town, which they did, and know the defendant to be one of them.

[Found guilty. Executed 30th July, 1746—his head to be placed at English gate at Carlisle.]

THOMAS SIDDALL.

SAM. MADDOCK.—The defendant was a barber in Manchester, and reputed non-juror, and when the rebels came there he put on a gold laced plaid waistcoat, laced hat, and white cockade, and enlisted as an Ensign or Adjutant to the Manchester regiment. He was the busiest of anybody at Manchester in enlisting men and searching. He marched with the Manchester regiment to Derby, armed with a sword and pistols, a French piece, and a white cockade in his hat. In said march defendant took up a shoemaker, who, he heard, had carried great numbers of shoes from Manchester thither in order to conceal them from the rebels, and the defendant sent a guard to seize them, which the guard did, and brought about three and four hundred pair of shoes to the rebel army. Defendant kept the shoemaker prisoner for three or four days. In the retreat of the rebels from Derby to Leek, the defendant went in the night from Leek with Holker and some other rebel officers in order to have raised more men at Manchester, but, being surprised by the Militia, he quitted his horse and concealed himself until the rebel army came to Manchester. Then he got his horse again and committed several audacious things in Manchester, such as breaking open houses. The defendant marched with the rebels to Carlisle, and when he came there he had money lodged in his hands by the Pretender, as Adjutant to the Manchester regiment. Witness saw the defendant frequently during the siege of Carlisle by the Duke, mount guard as Ensign at the Town Hall there, at the head of parties of said regiment, armed as aforesaid. Likewise saw him pay several of the companies of the Manchester regiment in Carlisle as Adjutant.

JOHN COLLENS.—I saw the defendant with the rebels at Manchester, with a white cockade in his hat, and a sword by his side, and frequently upon the march with the rebel army between Manchester and Penrith, on horseback, armed with sword and pistols, and a white cockade in his hat .

ORMSBY MCCORMACK, No. 86.—This witness marched with the rebels from Manchester to Derby and back to Preston, where he entered with them, and marched to Carlisle. The defendant marched along with the rebel army, armed with sword and pistols. The Manchester regiment was drawn up in Carlisle Castle, when the rebels marched to Scotland, when a great quantity of arms were given them. The defendant was then present as an officer at the head of the men, and had a plaid sash and cockade on.

AUSTEN COLEMAN, No. 34; C. THOMAS JAY, No. 58; La. JAMES WARREN, No. 36; La. THOS. CRAGG, No. 88.—These witnesses testify as to the prisoner's presence with the rebel army at Manchester, Lancaster, and Carlisle, armed and dressed as aforesaid.

THOMAS BRADBURY.—I saw defendant along with one of the rebel Serjeants and drums, beating up for volunteers in Manchester. The defendant pulled off his hat and huzza'd. He had then a white cockade. Saw him afterwards with the rebels at Manchester with a plaid waistcoat and white cockade. He came with some of the rebels to this witness to print an advertisement by order of the Pretender.

[Found guilty. Executed 30th July, 1746. His head was placed at Manchester Exchange]

ANDREW BLOOD ALIAS BLVDE.

SAM. MADDOCK.—I saw the defendant with the rebel army at Manchester when they first came thither, and he marched with them to Derby and back to Carlisle. At Macclesfield defendant was made Captain of the Pioneers, and did duty as such till they came to Carlisle, and then the Pioneers were broke and incorporated in the Manchester regiment, and defendant was then made a Captain of a company in said regiment. He frequently mounted guard at the Town Hall in Carlisle, armed with a gun, at the head of a party of said regiment, and wore a laced hat and white cockade.

JOHN VERE.—I saw the defendant in Carlisle, armed with a gun, and he did duty as an officer when it was besieged by the Duke.

AUSTEN COLEMAN, No. 34.—Witness marched with the rebels from Manchester to Derby and back to Carlisle. He marched with the Pioneers, who went before the rebels' Artillery and baggage, and mended the roads for them to pass. They mended the roads between Macclesfield and Leek, about five miles from Macclesfield, and between Kendal and Penrith, about four miles north of Kendal on a mountain; and again about two miles north of Shap. The defendant was an officer of the Manchester regiment, and commanded that party of the Pioneers, having a white cockade in his hat. The Manchester regiment was drawn up in the castle of Carlisle when the rebel army marched from thence into Scotland, and defendant was present at the head of the men, and had on a plaid sash and white cockade.

THOMAS JAY, No. 58; C. ORMSBY MCCORMACK, No. 86; C. JOHN CONNOR, No. 36.—These witnesses testify to the prisoner's presence with the rebels as an officer on the march commanding a party of Pioneers, and also in the garrison of Carlisle, when it was besieged by the Duke, dressed and armed as aforesaid.

[Withdrew his plea and pleaded guilty. Executed 30th July, 1746.]

JAMES DAWSON.

SAM. MADDOCK.—The night the rebels came to Manchester the defendant was with them at the “Bull Head Inn,” enrolling the names of the persons who enlisted at Manchester. The defendant put his own name first on the list as a Captain, and made up cockades. Defendant marched with the rebel army to Derby and back to Carlisle on horseback, armed with sword and pistols, and wore a white cockade. Upon the march to Derby defendant went with a party of the Manchester regiment to Bradley Hall, and brought away with him two brace of pistols. He beat up for volunteers at several places, and particularly at Derby, where he made a speech to this effect. “All gentlemen volunteers who are willing to serve His Royal Highness Charles, Prince of Wales, Regent of Scotland and Ireland, in one of His Royal Highnesses new raised English regiments, commonly called the Manchester regiment, under the command of Colonel Townley, let them repair to the ‘Drum Head,’ or to the Colonel’s headquarters, where they shall be kindly entertained, enter into present pay and good quarters, receive all arms and accoutrements and everything fit to complete a gentleman soldier, and, for their further encouragement, when they arrive in London they shall receive 5 guineas each and a crown to drink his Majesty King James’s health, and, if not willing to serve any longer, they shall have a full discharge. Every man shall be rewarded according to his merits. God bless King James.” During the siege of Carlisle he frequently saw the defendant mount guard at the head of parties of the Manchester regiment at the Town Hall, armed as aforesaid.

THOS. BRADBURY; C. AUSTEN COLEMAN, No. 34.—Witnesses testify as to defendant’s presence with the rebels as an officer in the Manchester regiment on the march to Derby, at which place he went about enlisting. Also at Carlisle, armed and dressed as aforesaid.

ORMSBY MCCORMACK.—I was forced by some of the rebels to go with them from Manchester to Derby and back to Preston. I was made drunk and prevailed upon to enlist with them, and marched with them to Carlisle. The defendant marched with said regiment and the rest of the rebel army to Carlisle, armed with sword and pistols. He was left in garrison there when the army marched to Scotland. The said regiment was drawn up in the castle, and a great number of arms given to them, defendant being present as an officer at the head of the men, with a plaid sash and white cockade. Witness was several times upon guard in the town of Carlisle, and saw defendant upon guard when it was besieged by the Duke, dressed as aforesaid.

C. THOMAS JAY, No. 58; La. JAMES WARREN, No. 36; La. THOMAS CRAGG, No. 88.—These witnesses declare as to defendant's presence with the Manchester regiment as an officer, armed and dressed as aforesaid, in garrison at Carlisle. Also upon the march from Wigan to Carlisle, and at Preston, where he walked the street with the rebels. Acted in defence of Carlisle against the Duke.

{Found guilty. Executed 30th July, 1746.}

JOHN BERWICK.

SAM. MADDOCK.—When the rebel army came to Manchester defendant put on a plaid waistcoat, laced hat, and white cockade, and enlisted in the Manchester regiment as Lieutenant. He marched with them from thence to Derby on foot, armed with a brace of pistols and a gun. In their retreat between Derby and Ashburn he stole a horse with saddle and holsters, and marched with them on horseback to Carlisle, and acted as a Lieutenant in said regiment. During the siege of Carlisle by the Duke, defendant frequently was seen by witness upon guard at the head of parties of said regiment at the Town Hall, armed as aforesaid.

JOHN COLLENS.—Testifies as above, and that he saw prisoner frequently on the march between Manchester and Derby, and between Derby and Penrith.

[Found guilty. Executed 30th July, 1746.]

THOMAS DEACON.

SAM. MADDOCK.—The day the rebels came to Manchester the defendant put on a white cockade, a plaid waistcoat laced with gold, and a broadsword, and enlisted in the Manchester regiment as a Lieutenant. He was one of the busiest in persuading the common men to enlist, and went with parties of the rebels all over the town to search for arms, and gave those persons who enlisted one shilling each, and promised them £5 more when they came to London. The defendant marched with the Manchester regiment to Derby and back to Carlisle. He acted as a Lieutenant in said regiment during the whole march, and he always marched on horseback in the same dress as aforesaid, with a brace of pistols and broadsword. He sent his servant as a spy into the Duke's army, and afterwards with an express to the Governor of Carlisle. The defendant was left in garrison at Carlisle, and remained there until the town and castle surrendered to the Duke, and witness frequently saw him mount guard at the Town Hall as an officer at the head of parties of said regiment.

ORMSBY MCCORMACK, No. 86.—This witness was left in Carlisle when the rebels marched to Scotland, and he testifies as to prisoner's presence in the garrison of Carlisle as a Captain, dressed and armed as aforesaid.

THOS. BRADBURY.—Witness declares as to the prisoner being with several rebels, dressed as aforesaid, and that, he compelled witness to print the Pretender's Manifesto at Manchester.

C. AUSTEN COLEMAN, No. 34.—Witness went with the rebels from Manchester to Derby, where he saw the defendant go about the town with one of the rebel drummers, beating up for recruits for the rebels when the rebel army was there. He afterwards saw him go about with drums at Preston beating up for recruits. Saw him as an officer of the Manchester regiment when it was drawn up in the castle yard of Carlisle, upon the march of the rebels to Scotland, armed and dressed as aforesaid.

THOMAS CRAGG, No. 88.—I saw prisoner with the rebels at Preston, and marching to the guard room at Carlisle at the head of a party of said regiment, armed and dressed as aforesaid, when the King's army were besieging the place. Saw him also at the head of said regiment when it was drawn up on Penrith Moor.

BENJAMIN BOWKER.—The night the vanguard of the rebels came to Manchester the witness saw the defendant among the crowd at the "Bull Head Inn," and desired him to go home, lest he should be hurt. Prisoner said he would, but the same evening witness saw him again at the same place with the rebels, with a white cockade in his hat, and believes he had then joined them.

Capt. KNEVIT; Capt. CRAIG.—These witnesses declare defendant to be one of the rebel officers who defended the town of Carlisle.

[Found guilty. . Executed 30th July, 1746. His head was placed at Manchester Exchange]

DAVID MORGAN, ESQ.

SAM. MADDOCK.—When the rebels came to Manchester I saw the defendant very busy amongst them with a white cockade in his hat. He was reputed the chief man in getting from the Pretender's son press warrants for horses and arms. The witness says a man came into the "Bull Head Inn" to the officers of the Manchester regiment, and informed them where Justice Dinkenfield, who had fled from thence on the rebels approach, was, and told them the Justice had carried a great many arms away with him. Defendant being acquainted herewith came into the room where the officers were, and asked the man some question as to Justice Dinkenfield,

and immediately ordered the witness and another person to take the said man to defendant's quarters, where there was a guard set over a great many arms, which defendant had under his custody to arm the Manchester regiment. Defendant soon after came to his quarters, and examined the man thoroughly, and made him swear to what he said in the presence of the witnesses, and gave said man a shilling in hand, and told him he should be handsomely rewarded if what he told him was true, which was that he knew where Justice Dinkenfield was, and that he had a great quantity of arms with him. The defendant commanded the witness to stay with the men, whilst he went to acquaint the young Pretender of what the man had told him. When he returned he brought a file of highlanders with him, and ordered them to conduct the witness and the said man to the Pretender's lodgings, where there was a horse ready for the man, and then the defendant gave Lord Pitsligo a search warrant, signed by the young Pretender, which was orders to bring Justice Dinkenfield, arms, and horses to the young Pretender. Witness went with Lord Pitsligo and a party of Hussars, but the Justice was fled.

The witness afterwards frequently saw the defendant upon the march with the rebels from Manchester to Derby, armed with a brace of pistols and a broadsword, and wore a white cockade. In the retreat to Ashburn defendant came to the house where the Manchester officers were quartered, where Captain Dawson of the Manchester regiment gave him a brace of pistols, and there the defendant left the army. The witness heard defendant say that he had the offer of the Manchester regiment made him by the young Pretender, but that he refused it, not being a military man. That defendant was generally with the young Pretender at night, and lodged in the same quarters with him; that he acted as a spy for the rebel army in observing the motion of the Duke's army. Further, that while the rebels were at Manchester defendant met Mr. Francis Townley, Peter Moss, James Dawson, George Fletcher, James Bradshaw, Thomas Furnival, Thomas Deacon, Robert Deacon, Charles Deacon, Andrew Blood, and several others, at Mr. Cookson's, the sign of the dog in Manchester, and there the defendant proposed the raising of a regiment for the Pretender, to which proposal all present agreed, and all of them then having white cockades in their hats. Then the company considered who should have command of the regiment, and, after a short consultation, offered the command to the defendant, but he thanked them and desired to be excused, saying he did not understand military discipline well enough to take so large a command upon him, and said that Mr. Townley had been in the French service, and understood the military discipline much better than him, whereupon Mr. Townley was named Colonel. He set his

hand down in a paper first as Colonel, and the rest set down their names with the title of rank in said regiment, and then the defendant took the list away with him to the Pretender, and promised to furnish them with arms. Then ordered a drummer about the town to beat up for volunteers.

JOHN BERRY, No. 3.—He was a servant to Mr. William Vaughan in Monmouthshire, and in the beginning of November last his master told him that he was going a shooting at Mr. Berkeley of Speechly in Worcestershire, and bid him get a couple of fowling pieces and the spaniels ready in the morning, and they went to Mr. Berkeley's and stayed there one night. There his master met with the defendant Morgan, and from thence his master and Morgan went to Mr. Fitzherbert's in Staffordshire, where they stayed one night, and then went to a gentleman's house near Leigh in Lancashire, but does not remember his name, and they stayed there two nights, and then went to Preston, and stayed all night before the rebels came. He says he and Mr. Morgan's servant were ordered by their masters to take the horses to Walton (about a mile north of Preston), and, if the rebels came that way, then they were to take the horses to a village about four miles further off. About 10 or 11 o'clock the said Vaughan and Morgan came to the house where the witness and the other servant were with the horses; stayed there all night and walked back to Preston next morning. Witness and the other servant were directed to stay where they then were till they came again. They came again the second night about 11 o'clock, and next morning directed the witness and the other servant to take the portmanteau and horses and go to Leigh as aforesaid, but to wait in the road a little way short of Leigh until they came to them, and about 4 of the clock in the afternoon the said Vaughan and Morgan came to them with each a white cockade in his hat, and then went to the same gentleman's house at Leigh where they had been, and lay there that night. The next morning they went to Manchester with the said cockades in their hats, and put up at a constable's behind a church, but does not remember his name. He attended his master at supper the second night they lay there, and there were the said Mr. Vaughan, Mr. Morgan, and Mr. Murray, the secretary to the young Pretender, at supper together. He heard Mr. Morgan call him Mr. Murray, and he saw Mr. Murray go in and out of said house several times. He says his master and defendant Morgan joined the young Pretender's Life Guards, under the command of the Lord Elcho, and rode with them from Manchester to Derby. His master gave him two guns to carry from Manchester to Derby. When the rebels went back to Manchester, his time being out with his master, he left him there, and was going when he was taken up and committed to gaol.

EDGAR HOWE.—Defendant and about twenty other rebels—eight of whom were officers—were quartered at my house at Derby about two days when the rebel army was there, and defendant told me these eight officers always lodged together, and that they were not come to live upon him or anybody else, for they would pay for what they had. Defendant appeared to be the chiefest person of those quartered at my house, and gave all the directions for providing for their entertainment, and gave the witness a guinea and three shillings for such entertainment of himself and the other rebels, and said he paid him like a gentleman. Defendant was then publicly called and reputed to be the Prince's (meaning the young Pretender's) Counsel. The witness has since seen the defendant in Newgate, who told him (the witness) he would come to Derby and see him again in spite of King George and all the people in the world, or to that purpose. He saw defendant frequently go to the Pretender's lodging, and never appeared to be under any restraint while he was at Derby.

[Found guilty. Executed 30th July, 1746. His head was placed at Temple Bar.]

JOHN HUNTER.

SAM. MADDOCK.—The defendant told witness he came from London with design to join the rebel army, but being suspected he was taken prisoner by the rebels at Preston, and carried with them to Derby and back again to Preston, when he was released by Captain Sanderson of the Manchester regiment. Immediately after he was released he put on a white cockade, drank the Pretender's health on his knees, and enlisted as an Ensign in the Manchester regiment, and did duty as such upon the march from Preston to Carlisle. During the siege of Carlisle by the Duke he frequently mounted guard at the Town Hall at the head of parties of the Manchester regiment, armed with a broadsword and gun, and wore the white cockade.

JOHN COLLENS.—Witness first saw the defendant when he was a prisoner to the rebels. After the rebels had released him he put a white cockade in his hat, enlisted in the rebel army, and marched from Preston to Penrith.

JOHN VERE.—I was carried prisoner with the rebels to Carlisle, and the defendant was made an officer in the Manchester regiment in the rebels' service at Preston, and marched with them to Carlisle, where he was left in garrison. The witness saw him in Carlisle, armed with sword and gun, do duty as an officer in defence of the place when it was besieged by the Duke.

Capt. KNEVIT; Capt. CRAIG.— Upon surrender of Carlisle said

gentlemen and others were appointed by his Royal Highness to view and mark the several rebel officers who defended the town, which they did, and know defendant to be one of them.

Note.—Prisoner was forced, he escaped, being pursued for eleven miles, and threatened with death unless he returned.

[Not guilty. Acquitted.]

JOHN COMERIE.

JOHN VERE; SAM. MADDOCK.—These witnesses were in Carlisle when the town was besieged by the Duke, and say defendant was one of the rebel officers left in garrison there, and did duty as such during said siege, armed with broadsword and pistols.

C. JOHN DONALDSON, No. 42.—I was a private man in garrison in Carlisle when it was besieged by the Duke, and defendant was a Captain in the rebel service, and defended it as such. I received pay in Carlisle from the defendant as my officer.

C. ALEX. FORBES, No. 47; C. JOHN FRAZER, No. 48; C. JOHN OGILVY, No. 89.—These witnesses testify as to prisoner's presence as an officer in Carlisle when besieged.

DONALD STEWART, No. 103.—Testifies as above, and that he saw him upon guard at the Scotch gate during the siege.

La. DAN. FARLAN.—Witness was left in garrison in Carlisle by the rebels when they marched into England, and stayed until the town surrendered to the Duke. Saw the defendant, who was an officer in the rebel army, upon guard on the walls near the Irish port.

La. ISABEL CAMPBELL, No. 72; Y. HUGH MCDUGAL, No. 60.— These testify as above.

WM. MACGHIE.—I saw the prisoner at Holyrood House at Edinburgh with the rebels, and at the head of his company upon the march to Carlisle, armed with sword and pistols. Saw him draw up his men in the castle of Carlisle, and upon guard, armed as aforesaid.

[Died before trial]

JAMES STATTON.

JOHN VERE; SAM. MADDOCK.—These witnesses were in Carlisle when it was besieged by the Duke of Cumberland, and until it surrendered to him, the defendant being the surgeon to the rebel garrison, and acted as such during the siege. He marched from

Edinburgh. In officers' list as a surgeon.

JOHN CONNOR, No. 36.—I was servant to Col. Strickland, and came to Carlisle about four days after it surrendered to the rebels. My master was taken ill, and continued there until the rebels came out of England. He died three or four days before the town surrendered to the Duke. The defendant was surgeon to the rebel garrison, and attended the sick and wounded rebels there.

ISABEL CAMPBELL, No. 72.—Testifies as above, and says he appointed her to look after the sick.

WILLIAM MAGGEE; JOHN ALLEN.—As above.

Chief Justice WILLS.—It is objected that it don't appear he had arms. All are principals in aiding or assisting, and are parties to levying war, and surgeons are necessary; so are drummers. No proof of his marching and the cockade, but a circumstance. Presumptions won't do.

[Jury acquitted him.]

ANDREW WOOD.

JAMES PATERSON, No. 39.—While the rebels were in possession of Glasgow, it was the general report there that the prisoner had taken on with the rebels, and was to have a commission as Captain in Roy Stewart's regiment upon condition he should raise 50 men for the rebel service. The day after such report I saw him walking with Roy Stewart in the town of Glasgow in English habit, but don't remember whether he was armed or wore a white cockade.

ROGER MACDONALD, No. 39.—I saw the prisoner with the rebels at Glasgow, and knew very well he had taken on with them. I heard he was to have a Captain's commission upon condition of raising 50 men for the Pretender's son. Upon 28th December last prisoner took on with the rebels, and before that he wore English clothes. He ever after taking on with them wore Highland clothes, and broadsword and pistols. I often saw him in Glasgow with the rebels, dressed and armed as aforesaid. Also saw him along with a party of Roy Stewart's regiment on Speyside at the time General Bland was at Strathbogie. I often saw him along with John Roy Stewart's regiment at Elchies, where that regiment was posted to keep the ford there, and remembers particularly to have seen the prisoner there when witness was sent to intercede with John Roy Stewart about restoring to one Captain Campbell a watch and some guineas which a party of said Stewart's regiment had taken from Mr. Campbell at Keith, and I left prisoner with said regiment when I marched to Inverness.

JOHN HAY, No. 50.—I was once at Inverness when in the possession of the rebels, and saw prisoner along with John Roy Stewart, in whose regiment he had a company, dressed in highland clothes, and wearing broadsword, and cockade in his bonnet. Two days before the battle of Culloden I saw prisoner with Roy Stewart's men at Elgin, dressed as aforesaid.

ALAN STEWART, Tilbury; Captain EYRE; Lieut. MOORE.—These gentlemen testify to his presence with the rebels as Captain in Roy Stewart's regiment.

EDWARD SMITH.—I saw prisoner with said regiment in arms at Fochabers, and believes he was with the detachment under Glascoe at Keith.

ANDREW JOHNSTON.—I saw prisoner beat up for volunteers at Glasgow, and at the battle of Falkirk, at Perth and Nairn.

JOHN FALCONER.—I saw prisoner receive his commission from the Pretender's son, and he asked witness to get him some men and a serjeant to beat up in defendant's name for volunteers. He was armed with a small sword, and wore a white cockade.

FRANCIS CHALMERS.—Testifies as to prisoner joining the rebels at Glasgow, that he was made a Captain in Roy Stewart's regiment. I saw prisoner with the rebels at Falkirk, and at Rothes in Murray, armed and dressed as aforesaid.

[Guilty. Executed 28th November]

SIR JOHN WEDDERBURN.

ROGER MACDONALD, No. 3.—I knew the prisoner very well, and saw him with the rebels upon the retreat from Stirling on the way to Inverness, when part of the rebel army passed over the Tay near Perth. Just after the rebels had passed, I saw prisoner join them on the other side with a party of Strathallan's horse, he being on horseback, in English dress, with a sword by his side and pistols before him. Prisoner, armed as aforesaid, marched with a party of Strathallan's horse to Aberdeen. Upon the march of the rebels from Aberdeen to Old Meldrum, I saw prisoner armed and upon horseback. From Old Meldrum he marched with them to Banff, where I often saw prisoner on foot, armed, and I believe he was a volunteer in a squadron of Lord Strathallan's horse, composed of gentlemen of fortune.

ANDREW ROBINSON, No. 9.—I saw prisoner with the rebels, and he was concerned in levying the excise for their use, but did not wear a highland habit. Don't remember whether he wore a sword or a cockade. While at Dundee I went one day to Mr. Ogilvie's

house, where in a room I saw the people of the town paying their excise money to prisoner, but don't remember to have seen him marching with any body of men in the rebel service.

HENRY EDWARDS, No. 57.—At Perth this witness saw prisoner, when Lord Strathallan was governor for the rebels, on his way from Dundee to Edinburgh to get his commission as collector of excise for the Pretender rectified—the prisoner's father's name being inserted by mistake instead of Sir John's. Upon prisoner's return to Perth he acted there as collector of excise for the Pretender's son, and sent a drum about the town to give notice to the people to come and pay it upon military execution. He wore a white cockade, and had a sword by his side. Saw him frequently with other rebels there. Proves by receipts that prisoner did collect excise on ale and leather in November, December, and January last, in parts of Scotland where the rebels were masters.

JOHN BRUCE.—Prisoner collected the excise for the Pretender at Brechin—a party of rebels being then in the town. Witness paid him 12/6 for his excise. The prisoner said to witness that he should have come sooner, and not have hindered the Prince's men, and added, he had a good mind to send and take his boilers away.

JAMES MORTIMER.—I saw prisoner with the rebels at Aberdeen, and at Elgin, armed with a broadsword. He was reported to be collector of cess in Angus.

JOHN ADAMSON.—Testifies as above, and says he paid his cess twice to him at Brechin.

Capt. EYRE; Lieut. MOORE.—Prisoner told them he was a volunteer in Lord Ogilvie's regiment, and collector of excise at Brechin.

ANDREW JOHNSTON.—I saw the prisoner with the rebels at Edinburgh. He marched with them to Derby and back. Was in the Pretender's Guards at the battle of Falkirk. Saw him with the rebels at Perth and Culloden, armed with broadsword and pistols. Some times he wore the uniform of the Life Guards, and was at other times in the highland dress.

JOHN FALCONER; ALEX. RUSSELL.—Saw him in the Pretender's Life Guards, and in their uniform at Edinburgh, armed with sword and pistols.

FOR THE DEFENCE.

Mr. JODDREL.—The treason charged is levying war, and the over act is being in arms. But two witnesses only speak to his being at Aberdeen, and in a common dress, such as the townsmen

wear. Entering into the rebellion after won't do, for there must be treason at Aberdeen. Cannot give evidence of collecting the excise by 7 to 3—it not being laid expressly. His father, Sir Alexander, was collector for the King. Lord Ogilvie took his horses, and he going after them they carried him by force to collect the excise,

Mr. GORDON.—No proof of his being in England. Not a volunteer, but a private man—proved by Capt. Eyre.

GEORGE WALKER.—The rebels came to Angus-shire in September, and took three of the prisoner's horses. Two were brought back. They said it was to serve the Prince. He said he did not intend to give his horses for any such uses. They said then he should go, and they seized him. He returned in three days, and stayed till latter end of October. About November he was taken at Perth. I carried a letter, and the guard took it and handed it to him. Had an answer in the afternoon, he being to dine with Strathallan. About 12th November he came home and stayed a week, when 100 men came at night and carried him off to Dundee. Saw his servant in Dundee the Tuesday after. Eight days later he came back and stayed till 4th February. Came back 1st December and stayed at home two months. Lord Lewis Gordon's men came and carried him off again to Brechin. Saw him in middle of March at Elgin. No force used.

GEORGE MORKER.—Witness a farmer's son near Sir John's, which is within 14 miles of Perth. Horses taken [and rebels said], D—n him, he should go—wife came out—they damned her—put him on horse—saw him at home four days after—stayed till middle of October. His servant and he rode away together, and nobody with him. Latter end of November—Sunday afternoon. Semple visited house, and took him in running away against his will. Wife and children cried. Saw him at Dundee guarded on Friday after. Ten days afterwards saw him at his house, and he stayed till 5th February, when he was taken away again. [They] called him “that deserter dog Wedderburn.” He was at home again when Falkirk battle was fought.

JOHN SCOTT.—Speaks to theft of horses—went on a visit ten days.

DAVID HUTCHEON.—I never heard how he came or got home; nor whilst at home did any come after him. He made several visits for two or three nights.

Mr. Justice WRIGHT.—The collecting is proper evidence of the overt act laid.

Notes.—1st November. 10 jurors sworn, and all the rest absent or challenged. A jury did not appear, and the court ordered another

panel at a subsequent date. Those who appeared on the 1st were sworn. 4th November. There being no new panel, the counsel for defendant agreed to go on and let the former copy of the panel be deemed good service.

[Information laid at Aberdeen. Guilty. Executed 28th November, 1746.]

JAMES LINDSAY.

ROGER MACDONALD, No. 46.—I saw prisoner with the rebels about one mile from Edinburgh, at Duddingston after the battle of Prestonpans. He was then on horseback and wore highland clothes. He was armed with a broadsword, had pistols before him, and wore a white cockade. The prisoner was in the same squadron that the witness belonged to—in Lord Strathallan's horse. That from the camp aforesaid this witness and the prisoner marched together to Carlisle along with the rebel army. I saw the prisoner in the town of Carlisle, after it was taken by the rebels, both on foot and on horseback, in arms, dressed as aforesaid. In the march of the rebel army into England I saw prisoner marching along almost every day. Saw him constantly in the retreat with the rebel army, particularly at Preston, and saw him along with Strathallan's horse marching to the engagement at Falkirk, and spoke to him then. Saw him often at Glasgow when it was in possession of the rebels. Afterwards saw him with Lord Strathallan's horse at Stirling, Perth, and Inverness. Also drawn up in rank upon Culloden Moor the day before the engagement there.

HENRY EDWARDS.—I saw prisoner march out of Perth with Lord Ogilvie's regiment, armed and dressed as aforesaid, as one of them. Upon the retreat of the rebels out of England I saw prisoner with some of the rebels in Perth, and he went as an escort from Glasgow to Castle Drummond. He declared he was obliged to join the rebels, because if he did not they would not have paid him the money which several of the heads of the rebels owed him, and he could not support his family without it.

Capt. EYRE; Lieut. MOORE.—Prisoner informed them he was a volunteer in Lord Strathallan's horse.

ANDREW JOHNSTON.—Testifies as to prisoner being a volunteer in Kilmarnock's, afterwards Lord Strathallan's, horse, and he saw him at Moffat, Carlisle, and often on the march to Derby. At the battle of Falkirk, and at Perth, he commanded a party to press horses for the rebels. Saw him with them at Fochabers, Elgin, and Culloden, armed and dressed as aforesaid.

HENRY CHEAP.—I saw the prisoner first with Lord Ogilvie's regiment at Perth; afterwards in Lord Kilmarnock's horse, and

marched with them to Carlisle and Derby, armed with a gun and sword; dressed in highland clothes and white cockade.

JOHN HENDRY.—Prisoner was a Captain in the Duke of Perth's regiment, and was with them at Musselburgh, armed with broadsword, highland dress and white cockade, and believe I saw him drawn up with them at Carlisle.

Mr. CHAS. LESLIE.—I saw him with the rebels in October, 1745, at Edinburgh, with a white cockade in his hat, and armed with a broadsword.

DAVID BELL.— I first saw the prisoner with the rebels at Cullen and Aboyne, mounting guard there and patrolling. Saw him march from thence with a party of Glenbucket's men to Fochabers.

FOR THE DEFENCE.

Mr. GORDON.— Prisoner, a shoemaker, engaged with a good intention—all his stock seized. He declined being in the battle of Falkirk, and pleaded sickness.

PETER CRAWFORD.—He is a shoemaker in Perth, and set up 6 years ago. Has a wife and three children. Had a good business. Glenbucket ordered all shoes to be produced and others made, and sent officers for shoes and boots. He said he was to go to Edinburgh to be paid. Whilst he was gone another party demanded shoes, and plundered the house. He came back to Perth before the rebels and was seized as a deserter, and carried away by them. He cried. He was eight days at his business before they took him; about the time of Falkirk battle. 150 of Strathallan's men were then at Perth.

JOHN MALCOM.—He paid excise to Glenbucket. The shoemakers were ordered to work, and he went to Edinburgh for his moneys, and did not work on his coming back.

*{Information laid at Carlisle, Cumberland. Found guilty.
Reprieved}*

JOHN HAMILTON.

JOHN VERE; SAMUEL MADDOCK; ROGER MACDONALD.—These witnesses were in the castle of Carlisle when the same was besieged by the Duke, and say the defendant was the Governor thereof for the Pretender, and appeared and acted as such—walked about the ramparts and gave directions to the officers and men then in garrison there, for the defence thereof against the King's troops.

JOHN DONALDSON, No. 42; JOHN FRAZER, No. 48; THOS. CHALMERS, No. 31; JOHN OGILVY, No. 89; ALEX. REACH, No. 91;

DONALD STEWART, No. 103; JOHN URQUHART, No. 105; WM. MAGGEE, No. 7; ISABEL CAMPBELL, No. 72; ALEX. IRVINE, No. 125; ARCH. LAUDER, No. 131; JOHN ALLEN, No. 2.—These witnesses were all private men, and were left in garrison in Carlisle by the rebels when their army marched from thence to Scotland, and defendant was the Governor of the castle at that time and continued there; was called, appeared and acted as Governor thereof in defending the same when it was besieged by the King's forces under the Duke of Cumberland.

ALEX. FORBES, No. 47.—I was a servant to the defendant, and some time after the battle of Prestonpans the defendant told me he was going to serve the Prince, meaning the young Pretender, then in Scotland, and I must go with him. I declined, and the defendant told me Glenbucket was taking up all the men thereabouts, and if I did not go with the defendant I must be obliged to go with Glenbucket, and carry arms. If I went with the defendant I would have nothing to do but look after his horses, upon which I went with him, and carried his cloakbag behind me to Aberdeen. From thence we went with a party of the rebels to Edinburgh, and afterwards to Carlisle. Defendant marched with the rebel army from Dalkeith to Carlisle armed with sword and pistols, and went to the trenches to see how the siege was carried on by the rebels. After the town was taken I went into it with the defendant, who was then Governor, and continued and acted as Governor when it was besieged by the Duke. I received my pay of 8d. a-day at Carlisle from the defendant.

DANIEL MACFARLIN, No. 15.—I was made to lead one of the rebels' baggage horses to Carlisle, where I was left when they marched further into England. I there had a gun given me by order of the defendant, with which I was obliged to mount guard in Carlisle.

WM. WILLS, No. I 10.—Defendant was left in garrison in Carlisle when the rebels marched from thence into England, and I received pay at that time from Captain Thomas Ogilvie, some of which money I saw Captain Ogilvie receive from the defendant as Governor of Carlisle.

HUGH M^cDUGALL, No. 60.—I was kept in Carlisle when the rebel army was in England, and defendant asked me if I would swear to be true to the Prince (meaning as witness believed the young Pretender), and if I would do so I should have a commission. I refused, and was put in confinement in the guard room, but soon afterwards had liberty again. Defendant continued Governor of Carlisle till the rebel army came back. Then I was again confined until they marched to Scotland, was set at liberty, but was again taken up by some of the Manchester regiment, under

pretence of holding correspondence with the English army. I was carried to the castle guard and confined some days. Defendant sent me to the town gaol, from whence the captain of the town guard sent me to the county gaol in Carlisle, where I was kept till the town surrendered to the Duke.

ROGER MACDONALD.—I saw the prisoner upon the march in Scotland with a squadron of Lord Pitsligo's horse in the rebel army, and saw him several times in Carlisle when he was Governor thereof for the Pretender.

JOHN URQUHART.—I saw defendant along with the rebels at Edinburgh, on horseback, armed with a broadsword.

WM. MACGHIE.—The defendant came to join the rebels at a camp at Duddingston, armed with sword and pistols. Afterwards I saw him on foot with the rebels at Edinburgh with a sword by his side. He marched with the rebels to Carlisle. He was Governor of Carlisle for the Pretender, and lived in the Governor's house. The rebels were drawn up every day in the castle before his house, and he reviewed them. He was frequently upon the ramparts, with a sword by his side, the day before the King's forces came before the town. Defendant gave orders to the gunners to have all things in readiness. That the guns from the castle fired forty-eight hours upon the King's army, and whilst the guns were so firing defendant was busy giving orders to the soldiers in the castle.

JOHN DAVISON.—I live in Carlisle, and was there when the rebels took it; defendant was made Governor of it when the rebels marched into England. I applied to him as such to let me have a gate opened to let horses pass through. I was frequently in Hamilton's company, and often heard him when speaking of His Majesty call him the Elector of Hanover, and frequently heard him drink to the speedy landing of a king—by which I believe he meant the Pretender, because I never heard him nor any of the rebels in Carlisle call His Majesty king.

Capt. CAREY.—When Carlisle surrendered to the Duke of Cumberland the defender as Governor surrendered himself, garrison and papers, to the Duke. Among the papers he delivered his commission to me, which is under the hand and seal of the Pretender to this effect:—

“Charles P.R.

“Charles, Prince of Wales, &c, Regent of England, Scotland, France, and Ireland, and the Dominions thereunto belonging.

“To our Trusty and Well-beloved, John Hamilton, Esquire. We, reposing especial Trust and Confidence in your courage, loyalty, and good conduct, Do hereby Constitute and Appoint you

Governor and Commander of the Town, Castle, and Citadel of Carlisle, from the date hereof, with power, &c. Given at Carlisle, the 14th day of November, 1745”

I also took from defendant his instructions, dated 20th November, 1745, which were given him for his conduct in the defence of the place, and which are signed by John Murray, as secretary to the young Pretender.

I also took from defendant a letter from Secretary Murray, dated the 21st November, 1745, directed to John Hamilton, Esquire, Governor of Carlisle, signifying that His Royal Highness recommends [that] he enquires narrowly about the sick people at Carlisle, and either to take them into the castle or forward them to the army, and to do his utmost to intercept deserters.

I took another paper from the defendant, being a letter under his hand, dated 30th December last, directed to Captain George Abernethy and Robert Forbes, empowering them to wait upon the officers besieging Carlisle, in order to capitulate.

The following papers were then taken out of a cloakbag in the house of one Francis Hewit in Carlisle, which cloakbag was shown to defendant, who owned it to be his:—

(1.) A letter dated 20th November, 1745, signed Charles P.R., and directed to Colonel John Hamilton, Governor of the castle and city of Carlisle, requiring him to raise a regiment of dragoons, to be called the Royal Scots Greys, and to collect the publick monies in Cumberland, Westmoreland, and Northumberland, and in the most contiguous parts of Scotland, and to provide the garrison with provisions.

(2.) “By John Hamilton, Governor of Carlisle, for His Royal Highness the Prince Regent.

“Permit Francis Hewit, Merchant in Carlisle, to pass and repass.

“JO. HAMILTON.

“To all His Royal Highnesses Officers, Civil and Military.”

(3.) A recognizance of Isaac Brown, the younger, and surety taken before the defendant as Governor of Carlisle, in the penalty of 1000 lib., and signed by the defendant, upon condition that Isaac Brown, the younger, appear before our Sovereign Lord the King, or the Prince Regent, or before the Governor of Carlisle for the time within forty-eight hours after notice, and to answer such matters as shall then and there be objected against him. And that if he do not depart without leave, then this recognizance to be void, otherwise to be and remain in full force and virtue.

(4.) Another paper, dated 19th November, 1745, beginning,

“Charles, Prince of Wales, &c, Regent of England, Scotland, France, and Ireland, and the Dominions thereunto belonging.—To all the high and Petty Constables within the County of Cumberland.—These are requiring, &c, to obey the orders of John Hamilton, Esquire, our Governor of the town, Castle, and Citadel of Carlisle, upon pain of Military Execution.”

Capt. KNEVIT; Capt. CRAIG.—These gentlemen were ordered by His Royal Highness, upon the surrender of Carlisle, to view and mark the several rebel officers, so as to be able to know them again, which they did, and know the defendant to be one of them.

Mr. CHAS. LESLIE.—I saw prisoner in Edinburgh, in October, 1745, armed with a broadsword, and white cockade, commanding a party of men in the rebel army.

JOHN WILLIAM.—Prisoner was Governor of Carlisle, and the rebels were drawn up before his door, and he gave orders to the gunners to fire as fast as they could upon the Duke’s battery, which was being raised against the castle.

CHARLES HENDRY.—He was in highland dress.

[22nd October, 1746. Withdrew his plea of not guilty, and pleaded guilty. Executed 28th November, 1746.]

GEORGE ABERNETHY.

JOHN VERE; SAMUEL MADDOCK.—These witnesses say defendant was one of the rebel officers left in Carlisle when they marched from thence to Scotland, and that he did duty as an officer in defence of the place against the King’s forces, armed with sword and pistols.

JOHN URQUHART, No. 105; ALEX. REACH, No. 91.—Defendant was an officer in Glenbucket’s regiment, with which he marched from Dalkeith to Carlisle, armed with sword and pistols, with colours flying, and pipes playing before them as they marched through towns upon the road. These witnesses were left in garrison in Carlisle when the rebels marched to Scotland, and defendant acted as an officer in garrison there, did duty as such, and was armed with sword and pistols, and defended the castle against the King’s forces.

JOHN FRAZER, No. 48; ALEX. FORBES, No. 47; THOS. CHALMERS, No. 31; JOHN DONALDSON, No. 42; WM. MAGGEE, No. 7.—All these testify to defendant’s presence as a rebel officer in Carlisle, armed with sword and pistols.

DANIEL MACFARLAN, No. 15.—I saw prisoner mount guard as a rebel officer at the Irish port in Carlisle,

WILLIAM WILLS, No. 110; ALEX. IRVINE, No. 125; ARCH. LAUDER, No. 131; HUGH MACDUGALL, No. 60; JOHN ALLAN, No. 2.—These witnesses declare prisoner was a rebel officer in garrison in Carlisle, and they saw him walking about the ramparts observing that the sentinels did their duty, mount guard, and among other rebel officers when cannon were fired from the castle upon the Duke's army.

CHAS. HENDRY.—Prisoner commanded a party of rebels in Carlisle in getting stores and provisions for the castle. He was dressed in highland dress, white cockade, and armed with sword and pistols.

THOS. GORDON; JOHN MACKINSON; JOHN WILLIAMSON.—These witnesses testify to prisoner's presence in Carlisle as storekeeper.

JOHN DAVISON.—I frequently saw prisoner in the castle yard of Carlisle when it was in possession of the rebels, and he usually wore a heavy sword and pistol in his girdle. Prisoner commanded a party who searched the town for provisions. Witness upon the approach of the Duke's army went to the castle to ask for a couple of sentinels to stand at his door, apprehending that the town that night would be plundered by the rebels. Prisoner was that night upon guard at the castle, and told witness they could not spare any men.

FOR THE DEFENCE.

Mr. JODDREL.—The defendant was a merchant at Banff, and bailie of the town. When Cope wanted to be shipped for south of Scotland, he sent Rogers to provide ships. He went through Banff, and could not get horses for Aberdeen at the Post Office, and the prisoner procured him one as necessary for His Majesty's service. When Cope came to Banff he furnished him with carriages. This soon became known to the rebels, who came and took him prisoner, and carried him to Glenbucket's quarters. His wife could not get a letter to him. He was carried away a prisoner.

Mr. GORDON.—'Tis *prima facie* a presumption against defendant. Shall prove an original force. There is a difference between marching and being in company, and actual acts of hostility. Shall shew how those retaken were used, and from thence infer the terror.

Sir JOHN COPE.—I sent Captain Rogers from Inverness with letters to get ships at Aberdeen. Rogers is killed. I marched through Banff and was furnished with carriages by the Magistrates, but can't speak to prisoner's person. I sent to the Magistrates as the proper persons. I had 1100 men.

JAMES RAILLY.— I have known prisoner 24 years at Banff. He was a bailie (Provost is chief magistrate), but often he has the gout. He is about 40 years old. Rogers came to Banff, but on bad horses. Prisoner saw him and said, "It is the King's officer, I must see what he wants, and if he needs horses." He soon came back, and bade me go with him and get horses for the Captain, for there was great difficulty. Found some leading corn, and cut the harness, and drove them to the Post house, and they went. Prisoner and Rogers drank a bottle whilst saddling, and sent a boy who knew the way to avoid the rebels. When Cope came, prisoner, as one of the three bailies, got him carriages—one at Londrew (?) and the other not in . . . there were more procured than wanted. A week after the rebels took the prisoner they pillaged for armour, and 20 or 30 came to the prisoner's house, and went in and soon came out holding him. He cried what they took him for, and they said he was a whig villain, and should go with them. He asked why, and they said he put Rogers out of their way, and they were deprived of his papers. He said he would do it again. Then they carried him to Glenbucket's quarters. Next morning they put him on a bare horse. They would not let his wife see him, and bade her go home for a whig, or else they would fire her house. He was carried away, although he and she offered all they had to leave him. He cried out most vehemently, and had no arms or whip. One highlander led the horse and another drove him. Between four and five hundred carried him away. Rogers said he would take care the Government would reward the prisoner.

ALEX. GILL.—Prisoner was very unwilling to go with them. They said they would make him suffer for it, and in general witness confirmed the above evidence as to carrying him away.

JOHN FIOTT.—Witness was a servant to prisoner. Sent by the wife to prisoner at Strathbogie with a letter . . . cut my hand and would not let me do it. Saw him carried away surrounded by rebels.

ANNE GRAHAM.—Witness is a servant at the Grapes, Carlisle, where prisoner lodged.

JOHN VERE.—Witness was prisoner on the King's side at Carlisle. Upon 21st December he told me he wondered the Duke did not summons the town, and I said the Duke would not treat with them, and he said he was sorry. I advised they should draw up an instrument desiring the Governor to surrender.

CHIEF JUSTICE.—Here are sufficient overt acts of high treason proved. The single question is whether there is excusing force must depend upon the whole circumstances. No evidence of force after Strathbogie, or during last end of September, all October, November, and December. Strong evidence that by being

employed they did not distrust him.

[Found guilty. Recommended by the jury to mercy. Reprieved.]

THOMAS WATSON.

THOMAS ARMSTRONG.—I saw the prisoner with the rebels in England, particularly on the march into Preston with Ogilvie's first battalion, armed with broadsword and pistols, and a white cockade in his bonnet. Saw him with the rebels at Stirling, Perth, Aberdeen, Fochabers, and upon Culloden Moor the day before the battle, armed and dressed as aforesaid.

JOHN BRUCE.—The prisoner was an officer in Lord Ogilvie's regiment, and I saw him before the battle of Prestonpans, with the men he had raised abroad, in Angus, to join the rebel army. He was then armed with sword and pistols, and wore the highland dress, and cockade. This witness was on board a ship in Cromarty bay with the prisoner, and upbraided him for joining in the rebellion. Prisoner said it had cost him £100 in raising the few men he did, and it could not be helped.

WILLIAM TODD; ROBERT MACKAY.—Prisoner was a Lieutenant in Lord Ogilvie's regiment, and marched with the rebels through Brechin, dressed in highland dress, and armed as aforesaid. Saw him with him afterwards at Fochabers and at Elgin.

Capt. EYRE; Lieut. MOORE.—Prisoner informed these gentlemen, upon his examination at Inverness, that he was a Lieutenant in Lord Ogilvie's regiment.

[Information laid at Perth. Found guilty. Reprieved.]

JOHN FARQUHARSON.

ROGER MACDONALD, No. 32.—I saw Colonel Farquharson's regiment march from Inverness to Nairn to reinforce the rebels who were then at Elgin to oppose the Duke of Cumberland in passing the Spey. In this march I saw prisoner, who was Captain in the regiment, marching along with it on foot, in highland dress, but does not remember whether he was armed or whether he had a white cockade.

JAMES PATERSON, No. 34.—I saw the prisoner with other rebels at Stirling, some days before the battle of Falkirk, when the town of Stirling was in possession of the rebels. He was then in highland dress, with broadsword and pistols by his side, and cockade in his bonnet. Saw him with his men at the moor of Bannockburn, when the rebels were reviewed two days before the battle of Falkirk. I saw him afterwards with the rebels at Inverness, armed as

aforesaid. He was at the head of the Farquharson regiment, upon the field of battle at Culloden, which was then preparing to attack the King's forces.

Capt. CAMPBELL.—During the time the rebels were in Edinburgh, I saw Captain John Farquharson dressed and armed as aforesaid, but don't know what command he had in the rebel army.

Capt. EYRE; Lieut. MOORE.—The prisoner told them his name, and that he was Captain in Farquharson's regiment in the rebel army.

JOHN REACH.—Prisoner was a Captain in the Duke of Perth's regiment, and was with them at Edinburgh—mounted guard there as a captain—likewise at Peebles and Moffat, in highland dress, armed with sword and pistols.

FOR THE DEFENCE.

Affidavits were put in by Thomas Forbes to put off the trial until the arrival of the witnesses for defence. The court would not put off the trial.

[Information laid at Inverness. Withdrew plea and pleaded guilty. Reprieved]

HECTOR MACKENZIE.

DONALD MUNRO; DONALD FRASER.—Prisoner marched from the first with Lord Cromartie's regiment to Perth. He was in the regiment at the battle of Falkirk, and constantly with it everywhere else. He marched with said regiment into Caithness to raise men for the Pretender, and retired with it to Dunrobin Castle, where he was taken prisoner with the rest of the officers of that regiment.

HUGH ROSS.—I saw the prisoner, who was an officer in Lord Cromartie's regiment, with the said regiment at Perth, before the battle of Falkirk, in highland dress and white cockade, armed with sword and pistols. Saw him with said regiment at Bannockburn, and marching with them to the battle of Falkirk. Also upon the retreat to Aberdeen, and at Thurso in Caithness.

DUNCAN MACDONALD.—I saw prisoner on guard at Perth before the battle of Falkirk, in highland dress and white cockade, armed as aforesaid. Along with one Roderick Mackenzie he confined witness at Perth one night on suspicion of his bringing letters from His Majesty's army.

HECTOR CAMPBELL.—I saw the prisoner along with Lord Cromartie's regiment upon their expedition at Thurso in Caithness,

and also several times upon the march from thence to Dunrobin Castle.

GEORGE SINCLAIR.—Testifies as above, and says that the party were drawn up at Thurso before they left that place to see if all the men were there, and then saw prisoner with all the rest of the Mackenzies present on that day. There was a town guard kept at Thurso, and prisoner and the rest of the Mackenzies mounted guard there alternately. Heard the prisoner boasting of his being at the battle of Falkirk, and of the victory there. He was an Ensign in Cromartie's regiment.

Capt. EYRE; Lieut. MOORE.—He told these gentlemen that he was an Ensign in said regiment.

FOR THE DEFENCE.

Mr. JODDREL.—Prisoner went home after Falkirk and was forced out again into Caithness.

JAMES ROBINSON, minister of Loch Broom.—Prisoner was a forester to Lord Cromartie. All the men were called, and we expected for the King, but Lord Cromartie was uncertain, and we suspected a little. The men were raised to guard Cromarty from rebels. Refused to shew the orders. I found it was to join the rebels, and prisoner, alarmed, said, "it was a trick and a snake in the grass, and for his share he would not join the rebels, though he would guard his master from them. He carried off the men." The alarm was taken up, and the people were told he was a liar and came back, and were carried to Lord Cromartie. In three or four days they found their mistake and came back, and said they would not go into the rebellion. Then came threatenings of military execution. He came home 1st March, after sermon, and said it was the third time of his escape. About 12th March the chiefs of Lord Cromartie's [regiment] brought burning orders, which I saw, under Lord Cromartie's hand. His cattle were taken, and when he came to plead for them they took him prisoner, and sent back the cattle. They said they would make him smart for deserting, because they could not trust him. I had an express from Lord Loudoun with private letters to forward; they came by day light, and they and I were taken. I saved the letters and put them into a safe hand, and they carried me to the guard, and there I found the prisoner kept. I was forced to guard my house, and they took servants away. I was threatened, but at prisoner's request was let go. My three servants were carried away, and are now in Tilbury fort, but I have an order for their discharge.

EWAN MACLEOD; JOHN MACKAY.—A party came and prisoner absconded. He was carried away in October. He was seized again

in March at my house. They said they would part with his cattle in compassion to his wife; but he should go like a scoundrel, and be done with as Lord Cromartie pleased.

Justice FOSTER.—It must be personal force, not to avoid burning house or destroying cattle, for these are inconveniences which a good subject must submit to, and not go into rebellion to save such effects. It must as a personal force be such as may shew a reasonable fear of death, if not complied with, and a retiring as soon as one can.

The oath may be laid out of the case, for no man is bound to keep it, being inconsistent with his oath of allegiance. The case cited is only of an oath to keep safely effects they had got. This may be matter of compassion, but does not amount to a legal defence, unless the jury think it was *pro timore mortis*.

*[Information laid at Falkirk in shire of Stirling. Found guilty.
Pardoned.]*

ALEXANDER LEATH.

JOHN VERE; SAM. MADDOCK; ALEX. REACH.—These witnesses were in Carlisle when it was besieged by the Duke, and they saw defendant, who was one of the rebel officers left in garrison there to defend the same against the King's forces. He was called and acted as captain in the castle of Carlisle, among several other of the rebel officers and soldiers, armed with broadsword and pistols.

JOHN URQUHART.—Testifies as above, and says further he received the pay of 6d. a day in Carlisle from the defendant, as his officer. He was with them as an officer on the march to Derby.

THOMAS CHALMERS, No. 31; JOHN FRASER, No. 48; ALEX. FORBES, No. 37; JOHN OGILVY, No. 89.—These say defendant was in Carlisle when it was besieged by the Duke, and he was called and appeared as a Captain, and did duty as such in defence of the places against the King's forces.

JOHN ALLEN, No. 2; WM. WILLS, No. 110; ARTH. LAUDER, No. 131; DONALD STEWART, No. 103; WM. MACGEE, No. 7.—These testify to his being an officer in Carlisle, and was among the rebel officers when the guns were fired upon the King's forces.

EDWARD CHEW.—The prisoner was a Captain in the rebel army, and was quartered at my house in Preston. He was armed, and marched out of Preston at the head of his company, which company was next to that along with which the young Pretender marched.

JOHN DAVISON.—The defendant, upon my application to the

Governor, opened the Scotch gate for my horse to pass through.

CHAS. LESLIE.—I saw him armed, &c, in Edinburgh, in October, 1745, with the rebels.

FOR THE DEFENCE.

Mr. GORDON.—Admitted he acted as Captain and paid the men at Carlisle.

JAMES LEITH.—Glenbucket sent out orders for all tenants to appear, under military execution. Prisoner offered one guinea, but Glenbucket said he would not take it but from those not fit to go—not from him. He went down and went away, and Glenbucket said he would be even with him.

JAMES GRAY.—He was seized in the field, and put on his horse. He threw himself three times off, and then they tied him on. He could have conquered twenty.

WM. INGRAM.—I was summoned, and prisoner was seized by sixteen men. He would have fought them all.

JOHN URQUHART—At Edinburgh he said, “I don’t like this work. I don’t care to travel, and will go back.” He refused to drink confusion to George’s will.

HUGH GORDON.—Prisoner was confined in the Canongate a week after Prestonpans action, and the guards said it was for attempting to escape.

[Found guilty. Executed 28th November, 1746.]

JAMES BRADSHAW.

SAM. MADDOCK.—The prisoner took on with the rebels at Manchester, and was at their meetings there to raise a regiment for the Pretender. He was made a Captain in said regiment, and marched with the rebels to Derby, and back to Carlisle, armed with sword and pistols. He wore a plaid sash and white cockade. At Carlisle he left the Manchester regiment, and escaped with the rebel army to Scotland.

JAMES SCOTT.—Prisoner, on the retreat of the rebels from Carlisle to Scotland, was a soldier in Lord Elcho’s troop of horse, which was called the “Pretender’s Life Guards.” I saw him with said regiment at Carlisle, and afterwards at Elgin and Forres. Sometimes he was dressed in blue, faced with red, the uniform of the troop, and at other times in highland dress, armed with broadsword, wearing a white cockade.

JAMES PATERSON, No. 42.—I first saw the prisoner near Falkirk, with the Pretender's Life Guards, dressed in blue coat, turned up with red—the uniform of the troop. Afterwards I saw him marching on horseback, with his sword by his side, up to the battle of Falkirk against the King's troops, along with Lord Elcho's horse. Also saw him upon the guard at Culloden House, where the Pretender's son lodged. Afterwards at Culloden Moor, on foot, the day of the battle there. He had then quitted the horse and joined the clans, and I believe he had on a highland habit, and sword by his side.

Lieut. MOORE of Battereau's Regiment.—In the pursuit of the rebel army after the battle of Culloden, I saw the prisoner taken by a party of Kingston's horse and Battereau's foot, and saw him a long time ago at Manchester, when I was recruiting there.

BEN. BOOKER.—On 28th November last, when the van of the rebel army came to Manchester, I saw the prisoner along with them, at the "Bull's Head Inn," with white cockade in his hat, but did not observe him with arms, and believe he took on with them that night.

WM. REID.—The prisoner was a volunteer in Lord Elcho's horse, and was with them at Glasgow after they returned from England, and afterwards at Lord Elphinstone's house, near Falkirk, before the battle there. Saw him afterwards with them at Aberdeen and Speyside. Also at Elgin with said regiment, armed and dressed as aforesaid.

HUGH ROSS.—I saw the prisoner frequently marching with Lord Elcho's horse in the rebel army in Scotland, particularly at Elgin in Murray, when the Pretender's son was there, dressed in long blue clothes turned up with red, and a shoulder-belt mounted with tartan, with a white cockade in his hat, and sword by his side.

Capt. EYRE; Lieut. MOORE.—Prisoner informed these gentlemen that he was a volunteer in Lord Elcho's horse.

EDWARD GIBSON.—I saw the prisoner in Lord Elcho's horse and uniform, armed with broadsword and pistols, when they were reviewed by Lord Elcho at Elgin.

FOR THE DEFENCE.

Mr. FORD.—Defect of understanding the circumstances, in the evidence otherwise unaccountable, for he was entirely mad. (1) It don't appear that he said anything at the meeting. (2) He never kept with his company. (3) Would not be reviewed. (4) Leaving Carlisle. (5) Degraded from a captain to a common man. (6) Different accounts of himself to the two captains. In 1745 he was

made apprentice, and got married. He pulled his wife about, and leapt out of the window. He left his wife three weeks, which increased his disorder, and he had to be strapped down in bed the day before he joined the rebels. He got up in the night and cut his face against the window. He cannot be said to have entered the rebellion coolly and deliberately nor inconsiderately.

Mr. JODDREL.—His acts whilst mad are to be presumed contrary to what he was disposed to at other times.

THOMAS PUERDESSEL.—I live in London—a Manchester trader. Defendant was apprentice with me, and my bedfellow. The first night he jumped out of bed, and ran about the room. In 1742 I lay with him. He said, “You know I am failing, pray watch me.” He did his master’s business sometimes and at others not. He has struck me during the day. He makes entries in the shop books, and has come up to town several times within two months of the rebellion. He was not mad then.

JOSEPH MONK.—I knew prisoner 14 years, and he lodged at my house when he came to town. I heard noises in his room in the night time, and a strap was provided for his bed.

CHAS. NEWDIGATE.—At times he has been unfit for business, and would have me look into his books. He owed me £700 or £800. I was called up one night, he having jumped out of the window, and found him in the kitchen, faint, cut, and bleeding. He was fond of his wife, and was much worse since her death. Have dealt with him for £1000.

Rev. WM. WORTHINGTON, his brother-in-law.—Prisoner is sometimes out of his mind. Have heard him say he walked in his sleep, and have helped to strap him down to prevent his hurting himself in his sleep.

JANE RICHARDSON, servant to prisoner.—He whistled when he heard of his son’s death three years ago, and he carried straps about with him because he was mad.

[Information laid at Carlisle. Found guilty. Executed 28th Nov., 1746.]

WALTER MITCHELL.

JOHN VERE; SAMUEL MADDOCK.—They saw the prisoner in Carlisle when the town was besieged by the Duke of Cumberland, armed with a firelock and brace of pistols. Also mounting guard at the castle gate at the head of parties of the Scots rebels, and do duty as an officer. He wore the highland habit, blue bonnet and

white cockade.

JOHN FRASER; JOHN WHITE.—These witnesses were forced away by Captain Murray of the Duke of Perth's regiment, and were taken with several others to the rebel camp at Duddingston. Afterwards to Dalkeith, when they marched with the said regiment to Carlisle, with colours, drums, and pipes. Defendant was Adjutant to said regiment, and marched with them. He did duty as a rebel officer at Carlisle when it was besieged by the Duke.

ALEX. REACH; WM. MAGGEE; ALLAN.—These testify to prisoner's presence with the rebels in defence of Carlisle, &c

FOR THE DEFENCE.

ALEX. RENNY.—I am 17 years of age. The barn was burned, and prisoner was taken away in a violent manner. They fired at him and intended to kill him. His mother offered all she had.

WM. YOUNKSON.—He fled from Aberdeen to his mother's. Ten guineas was offered, but they would not take it, because his mother sent corn to Cope.

GEORGE CAY.—I saw prisoner at Montrose, he (witness) being taken and made prisoner; and saw his head cut. He said he wanted to get back.

ALLAN STEWART.—I saw prisoner at Carlisle drawn up, and I attempted to speak to him.

[Guilty. Reprieved]

GEORGE RAMSAY.

JOHN VERE; SAM. MADDOCK; JOHN URQUHART; ALEX. FORBES.—These witnesses declare that when the town and castle of Carlisle were besieged by the Duke of Cumberland the defendant was an Ensign in the rebel army, and they saw him frequently mount guard at the castle gate, at the head of several parties of rebels. He was armed with broadsword, dirk, and pistols, and wore the highland dress. He was only a private man with the rebels at Derby.

JOHN FRAZER.—Prisoner marched with the Duke of Perth's regiment from Dalkeith to Carlisle, armed as aforesaid, with colours flying, drums beating, and pipes playing.

FOR THE DEFENCE.

Mr. JODDREL.—No act of hostility proved against prisoner, who

was a wheelwright at Strathbogie.

WM. INGRAM.—I saw the highlanders take prisoner, and his wife made a din after him.

ALEX. RENNY.—Prisoner was unwilling to go.

[Guilty. Reprieved.]

SIR JAMES KINLOCH.

ANDREW ROBINSON, No. 9.—I was servant to Major Glascoe in the rebel service, and marched with him from Dundee to Stirling. Upon the march, about five miles from Dundee, we overtook the prisoner, who then had the command of the second battalion of Lord Ogilvie's regiment. They marched together to Stirling, and arrived the day before the battle of Falkirk. On that march the prisoner was on horseback; wore a highland habit, with white cockade, and was armed. Afterwards I frequently saw prisoner at Stirling, along with said battalion, when the rebels were in possession of the town. Saw prisoner march with said battalion to Fochabers and Inverness. On the 15th of April I saw the whole rebel army drawn up on Culloden Moor, expecting the Duke of Cumberland, at which time the prisoner was in arms.

ROGER MACDONALD, No. 47.—While Lord Ogilvie's regiment lay at the Speyside in the new barracks opposite Fochabers, I passed over the Spey with the prisoner from Fochabers to the barracks. Prisoner was then dressed in highland habit, and had a broadsword under his arm. There was a party of the King's troops then at Strathbogie, and there were three regiments of the rebels then at Speyside, viz., Ogilvie's, Roy Stewart's, and Chisholm's, with Fitz-James's Horse and the Scotch Hussars at Fochabers, and Lord Strathallan's Horse guarding a ford. I am sure I saw prisoner in other places marching with the rebel army, but cannot recollect where. Saw the prisoner frequently with the rebel troops at Fochabers in the highland dress, also with the rebels on the march into England, and thinks he was then in the Pretender's Life Guards.

THOS. ARMSTRONG.—I saw the prisoner with the rebels at Stirling soon after the battle of Falkirk in highland dress, with white cockade. He was Lieut.-Col. of the second battalion of Ogilvie's regiment, and was active in the trenches during the siege of Stirling Castle by the rebels. Saw him afterwards with the rebels at Aberdeen, and upon Culloden Moor the day before the battle.

ALEX. SMITH.—Testifies as above, and says, "I saw him at Brechin, Fochabers and Elgin, dressed in highland clothes, and armed with sword and pistols."

CHAS. MATHER.—I saw prisoner with the rebels at Stirling, Aberdeen, and at the barracks over against Fochabers, armed with sword and pistols, and wore a white cockade.

JOHN BRUCE.—I saw prisoner march with the rebels into Brechin in highland dress, armed as aforesaid.

ROBT. NAIRN; JOHN COWE; HUGH ROSS.—Witnesses saw prisoner with the rebels at Montrose, and march from thence to Fochabers at the head of his battalion.

WM. TODD.—I saw prisoner at Stirling, and upon the march from thence through Perth, Aberdeen, and Fochabers, armed and dressed as aforesaid.

ROBERT MACKAY.—I saw him at Brechin, Fochabers, and Nairn with the rebels.

WALTER YOUNG.—The prisoner was with his battalion at Montrose, while the rebels were in England, armed and dressed as aforesaid. Afterwards at Stirling, Aberdeen, Fochabers, and Elgin, always acting as Lieut.-Col. of said battalion.

ROBERT IRONS.—I saw prisoner at Montrose, Aberdeen, and Speyside, dressed and armed as aforesaid.

Capt. EYRE; Lieut. MOORE.—Prisoner told these gentlemen his name, and that he was Lieut.-Col. in Lord Ogilvie's regiment.

*[Information laid at Fochabers in Murray. Pleaded guilty.
Reprieved.]*

FRANCIS FARQUHARSON OF MONALTRIE.

JOHN VERE.—I saw the gentleman called Colonel Farquharson who commanded the Farquharsons. I did not know him before, nor his Christian name, nor the addition of Monaltrie. I saw him upon the march with the rebels, commanding the Farquharsons, as was generally understood, in December last, and he acted as the other rebel colonels did.

ALAN STEWART, No. 31.—I know the prisoner very well. I have often seen him marching along with the rebel army, particularly at Inverness. He was then dressed in a short coat, with trowse made of tartan. Some days before the battle of Culloden I remember to have seen said Colonel Francis Farquharson with a big blue coat on, at the head of his own regiment, which was then drawn out with Ardshiel's regiment, and some of the Macleods, upon a plain about a mile from Inverness, and that they went through their exercise and were reviewed by the Pretender's son.

ROGER MACDONALD.—Before the battle of Falkirk, and during

the time that Stirling Castle was besieged by the rebels, I remember that Colonel Farquharson's regiment of Foot was along with the rebels in the town of Stirling, and prisoner with it, dressed as aforesaid.

JAMES PATERSON, No. 13.—In the town of Stirling, whilst it was in possession of the rebels, a person was shewn to me as Colonel Francis Farquharson, Colonel of the Farquharsons. That the person so shewn was a tall man with a thin face, and dressed in highland habit, with a sword by his side. To the best of my remembrance he was at the head of the Farquharsons upon Culloden Moor, along with Captain John Farquharson, before the battle began.

JAMES ROSS, No. 20.—Col. Francis Farquharson had the command of one of Lord Lewis Gordon's battalions, but I never saw him at the head of his battalion.

Capt. CAMPBELL, No. 52.—During the time the rebels were at Edinburgh I saw Col. Farquharson several times armed, wearing a white cockade, but did not know that he had command of the Farquharsons.

JOHN COWIE.—I am a farrier, and live at Fochabers in the shire of Murray, and there I saw prisoner with a party of the rebels, and he was called and reputed Colonel of a regiment of Farquharsons in the rebel army, and was armed and dressed as aforesaid.

Capt. EYRE; Lieut. MOORE.—He told these gentlemen he was Colonel of a regiment of the Farquharsons.

EDWARD GIBSON.—I saw the prisoner with the rebel army at Auchinbowy House, near Stirling, and he was esteemed Colonel of the rebels, and was armed and dressed as aforesaid.

JOHN REACH.—I was servant to the prisoner, and he joined the rebels at Edinburgh with 30 men, and from thence went back to raise more. He was armed with sword and pistols, and wore a white cockade.

[Information laid at Inverness. Withdrew his plea and pleaded guilty. Reprieved'.]

JAMES STEWART.

JAMES PATERSON, No. 23.—I have known the prisoner some years, and the first time I ever saw him along with the rebels was at Edinburgh, whilst that place was in their possession. After the battle of Prestonpans he was dressed in highland habit, and wore a broadsword and pistols. The next time I saw the prisoner was at the Links of Leith, where he commanded a party of the Duke of

Perth's men for the execution of a man, who was shot on said Links for counterfeiting the Pretender's son's hand in granting protections, and robbing the country. That day the prisoner was in highland habit, on horseback. Saw him frequently afterwards at Edinburgh in highland dress, and the first night that the rebel army took possession of Carlisle, I saw prisoner within the castle gate talking with the rebel officer. I saw him frequently in England, marching at the head of a company in the Duke of Perth's regiment. Upon the retreat of the rebel army out of England, the prisoner marched along with them on foot. During the siege of the castle of Stirling, I saw him walking in the town along with the rebel officers. Saw him often in Inverness while it was in possession of the rebels, and upon the field of Culloden before the battle.

ANDREW ROBINSON, No. 16.—I saw defendant at Fochabers, before the battle of Culloden, along with the rebels in that town. The Duke of Perth's regiment, to which he belonged, lay at Speyside, and defendant at that time wore a white cockade in his bonnet.

Lieut. MOORE, Battereau's regiment.—I was one of five officers appointed by the Duke of Cumberland to take notice of the rebel prisoners, and the prisoner told me he was Major in the Duke of Perth's regiment. Upon the pursuit of the rebels after the battle of Culloden, I saw prisoner taken by a party of the Duke of Kingston's horse, and remember that prisoner in that pursuit had his horse shot under him.

ROGER MACDONALD.—I have known the prisoner above seven years. That the first time I saw the prisoner with the rebels was the day after the battle of Prestonpans at Edinburgh, when it was in possession of the rebels, attending his master the Duke of Perth as usual. I saw him several times after that in highland clothes, armed with broadsword and pistols. He marched with the Duke of Perth's regiment, of which he was Major, to Derby—sometimes on horseback and sometimes on foot—always armed. I particularly saw him at Ashburn pass in review, before the Pretender's son, in the Duke of Perth's regiment. Saw him upon guard, of which he was captain, at Stirling, after the battle of Falkirk. He had to guard the prisoners taken by the rebels at Falkirk. In the march from Stirling towards Inverness I saw the prisoner at Elgin in Murray, before the Duke of Cumberland had passed the Spey. The prisoner went into the town of Elgin to bespeak quarters for the Duke of Perth's regiment, which came thither presently after that.

ALLAN STEWART, No. 24.—I know the prisoner very well. The first time I saw him was at Crieff, a long time before the rebels first went to Edinburgh. At that time there was only Ardshiel's

regiment at Crieff, and the prisoner then was only servant to the Duke of Perth. After the Duke of Perth had raised his men the prisoner was called Major in his regiment. I saw the prisoner several times at Edinburgh with the rebels before the battle of Prestonpans, dressed in short coat and plush breeches, and wearing a bonnet. That the evening before the battle of Prestonpans, when the rebel army was drawn up upon a hill, I and the prisoner, James Stewart, and some others, went down to a coal pit to take a view of the King's troops. At that time, somebody observing the prisoner's side breeches pockets to be very bulky, took out a pistol from the prisoner's pocket. He thereupon produced out of his other pockets two small pistols, and two others of a larger size with double barrels. Prisoner at same time had a blunderbuss across his arm. I frequently saw him marching along with the rebels in England, and when the King's troops were advancing to the Spey prisoner marched at the head of the Duke of Perth's regiment through Elgin.

JOHN HAY, No. 50.—I often saw prisoner at Inverness as Major in Duke of Perth's regiment before the battle of Culloden.

Capt. CAMPBELL, No. 52.—Whilst Edinburgh was in possession of the rebels I often saw prisoner about Holyrood House, armed and in the highland dress. He appeared to be a very active man among the rebels. Saw him at Duddingston along with the Duke of Perth's regiment.

WALTER SCOTT, No. 51; ALEX. RUSSEL.—Testify as above, and say that in October, 1745, prisoner commanded a party of the rebels who were then going to Leith Links to shoot a man for giving protection and taking money therefor. Heard the prisoner give orders for so many of the red coats, as he called the King's soldiers, who had the misfortune to be taken at Prestonpans, to shoot the man before mentioned.

JAMES ROSS, No. 55; THOMAS ARMSTRONG; HUGH ROSS; JAMES PARKER; DONALD FERGUSON; DUNCAN MACDONALD.—These witnesses all declare that he was an officer in the Duke of Perth's regiment. That he was with the rebels in England, and also at Stirling, Falkirk, Elgin, Fochabers, and Inverness, dressed as aforesaid.

Capt. EYRE.—Prisoner told this gentleman that he was Major in the Duke of Perth's regiment.

WILLIAM CLARK; ANDREW JOHNSTON; JOHN FALKNER; HENRY CHEAP; FRANCIS CHALMERS; Mr. CHAS. LESLIE; WM. WILSON; PATRICK DOUGLAS; JOHN REACH; THOS. GORDON.—These all testify as to the prisoner's presence with the rebels, as an officer in the Duke of Perth's regiment, and that he had been seen by some of them, armed and dressed as aforesaid, at Edinburgh,

Duddingston, Penrith, Dalkeith, Glasgow, Clifton, Kendal, Lancaster, Derby, Carlisle, and Peebles, Perth, Stirling, Falkirk, Inverness, and Culloden.

JAMES HAY.

I, Louis Drummond, Earl of Melford, Colonel of Foot in his most Christian Majesty's service, Lieut-Col. and Commandant of his Royal Scotch Regiment, prisoner of war to his Britannick Majesty at Penrith, being principal officer of the aforesaid regiment, as well as of the French troops, prisoners of war, do by these presents declare and signify to Phillip Carteret Webb, Esq., his Britannick Majesty's Sollicitor for the Assizes, now held at Carlisle, in the county of Cumberland, the following particulars:—

1. That Mr. James Hay, whom you prosecute for high treason, is a Captain in the French service in the aforesaid regiment, that he served before the Cartel of Frankfort, of which I shall speak: *that he came into Great Britain with his colours, which he continually adhered to; that he surrendered himself prisoner of war, and not a State prisoner*, upon the public faith of a capitulation, granted to the French troops at Inverness by His Royal Highness the Duke of Cumberland. In fine, that he has been nominally reclaimed from his Britannick Majesty by two letters wrote to his Grace the Duke of Newcastle, Principal Secretary of State.

2. I declare and certify that the said James Hay, thus acknowledged and reclaimed, in an authentic manner, is no shape, subject or lyable to the laws of Great Britain for rebellion; and that in consequence of the two first articles of the Cartel hereunto annexed, signed by the Commissaries of both Kings at Frankfort, July 10th, 1743. It is there specified in proper terms that the prisoners taken on both sides, what kingdom soever they should be natives of, and in what place soever they should be taken, should be mutually exchanged without reservation or distinction. It's therefore evident that no objection can be made to Mr. Hay about the place of his nativity, or that wherein he was taken. It's apparent that the two articles which I have cited have been inserted in the Cartel with no other view than to prevent the inconveniences which attend Mr. Hay's present situation, a case which is not uncommon and could not fail to have happened in the course of a long war between both Crowns; as there be many subjects of his Britannick Majesty in some of our foreign regiments, as well as numbers of French subjects in the English and allied army. I may first instance General Legonier, who actually commands the English troops in Flanders, without mentioning such as had been taken at Fontenoy, and were exchanged without making any

distinction. It can't be reasonably said that Mr. Hay's being taken in England or Great Britain excludes him from the benefit of the Cartel, which he would be otherwise entitled to, this is surely misstating both reason and justice, as it's expressly said in the Cartel that the exchange of prisoners shall take place in all countries and be confined to no particular kingdom, and nobody can doubt but that a war between contending powers must at length terminate in either of their dominions. Thus the intention of both courts in forming the articles of the Cartel is plain and obvious, the reasons that induced them thereto are evident, the words are too clear to be wrested into a different interpretation, and the truth of the whole is confirmed by the French courts having strictly confirmed thereto. It can't be presumed that this Cartel was framed by the Generals without a sufficient authority from their masters, whereas all military conventions such as cartels, capitulations, contributions, &c, are deemed to flow from the will and authority of the Sovereign, without which it would be impossible to wage war. Besides, suppose the Cartel had been made only by the authority of the Generals, was it not afterwards ratified and confirmed by both crowns, who have openly and in the eyes of the world claimed and obtained its benefit, which no man in England can be a stranger to. Insomuch, that it ought to be regarded not only as a true treaty, but as the most public and authentic act of the law of nations.

It can be objected with as little reason that though it had been regarded as a true treaty, founded on the law of nations, yet it can't be valid before our tribunal, as it clashed with the laws of the realm. There is nobody, I presume, will pretend to say that the particular laws of countries will prevail before the law of nations, which makes them void in all the tribunals in the world. When a treaty is entered into, or an alliance made, with a foreign Prince, by an act founded on the law of nations, from that moment all the laws of a particular country opposite thereto become null. If this had not been the case, what possibility of reconciling articles where the laws and certain pretensions are diametrically opposite. Would not both nations in a little time be looked upon as barbarians and cannibals rather than as English and Frenchmen, and what would be said of the glory and generosity of either nation.

It may be objected that no act whatsoever, whether founded on the law of nations, or on the law of any particular country, can be valid but inasmuch as it's consistent with the formalities used in the establishment of the laws of this kingdom. But 'tis plain that that can be of weight but against such as knowingly and willingly have neglected those formalities, and not against those who neither could nor were charged to see them executed. For can one

reasonably suppose that an act which was so punctually observed and complied with last year in France with regard to the English, should be this year deemed invalid in England with regard to the French officers, under a frivolous pretext that some customs or forms of law had not been attended to, or were neglected unknown to the French.

I can further add a multiplicity of reasons to show that such acts have been executed time out of mind in England and never before infringed, being deemed good in law. As for instance, a Cartel about the exchange of prisoners between Louis XIV. and William the Third relating to the Irish Brigade in the French service; as also the famous capitulation of Limerick by which William the Third treated with the Irish who were in arms against him, though looked upon as his subjects: were not then these two acts deemed sufficient to annul the penal laws that were incurred, and why should not the Cartel of Frankfort have the same validity at this juncture.

In consideration of these reasons, having hereunto annexed a copy of the Cartel of Frankfort, which I own to be true, and which is too notorious by its execution till this day to be doubted of either by you, Mr. Solicitor General, or by the judges; having also added the English translation of the articles in question which you will please to verify or get verified, I humbly pray and expressly require of you to cause all prosecution to cease on your part, as well as on that of the judges, now and hereafter against the said French officer, James Hay, in regard of the crime of high treason alleadged against him, inasmuch as the law can take no hold on him, nor can the judges submit him thereto without your being wanting in the respect due to his Britannick Majesty, who screens him from all law and prosecution in this affair by the injunction, confirmation, and execution of the aforesaid Cartel by his Britannick Majesty.

I most humbly pray of you and expressly require of you to communicate this present writing to the judges, and to require of them, as it is the duty of their office, to have a due deference to the contents of the Cartel which I have presented to you, attested upon oath to be true; and consequently to discharge from Court and set at liberty the said James Hay, it not being justifiable by the Cartel either for them or you to proceed against him, and in case that they nor you should think proper to agree to my present request and summons, I first declare, after having rendered his Britannick Majesty the profound respect due to a sovereign and the justice due to his wisdom, that I believe him not thoroughly informed, or that he may be ignorant of the merit of the said James Hay's cause, and that he is prosecuted contrary to his knowledge: I next protest in

the name of his Most Christian Majesty, my master, against all your proceedings carried on or to be carried on against him as null and void of all validity, contrary to the respect due to his Britannick Majesty whose conventions with strangers are here directly violated, being contrary to the law of nations, which, by virtue of the Cartel, screens the said James Hay from the influence of the laws in the present case. In short, as derogatory to the glory and right of his Most Christian Majesty, my master, to whom it belongs to protect and exchange the said James Hay. Even by the consent of his Britannick Majesty by virtue of an act notoriously acknowledged and fulfilled to this very day by the two crowned heads, I declare to you, Mr. Solicitor General, and the judges, and all others, that this present paper contains my juridical and public representations, requisitions, and protestations, and require that a due regard may be had to the same; being authorised hereto by the law of nations, as the interest of his said Most Christian Majesty, my master, is concerned therein, and my duty in quality of principal officer of the French Troops, prisoners of war to his Britannick Majesty, oblige me thereto. Given and signed at Penrith, this 22nd of September, 1746, in the presence of

L. DRUMMOND DE MELFORD.

JOHN MACDONALD.

L. CHR. GEORGHEGAN.

D'HORTORE DOUGLAS.

Note.—By my Lord Chief Baron Parker's letter to me, it appears that this matter never came under the consideration of the judges. The prisoner never proving a commission from the French King, or offering any evidence of the Cartel, so he was convicted.