

# The Examination of John Burton Doctor of Physick of the City of York

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Who saith that upon the 22<sup>nd</sup> of November last an Express came to York, acquainting the Lord Mayor and Corporation that the Vanguard of the Rebel army had reached Kendal in Westmoreland, but they could not find out which route they would take whether to go by Hornby, Settle, Skipton etc., or by Lancashire, Preston etc., that this Examinant having an estate at Upper Berkwith and South-House within about six miles of Hornby, and a year's rent due from the tenants from the Michaelmas Day preceding which was to have been paid upon the 11<sup>th</sup> of November (being [Martinmas Day](#)) at York, thought it advisable to go to receive the rents before the Rebels got to that Part of the Country but first consulted with the Recorder of York and others what steps it would be most prudent to take. That the Recorder of York thought it would [prudent] for the Examinant to make all the haste he could, in order to get his rents before the Rebels came thither, that, thereupon upon the 22<sup>nd</sup> November the Examinant went to the Lord Mayor of York to desire that the Gates might be opened to the Examinant early in the morning, that the Examinant might be able to reach Settle that night, which the Lord Mayor readily granted; that upon the 23<sup>rd</sup> early in the morning the Examinant set out from York and reached Settle late the same night, where an Express was just before arrived, that the Rebels were gone the Lancashire Road; that, thereupon one Mr. Hall, an acquaintance and Friend of the Examinant of Settle aforesaid being in company with the Examinant that evening, the Examinant wanted him to send to the Examinant's Tenants to come over the next Day to settle accounts with the Examinant. That Hall told the Examinant that the greatest Part of the Country was gone out of Curiosity to Kendal to see the Rebels, and probably his Tenants amongst the rest, moreover that he [Hall] had appointed the Tuesday following for the Tenants [ & Mahoney, who had been building] to attend him at Settle; that the Examinant having nothing to do the next day which was Sunday, and finding that he could not dispatch his Business and that the Rebels were gone the Lancaster Road, asked Mr. Hall if he would take a ride and see if they could not pick up any better accounts than had been then received of the Rebels in that Part; who said, if his Mother was well enough, and he could be spared, he would willingly go with the Examinant; that the next Morning the Examinant rose early in order for his Journey, and wrote first to York to the Recorder and his Wife to give them an account of what he had heard, and intended to do; but Mrs. Hall being very ill, Mr. Hall could not attend the Examinant and therefore the Examinant desired him to hire him a Guide to Hornby, which was done; accordingly the Examinant and his Servant and the said Guide (whose name as he seems remembered was Gelderd) went on to Hornby; that, in his Road to Hornby he called at Clapham upon a Person to whom he carried a Letter from Mr. Hall, which Letter was to desire the said Person (whose name he believes was [unreadable ends in -er]) to give the Examinant the best Intelligence he could about the Rebels, but none had arrived from the Examinants departure from Settle aforesaid to his arrival at the said Village of Clapham; whereupon the Examinant proceeded on to Hornby: but the Examinant saith, that in the Road from Clapham to Hornby at the Village next to Hornby, a man told the Examinant that a Party of the Rebels were about in the Country picking up Horses, and advised the Examinant to take care of His; that, thereupon the Examinant

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recollected that his Pistols were loaded, and lest he should fall into the Hands of the Rebels, who might think he came armed against them, and take him Prisoner of War, he went into an alehouse, where he endeavoured to draw his Pistols, which he did with the assistance of a Person, who lent him a Screw, after which the Examinant went on to Hornby aforesaid. That the Examinant's Views his going to Hornby from that Village were to get a Pass to save himself and his Horses; that, in order to procure one, hearing that the Person called the Duke of Perth was at Hornby Castle (with whom the Examinant had once been in Company at York, and never but once) the Examinant wrote a Note from the Inn where he alighted to the said Person called the Duke of Perth, which he sent with orders to the Person who carried it, to bring it back, if the Duke of Perth was not there; that, the said note was carried to Hornby Castle aforesaid, where it fell into the Hands of Lord Elcho, who sent two Men presently after, armed, with their Swords drawn, who took the Examinant Prisoner and carried him up to the Castle aforesaid; that, Lord Elcho asked the Examinant his Business which the Examinant told him was only to procure a Pass to go home in Safety; that, Lord Elcho refused his Request, but told him his Person should be in Safety; that, he does not remember Lord Elcho asked him any questions about which Troops were in York, or about York for which Lord Elcho asked selected chiefly to the Examinant himself; that, the Duke of Perth was not at Hornby Castle, that the Examinant sat down with some of the People who were at Hornby Castle, and drank a Glass of wine with them; that, after having staid about an hour at Hornby Castle, the Examinant was sent back double guarded to Hornby, as a Prisoner, to his Inn, where he discharged his reckoning, and the same Night was conducted to Lancaster along with a Detachment that marched that night to Lancaster, which might consist of about 100 Horse; that, the Examinant rode with his Pistols before him (though unloaded) and upon his own Horse; He saith, that he is very certain he had neither Sword nor Hanger by his Side; that, he marched into Lancaster with the said Detachment; that he gave his Parole of Honour to Lord Elcho not to go out of Lancaster, or to send out of it till he should be permitted whereupon he had Liberty given him to walk freely about the Town; that he was however several times taken up by different officers in the Town of Lancaster, but was released by them upon acquainting them that he was a Prisoner upon his Parole; that, on Monday night between seven and eight o'clock, a Person, who was employed to watch the Examinant brought another Highland Officer to him at the Inn where he lodged; which Officer told him, that he must not stir out of the house, that night that the same Evening; after the Examinant had supped, he was acquainted, that a Party of the Highlanders was come for him; upon which the Examinant went to them and was conducted by them to the House where the Pretender's Son lodged; that the Examinant was carried into a Room in the said House where there were two Persons. One of which as the Examinant was afterwards informed was the Pretender's Son, who asked the Examinant some Questions relating to the occasion of his coming into that part of the country; that the other person who was in the room and whose name this Examinant did not know, examined him more strictly upon the same Points; that this Examinant gave them the same business he had before done to Lord Elcho, and desired a pass from them, which they refused whereupon this Examinant said, that, if the Duke of Perth were there he was persuaded he would remember to have seen this Examinant at York and he would intercede for him and procure him a pass. That this Examinant at that time believes, that the Person, who was in the room with the Pretender's Son, was Murray of Broughton, Secretary. That this Examinant being dismissed from thence spent two hours, at least, in going about the Town, to enquire whether the Duke of Perth was arrived;

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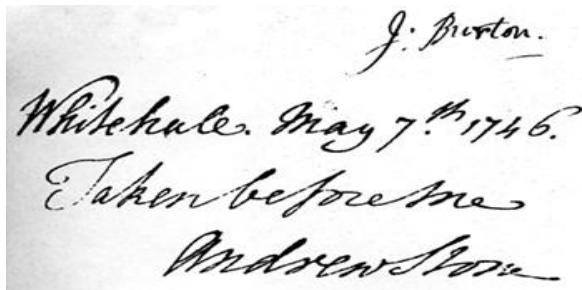
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and at last found him in his Lodging in a private House; and being admitted to him, acquainted him with the occasion of his being there and desired a Pass to return home; that the Duke of Perth left this Examinant for some time, and then returned to him and told him, he should have a Pass. That no conversation passed between this Examinant and the Duke of Perth except that which related to his obtaining a pass; and that the Duke of Perth enquired after Mr. Draper of York with whom he was acquainted. That this Examinant did not procure his pass till the next day, between nine and ten in the forenoon; when he went to the House where the Pretender's Son lodged, where he saw the person whom he took to be Murray the Secretary; who, upon this Examinant telling him he had not yet got a pass from him he should have one immediately; and going into another room, sent him a pass Signed J. Murray and a pass so signed being now showed to the Examinant he saith, It is the pass. This Examinant immediately returned to his Inn, and as he stood before the Door, the D. of Perth passed by on the other side of the way, and seemed surprised that the Examinant was still in Town; that, this Examinant told him, He had but just received his pass, and was going out of Town; which he accordingly did. That the D. of Perth answered; that, if this was so, he was sorry the Examinant had had so much trouble; and wished him well home. That this Examinant then went to Hornby where he dined; and the same night to Settle, when his Tenants and workmen according to appointment were waiting for him. Mr. Hall having balanced accounts with them; that this Examinant lay that night at Settle, and returned the next day to York; when he arrived at night. This Examinant further saith, that when he was at Lancaster, and had got the best informations he could of the Designs of the Rebels, he proposed to send an account of them to Sir John Ligonier, Commander of His Majesty's Army; He endeavoured to get an Horse to carry His Guide with the said Intelligence but was not able to procure one; that the Intelligence he then proposed to send to Sir J. Ligonier proved to be an exact account of the Route the Rebel Army afterwards took; for the Truth of which this Examinant appeals to His Grace the Lord Archbishop of York, and Mr. Place the Recorder whom he acquainted. Being asked, whether he said to any person at Lancaster, that he had been some time before in General Wade's Army, He saith, that he never was in that Army; nor does he recollect, or believe, that he said he was. Being asked, whether he wrote a letter to Mr. Birbeck, of Settle, relating to an Information supposed to be given by Birbeck to Sir Rowland Winn against this Examinant he saith, that he never wrote to Birbeck; but having heard that Birbeck had given out that this Examinant had rode in Company with the Rebels with a white Cockade in his hat, this Examinant wrote to Mr. Hall, and desired him to let Mr. Birbeck know that this Examinant insisted upon his recanting what he had said; or, that he should prosecute him for it. This Examinant being asked whether he was employed by any person to go to the Rebels; whether he carried any Letters, or Intelligence or any money or Bills to the Pretender's Son, to the person called Duke of Perth, or any other of the Rebels, he declares in the most solemn manner, that he was not employed by any person whatever to go to the Rebels; nor did he carry any Letters, Intelligence, Money or Bills to any of them; nor does he know any persons, that have carried on, or been engaged in any secret correspondence with the Rebels. This Examinant being asked, whether he is acquainted with James Nesbit, a prisoner in the Castle of York, he saith, that he was once in his Company with four men, whose names were Wilson, Houndsel?, Murth, and another man; and Mrs. Griffiths the Gaoler's Wife. That the said Nesbit, talking of the Rebels, said he had been amongst them, that they were either 14 or 17,000 men strong; that the Duke of Cumberland would be Breakfast to them, and Mr. Wades, a Dinner, or Supper; and that the said Nesbit

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began to drink the Pretender's Son's health. Upon which this Examinant rose from his seat and offered to leave the Company. But Murth insisted on his staying till ten o'clock, which was then very near, and that this Examinant was not, in the whole, a full half hour in Company with the said Nesbit. That this Examinant has been since informed that Nesbit has given an Information upon oath against this Examinant for having spoken the words above mentioned, which were spoken by the said Nesbit; as can be proved by the persons who were then in Company: That Murth, who was one of them, is now, or was very lately, in London. That the said Nesbit is an infamous person, having been perjured, as xxxxx made appear by Sir Edward Anderson, Mr. Northleigh, and other Justices of the peace of the County of York. That Nesbit has himself since confessed, that he had sworn falsely against this Examinant.



*J. Burton.*  
*Whitehall. May 7<sup>th</sup> 1746.*  
*Taken before me*  
*Andrew Stone*

- Andrew Stone was the first secretary under the Duke of Newcastle (principal Secretary of State), and an M.P. for Hastings.
- Viscount Irwin, Lord Lieutenant of the East Riding
- Thomas Herring, Archbishop of York (and later Canterbury)
- Sir Rowland Winn, 3rd Bart of Nostell Priory (b 01.07.1675, bur 06.03.1721-2)
- Earl of Hardwicke, Lord Chancellor
- Dr. Jacques Sterne, LL.D. Justice of the Peace at York

Dr. Burton published his own version of the events as *British Liberty Endanger'd* in 1749 and his explanation begins on page 24:

On *Friday, November 22, 1745*. about Noon, an Express arriv'd at the *Guild-Hall* in the City of *York*, to acquaint the Lord Mayor, that the Van Guard of the *Highland* Army was arriv'd at *Kendal*; but that it was uncertain, whether they would take the *Yorkshire* or the *Lancashire* Rout: If the first, then they must have march'd thro' the Lordship of *Nuby*, in which *Manor*, my two Estates of *Birkwith* and *South-House* lie, where I had Rent to the amount of

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120 l. Sterling, due to me from the *Michaelmas-Day* preceeding.

As I went to the *Guild-Hall* frequently, with most of the Gentlemen in Town, to hear what Accounts were brought by the Expresses, which from Time to Time arriv'd, a Person being detach'd at the public Expence for that Purpose; I could not be very well pleas'd at the Danger of loosing all, or any Part of this Money, and therefore I stated the Case, before the Gentlemen then present, and to the Recorder of *York* also, and desir'd their Advice, what should be done in such a Dilemma: The Recorder, replied, That it was so nice a Case, he could scarce tell how to direct me; for says he, *If you are perswaded to go, and should be taken Pri'ner by any of the Highlanders, and suffer by it, you perhaps might throw the blame upon those who advis'd you to go.* To this I answer'd, *That I should never, in any Case, find Fault with a Person for his Advice, when given with a good Intent; but to avoid any Cavil on that Score, I would only ask him, what he would do, was he in my Situation?* He replied, *he would post away, and be there before 'em.* Well then, said I, *I'll start to Morrow Morning for that Purpose;* and so we parted.

As at this Time the City Gates were lock'd up at Ten o'Clock at Night, and not open'd again 'till a little before Sun-rise in the Morning; and as the Place I was to go to, was distant 48 computed Miles from *York*; the Roads bad, and Days short; I could not pretend to go it in one Day, unless I set out before the usual Time of opening the City Gates, and as that could not be done

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without an Order from the Lord Mayor, I publickly desir'd that Favour of him (who as well as others, had heard the Reasons of my going) and my Request was granted; and the Lord Mayor then sent one of his domestic Officers, to the Officer who was to be upon Guard that Night, with Orders to permit me to go out of the Gates, at what Hour I pleas'd next Morning.

As I knew several Persons in *Lork* had Dealings in *Settle* and *Skipton*; I offer'd, if they had any Letters, or small Parcels, that my Man should carry 'em; but, by good Luck (as Things turn'd out afterwards) they had none to send.

Now let me appeal to the impartial Part of Mankind, Whether I had not a sufficient Reason for going? and, Whether any Person could have taken more prudent or cautious Steps than I did? Was I then about to carry either Bills, Money or Letters, to any in the Highland Army, as *D. S--n*, *P--n* and some others gave out; can any Man suppose me to be so great an Ideot, and so void of common Sense, as to tell it openly to the whole Town? If my *Party Enemies* had, in the least suspected me, why did they not stop me at the City Gates? The Improbability of my carrying any of these, was acknowledg'd, when I was examin'd at the Cock-Pit, on the 7<sup>th</sup> of *May* following.

I accordingly set out next Morning, being *Saturday* the 23<sup>d</sup>; but not so soon as I propos'd, on Account of the heavy Rain, which continu'd 'till near Seven o'Clock, and did not quite cease 'till after Sun-rise.

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It would be needless to relate all the Particulars of my Journey, 'till I got to *Settle*, which was between nine and ten o'Clock in the same Evening, when and where an Express just went thro' the Town, for the West of *Yorkshire*, and brought the Account of the *Highlanders* having taken the Rout towards *Lancaster*. Upon this, I wrote to the Recorder and my Wife, by next Morning's Post, to acquaint 'em therewith; and that I propos'd to be at Home on *Tuesday* or *Wednesday* following, if I could get my Tenants and Workmen together.

This very Day, I went to *Hornby*, which is the nearest Market Town to my Estate; where I could have any tollerable Accommodation. But as ill Luck wou'd have it, here was I taken Prisoner as my Barber was shaving me at my Inn, by a Party of the *Highland* Army, who had conducted Lord *Elcho* and other Gentlemen, to *Hornby* Castle, to dine and see the Place. It cou'd not be Curiosity that led me hither, because the Express of the Night before, did assure me, that the *Highlander's* Rout was at least 12 Miles from that Place — And I cou'd prove, if requir'd, by the Oaths of several honest Men, that I had not the least Intelligence of this Party.

I then return'd to *Settle* that Night, where my Tenants and Workmen were waiting for me according to Order, at my Inn. The Workmen, who had been building and repairing the Houses and Out-Houses, were all paid; and Mr. *William Hall*, my Tenant, and I then settled Accounts, and I had the whole of the Ballance, to the Amount of about 60 Pounds, in either Bills or Money.



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Weeks in the Messenger's Hands: By the frequent Application of some of my Friends, I was sent for to the Cockpit to be examined, where I was under Examination from eight o'Clock in the Evening, to near one in the Morning of the 7<sup>th</sup> of May, 1746. I was asked a great many Questions,