

Extracted from
Memoirs of the Jacobites of 1715 and 1745
by Mrs. A. T. Thomson
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Note: This document contains a graphic account of the execution of the Earl of Kilmarnock and might not be suitable for children to read.

William Boyd, Earl of Kilmarnock

The unfortunate nobleman who is the subject of this Memoir, could boast of as long line of ancestors as most families in Europe. Among his forefathers were men eminent for loyalty, and distinguished for bravery, and of honour as untainted as their blood; but when William, fourth Earl of Kilmarnock, succeeded to his title, there was little except this high ancestry to elate him with pride, or to raise him above dependence upon circumstances.

The Earl of Kilmarnock derived his title from a royal borough of the same name, in the shire of Cunningham in Ayrshire; and, in former times when the chieftainship was in repute in that part of Scotland, that branch of the family of Boyd, or Boyde, from whom the Earl was descended, claimed to be chiefs.

The greatness of the Boyd family commenced with Simon, the brother of Walter, first High Steward of Scotland, and founder of the Monastery of Paisley, in 1160. Robert, the son of Simon, is designated in the foundation church of that monastery, as nephew of Walter, High Steward; and is distinguished on account of his fair complexion, by the word Boyt, or Boyd, (*Wood's Peerage*) from the Celtic Boidh, signifying fair, or yellow. "He was" says Nisbet, "doubtless, predecessor to the Lords Boyd, and Earls of Kilmarnock. (*Who, adds the same authority, carried azure, a fess cheque argent and gules: and for their crest, a hand issuing out of a wreath, pointing with the thumb and two fingers: motto: confide; supporters, two squirrels collared or*)

The family of Boyd continued to flourish until, in the fifteenth century, it was ennobled by James the Third, who owed to one of its

members, Sir Alexander Boyd of Duncow esteemed to be a mirror of chivalry, an inculcation into the military exercises, which were deemed, in those days, essential to the education of royalty. But the sunshine of kingly favour was not enjoyed by the Boyds without some alloy. Robert Boyd of Kilmarnock, who was raised to the peerage, under the title of Lord Boyd, and whose eldest son was created Earl of Arran, experienced various vicissitudes. He died in England, in exile; and his brother, Sir Alexander, perished in 1469, on a scaffold, erected on the Castle Hill of Edinburgh. The fortunes of the family were, however, restored in the person of Thomas, Earl of Arran, who married the eldest sister of King James the Third. The beautiful island of Arran was given as the dower of this lady: and her husband, who is said in the Paston Letters to have been a "light, clever, and well-spoken, fair archer; devoted, most perfect, and truest to his lady, of Knights," enjoyed a short gleam of royal favour. His vicissitudes, however, befell him whilst on an embassy in Denmark, his enemies undermined him at home; he was driven to wander in foreign countries, and died at Antwerp, where a magnificent monument was erected to his memory, by Charles the Bold, Duke of Burgundy. His title was attainted, but his property was restored to his son; and in 1655, the title of Earl of Kilmarnock was added to that of Lord Boyd, which alone seems to have been retained by the family during the intervening generations.

During the reign of Charles the First, his descendants were considered to be steady Royalists; but, notwithstanding their claiming descent from the Stuarts, the views and principles of the family in a troublesome period of the Revolution of 1688, underwent a total change. William, the third Earl of Kilmarnock, and the father of the unhappy adherent of Charles Edward, took the oaths of allegiance to the reigning family, and supported the Treaty of Union; joining at first the party entitled the *Squadron volante*; but eventually deserting them for the Whigs. When the Insurrection of 1715 broke out, this nobleman plainly manifested that the notions which had actuated his ancestor to join the association at Cumberland in favour of Charles the First, were no longer deemed valid by him. The

superiority of the Burgh of Kilmarnock having been granted. In 1672 to his ancestors, the Earl summoned the inhabitants of the Burgh to assemble, and to arm themselves in support of Government. At the general meeting of the fencible corps at Cunningham, Lord Kilmarnock appeared, followed by five hundred of his men, well-armed, and so admirably trained, that they made the best figure on that occasion among the forces collected. (*Reay 203*) In compliance with orders which he received from the Duke of Argyll, Lord Kilmarnock marched with his volunteers to garrison the houses of Drummakil, Cardross, and Gastartan, in order to prevent the rebels from crossing the Forth. Unhappily for the fortunes of his family, the Earl died two years afterwards and in the year 1717, his son, then a boy of fourteen years of age, succeeded to his title.

The mother of the young nobleman still survived, she was the Lady Eupheme, daughter of William, eleventh Earl of Ross and an only child, the Earl of Kilmarnock, had been the issue of her marriage. The youth, whose fate afterwards extorted pity from the most prejudiced spectators of his fate, was educated in the principles of the Scottish Church. These, as the chaplain who attended Lord Kilmarnock in the last days of his existence observes, are far from "having the least tendency to sedition," and a very different bias was apparent in the conduct of the Presbyterian ministers during the whole course of the insurrections of 1745. The young nobleman appears to have imbibed, with this persuasion, a sincere conviction of those incontrovertible, and all-important truths of Christianity which, happily, the contentions of sect cannot nullify, nor the passions of mankind assail. "He always believed," such is his own declaration, "in the great truths of God's Being and Providence, and in a future state of rewards and punishments for virtue and vice." He had never, he declared at that solemn moment when nothing appeared to him of consequence save truth, "been involved in the fashionable scepticism of the times." As he grew up, a character more amiable than energetic, and dispositions more calculated to inspire love than to ensure respect, manifested themselves in the young nobleman. He was singularly handsome, being tall and slender, and possessing what

was termed by an eyewitness of his trial, in an extreme fine person he was mild, and well-bred, humble, and conscientious. It is true, that in his hours of penitence he recalled, with anguish, "a careless and dissolute life" by which, as he affirmed, he reduced himself to great and perplexing difficulties; he repented for his "love of vanity and addictedness to impurity and sensual pleasure" which had "brought pollution and guilt upon his soul, and debased his reason, and, for a time, suspended the exercise of his social affections, which were, by nature, strong in him, and, in particular, the love of his country." Such was his own account of that youth, which, deprived of the guidance of a father, with high rank and great personal attractions to endanger it, was passed, according to his own confession, in dissipation and folly. It appears, nevertheless, that he was greatly respected by his neighbours and tenantry, who were not, perhaps, disposed to judge very severely the errors of a young and popular man.

When only eleven years of age, Lord Kilmarnock, then Lord Boyd, had appeared in arms for Government with his father, on which occasion he conducted himself so gracefully as to attract the admiration of all beholders. (*Reay 203*) His early prepossessions, granting that they may have accorded with those of his father, were, however, soon dissipated when he allied himself with a family who had been conspicuous to the Jacobite cause. This was the house of Livingstone, Earl of Linlithgow and Calendar; George, the fourth Earl, having, in 1715, been engaged in the insurrection under Lord Mar, had been attainted, and his estate of one thousand two hundred and ninety-six pounds yearly forfeited to the Crown. Nor has this forfeiture ever been reversed; and the present representative of the family, Sir Thomas Livingstone, of Westquarter and Bedlormie, remains, notwithstanding an appeal in 1784 before Lord Kenyon, then Attorney-General, a commoner. (*Woods Peerage. The defect of the title is the failure of issue male. The title of Livingston was considered by the authority as untouched*)

Lady Anne Livingstone, who was the object of the young Lord Kilmarnock's choice, is reported to have been a woman of great beauty, and, from her exertions in her husband's behalf, appears to

have possessed a fine, determined spirit. Although her father's title was not restored, she had sufficient interest, in 1721, to obtain from the English Government a lease of the forfeited estates for fifty-nine years, at the rent of eight hundred and seventy-two pounds, twelve shillings per annum. This was, no doubt, a source of considerable pecuniary benefit to her, and also of assistance, very greatly required by Lord Kilmarnock, who was in impoverished circumstances. Honours, indeed, centred in him, but were productive of no real benefit. By the grandmother of his wife, the Lady Margaret Hay, sole surviving daughter of Charles the twelfth Earl of Errol, he had a claim to that Earldom, which, coupling with its dignity that of the hereditary High Constable of Scotland, descended in the female line, and after the death of a brother in infancy, constituted the Lady Anne Livingstone a Countess of Errol of her own right. Thus, Lord Kilmarnock had, to borrow Horace Walpole's expression, "four earldoms in him," Kilmarnock, Errol, Linlithgow, and Calendar;" and yet he is said to have been so poor, as "often to have wanted a dinner." But to this mode of expression we must not entirely trust for accuracy. With the inheritance of the Earldoms of Errol, and of Linlithgow, and Calendar, there came a stock of old Jacobite principles; Lord Linlithgow had, indeed, suffered what was perhaps worse than death for his adherence to James Stuart. The Earl of Errol, the grandfather of Lady Kilmarnock, had led a more prudent course. Still he was a hearty Jacobite, and though, as Lockhart declares, he did not at first make a "great outward appearance," yet he was much trusted by the party; his family had always been favourable to the Stuarts, and he was, also, generally considered to cherish similar sentiments. (*Lockhart Papers, i, 136*) He had, nevertheless, taken the oaths to Government in 1705; yet on the alarm of an invasion in 1708, he was deemed so dangerous a person that he was sent as a prisoner to Edinburgh Castle, where he died.

The love suit of Lord Kilmarnock was not likely, under his impoverished circumstances, to prosper uninterruptedly. When he succeeded to his estate, he had found it much encumbered, and a considerable portion of the old inheritance alienated. Lord

Kilmarnock's disposition was not formed for economy; he was generous even to profusion, and, as we have seen, had not escaped the temptations incident to his age. His addresses to the Lady Anne Livingstone are said to have been prompted by his necessities; her fortune was deemed considerable and her family, well knowing the state of the Earl's affairs, regarded his proposals of marriage unfavourably. But the young nobleman, during the course of his courtship, and on opposing these objections, formed an interest in the heart of the young lady. He was, indeed, a man born to charm the imagination of the romantic, if not at that period of his youth, to rivet affection by esteem. In his boyhood, although he made some degree of progress in classical attainments, and even in philosophy and mathematics, thus proving that natural ability was not wanting, he was far more successful in attaining mere accomplishments, which add a powerful charm to comeliness and symmetry than mastering more solid studies. He became an adept in fencing, in riding, in drawing, and also in music; and acquired the distinctive and comprehensive designation, of being "a polite gentleman." (*Memoirs of Lord Kilmarnock, London, 1746, p. 19*)

Disgusted with the cold discussions on settlements and rent rolls, and disregarding maternal cautions, Lady Anne soon followed the dictates of her own heart. She married the young and handsome nobleman without her mother's consent, and a tardy sanction to the union was wrung from Lady Livingstone only when it was too late to withhold her approval.

The marriage was not, it was said by those who were disposed to scandalize the Earl of Kilmarnock, productive of happiness. The young Countess was possessed, indeed, of beauty, wit, and good sense but her husband, if we may accredit the memoirs of his life, gave her much cause to complain of his conduct. They lived, however, as the same doubtful authority states, "if not happily, at least civilly together." Such is the statement of a contemporary writer; it must, however, be adopted with just as much allowance as we give to similar reports raised by party writers in the present day: and it will be shown (*Memoirs of the Earl of Kilmarnock, p. 20*) not to

accord with the dying declarations of Lord Kilmarnock. "I leave behind," he wrote to his agent, "in Lady Kilmarnock, what is dearest to me (*MS. Letter presented to me by Craufurd of Craufurd Castle, Ayrshire*) subsequently to his marriage, Lord Kilmarnock's necessities and the additional burden of a family induced him to apply to the English Government for a pension, founded, as it is probable, on his father's services to Government in 1715. But this statement, and the conditions upon which the bounty was given are left in obscurity. "Whether," says the anonymous biographer of Lord Kilmarnock, "my Lord Kilmarnock's pension was a ministerial bribe, or a royal bounty, is a question I cannot determine with any certainty; but I have reason to suspect the former, since few pensions, granted by a certain administration, that of Sir Robert Walpole, deserved the latter." The same writer truly observes, that little or no dependence is to be placed on that loyalty which wants the support of bribes and pensions. "The practice," he adds, "is too general, and a defection of this kind of men may be fatal to the state." (*Memoirs of Lord Kilmarnock, p. 21*) The pension, as it appears from Horace Walpole's letters, was taken from Lord Kilmarnock by Lord Wilmington. "Lord Kilmarnock," he writes to Sir Horace Mann, "is a Presbyterian, with four earldoms in view, but so poor since Lord Wilmington's stopping a pension that my father had given him, that he often wanted a dinner." (*Horace Walpole's Letters, ii, p. 113*)

In the last days of his existence the Earl, indeed, acknowledged that the state of his affairs was, in part, the reason of his defection from Government. He attributed it, (though, it must be stated, under the pressing arguments of a minister of religion who considered what he termed "rebellion" as the most heinous sin, to the great and pressing difficulties into which he had brought himself, by extravagance and dissipation: and declared, according to the account of his spiritual guide, that the exigency of his affairs was very pressing at the time of the rebellion; and that, besides the general hope he had of mending his fortune by the success of it, he was also tempted by another prospect, of retrieving his circumstances if he followed the Pretender's standard. (*Foster's Account, p. 11*)

Until the commencement of the insurrection of 1745, Lord Kilmarnock enjoyed the possession of Dean Castle, a very ancient edifice, situated about half a mile north east of the town of Kilmarnock, in Ayrshire. "It is," says Grose in his *Antiquities of Scotland*, "at a small distance from the main road leading from Kilmarnock to Stewarton, and consists of a large vaulted square tower, which seems to have been built about the beginning of the fifteenth century it was surrounded by a court and other buildings more modern." (*Grose, 214*) Such is the description of Dean Castle before the year 1735; when, to add to Lord Kilmarnock's other necessities, it was partially destroyed by fire, leaving only a ruin which he was too much impoverished even to restore to its former habitable state. In the "great square tower," referred to by Grose, and of which a view is preserved in his work on Scotland, the Boyd family had dwelt in the days of their greatness, when one of their race was created Earl of Arran. In that tower had the Earl imprisoned his royal wife, the Lady Margaret, sister of James the Third, who was divorced from him, pleading, as some say, a prior contract with the Lord Hamilton, to whom she was afterwards united, taking to him the Isle of Arran as her dower.

It does not appear that the Earl of Kilmarnock was originally in the confidence of the Jacobite party and their designs were not only matured, but far in full operation before he took an open or active part in the Stuart cause. It happened, however, that when Charles Edward resided at Holyrood, the Countess of Kilmarnock was living in Edinburgh. Her beauty, and the gaiety of her manners, attracted the admiration of the young Prince, who bestowed no small portion of attention on the fascinating daughter of one of his father's adherents. Lady Kilmarnock was as much attached to pleasure as the young and beautiful usually are she delighted public diversions and led the way to all parties of amusement. Her ambition no less than her early prepossessions conspired, it is said, to make her a Jacobite; and she hoped, by the favour of Charles Edward, to obtain the restoration of her father's title. Her entreaties to the Earl of Kilmarnock to join the standard of the Prince were stimulated,

therefore, by a double motive and indeed, to a generous and romantic mind, there required neither the inducements of ambition, nor of gratified vanity, to espouse that part which seemed most natural to the Scots. After the battle of Prestonpans, Lady Kilmarnock's persuasions took effect: her husband presented himself to the young Chevalier, who received him with every mark of esteem and distinction, declared him a member of the privy council, raised him to the rank of a general, and appointed him Colonel of his guards. (*Memoirs of Lord Kilmarnock, p. 23*)

Another occurrence is, however, stated to have had a considerable influence in forming the Earl's decision.

During the course of the conflict he met, at Linlithgow, that incomparable man, and excellent officer, Colonel Gardiner. This individual, whose character forms so fine a relief to the party-spirited and debased condition of the British army in the time of George the Second, was a native of Linlithgowshire, having been born at Carriden, in the year of the Revolution, 1688. His life commencing in that important era, had been one of events. He had first entered the Dutch service; then had served in Marlborough's army at Bamillies. Until this incident of his life, the young soldier, then only nineteen, had run a course of dissolute pleasure, and had obtained, from the frankness and gaiety of his disposition, the name of the happy rake. Being in the forlorn hope, he was wounded and left in a state hovering between life and death, on the field, and in a state of partial insensibility, from which he was aroused at times to perfect consciousness.

The ball which had struck Gardiner, had entered his mouth and without breaking a single tooth, or touching the forepart of his tongue had passed through his neck, coming out above an inch and a half on the left side of the vertebra. He was abandoned by Marlborough's troops, who, according to their custom, left the wounded to their fate, while they pursued their advantages against the French.

In this state, the first serious emotions of gratitude, the first convictions of a peculiar providence suggested themselves to the

mind of the young officer and although they did not, for some years, produce an absolute amendment of life, they laid the foundation of his future conversion, and of that exemplary piety and purity which extorted admiration even in a dissolute age. After being present at every battle that Marlborough had fought in Flanders, Colonel Gardiner had signalised his courage in the insurrection of 1715; and in 1745 he was again ordered to the north to meet the Jacobite forces near Edinburgh. (*Life of Colonel Gardiner, by Doctor Doddridge, passim*)

It was during this, his last campaign, when broken by ill health and premature age, for this brave and good man despaired of the restoration of peace to his country, that he supped in company with Lord Kilmarnock, at Linlithgow. Colonel Gardiner's prognostications had long been most gloomy. "I have heard him say," declared Dr. Doddridge, "many years before the Scottish Insurrection, that a few thousands might have a fair chance for marching from Edinburgh to London, uncontrolled, and throw the whole kingdom into an astonishment." This opinion was derived from his knowledge of the defenceless state of the country, and the general prevailing disaffection. And the pious, but somewhat distrustful views of Gardiner led him to assign yet more solemn reasons for his anticipations of evil. For my own part, though I fear nothing for myself, my apprehensions for the public are very gloomy, considering the deplorable prevalence of almost all kinds of wickedness among us; the natural consequences of the contempt of the Gospel. I am daily offering up my prayers to God for this sinful land of ours, over which His judgments seem to be gathering and my strength is sometimes so exhausted with those strong cries and tears, which I pour out before God upon this occasion, that I am hardly able to stand when I arise from my knees." (*Life of Colonel Gardiner, by Doctor Doddridge, p. 155*)

Imbued with these convictions, Colonel Gardiner, when he was retreating at Linlithgow with the troops under his command, spoke unguardedly to Lord Kilmarnock of the prospects of the English army, and thus confirmed the wavering inclination of that ill-fated nobleman to follow Charles Edward. (*Henderson, p. 130*) The

decisive step was not, it appears, taken until after the battle of Prestonpans, in which Colonel Gardiner, who had a mournful presentiment of the event of that engagement, fell, after a deportment truly worthy of the British soldier and of the Christian. This brave officer, after having received two wounds, fought on, his feeble frame animated by the almost supernatural force of strong determination. As he headed a party of foot who had lost their leader, and cried out, "Fire on, my lads, fear nothing", his right-arm was cut down by a Highlander, who advanced with a scythe, fastened to a pole. He was dragged from his horse; and the work of butchery was completed by another Highlander, who struck him on the head with a broadsword: Gardiner had only power to say to his servant, "Take care of yourself." The faithful creature hastened to an adjoining mill for a cart to convey his master to a place of safety. It was not until two hours had elapsed, that he was able to return. The mangled body, all stripped and plundered, was, even then, still breathing; and the agony of that gallant saint was protracted until the next day, when he expired in the house of the minister of Tranent.

This digression, introducing as it does, one of the real heroes of this mournful period, may be pardoned.

According to the evidence on his trial, Lord Kilmarnock first joined the standard of Charles Edward on the banks of the river which divides England from Scotland (*State Trials of George II*) but Maxwell of Kirkconnel mentions that the Earl marched from Edinburgh on the thirty-first of October, 1745, at the head of a little squadron of horse grenadiers, with whom were some Perthshire gentlemen, who, in the absence of their own commander were placed under the conduct of Lord Kilmarnock. (*Maxwell*, p. 60) After this decisive step, Lord Kilmarnock continued to follow Charles during the whole of that ill-fated campaign, which ended in the battle of Culloden. During the various events of that disastrous undertaking, his character, like that of many other commanders in the Chevalier's army, suffered from imputations of cruelty. That this vice was not accordant with his general disposition of mind, the minister who attended him on his death-bed sufficiently attests. "For myself,"

declares Mr. Foster, "I must do this unhappy criminal the justice to own, that he never appeared, during the course of my attendance upon him, to be of any other than a soft, benevolent disposition. His behaviour was always mild and temperate. I could discern no resentment, no disturbance or agitation in him." (*Forbes's Account*, p. 20) So gentle a character is not the growth of a day; and if ever Lord Kilmarnock were betrayed into actions of violence, it must have been under circumstances of a peculiar nature.

Among other charges which were specified against him, was a participation in the blowing up of the church of St. Junian's, in the retreat from Stirling. When, in the retirement of his prison chamber, the unfortunate nobleman reviewed his conduct, and confessed the errors of his life, he fully and satisfactorily cleared himself from the heinous imputation implied in this work of destruction. When the army of Charles were retiring from Stirling he was confined to his bed ill of a fever. The first intimation that he had of the blowing up of the tower of St. Ninian's was the noise, of which he never could obtain a clear account. By the insurgents it was represented as accidental, "this can I certainly say, as to myself, that I had no knowledge beforehand, nor any concurrence in a designed act of cruelty." Such was Lord Kilmarnock's declaration to Mr. Foster.

Another instance of barbarity also laid to the charge of the Earl was. his alleged treatment of certain prisoners of war who were intrusted to his care in the church of Inverness, he was accused of stripping these unfortunate persons of their clothes. Upon this point he admitted that an order to deprive the prisoners of their garments for the use of the Highlanders was issued by Charles Edward, that the warrant for executing this order was sent to him. He did not, as he declared, enter the Church in person, but committed the office of execution of another officer. The prisoners, as might be expected, refused to submit to this indignity upon which a second order was issued and their clothes were taken from them. The well-timed remonstrance of Boyer, Marquis D'Eguilles, who had been sent by the court of France in the character of Ambassador to Charles Edward, attested, however, the act of cruelty, which not even extreme

necessity can excuse. This nobleman had arrived some time previously at Montrose, bringing in the ship in which he sailed, arms and a small sum of money (*Maxwell, p. 50. This Nobleman was at the battle of Culloden*) and his influence, which was exerted in behalf of the captives, was happily considerable. He represented to the Earl of Kilmarnock, that the rules of war did not authorise the outrage which was contemplated. Lord Kilmarnock, convinced by his remarks, repaired to Charles Edward, leaving heaps of the clothes lying in the streets of Inverness, with sentinels standing to guard them. By the arguments which he addressed to the Prince, these garments were restored to their unfortunate owners and a great stain on the memory both of Charles and of his adherent was thus partially effaced.

Of such a nature were those imputations which were charged upon Lord Kilmarnock; but they appear to have met with only a transient credence; whilst a general impression of his gentleness, and a prevailing regret for his fate endured as long as the memory of the dire contest, and of its tragical termination, dwelt in the recollection of those who witnessed those mournful times.

After the battle of Culloden, the prisoners were immediately set free. The Duke of Cumberland, as he entered Inverness, taking his road amid the carcasses of the dead strewed in the way, called for the keys of the prisons and with his own hands released the captives there and, clapping them on the shoulders as they came down stairs, exclaimed, "brother soldiers, you are free." (*Henderson, p. 332*) Unfortunately, his compassion was of a party nature and was only aroused for his own adherents.

At Culloden, fatal to so many brave men, Lord Kilmarnock was spared only to taste much more deeply of the pangs of death than if he had met it in battle. His fate had, indeed, been anticipated by the superstitious; and it was considered a rash instance of hardihood in the unfortunate nobleman to resist an omen which, about a year before the rebellion had broken out is said to have happened in his house. One day, as the maid who attended usually upon Lady Kilmarnock was inspecting some linen in an upper room of Dean Castle, the door of the apartment suddenly opened of its own accord

and the view of a bloody head, resembling that of Lord Kilmarnock, was presented to the affrighted woman. As she gazed in horror, the head rolled near her. She endeavoured in vain to repel it with her foot. She became powerless, but she was still able to scream; her shrieks brought Lord Kilmarnock and his Countess to the chamber. The apparition had vanished; but she related succinctly the story "which, at that time," says the historian who repeats it, (*Henderson, p. 130*) "Lord Kilmarnock too much ridiculed, though it could have been wished that he had been forewarned by the omen such was the superstition of the times, in which ignorance and credulity found such ready supporters."

At Culloden, this ill-fated nobleman occupied a post not far from the Prince, in the rear of whom was a line of reserve, consisting of three columns, the first of which, on the left, was commanded by Lord Kilmarnock, the centre column by Lord Lewis Gordon and Glenbucket and the right by the justly-celebrated Roy Stewart. In the opposite ranks, an Ensign in the Royal regiment, was his son, Lord Boyd. During the confusion of the fight, when part-blinded by the smoke, the unhappy Lord Kilmarnock, as it fated to fulfil the omen, mistook a party of English Dragoons for FitzJames's Horse and was accordingly taken prisoner. He was led along the lines of the British infantry. The vaunted beauty of his countenance, and the matchless graces of which so much has been said, were not obliterated by the disorder of his person, and his humiliating position. His hat had been lost in the conflict, and his long hair fell about his face. The soldiers as he was led along stood in mute compassion at this sight. Among those who thus looked upon this unfortunate man was his son, Lord Boyd, who was constrained to witness, without attempting to alleviate, the distress of that moment. "When the Earl passed the place where his son stood, the youth, unable to bear that his father should be thus exposed bareheaded to the storm which played upon the scene of carnage, stepped out of the ranks and taking his own hat from his head, placed it on that of his father. It was the work of an instant, and not a syllable escaped the lips of the agitated young man." (*Note in Chambers, p. 89*)

Lord Kilmarnock was carried from the moor, which already, to use the words of an eyewitness among the Government troops, "was covered with blood; the men, what with killing the enemy, dabbling their feet in the blood, and splashing it about one another, looked like so many butchers." (*History of the Rebellion, from the Scots' Magazine, p. 198*) Never, did even their enemies declare, was a field of battle bestrewn with a finer, perhaps with a nobler race. "Everybody allowed," writes one of Cumberland's officers, "that men of a larger size, larger limbs, and better proportioned, could not be found." The flower of their unhappy country, hundreds of these had not yet been blessed with the repose of death but were left to languish in agony until the next day, when they were butchered by the orders of Cumberland. One of them, John Alexander Fraser, in the Master of Lovat's regiment, was rescued by Lord Boyd from destruction. A soldier had struck him with the butt of his musket, intending, according to the orders given, to beat out his brains. The poor wretch, his nose and cheek-bone broken, and one of his eyes pierced, still breathed when this young nobleman passed him. He observed the poor creature and ordered his servants to carry him to neighbouring kin, where, in time, his wounds were cured. "He lived," observes Mr. Chambers, "many years afterwards, a dismal memorial of the cruelties of Culloden." (*Chambers, p. 89 & Henderson, p. 334*)

According to one account, Lord Kilmarnock owed his escape from the field of battle with his life to the brave and generous Lord Ancrum, who delivered him to the Duke of Cumberland and the same narrative adds, that the Duke issued orders that no one should mention the Earls imprisonment to his son, but considerably imparted the intelligence to the young man himself. It is only fair to mention this redeeming trait in a man who had so many awful, and almost inexpiable sins to answer for at the last day, when not our professions of kindness, but our acts of mercy or of wrong will be placed before a solemn and final account.

After his surrender at Culloden, the Earl of Kilmarnock was conveyed to London. That metropolis, in some of its most attractive features, was well known to him as he had frequently resided there

for several months during the year and had associated with the friends of government who were near the court. He was now to view it under a very different aspect; and during the period which elapsed between his surrender and his trial, he had ample time to weigh the respective value of that society which had formerly so much delighted him, and in which, it is said, he had affected to talk freely of religion and of those great truths which were now his only source of support. Whatever may have been his early errors, the remaining days of Lord Kilmarnock were characterised by gentleness to those who were placed in authority over him; forbearance to those who slandered him, and submission to God. Unable to conquer a natural intense love of life, he assumed no pretended intrepidity: yet manifested a still greater concern for his character, than for his fate. Society in general, as well as the annalists of the times, mourned for him, and with him; and many who beheld his doom, would have sacrificed much of their own personal safety to avert the close of that tragic scene. These were not times when the generous might venture to interfere with security. (*Observation on the Account of the behaviour of Lords Kilmarnock and Balmerino, 1746*)

The two noblemen, differing greatly in character from Lord Kilmarnock, shared his imprisonment: Arthur, sixth Earl of Balmerinloch, or, as it is usually spelled Balinerino, (pronounced Balmenno), and George, Earl of Cromartie.

Of these individuals, Lord Balmenno, although an uncultured soldier, has excited by far the greatest interest. He was descended, like most of his associates from an ancient family, it was of German origin (*Nesbitt Heraldry, vol. i, p. 154*) first known in Scotland in the reign of Robert Bruce, to whose sister, a German Knight, surnamed Elphingston, or Elphinstone, was married. Such was the esteem in which Robert Bruce held his foreign brother-in-law, that he gave him lands in Midlothian, which still bear the name of Elphinstone. (*Elphinstone, in the shire of Haddington and in the Parish of Tranent, a village at a distance of three miles S.S.W. from Tranent – Edinburgh Gazetteer*) Hence was he called Elphinstone of that ilk, a mode of expression employed in Scotland to prevent the repetition of

the same name. In process of time certain estates which a descendant of the German Knight acquired at Arthbeg, in Stirlingshire, were also endowed with that surname and, during several centuries, the martial and hardy race to whom those lands belonged continued in the same sphere, that of private gentlemen, chiefs of the House of Elphinstone. They were remarkable, in successive generations, for that bold and manly character which eventually distinguished their ill-fated descendant, Arthur Balmerino and which, in time, extorted applause from the most prejudiced politicians of the opposite party. Alexander Elphinstone, in the reign of David the Second, might have emulated the supposed deeds of Guy Earl of Warwick; he rivalled him in gigantic figure, in immense strength and knightly prowess. His disposition was not only martial, but chivalric; for, conscious of extraordinary power, "he was more able," says a writer of the last century, "to overlook an affront, than men less capable of resenting it." His son, inferior in bodily strength, equalled him in military exploits, which distinguished indeed a succession of the Elphinstone's of that ilk. (*Nesbitt, p. 154*) At Flodden, John Elphinstone, who was created a Lord of Parliament by James the Fourth, was killed by the side of his Royal master, and being not unlike to that monarch in face and figure, his body was carried to Berwick by the English, who mistook it for that of the King. (*Memoirs of Lord Balmerino, London, 1764*) In the reign of James, the Sixth, James, the second son of the third Lord Elphinstone, was created a Baron by the name and title of Lord Balmerino. He rose to high honours in the State; but the first disgrace that befell the family occurred in this reign. This was the marriage of John, the second Lord Balmerino, to Jane Ker, sister of the infamous Ker, Earl of Somerset, and favourite of James the Sixth, who, for his sake, denounced a curse on his posterity, which seems, says the writer before quoted, "to have followed them and the nation ever since."

Like most of the noble families in Scotland, the house of Balmerino became impoverished during the civil wars and when the father of Arthur Elphinstone succeeded to his title, he found his estates woefully diminished. He was, however, one of those men who

were capable, by ability and prudence, of redeeming the fortunes of his family. Circumstances were, indeed, adverse to the prosperity of any whose loyalty to the Stuarts was suspected. Lord Balmerino was prudent, but he was sincere. He was a man of excellent parts, improved by reading, being, perhaps, one of the very best lawyers in the kingdom, and very expert in the Scottish constitution; he reasoned much and pertinently in Parliament, and testifying, on all occasions, an unshaken loyalty to his Prince, and zealous affection to his country, he gained the esteem and love of all good men. Such was the father, of whom this noble character was drawn, to whom Arthur, Lord Balmerino, owed his being. Such was the man whom it would have been the wiser policy of the British Ministry to have conciliated, on the accession of George the First, but whose son they drove into an act of imprudence by their distrust and injustice. The first wife of John, fourth Lord Balmerino, was the daughter of Hugh, Earl of Eglintoun and consequently, she was connected with some of the most strenuous supporters of the Stuart cause in the kingdom of Scotland. By her he had two sons. Hugh, who was killed in 1708, at the siege of Lisle, and James, who was educated to the profession of the law. Upon the death of this lady, Lord Balmerino married Anne, daughter of Ross, the last Archbishop of St. Andrews, and by her had two sons, Arthur, who became eventually Lord Balmerino and Alexander, who died in 1733, unmarried and a daughter, Anne, who also died unmarried. The subject of this memoir may, therefore, be deemed the last of the House of Balmerino. (*Wood's Peerage*)

Arthur Elphinstone was born in the year 1688. He had, until late in life, no expectation of succeeding to the title of his father after the death of Hugh, there being still an elder brother, James. The characteristics of all this branch of the Elphinstone family appear almost invariably to have been those of honour and justice, and James resembled his father in the integrity of his principles. The following character is drawn of him by a contemporary writer: "He was rather a solid pleader than a refined orator; but he understood the law so well, and preserved the chastity of his character so tenderly, by avoiding being concerned in any scandalous actions, that he was

listened to with great attention by the bench, at a time when it was filled by the most eminent lawyers that ever appeared in Scotland."

The abilities of this able and conscientious man soon raised him to the bench, where he discharged his duties with that high and nice sense of integrity which can only be described by the word honour. The dignity of the judge was preserved in his manly and courageous character and such was his application to business, that his court was thronged with practitioners when those of other judges were nearly deserted.

Arthur, his younger brother, possessed not his application, but displayed much, nevertheless, of the natural ability of his family. "He was not much acquainted with books; and though he was rich in repartee, yet he never affected to reason." Such is the remark of a contemporary writer. Yet who might not envy the clear, undisturbed intellect which showed him, in a moment of peculiar temptation, the value of plain dealing, and the inestimable price of a good conscience?

Some members of a family seem fated to suffer for the others. Arthur Elphinstone was educated in the principles which brought him to the scaffold: they were those of his father and brother, who were both fortunate enough to preserve them in their own breasts, and yet not to encounter trouble on that account. During the reign of Queen Anne, the family appear to have been deemed so well affected, as to procure them promotion, not only in civil but military service. When very young, Arthur Elphinstone obtained the command of a company of foot in Lord Shannon's regiment on the accession of George the First. His real opinions were, however, manifested by the resignation of his commission and by his joining the standard of Lord Mar, under whom he commanded a company and served in the battle of Sherriffmuir. By throwing up his commission he escaped being punished as a deserter and was allowed to retire to the Continent. According to some accounts he went first to Denmark by others it is said, that he entered at once into the French service. He remained, by all events, twenty years in exile from his family, but in 1733, an event occurred, which greatly increased the natural desire which his father,

declining in strength, had long cherished of again beholding his son. Alexander Elphinstone, the younger brother of Arthur, died at Leith two years before the insurrection broke out. This young man had had the misfortune in 1730, to fight a duel, shortly after which his adversary, Lieutenant Swift died of his wounds. The combat took place on the Links of Leith the affair was notorious and Alexander had been threatened with a prosecution which was not, however, put into execution.

This painful circumstance, coupled with Alexander Elphinstone's death, may have naturally added to the wish which Lord Balmerino entertained, to rescue his exiled son from the sentence of outlawry under which he stood and to restore him again to his home. Probably the desire of perpetuating honours which had been gained by legitimate exertions, may have been contemplated by the aged nobleman when he revolved in his mind how he could compass the safe return of his younger and surviving son to Scotland. James, the heir to the title, great as was the lustre which his abilities and integrity shed upon it, was not likely to perpetuate more honours, having no children by his wife Elizabeth Carnegie, (daughter of David, fourth Earl of Northesk.

It is one of the numerable instances of human short-sightedness, that the very recall of Arthur Elphinstone to Scotland was the cause of the extinction of family honours and of that line in which they rested. According to some accounts, he remained abroad until the general Act of Indemnity, from which he was not accepted, took effect (*Life of Lord Balmerino, p. 51 & Buchan's Account of the Earl of Keith, p. 149*) but by others it is stated, that his father, having made a strong application to Government, obtained a free pardon for his son. If such were the case, there seems a degree of ingratitude in again joining the enemies of Government, which one can scarcely reconcile with the generous character of this brave man.

He was in Switzerland when he received a summons to return to his native country. His conduct upon the arrival of this intelligence was honest and candid towards him, to whom, according to his notions, he owed allegiance. He wrote to the Chevalier St.

George and laid open the circumstances of the case before him stating that he should not accept the proffered pardon without his permission. James answered this explanation with his own hand and not only gave Arthur Elphinstone permission to return to Scotland but informed him that he had ordered his banker at Paris to pay his travelling expenses. Thus authorised, Arthur returned home, welcomed by his aged father with a satisfaction which happily was not destined to be alloyed by any adverse circumstances during the lifetime of the venerable nobleman.

Thus, was this ill-fated man restored to that land which probably, although long severed from its glens and mountains that he loved. He was now of middle age, being in his forty-fifth year but his disposition, in spite of his long residence among foreigners, was still thoroughly Scots. He was as undaunted by danger as any of his valiant ancestors had been. Consequently, he had no need to have recourse to guile, in short, falsehood would have been impossible to that frank nature. He was blunt in speech but endowed with the kindest heart that ever throbbed in the dungeons of that grim fortress in which his manly career was closed. He had not, however the prudence, which is characteristic of his countrymen and which, once well understood, is as distinct from selfishness and craft as their martial vehemence has generally been from cruelty. A service in foreign campaigns had not lessened his ideas of honour; which were perhaps more truly cherished among military men on the Continent, than at that period in England. Few British troops, for example, ever proved themselves more worthy of the name of soldiers than the Hessians who served in Scotland in 1745. To the fine and soldierly attributes of Lord Balmerino, to an intrepidity almost amounting to indifference, to a warm and generous heart, were united that ready and careless humour which accord so well with the loftier qualities of the mind and certainly rather enhance, than detract from the charm of graver attributes of character.

In appearance, Lord Balmerino was strongly contrasted with the fellow-sufferer with whom his name is indelibly associated. "His person," writes a contemporary, "was very plain, his shape clumsy,

but his make strong and he had no marks of the polite gentleman about him. He was illiterate in respect of his birth but rather from a total want of application to letters, than want of ability." (*Scots Magazine for 1746*) His manners are said to have been natural, if not courtly, his countenance only inferior in its ungainliness to that of Lovat, but, expressing, we may suppose, a very different temper of mind, harsh as were its features it captivated, as well as that of the handsome Kilmarnock, female regard. (*Scots Magazine for 1746*)

According to some statements, Lord Balmerino married in 1711, before the first insurrection (*Georgian Era*) but no distinct allusion to a connection of so early a period is to be found in the authenticated narratives of his life. It was not, it seems evident, until after his return from Switzerland, that he married Margaret, daughter of Captain Chalmers, "the pretty Peggy," who was at once his solace and his sorrow when in the Tower of London. In 1736, the father, whom he had returned to cheer in his decline, died at his house in Leith, and was buried at the family seat at Restalrig in Leith. His son James succeeded to the title. (*Wood's Peerage*)

When the intelligence arrived, that Charles Edward had landed in Scotland, Arthur Elphinstone hastened to the Standard of the Prince. On the thirty-first of October, 1745, he marched from Edinburgh, on the expedition to England, having the command of a troop of horse, in number about forty. (*Maxwell, p. 59*) His military talents were well known, for he had distinguished himself in several campaigns in Flanders. (*Georgian Era*) But, as he took into the field only his menial servants, no very important posts were entrusted to him and his career appears not to have been signalised by any remarkable military exploits. In short, it may be truly said of him as of Dr. Donne by Isaak Walton, that "nothing in his life became him, like the leaving it"

After joining the insurgent army, Lord Balmerino engaged in all the various movements of that enterprise. After the siege of Carlisle, he entered that city at the head of his troop, with pipes playing, and colours flying, having been at twelve miles distance when the town was taken. He then proceeded in the fatal expedition

to Derby and returned a second time to Carlisle, marching with the main body of the army towards Scotland. He was present at the battle of Falkirk but did not engage in it as some of the Cavalry having been kept as a Corps de Reserve in that engagement. His participation in that day's victory was, however, afterwards imputed to him as an act of rebellion, although, he was merely drawn up in a field near the field of battle, in company with Lord Kilmarnock and Lord Pitsligo. The body which he commanded, went by the name of Arthur Elphinstone's Life Guards. (*State Trials, vol. xviii*)

A few weeks before the battle of Culloden, the elder brother of Arthur Elphinstone, James Lord Balmerino, died, leaving the title which he had enjoyed for so short a period, to the brother, who was then engaged in so perilous a course. This accession of honour brought with it, little increase of fortune, but rather the responsibility of succeeding to encumbered estates. Of these most had, indeed, passed into other families. To the first Lord Balmerino charters of numerous lands and baronies had been given; Barntoun, Harrie, Balumby, Innerpeffer, Balgregie, Balmerino, Dingwall, etc. were among his possessions. In 1605, the barony of Restalrig, in South Leith, was sold to Lord Balmerino by the noted and profligate Robert Logan, Baron of Restalrig, to whose family that now valuable property, including the grounds lying near the river, had belonged, until the days of the Queen Regent, Mary. This estate, on which Lord Balmerino's father resided, appears to have been almost the only vestige of the former opulence of this branch of the Elphinstone family. (*Edinburgh Gazetteer. Art "South Leith"*) His embarrassed circumstances are deemed by some writers to have had a considerable share in deciding Lord Balmerino to join in a contest in which he had so little to lose; but it appeared, in the hour of trial, that his principles of allegiance to the Stuarts had been unaltered since the days of his youth, and that they were alone sufficient to account for the part which he adopted. At the battle of Culloden Lord Balmerino was made prisoner by the Grants, to whom, as one of the witnesses on his trial affirmed, he surrendered himself. He was conveyed to Castle Grant, and from thence to London, to the same dreary fortress

in which Lord Kilmarnock was likewise immured. The fate of these two unfortunate men, hitherto but little dependant on each other, was henceforth associated, until the existence of both was closed on the scaffold.

George, the third Earl of Cromartie, was the only one of their fellow-prisoners who was arraigned and tried with Kilmarnock and Balmerino. He had taken even a more decided part in the Insurrection than Balmerino, having raised four hundred of his clan, who were with him in the battle of Falkirk. His son, the young Lord Macleod, was also in the Jacobite army, and both father and son were surprised at Dunrobin, by a party of the Earl of Sutherland's militia, on the fifteenth of April, and taken prisoners. Lord Cromartie had, as well as Lords Kilmarnock and Balmerino, strong ties to life, strong claims upon his reason to have withheld him from a hazardous participation in a cause of peril. He had been married more than twenty years to Isabel, daughter of Sir William Gordon, and had by her a numerous family. For this nobleman, a powerful interest was afterwards successfully exerted.

These three noblemen were brought to London early in June. They were shortly afterwards followed by about eight hundred companions in misfortune. Of these, who arrived at the (*River*) Thames on the twenty- first of June, about two hundred were left at Tilbury Fort while six hundred were deposited in the various prisons of the metropolis. From henceforth scenes of distress and even of horror, were daily presented to the prisoners. The Marquis of Tullibardine expired soon after his arrival at the Tower, Lord Macleod, with happier fate, re-joined his father, Mr. Murray of Broughton who was treated with a distinction, at that time, was also lodged in the same fortress. Those who were led to expect the severest measures might envy the calm departure of the good old Marquis of Tullibardine, but all hearts bled when the gallant Colonel Townley, a Roman Catholic gentleman of distinction, was dragged on a sledge, along with other prisoners, to Kennington. his arms pinioned, insulted by a brutal multitude and there hanged. The horrid barbarities of this sentence being fulfilled on his body, which was still

breathing, the hangman preparing to take out the heart and bowels, struck it several times on the chest, before life and perhaps consciousness was wholly extinct.

Day after day, the awful tragedies were repeated, exceeding any similar displays of power since the days of the Tudors. Each of these martyrs, as the voice of their own party pronounced them, in their last moments declared, that "they died in a just cause, that they did not repent of what they had done, that they doubted not their deaths would be avenged." When, after nine executions had taken place in one morning, the heart of the last sufferer was thrown into the fire, a savage shout from the infuriated multitude followed the words "God save King George" The unfortunate man who had just perished was a young gentleman, named Dawson, a graduate of St. John's College, Cambridge. He had for some time been engaged to a young lady of good family, and great interest had been made to procure his pardon. The lovers were sanguine in their expectations and the day of his release was to have been that of their marriage.

When all hope was at an end, the young lady, not deterred by the remonstrances of her kindred, resolved upon following Mr. Dawson to the place of execution. Her attention was at length acceded to and she drove in a hackney-coach after the sledges, accompanied by a relative and by one female friend. As the shout of brutal joy succeeded the silence of the solemn scene, the words "my love, I follow thee, I follow thee!" burst from the lips of the broken-hearted girl. She fell on the neck of her companion and, whilst she uttered these words, "Sweet Jesus receive our souls together" and expired. (*History of the Rebellion from the Scots Magazine, p. 302*) Recitals of these domestic tragedies, proofs of the unrelenting spirit of government, tended to break the firmness of some of those who survived.

Lord Cromartie sank into dejection, Kilmarnock's fine and gentle nature was gradually purified for heaven, Balmerino rose to heroism.

The prisons were crowded with captives; the noblemen alone were committed to the Tower even two of the Scottish chiefs were sent to Newgate the officers were committed to the new gaol,

Southwark the common men to the Marshalsea. Meantime, strong and prompt measures were determined upon by Government.

Bills of indictment for high treason were found against Lord Kilmarnock, the Earl of Cromartie, and the Lord Balmerino by the grand jury of the county of Surrey a writ of certiorari was issued for removing the indictments into the House of Peers, on the twenty-sixth of June, and their trial was appointed to take place on the twenty-eighth of July following. Westminster Hall was accordingly prepared for the trials and a High Steward appointed in the person of the justly celebrated Lord Hardwicke.

On the petition of Lord Kilmarnock, Mr. George Ross was engaged as his solicitor, with permission to have free access to him at all times. On the appointed day the trials commenced. Westminster Hall was fitted up with unprecedented magnificence and tickets were issued by the Lord Chamberlain to the Peers, to give access to their friends. At eight o'clock in the morning, the Judges in their robes, with the Garter-King-at-Arms, the Usher of the Black Rod and the Serjeant-at-Arms waited on the Lord High Steward at his house in Ormond Street. Garter-King-in-Arms in his coat of the King's arms and Black Rod, having the white staff attended them. After a short interval the procession to Westminster Hall began, Lord Hardwicke, designated during the term of the trial as "His Grace" came forth to his coach, and followed by the chief judges and judges. His coach was preceded by his Grace's twenty gentlemen, uncovered, in five coaches two by two and by the Serjeant-at-Arms together with Black Rod. The Heralds occupied the back seats of his Grace's coach the judges in their coaches followed. As the procession entered the Palace-yard, the soldiers rested their muskets and the drums beat, as to the Royal Family.

Meantime, the Peers in their robes were assembled. The Lord High Steward having passed to the House, through the Painted Chamber, prayers were read, the peers were called over by Garter-King-at-Arms. The Lord Steward, followed first by his four gentlemen attendants, two by two and afterwards by the Clerks of the House of Lords, and the Clerks of the Crown by the Peers and the

Peers' sons, proceeded to Westminster Hall, the Lord Steward being alone uncovered and his train borne by a page.

Proclamation for silence having been made by the Lord Steward's Sergeant-at-Arms, the commission was read, the Lords standing up, uncovered. Then his Grace, making obeisance to the Lords, re-seated himself and Garter, and the Black Rod, with their reverences, jointly presented the White Staff on their knees, to his Grace. Thus, fully invested with his office, the Lord Steward took his staff in his hand and descended from the woosack to a chair prepared for him on an ascent before the throne.

The three Lords had been brought during this time from the Tower. The Earl of Kilmarnock was conveyed in Lord Cornwallis's coach, attended by General Williamson, Deputy Governor of the Tower; the Earl of Cromartie, in General Williamson's coach, attended by Captain Marshal and Lord Balmerino in the third coach, attended by Mr. Fowler, Gentleman Gaoler, who had the axe covered by his side. A strong body of soldiers escorted these carriages.

The three Lords being conducted into the Hall, proclamation was made by the Sergeant-at-Arms that the Lieutenant of the Tower should bring his prisoners to the bar, the proclamation being made in this form : "Oyez, oyez, oyez, Lieutenant of the Tower of London, bring forward your prisoners, William Earl of Kilmarnock, George Earl of Cromartie, and Arthur Lord Balmerino, together with the copies of their respective commitments, pursuant to the order of the House of Lords."

Then the Lords were led to the bar of the House by the Lieutenant-Governor, the axe being carried before them with its edge turned from them. The prisoners, when they approached the bar, made three reverences and fell upon their knees. Then said the Lord High Steward your Lordships may arise upon which the three Lords arose and bowed to his Grace the High Steward, and to the House, which compliment was returned by the Lord High Steward, and by the Peers.

Thus, began the trial "the greatest, and the most melancholy scene," wrote Horace Walpole to Sir Horace Mann, "that I ever saw".

As it was the most interesting sight, it was the most solemn and like; a coronation is, but a puppet show with all the splendour of it Idle but this sight at once feasted one's eyes, and engaged one's passions of a signal avowal for one whom a long continuance in the world's business and perhaps, worse, its pleasures, had hardened. A hundred and thirty-nine Lords were present, making a noble sight on their benches, and assisting at a ceremony which is said to have been conducted with the most awful solemnity and decency throughout, with one or two exceptions. (*Horace Walpole's Letters to Sir Horace Mann, vol. ii, p. 160*)

The Lord Chancellor Hardwicke, who presided on this occasion, has been mostly deemed one of the brightest ornaments of the woolsack. The son of an attorney at Dover, as Philip Yorke, he had risen to the highest offices of the law, by his immense acquirements and his incomparable powers of illustration and arrangement. By his marriage with a niece of the celebrated Lord Somers he strengthened his political interest, which, however, it required few adventitious circumstances to secure. Three great men have expressed their admiration of Lord Hardwicke almost in similar terms, Lords Mansfield, Burke, and Wilkes. "When his Lordship pronounced his decrees, wisdom herself might be supposed to speak." (*Georgian Era*) In manner, he was usually considered to be dignified, impressive, and unruffled and his intentions were allowed to be as pure and elevated, as his views were patriotic.

On this eventful day, since we cannot reject the testimony of an eye-witness of discernment, we must believe that party spirit, which he had usually so little influence over his sense of justice, swayed the prepossessions of Lord Hardwicke. At all events, it affected his treatment of the unhappy men to whom he displayed a petulance wholly derogatory to his character as a judge, and discreditable to his feelings as a man. "Instead of keeping up the humane dignity of the law of England, whose character is to point out any favour to the criminal, he crossed them, and almost scolded at any offer they made towards defence." Such is the remark of Horace Walpole. Comely in person, and possessing a fine voice, Lord

Hardwicke had every opportunity, on this occasion, of a graceful display of dignity and courtesy yet his deportment, usually so calm and lofty, was obsequious, curiously searching for occasion to bow to the Minister and, consequently, applying to the other ministers in a manner, for their orders; not even ready at the ceremonial. Notwithstanding, Lord Hardwicke, on his death-bed, could with confidence declare "that he had never wronged any man." The unhappy Jacobites seem, indeed, to have been considered exceptions to all the common rules of clemency. None of the Royal family were present at the trial, from a proper regard for the feelings of the prisoners, and also, perhaps, from a nice sense of the peculiarity of their own condition.

After the warrants to the Lieutenant of the Tower were read, the Lord High Steward addressed the prisoners, telling them that although their crimes were of the most heinous nature, they were still open to such defences as circumstances, and the rules of law and justice would allow. The indictments for high treason were then read to the Lords Kilmarnock and Cromartie pleaded guilty but when the question was put to Lord Balmerino, he demanded boldly, but respectfully to be heard, objecting to two clauses in the indictment, in which he was styled "Arthur Lord Balmerino, of the town of Carlisle" and also charging him with being at the taking of Carlisle, when he could prove "that he was not within twelve miles of it." Not insisting upon these objections and the question being again put to him, he then pleaded, not guilty. Lord Kilmarnock and Lord Cromartie were removed from the bar, and the trial of Balmerino began. It was prefaced by addresses from Sir Richard Loyd, King's Counsel, and from Mr. Sergeant Skinner, who made, what was justly considered by H. Walpole, "the most absurd speech imaginable," calling "Rebellion, surely the sin of witchcraft," and applying to the Duke of Cumberland the unfortunate appellation of "Scipio." (*State Trials, vol. xviii, p. 466*) The Attorney General followed, and witnesses were afterwards examined, who fully proved, though accused by Balmerino of some inconsistencies, his acts of adherence to the Chevalier his being present in towns where James Stuart was

proclaimed King his wearing the regimentals of Prince Charles's body guard his marching into Carlisle at the head of his troops, with a white cockade in his cap his presence at the battle of Falkirk, in a field with Lords Kilmarnock and Pitsligo, who were at the head of a corps of reserve. Six witnesses were examined, but there was no cross-examination, except such as Balmerino himself attempted. The witnesses were chiefly men who had served in the same cause for which the brave Balmerino was soon to suffer. After they had delivered their testimony, the "old hero," as he was well styled, shook hands cordially with them. In one or two instances, as far as can be judged by the answers, the evidence seems to have been given with reluctance. Lord Balmerino being asked if he had anything to offer in his defence, he observed that none of the witnesses had agreed upon the same day as that which was named in the indictment for being at Carlisle; and objected to the indictment, that he was not at the taking of Carlisle as therein specified. His objections were taken into consideration the Lords retired to their chamber, and there consulted the judges whether it be necessary that an overt act of high treason should be proved to have been committed on the particular day named in the indictment.

The answer being in the negative, every hope of acquittal was annihilated for Balmerino. He gave up every further defence and apologised with his usual blunt courtesy for giving their Lordships' so much trouble: he said that his objections had been the result of advice given by Mr. Ross, his Solicitor, who had laid the case before Counsel. The question was then put by the Lord High Steward, standing up, uncovered, to the Lords, beginning with the youngest Peer, Lord Herbert of Cherbury, "whether Arthur Lord Balmerino were guilty of high treason, or not guilty". A unanimous reply was uttered by all those who were present; "guilty upon my honour." Lord Balmerino, who had retired while the question was put, was then brought back to the bar to hear the decision of the Lords. It was received with the intrepidity which had, all throughout the trial, characterised the soldier and the man. During the intervals of form, his natural playfulness and humour appeared, and the kindness of

his disposition was manifested. A little boy being in the course of the trial near him, but not tall enough to see, he took him up, made room for the child, and placed him near himself. The axe inspired him with no associations of fear. He played upon it, while talking, with his fingers, and someone coming up to listen to what he was saying, he held it up like a fan between his face and that of the gentleman gaoler, to the great amusement of all beholders. And this carelessness of the emblem of death was but a prelude to the calmness with which he met his fate. "All he troubled himself about," as a writer of the time observed, "was to end as he began, and to let his sun set with as *full* and *fair* a light as it was possible." (*Observations on the Account, &c.*, p. 23)

During the time that the Lords were withdrawn, the Solicitor General Murray and brother of Murray of Broughton, addressed Balmerino, asking him "how he could give the Lords so much trouble," when he had been told by his Solicitor that the plea could be of no use to him? The defection and perfidy of Murray of Broughton were now generally known. and the officious insolence of his inquiry was both revolting and indiscreet. Balmerino asked who this person was, and being told, exclaimed, "Oh! Mr Murray, I am extremely glad to see you. I have been with several of your relations, the poor lady, your mother, was of great use to us at Perth." (*Horace Walpole, vol. ii, p. 163*) An admirable and well-merited rebuke. He afterwards declared humorously that one of his reasons for not pleading guilty was, "that so many fine ladies might not be disappointed of their show."

Besides the interest which at such a moment the grave dignity of Kilmarnock, contrasted with the lofty indifference of Balmerino, might excite, there was some diversion among the Peers, owing to the eccentricity of several of their body. Of these, one, Lord Windsor, affectedly said when asked for his vote, "I am sorry I must say. guilty upon my honour." Another nobleman, Lord Stamford, refused to answer to the name of Henry, having been christened Harry. "What a great way of thinking," remarks Horace Walpole, "on such an occasion." Lord Foley withdrew, as being a well-wisher to

poor Balmerino, Lord Stair gave the plea of kindred "uncle," as Horace Walpole sneeringly remarks, to his great-grandfather and the Earl of Moray on account of his relationship to Balmerino, his mother, Jane Elphinstone, being sister to that nobleman.

But the greatest source of amusement to all who were present was the celebrated Audrey, or to speak in more polite phrase, Ethelreda, Lady Townshend, the wife of Charles, third Viscount Townshend, and the mother of the celebrated wit, Charles Townshend. Lady Townshend was renowned for her epigrams, to which, perhaps, in this case, her being separated from her husband gave additional point. When she heard her husband vote, "guilty upon my honour," she remarked, "I always knew my Lord was guilty, but I never knew that he would own it upon his honour." Her sarcastic humour was often exhibited at the expense of friend or foe. When someone related that Whitfield had recanted, "No, madam," she replied, "he has only canted." When Lord Bath ventured to complain to this audacious leader of fashion that he had a pain in his side, she cried out, "Oh! that cannot be, you have no side."

A touch of feminine feeling softened the harshness of the professed wit, always a dangerous and scarcely ever a pleasing character in woman. As Lady Townshend gazed on the prisoners at the bar, and saw the elegant and melancholy aspect of Lord Kilmarnock, the heart that was not wholly seared by a worldly career is said to have been deeply and seriously touched by the graces of that incomparable person, and the mournful dignity of his manner. Perhaps, opposition to her husband, whose grandfather was Minister to George the First, and whose mother was a Walpole, gave the additional luxury of partisanship; that passion which lasted even some weeks after the scene was closed; and when the fashionable world were left to enjoy, undisturbed by any fears of any future rebellion, all the dangerous attractions of the dissolute Court.

The first day's proceedings being at an end, the prisoners were remanded to the Tower. On the following morning the proceedings were resumed, and the Lords having assembled in the Painted Chamber, took their places in Westminster Hall. The three

lords were then again brought to the bar, again kneeled down, again were bidden to arise. The Attorney-General having prayed for judgment upon the prisoners, they were desired by the Lord High Steward to say, "why judgment of death should not be passed against them according to law."

The reply of Lord Kilmarnock is described as having been a very fine speech, delivered in a very fine voice if his behaviour during the whole of the trial, a "most just mixture between dignity and submission." Such is the avowal of one who could not be supposed very favourable to the party but whose better feelings were, for once called into play during this remarkable scene. (*Horace Walpole*)

The address of Lord Kilmarnock, however beautiful and touching in expression, will not, however, satisfy those who look for consistency in the most solemn moments of this chequered state of trial; but in perusing the summary of it, let it be remembered that he was a father; the father of those who had already suffered deeply for his adherence to Charles Edward; that he was the husband of a lady who, whatever may have been their differences, was at that awful hour still fondly beloved; that he dreaded penury for his children, an apprehension which those who remembered the fate of the Jacobites of 1715 might well recall; a dread, aggravated by his rank; a dread, the bitterness of which is indescribable; the temptations it offers unspeakably great. These considerations, far stronger than the fear of death, actuated Lord Kilmarnock. He arose, and a deep silence was procured, whilst he offered no justification of his conduct, "which had been," he said, "of too heinous a nature to be vindicated, and which any endeavour to excuse would rather aggravate than diminish." He declared himself ready to submit to the sentence which he was conscious that he had deserved. "Covered with confusion and grief, I throw myself at his Majesty's feet."

He then appealed to the uniform honour of his life, previous to the insurrection, in evidence of his principles. "My sphere of action, indeed, was narrow; but as much as I could do in that sphere, it is well known, I have always exerted myself to the utmost in every part of his Majesty's service I had an opportunity to act in. From my first

appearance in the world, to the time I was drawn into the crime, for which I now appeal before your Lordships”.

He referred to his conduct during the civil contest; to his endeavours to avert needless injury to his opponents; to his care of the prisoners, a plea which he yet allowed to be no atonement for the “blood he had been accessory to the spilling of. “Neither,” he said, “do I plead it as such, as at all in defence of my crime.”

“I have a son, my lords,” he proceeded, “who has the honour to carry his Majesty’s commission; whose behaviour, I believe, will sufficiently evince, that he has been educated in the firmest revolution principles, and brought up with the warmest attachment to his Majesty’s interests, and the highest zeal for his most sacred person.

“It was my chief care to instruct him in these principles from his earliest youth, and to confirm him, as he grew up, in the justice and necessity of them to the good and welfare of the nation. I thank God, I have succeeded for his father’s example did not shake his loyalty the ties of nature yielded to those of duty; he adhered to the principles of his family, and nobly exposed his life at the battle of Culloden, in defence of his King and the liberties of Great Britain, in which I, his unfortunate father, was in arms to destroy.”

Lord Kilmarnock next alluded to the services of his father in 1715, when his zeal and activity in the service of Government had caused his death “I had then,” he added, “the honour to serve under him.”

Lord Kilmarnock proceeded to explain his own circumstances at the time of the insurrection: he declared that he was not one of those dangerous persons who could raise a number of men when they will, and command them on any enterprise they will, “my interests,” he said, “lie on the south side of the Forth, in the well inhabited, and well affected counties of Kilmarnock and Falkirk, in the shires of Ayr and Stirling.” His influence he declared to be very small.

This portion of his appeal was ill-advised for it seems to have been the policy of Government to have selected as objects of royal

mercy those who had most. In their power, not the feeble and impoverished members of the Jacobite party. It has been shown what favour would have been manifested to the chief of the powerful clan Cameron, had he deigned to receive it: and the event proved, that not the decayed branches, but the vigorous shoots were spared. Lord Cromartie, who had taken a far more signal part in the insurrection than either Kilmarnock or Balmerino, and whose resources were considerable, was eventually pardoned, probably with the hope of conciliating a numerous clan.

After appealing to his surrender in extenuation of his sentence and beseeching the Intercession of the Lords with his Majesty, Lord Kilmarnock concluded. "It is by Britons only that I pray to be recommended to a British monarch. But if justice allow not of mercy, my lords, I will lay down my life with patience and resignation; my last breath shall be employed in the most fervent prayers for the preservation and prosperity of his Majesty, and to beg his forgiveness, and the forgiveness of my country." He concluded, amid the tears and commiseration of a great majority of those who heard his address.

The Earl of Cromartie was then called upon to speak in arrest of judgment. His defence is said to have been a masterly piece of eloquence. It ended with a pathetic appeal, which fell powerless on those who heard him. (*Scots Magazine for 1746*)

"But, after all, if my safety shall be found inconsistent with that of the public, and nothing but my blood be thought necessary to atone for my unhappy crimes; if the sacrifice of my life, my fortune, and family, are judged indispensable for stopping the loud demands of public justice if, notwithstanding all the allegations that can be urged in my favour, the bitter cup is not to pass from me, not mine, but thy will, O God, be done." (*State Trials*)

Balmerino then arose to answer the accustomed question. He produced a paper, which was read for him at the bar, by the clerk of the court. It was a plea which had been sent by the House of Lords that morning to the prisoners, and which, it was hoped, would save all of these unfortunate men. It contained an objection to the

indictments, stating that the act for regulating the trials of rebels, and empowering his Majesty to remove such as are taken in arms from one county to another, where they might be tried by the common courts of peers, did not take effect till after the facts, implying treason, had been committed by the prisoners. (*State Trials*) The two Earls had not made use of this plea, but Lord Balmerino availed himself of it, and demanded counsel on it. Upon the treatment which he then encountered, the following remark is made by one who viewed the scene, and whose commiseration for the Jacobites forms one of the few amiable traits of his character. (*Note: The plea was couched in these words: "July 29th, 1746. It is conceived that the late Act of Parliament, empowered his Majesty to transport such as are taken in arms from one county to another where they may be tried by the same course of the common law, did not take place till after that time, and the facts implying treason, were actually committed by the accused prisoners, and if so, the Grand Jury of Surrey, or any other county whatsoever, where these acts of treason are not alleged to have been committed, could not, agreeable to law, find bills against such prisoners; and it may, on that score, be prayed, That the indictment be quashed, or that an arrest of judgement be thereupon granted."*) What a bitter, though unavailing feeling of regret accompanies the reflection that this benevolent attempt to save lives of those brave men, was fruitless.

"The High Steward", relates Horace Walpole, "almost in a passion, told him, that when he had been offered counsel, he did not accept it, but do think on the ridicule of sending there the plea, and then denying them counsel on it." (*Letters to Sir H. Mann, vol. ii p. 167*) A discussion among the Lords then took place; and the Duke of Newcastle, who, as the same writer truly remarks, "never lost an opportunity of being absurd," took it up as a ministerial point "in defence of his creature, the Chancellor." Lord Granville, however, moved, according to order, to return to the Chamber of Parliament, where the Duke of Bedford and many others spoke warmly for their "having counsel," and that privilege was granted. "I said their", observes Walpole, "because the plea would have saved them all, and affected nine rebels who had been hanged that very morning."

The Lords having returned to the Hall, and the prisoners being again called to the bar, Lord Balmerino was desired to choose his counsel. He named Mr. Forester, and Mr. Wilbraham, the latter being a very able lawyer in the House of Commons. Lord Hardwicke is said to have remarked privately, that Wilbraham, he was sure, would as soon be hanged as plead such a cause." But he was mistaken: the conclusion of the trial was again deferred until the following day, Friday, August the first, when Mr. Wilbraham, accompanied by Mr. Forester, appeared in court as counsel for the prisoners. Previously, however, to the proceedings of the last day, Lord Balmerino was informed that his only hope was ill- founded; the plea was deemed invalid by the counsel; and the straw which had, with the kindest and most laudable intentions, been thrown on the stream to arrest his fate, was insufficient to save him. He bore this disappointment with that fortitude which has raised the character of his countrymen: when he appeared on that last day, in Westminster Hall, with his brother prisoners, he submitted, in the following brief and simple words, to his destiny. "As your lordships have been pleased to allow me counsel, I have advised with them and my counsel tell me. there is nothing in that paper which I delivered in on Wednesday last, that will be of any use to me so I will not give your lordships any more trouble.

When again asked, according to the usual form, as well as the other prisoners, whether he had anything more to say in arrest of judgment, Lord Balmerino replied; "No, my Lords, I only desire to be heard for a moment." Expressing his regret that he should have taken up so much of their Lordships' time, he assured them that the plea had not been put in to gain time, but because he had believed there was something in the objection that would do him good. He afterwards added these few words, which one wished would have been unsaid, "My lords, I acknowledge my crime, and I beg your lordships will intercede with his Majesty for me."

The Sergeant-at-Arms was then distinctly heard proclaiming silence; and the Lord High Steward delivered what Horace Walpole has termed, "his very long, and very poor speech, with only one or

two good passages in it." On this, there may be, doubtless, contending opinions. Those who looked upon the prisoners, and saw men in the full vigour of life, condemned to death, for acting upon acknowledged, though misapplied principles, could scarcely listen to that protracted harangue with an unbiassed judgment. The honour of the Lord High Steward's address had, throughout, one marked feature; it presented no hope of mercy, it left no apology nor plea upon which the unhappy prisoners might expect it. It amplified every view of their crime, and pointed out, in strong and able language, its effect upon every relation of society.

In conclusion. Lord Hardwicke said, "I will add no more it has been his Majesty's justice to bring your Lordships to a legal trial and it has been his wisdom to show, that as a small part of his national forces was sufficient to subdue the rebel army in the field, so the ordinary course of his law is strong enough to bring even their chiefs to justice." "What remains for me, is a very painful, though a very necessary part. It is to pronounce that sentence which the law has provided for crimes of this magnitude a sentence full of horror. Such as the wisdom of our ancestors has ordained, as one guard about the sacred person of the king, and as a fence about this excellent constitution, to be a terror to evil doers, and a security to them that do well."

And then was heard, filling every tender heart with horror, the sentence of hanging, first to be put into execution, and followed by decapitation. The horrible particularities were added "of being hanged by the neck, but not till you are dead for you must be cut down alive the rest of this sentence, since it has long ago been suffered to fall into oblivion, may, for the sake of our English feelings, rest there. By those to whom it was addressed, it was heard in the full conviction that it might be carried out on them since that very morning, nine prisoners of gentle birth had suffered the extreme penalties of that barbarous law. (*State Trials* 18, p. 502)

Of the calm manner in which his doom was heard by one of the state prisoners, Horace Walpole has left the following striking anecdote:

“Old Balmerino keeps up his spirits to the same pitch of gaiety in the cell at Westminster, he showed Lord Kilmarnock how he must lay his head: bid him not wince, lest the strokes should cut his head or his shoulders and advised him to bite his lips. As they were to return, he begged they might have another bottle together, as they should never meet any more until he pointed to his neck. At getting into his coach, he said to the gaoler, “Take care, or you will break my shins with this d-d axe.” (*H. Walpole, p. 31. Letters to G. Montagu*)

The English populace could not forbear delighting in the composure of Balmerino, who, on returning from Westminster Hall after his sentence, could stop the coach in which he was about to be conducted to the Tower to buy gooseberries or, as he expressed it in his national phrase, honey-blobs. (*Walpole's Letters to Montagu, p. 29. Folio*)

That night, not contented with saying publicly at his levee, that Lord Kilmarnock had proposed murdering the English prisoners, the Duke of Cumberland proposed giving his mistress a ball; but the notion was abandoned, lest it should have been regarded as an insult to the prisoners, and not because a particle of high-minded regret for the sufferers could ever enter that hard and depraved heart. Too well did the citizens of London understand the Duke of Cumberland's merits, when, it being proposed to present him with the freedom of some company, one of the aldermen cried aloud, “Then let it be of the Butchers’!” (*Letters to Sir H. Mann, vol. ii p.167*)

The commission was dissolved in the usual forms: “all manner of persons here present were desired to depart in the fear of God, and of our sovereign Lord the King.” The White Staff of office was broken by the Lord High Steward the Lords adjourned to the Chamber of Parliament; the prisoners returned to the Tower. (*State Trials by Hardgreaves, pp. 18, 502*)

Three weeks elapsed, after the trial before the execution of Lord Kilmarnock and Lord Balmerino. During that interval, hope sometimes visited the prisoners in their cells, great intercession being made for them by persons of the highest rank. But it was in vain, for

the counsels of the Duke of Cumberland influenced the heart of his Royal father, who it is generally believed, would otherwise have been disposed to compassion. During this interval, the sorrows of the prisoners were aggravated by frequent rumours that their beloved Prince was taken but he was safe among his Highlanders and defied the power even of an armed force to surprise him in his singular and various retreats.

The Earl of Cromartie was the only one of the three prisoners to whom Royal Mercy was extended. This nobleman had been considered, before the insurrection, as the only branch of the Mackenzie's who could be relied upon. He had been backward in joining the Jacobite army, and had never shared the confidence of Charles Edward. He had been disgusted with the preference shown to Murray and to Sullivan, to the prejudice of more powerful adherents of the cause; and it was reported, had rather surrendered himself to the Earl of Sutherland's followers, than resisted when they apprehended him. (*memoirs of the earl of Kilmarnock and Cromartie and of Lord Balmerino, 1746*)

Amiable in private life, affable in manner, and exempt from the pride of a Highland chieftain, this nobleman had been beloved by his neighbours of inferior rank; to the poor he had been a kind benefactor. The domestic relations of life he had fulfilled irreproachably. Every heart bled for him; and the case of his son, Lord Macleod, who had espoused the same cause, excited universal commiseration.

On the Sunday following the trial, Lady Cromartie presented her petition to the King. He gave her no hopes and the unhappy woman fainted when he left her.

It is pleasing to rest upon one action of clemency, before returning to the horrors of capital punishment. To the intercession of Frederick Prince of Wales, Lord Cromartie eventually owed his life and that intercession is believed to have been procured by the merits and the attractions of Lady Cromartie, who was indefatigable in her exertions.

This Lady, the daughter of Sir William Gordon of Dalfolly, is said to have possessed every quality that could render a husband happy. Beautiful and intellectual, she manifested a degree of spirit and perseverance when called upon to act on behalf of her husband and children, that raised her character to that of a heroine. She was then the mother of nine children, and about to give birth to a tenth. During the period of suspense, her conduct presented that just medium between stoicism and excess of feeling, which so few persons in grief can command. *Life of Lord Cromartie, 1746*)

At last, a reprieve for Lord Cromartie arrived on the eleventh of August, it was not, however, followed by a release, nor even by a free pardon. Lord Cromartie was detained a prisoner in the Tower for a further two years, there, being condemned to witness the departure of his generous friends, Kilmarnock and Balmerino, to the scaffold. On February the eighteenth, 1748, he was permitted to leave his prison and to lodge in the house of a Messenger. In the following August he went into Devonshire, where he was desired to remain. There was a pardon for his Lordship on the twentieth of October 1749 with a condition that he should remain in any place directed by the King. He died in Poland Street in London, on the twenty-eighth of September 1766. (*Buchan's Memoirs of the House of Keith, p. 143*)

On Thursday, the seventh of August, the Reverend James Foster, a Presbyterian Minister, was allowed access to Lord Kilmarnock, to prepare him for a fate which now seemed inevitable. Great intercession had been made for the ill-fated prisoner, by his kinsman, James, sixth Duke of Hamilton, and husband of the celebrated beauty, Miss Gunning but the friendly efforts of that nobleman were thought rather to have" hurried him to the block." (*Walpole's Letters to Sir H. Mann, vol. ii p. 171*) When a report reached him that one of the prisoners would be spared, Lord Kilmarnock had desired, with the utmost nobleness of soul, that Cromartie should be preferred to himself. Balmerino lamented that he had not been taken with Lord Lovat "for then," he remarked, "we might have been sacrificed, and these two brave men have been spared." But these

regrets were unavailing, and Lord Kilmarnock and his friend prepared to meet their doom.

Mr. Foster, on conversing with Lord Kilmarnock, found him humbled, but not crushed by his misfortunes, contrite for a life characterized by many errors, but trustful of the Infinite mercy, to which we fondly turn from the stern justice of unforgiving man. And the reverend gentleman on whom the solemn responsibility of preparing a soul for judgment was devolved, appears to have discharged his task with a due sense of its delicacy, with fidelity and kindness.

Having introduced himself to Lord Kilmarnock with the premises that his Lordship would allow him to deal freely with him, that he did not expect to be flattered, nor to have the malignity of his crimes disguised or softened Mr. Foster told him, "that in his opinion, the wound of his mind, occasioned by his private and public vices, must be probed and searched to the bottom, before it could be capable of receiving a remedy." If he disapproved of this plan," Mr. Foster thought, "he could be of no use to him, and therefore declined attendance." To this Lord Kilmarnock replied that, "whilst he thought it was not Mr. Foster's province to interfere in things remote from his office, yet it was now no time to prevaricate with him, nor to play the hypocrite with God, before whose tribunal he should shortly appear."

This point being settled, the Minister of the Gospel deemed it necessary to persuade the Earl, that he was not to be amused with vain delusive hopes of a reprieve; that he must view his sentence as inevitable; otherwise that his mind might be distracted between hope and fear; and that true temper of penitence which alone could recommend him to Divine mercy would be unattainable.

The unfortunate Earl touchingly answered, that indeed, when he consulted his reason, and argued calmly with himself, he could see no ground of mercy, yet still the hope of life would intrude itself. He was afraid, he said, that buoyed up by this delusive hope, when the warrant for his execution came down, he should have not only the terror of his sentence to contend with, but the fond delusions of his own heart to overcome the bitter disappointment, the

impossibility of submission. He therefore assured Mr. Foster, that he would do all in his own power to repel that visionary enemy, and to fix his thoughts on the important task of perfecting his repentance, and of preparing for death and eternity.

In regard to the part which Lord Kilmarnock had taken in recent events, there seemed no difficulty in impressing his mind with a deep sense of the responsibility which he had incurred in helping to diffuse terror and consternation through the land, in the depredation and ruin of his country and in convincing him that he ought to consider himself accessory to innumerable private oppressions and murders. "Yes," replied Lord Kilmarnock, with deep emotion, "and murders of the innocent too." He frequently acknowledged this charge with tears and offered up short petitions to God for mercy.

But when Mr. Foster mentioned to him that the consequences of the "Rebellion and its natural tendency was to the subversion of our excellent free constitution, to extirpate our holy religion, and to introduce the monstrous superstitions and cruelties of Popery." Lord Kilmarnock hesitated and owned at length that he did not contemplate such mischiefs as the result of the contest. That he did not believe that the Young Chevalier would run the risk of defeating his main design by introducing Popery nor would so entirely forget the warnings which the history of his family offered, so far as to make any attacks upon the liberties and constitution of the country. His entering into the Rebellion was occasioned, as he then declared, by the errors and vices of his previous life; and was a kind of desperate scheme to extricate him from his difficulties. Humbled and penetrated by the remembrance of former levity, Lord Kilmarnock remarked, that not only was Providence wise and righteous, but to him, gracious and that he regarded it as an unspeakable mercy to his soul, that he had not fallen at the battle of Culloden, impenitent and unreflecting for that, if the Rebellion had been successful, he should have gone on in his errors, without ever entertaining any serious thought of amendment. "Often," added the contrite and chastened man, "have I made use of these words of Christ, Father, if it be

possible, let this cup pass from me, nevertheless, not as I will, but as thou wilt." But he had checked himself by the reflection, that it was not for him who had been so great a sinner, to address himself to God in the same language with his blessed Saviour, who was perfectly innocent and holy.

In time, aided by the representations of his spiritual attendant, the deepest remorse for a life not untainted by impurity of conduct, was succeeded by religious peace. It was then that the prisoner turned to that Bread of Life which Christ hath left for those who hunger and thirst after righteousness. But the Minister who led him into the fold of the Great Shepherd, would not consent to administer to him the Holy Sacrament without a full confession made in the presence of the Gentleman Gaoler, of his past offences, and of his contrition for them. At that solemn moment, when the heart was laid open to human witnesses, Lord Kilmarnock professed the deepest penitence for his concurrence in the Rebellion, and for the irregularities of his private life. He declared his conviction that the Holy Sacrament would be of no benefit to him whatsoever, if his remorse and contrition were not sincere. This assurance was, in other words, yet, in substance the same, emphatically repeated. During the conversations held with Lord Kilmarnock, Mr. Foster perceived that the confessions of the penitent were free and ingenuous' that he examined his own heart with a searching and scrupulous care, sternly challenging memory to the aid of conscience. At last, he declared that he should rather prefer the speedy execution of his sentence to a longer life, if he were sure that he should again be entangled by the snares and temptations of the world. This was a few days before his death. Gradually, but effectually, the spirit that had so much in it of a heavenly temper, the heart, so framed to be beloved, was purified and elevated; so that, a beautiful and holy calm, a heavenly disinterestedness, a patience worthy of him who bore the name of Christian, were manifested in one whom it were henceforth wrong to call unhappy. When Lord Cromartie's reprieve became known to Mr. Foster, he dreaded, lest this subdued, yet fortified mind, should be disturbed by the jealousies to which our worldly condition is prone :

ho trembled lest the sorrow of separation from a world which Lord Kilmarnock had loved too fondly, should be revived by the pardon of his friend. "Therefore," relates Mr. Foster, "in the morning before I waited upon him. I prepared myself to quiet and mollify his mind. But one of the first things he said to me was, that he was extremely glad that the King's Mercy had been shown to Lord Cromartie." "My Lord," inquired Mr. Forster, "I hope you do not think you have any injustice shown you." Lord Kilmarnock's answer was, "not in the least; I have pleaded guilty. I entirely acquiesce in the justice of my sentence and if mercy be extended to another, I can have no reason to complain, when nothing but justice is done to me."

With regard to some points upon which the public odium was directed to the young Chevalier and his party, Lord Kilmarnock was very explicit in his last conversations with Mr. Foster. We have already seen how far he was enabled to clear himself concerning his conduct to the prisoners at Inverness. A report having been industriously circulated, probably with a view to excuse the barbarities of the Duke of Cumberland, that an order had been issued in the Pretender's Council at Inverness, to destroy the prisoners who might be taken at the battle of Culloden, Mr. Foster put the question to Lord Kilmarnock, Whether that statement were true. "I can most sincerely and freely answer, No," was the satisfactory reply and a similar contradiction was given by the dying man to every accusation of a similar tendency. (*Foster's Account, p. 87*)

On Monday the eleventh of August, General Williamson desired Mr. Foster, "in the gentlest terms that he could use, to apprise Lord Kilmarnock, that he had received the order for his and for Lord Balmerino's execution. Mr. Foster at first refused to undertake this office. "I was so shocked at it," writes the good man "that I could not think of delivering the message myself, but would endeavour to prepare the unfortunate Lord for it, by divesting him, as far as I could, of all hope of life." Such, indeed, had been the continual aim of all the Reverend Minister's counsels and he had hoped to entrust the last mournful task of informing him of the order to other hands. On finding Lord Kilmarnock in a very resigned and calm state of mind,

he ventured, however, to hint to him how necessary was that diligent and constant preparation for death which he had endeavoured to impress upon his mind. This was sufficient: the ill-fated prisoner immediately inquired, "whether the warrant for his execution was come down, I told him that it was," relates Mr. Foster and that the day fixed upon was the following Monday."

Lord Kilmarnock received this intimation with a solemn consciousness of the awful nature of its import; but no signs of terror nor of anxiety added to the sorrows of that hour. In the course of conversation, he observed to Mr. Foster, that "he was chiefly concerned about the consequences of death, in comparison of which he considered the thing itself a trifle with regard to the manner of his death he had, he thought, no great reason to be terrified, for that the stroke appeared to be scarcely so much as the drawing of a tooth, or the first shock of a cold bath upon a weak and fearful temper." At the last hour, nevertheless, the crowd, the scaffold, the doom, upset that sublime and heavenly resignation, the weakness of the flesh prevailed, although only for an instant. In the silence and solitude of his prison. Lord Kilmarnock's recollection reverted to those whom human nature were shortly to be left to buffet with the storms of their hard fate. It reverted also to those who might, in any way, have suffered at his hands. The following touching epistle, addressed to his factor, Mr. Robert Paterson, written two days only before his execution, shows how tender was his affection for his unhappy wife in how Christian a spirit towards others he died. His consideration for the poor shoemakers of Elgin is one of those beautiful traits of character which mark a conscientious mind. The original of this letter is still in existence and is in the possession of the great-grandson of him to whom it was addressed. (*Indebted for a copy of the letter in the possession of Mrs Craufurd of Craufurd Castle, Kilmarnock. The original is in the possession of Martin Paterson, Esq. of Kilmarnock and is endorsed "Copy of the last instructions of Lord Kilmarnock to his factor Mr. Robert Paterson"*)

Sir,

I have commended to your care the inclosed packet, to be delivered to my wife in the manner your good sense shall dictate to you, will be least shocking to her. Let her be prepared for it as much by degrees, and with great tenderness, as the nature of the thing will admit of. The entire dependance I have all my life had the most just reason to have on your integrity and friendship to my wife and family, as well as to myself, make me desire that the inclosed papers may come to my wife through your hands, in confidence; but you will take all the pains to comfort her, and relieve the grief I know she will be in, that you and her friends can. She is what I leave dearest behind me in the world; and the greatest service you can do to your dead friend, is to contribute as much as possible to her happiness in mind, and in her affairs.

*You will peruse the State **(means statement)** before you deliver it to her, and you will observe that there is a fund of hers (I don't mention that of five hundred Scots a-year); as the interest of my mother-in-law's portion in the Countess of Errol's hands, with, I believe, a considerable arrear upon it; which, as I have ordered a copy of all these papers to that Countess, I did not care to put in. There is another thing of a good deal of moment, which I mention only to you, because if it could be taken away without noise it would be better; but if it is pushed it will be necessary to defend it. That is, a bond which you know Mr. Kerr. Director to the Chancery, has of me for a considerable sum of money, with many years Interest on it, which was almost all play debt. I don't think I ever had fifty pounds, or the half of it, of Mr Kerr's money, and I am sure I never had a hundred; which however I have put it to, in the inclosed declaration, that my mind may be entirely at ease. My intention with respect to that sum was to wait till I had some money, and then buy it off. by a composition of three hundred pounds, and if that was not accepted of, to defend it; in which I neither saw, nor now see anything unjust; and now I leave it on my successors to do what they find most prudent in it. Beside my personal debt mentioned in general and particular in the State, there is one for which I am liable in justice, it is not paid, owing to poor people, who gave their work for it by my orders; it was at Elgin in Murray; the regiment I commanded wanted shoes. I*

commissioned something about seventy pair of shoes and brogues, which might come to about three shillings, or three and sixpence each, one with another. The Magistrates divided them among the shoemakers of the town and country, and each shoemaker furnished his proportion. I drew on the town for the price out of the composition laid on them, but I was told afterwards at Inverness, that it was believed the composition was otherwise applied, and the poor shoemakers not paid. As these poor people wrought by our orders, it will be a great ease to my heart to think they are not to lose by me, as too many have done in the course of that year; but had I lived, I might have made some enquiry after it; but now it is impossible, as their hard Statement ships in loss of horses, and such things which happened through my soldiers, are so interwoven with what was done by other people, that it would be very hard, if not impossible, to separate them. If you will write to Mr. Jones at Elgin, (with whom I was quartered when I lay there,) he will send you an account of the shoes, and if they were paid to the shoemakers or no; and if they are not, I beg you'll get my wife, or my successors, to pay them when they can.

Receive a letter to me from Mrs. Boyd, my cousin Malcomb's widow. I shall desire her to write to you for an answer.

"Accept of my sincere thanks for your friendship and good services to me. Continue them to my wife and children.

"My best wishes are to you and yours, and for the happiness and prosperity of the good town of Kilmarnock, and I am, sir, your humble servant,

"Kilmarnock."

Tower of London, August 16th, 1746.

On the Saturday previous to the execution of Lord Kilmarnock, General Williamson gave his prisoners a minute account of all the circumstances of solemnity, and outward terror, which would accompany it. Lord Kilmarnock heard it much with the same expression of concern as a man of a compassionate disposition would read it, in relation to others. After suggesting a trifling alteration in the arrangements after the execution, he expressed his regret that the headsman should be, as General Williamson informed him, a "good

sort of man," remarking, that one of a rougher nature and harder heart, would be more likely to do his work quickly. He then requested that four persons might be appointed to receive the head when it was severed from the body in a red cloth, that it might not, as he had heard was the case at other executions, "roll about the scaffold and be mangled and disfigured, for I would not," he added, "though it may be but a trifling matter, that my remains should appear with any needless indecency after the just sentence of the law is satisfied." He spoke calmly and easily on all these particulars, nor did he even shrink when told that his head would be held up and exhibited to the multitude as that of a traitor. "He knew," he said, "that it was usual, and it did not affect him." During these singular conversations, his spiritual attendant and the General, could hardly have been more precise in their descriptions had they been portraying the festive ceremonials of a coming bridal, than they were in the fearful minutiae of the approaching execution. It was thought by them that such recitals would accustom the mind of the prisoner to the apparatus and formalities that would attend his death, and that these would lose their influence over his mind". He allowed with me," observes Mr. Foster, "that such circumstances were not so melancholy as dying after a lingering disorder, in a darkened room, with weeping friends around one, and whilst the shattered frame sank under slow exhaustion." But experience and human feelings contradict this observation of the resigned and unhappy sufferer; we look to death, under such an aspect, as the approach of rest but human nature shrinks from the violent struggle, the momentary but fierce convulsion, plunging us, as it were, into the abyss of the grave.

At this moment of his existence, when it was certain ruin at Court and in the army, to befriend the Jacobite prisoner, a friend, the friend of his youth, came nobly forward to attend Lord Kilmarnock in his dying moments. This was John Walkinshaw of Craufard, or Craufurdland in the county of Ayr, between whose family and that of the House of Boyd, a long and intimate friendship of several centuries had existed, "so much so," observes a member of the present family of Craufurd, "that a subterranean passage is said to

exist between our old castles, of which we fancy proofs; but these are fireside legends."

Whilst the mind of Lord Kilmarnock was thus gradually prepared for death, Lord Balmerino passed cheerfully the hours which were so soon to terminate in his doom. Fondly attached to his young wife, Balmerino obtained the boon of her society in his prison. So much were the people attracted by the hardihood and humour of this brave old man, that it was found necessary by the authorities to stop up the windows of his prison-chamber in the Tower, in order to prevent his talking to the populace out of the window. One only was left unclosed, with characteristic cruelty: it commanded a view of the scaffolding erected for his execution. One day the Lieutenant of the Tower brought in the warrant for his death and Lady Balmerino fainted. "Lieutenant," said Lord Balmerino, "with your d---d warrant you have spoiled my Lady's dinner." Lord Balmerino is said to have written to the Duke of Cumberland a "very sensible letter," requesting his intercession with the King but this seems to have been unavailing, from the well-known exclamation of George the Second, when solicited for the other prisoners, "Will no one speak a word to me for poor Balmerino?" The day appointed for the execution was the eighteenth of August, at eight in the morning. Mr. Foster visited Lord Kilmarnock, and found him in a calm and happy temper, without any disturbance of that serenity which had of late blessed his days of imprisonment. He affected not to brave death but viewed it in the awful aspect in which even the best of men, and the most hopeful Christians, must consider that solemn change. He expressed his belief, that a man who had led a dissolute life, and who yet believed the consequences of death, to affect indifference at that hour, showed himself either to be very impious, or very stupid. One apprehension still clung to his mind, proving how sensitive had been that conscience which strove in vain to satisfy itself. He told Mr. Foster "he could not be sure that his repentance was sincere, because it had never been tried by the temptation of returning to society." Lord Kilmarnock continued in a composed state of mind during the whole morning. After a short prayer, offered up by Mr. Foster, at his desire,

he was informed that the sheriffs waited for the prisoners. He heard this announcement calmly; and said to General Williamson, with his wonted grace, "General, I am ready to follow you." He then quitted his prison and descended the stairs. As he was going down, he met Lord Balmerino; and the friends embraced. "My Lord," said the noble Balmerino, "I am heartily sorry to have your company in this expedition." The prisoners then proceeded to the outward gate of the Tower, where the Sheriffs, who had walked there in procession, received them this was about ten o'clock in the morning of the eighteenth of August. The bodies of the two noblemen having been delivered with the usual formalities to the Sheriffs, they proceeded to the late Transport Office, a building near the scaffold. Two Presbyterian ministers, Mr. Foster and Mr. Home accompanied Lord Kilmarnock, whilst the Chaplain of the Tower and another Clergyman, attended Lord Balmerino. Three rooms, hung with black, were prepared, one for each of the condemned noblemen, another, fronting the scaffold, for spectators. Here, those who were so soon to suffer, had a short conference with each other, chiefly relating to the order, said to have been issued at Culloden, to give no quarter. This was a subject, not only of importance to Lord Kilmarnock's memory, but to the character of the Jacobite party generally. "Did you, my Lord," said the generous Balmerino, still anxious, even at the last hour, to justify his friends, "see or know of any order, signed by the Prince, to give no quarter at the battle of Culloden?" "No, my Lord," replied Kilmarnock. "Nor I neither," re-joined Balmerino, "and therefore it seems to be an invention to justify their own murderous scheme." To this Lord Kilmarnock answered, "No, my Lord, I do not think it can be an invention, because, while I was a prisoner at Inverness, I was told by several officers that there was such an order, signed 'George Murray,' and that it was in the Duke of Cumberland's custody." To this statement, (which was wholly erroneous) Lord Balmerino exclaimed, "Lord George Murray! why then, they should not charge it on the Prince." After this explanation, he bade Kilmarnock a last farewell as he embraced him, he said, in the same noble spirit, that he had ever shown, "My dear Lord Kilmarnock, I

am only sorry I cannot pay all this reckoning alone once more, farewell for ever." Lord Kilmarnock was then left with the Sheriffs, and his spiritual advisers. In their presence, he solemnly declared himself to be a Protestant, and said that he was thoroughly satisfied of the legality of the King's claim to the throne. He had been educated in these principles, and he now thoroughly repented having ever engaged in the rebellion. He afterwards stated to his friends that he had within this, week taken the sacrament twice in evidence of the truth of his repentance.

The hour of noon was now fast approaching, when the last act of relentless justice was to be performed. Mr. Foster, after permitting the Earl a few moments to compose himself, suggested that he should engage with him in prayer, and afterwards proceed to the scaffold. The minister then addressed himself to all who were present, urging them to join with him in this last solemn office, and in recommending the soul of an unhappy penitent to the mercy of God. Those who were engaged in this sad scene, sank on their knees, whilst, after a petition relating to the prisoner, a prayer was offered up "for King George, for our Holy religion, for our inestimable British liberties." This prayer, for the Royal family, Lord Kilmarnock had often protested he would, at the latest moment, offer up to the throne of God. After this solemn duty had been performed, Lord Kilmarnock bade an affectionate farewell to the gentlemen who had accompanied him, and here Mr. Foster's office ceased, the Rev. Mr. Home, a young clergyman, and a personal friend of Lord Kilmarnock, succeeding him in attendance upon the prisoner. Many reports prevailed of Lord Kilmarnock's fear of death, and of the weakness of his resolution and Balmerino, it is said, apprehended that he would not "behave well," an expression used, perhaps, in reference to his opinions, perhaps in anticipation of a failure of courage. As leaning upon the arm of his friend Mr Home, Lord Kilmarnock saw, for the first time, that outward apparatus of death to which he had taken such pains to familiarise himself; nature still recurred upon him for an instant, the home of peace, to which he was hastening, was forgotten "the multitude, the block, the coffin, the executioner, the

instrument of death." appalled one, whose character was amiable, rather than exalted. He turned to his attendant, and exclaimed, "Home, this is terrible!" Yet his countenance, even as he uttered these words, was unchanged, and in a few moments, he regained the composure of one whose hope was in the mercy of his Creator. What else could sustain him in the agonies of that moment. "His whole behaviour," writes Mr. Foster, "was so humble and resigned, that not only his friends, but every spectator, was deeply moved; the executioner burst into tears, and was obliged to use artificial spirits to support and strengthen him." As the man kneeled down, after the usual custom, to pray for forgiveness, Lord Kilmarnock desired him to have courage, and placing a purse of gold in his hand, told him that the dropping of a handkerchief should be the signal for the blow. Mr. Foster having re-joined Lord Kilmarnock on the scaffold, a long conversation, in a low voice, took place between them for Lord Kilmarnock made no speech. "I wish," said Mr. Foster, "I had a voice loud enough to tell the multitude with what sentiments your Lordship quits the world." Again, the unfortunate nobleman embraced his friends and bade Mr Foster, who quitted the scaffold a few minutes before his execution, a last farewell. During all this time, which was more than half an hour, he took no notice of the multitude below: except, observing that the green baize over the wall obstructed the view, he desired that it might be lifted up that the crowd might see the spectacle of his execution. A delay now took place, attributed by some to Lord Kilmarnock's "unwillingness to depart" but owing to a few trivial circumstances which, as Mr. Foster remarks, "are unnecessary to be mentioned in order to vindicate the noble penitent from the imputation of fear in the critical moment." To the last, a scrupulous attention to decorum, and nicety in dress characterized Lord Kilmarnock. At his trial, he was described as having been a little too precise, and his hair "too exactly dressed for a person in his situation." On the scaffold the same care was manifested. He appeared in a mourning suit, and his hair, which was unpowdered, was dressed according to the fashion of the day, in a bag, which it took some time to undo, in order to replace the bag by a cap. Even

then, the cap being large, and the hair long, his lordship was apprehensive that some of the hair might escape and intercept the stroke of the axe. He therefore requested a gentleman near him, to tie the cap round his head, that he might bind up the hair more closely. As this office was performed, the person to whom he had applied, wished his lordship a continuance of his resolution until he should meet with eternal happiness. "I thank you," returned Lord Kilmarnock, with his usual courtesy and sweetness "I find myself perfectly easy and resigned." There was also another impediment, the tucking of his shirt under his waistcoat was next adjusted. Then Lord Kilmarnock, taking out a paper containing the heads of his last devotions, advanced to the utmost stage of the scaffold, and kneeled down at the block, on which, in praying, he placed his hands, under the executioner remonstrated, begging of him to let his hands fall down, lest they should be mangled, or should intercept the blow. He was also told that the neck of his waistcoat was in the way he therefore arose, and with the help of Colonel Walkinshaw Craufurd had it taken off. Near him were standing those who held the cloth ready to receive his head among these Mr. Home's servant heard Lord Kilmarnock tell the executioner, that in two minutes he would give the signal. A few moments were spent in fervent devotion then the sign was given, and the head was severed from the body by one stroke. It was not exposed to view according to custom but was deposited in a coffin with the body and delivered to his Lordship's friends. It is not required by law that the head of a person decapitated should be exposed; but is a custom adopted in order to satisfy the multitude that the execution has been accomplished. Since, by Lord Kilmarnock's dying request. this practice was omitted, the Sheriffs ordered that all the attendants on the scaffold should kneel down, so that the view of the execution might not be impeded to those who were below.

The scaffold was immediately cleared and put in order for another victim and Mr. Ford, the Under Sheriff, who had attended the first execution, went into the room in the Transport Office where Balmerino awaited his doom. "I suppose," inquired the undaunted

Balmerino, "that my Lord Kilmarnock is no more." Having asked how he died, and being told the account, he said: "It is well done, and now, gentlemen, I will no longer detain you, for I desire not to protract my life." He spoke calmly, and even cheerfully; Lord Kilmarnock had shed tears as he bade his friends farewell, but Balmerino, whilst others wept, was even cheerful, and hastened to the scaffold. His deportment, when in the room where he awaited the summons to death, was graceful and yet simple, without either any ostentation of bravery, or indications of indifference to his fate. He did not defy the terror; he rose above it. He conversed freely with his friends, and refreshed himself twice with wine and bread, desiring the company to drink to him, as he expressed it in his Scottish phrase, *ain degrae ta liaivenbut*, above all, he prayed often and fervently for support, and support was given. True to the last to his professions, Lord Balmerino was dressed in what was called by a contemporary, "his Rebellious Regimentals," such as he had worn at Culloden. They were of blue cloth, turned up with red, underneath them was a flannel waistcoat and a shroud. He ascended the scaffold, "treading," as an observer expressed it, "with the air of a General," and surveying the spectators, bowed to them; he walked round it, and read the inscription on his coffin, 'Arthurus Dominus de Balmerino, deoratus, 18 die August. 1746, atatis sua-58' observed "that it was right," and with apparent pleasure looked at the block saying, it was his "pillow of rest." Lord Balmerino then pulling out his spectacles, read a paper to those who stood around him, and delivered it to the Sheriff to do with it as he thought proper. It was subsequently printed in a garbled form, much of it being deemed too treasonable for publication, and in that form is preserved in the State Trials. It is now given as it was really spoken:

I was bred in the anti-revolution principles, which I have ever persevered in from a sincere persuasion.

I was brought up in true, loyal, and anti-revolution principles and I hope the world is convinced that they stuck to me. I must acknowledge I did a very inconsiderate thing, for which I am heartily sorry, in accepting a company

of Foot from the Princess Anne, who I know had no more right to the Crown than her predecessor the Prince of Orange..... To make amends for what I had done I joined the (Pretender) when he was in Scotland in 1715, and when all was over I made my escape, and lived abroad till the year 1734.

In the beginning of that year I got a letter from my father which very much surprised me; it was to let me know he had a promise of a remission for me. I did not know what to do; I was then, (I think.) in the canton of Beme, and had nobody to advise with: but next morning I wrote a letter to the (Pretender) who was then at Rome, to acquaint the (Pretender) that this was come without my asking or knowledge, and that I would not accept of it without his consent. I had in answer to mine, a letter written with (The Pretender's) own hand, allowing me to go home; and he told me his banker would give me money for my travelling charges when I came to Paris, which accordingly I got. When the (the Pretender's son) came to Edinburgh I joined him, though I might easily have excused myself from taking arms on account of my age; but I never could have had peace of conscience if I had stayed at home..... I am at a loss when I come to speak of the (Pretender's son.) I am not a fit hand to draw his character, I shall leave that to others. (Here he gives a fulsome character of the Pretender's son.) that the restoration of the Royal Family, and the good of my native country, are inseparable. The action of my life which now stares me most in the face, is my having accepted a commission in the army from the late Princess Anne, who I knew had no more right to the crown than her predecessor, the Prince of Orange, whom I always considered as an infamous usurper.

In the year 1715, as soon as the King landed in Scotland, I thought it my indispensable duty to join his standard, though his affairs were then in a desperate situation.

I was in Switzerland in the year 1734, where I received a letter from my father acquainting me that he had procured me remission, and desiring me to return home. Not thinking myself at liberty to comply with my father's desire without the King's approval. Pardon me if I say, wherever I had the command, I never suffered any disorders to be committed, as will appear by the Duke of Buccleugh's servants at East Park; by the Earl of Findlater's minister, Mr. Lato, and my Lord's servant, A. Cullen; by Mr. Rose, minister at Nairn, (who was pleased to favour me with a visit when I was prisoner at Inverness;) by Mr. Stewart, principal servant to the Lord President at the

House of Culloden; and by several other people. All this gives me great pleasure, now that I am looking upon the block on which I am ready to lay down my head; and though it would not have been my own natural inclination to protect everybody, it would have been my interest to have done it for . . . (the Pretender's son) abhorred all those who were capable of doing injustice to any.....I have heard since I came to this place, that there has been a most wicked report spread, and mentioned in several of the newspapers that (the Pretender's son) before the battle of Culloden, had given out orders that no quarter should be given to the enemy. This is such an unchristian thing, and so unlike (the Pretender's son,) that nobody (the Jacobites) that knows him will believe it. It is very strange if there had been any such orders, that neither the Earl of Kilmarnock, who was Colonel of the regiment of the bation, I wrote to Rome to know his Majesty's pleasure, and was directed by him to return home; and at the same time I received a letter of credit upon his banker at Paris, who furnished me with money to defray the expense of my journey, and put me in repair. I think myself bound, upon this occasion, to contradict a report which has been industriously spread, and which I never heard of till I was prisoner; that orders were given to the Prince's army to give no quarter at the battle of Culloden. With my eye upon the block, which will soon bring me unto the highest of all tribunals, I do declare that it is without any manner of foundation, both because it is impossible it could have escaped the knowledge of me, who was captain of the Prince's Life Guards, or of Lord Kilmarnock, who was colonel of his own regiment; but still more so, as it is entirely inconsistent with the mild and generous nature of that brave Prince, whose Foot Guards, nor I, who was Colonel of the second troop of Life Guards, should ever have heard anything of it; especially since we were both & the head-quarters the morning before the battle; I am convinced that it is a malicious report industriously spread to.

Ever since my confinement in the Tower, when Major White or Mr. Fowler did me the honour of a visit, their behaviour was always so kind and obliging to me that I cannot find words to express it; but I am sorry I cannot say the same thing of a General Williamson: he has treated me barbarously, but not quite so ill as he did the Bishop of Rochester; and had it not been for a worthy clergyman's advice, I should have prayed for him in the words of David, Psalm 100, from the fifth to the 15th verse. I forgive him and all my enemies. I hope you will have the charity to believe I die in peace with all men; for

yesterday I received the Holy Eucharist from the hands of a clergyman of the Church of England, in whose communion I die as in union with the Episcopal Church of Scotland

"I shall conclude with a short prayer." (Here a prayer is mentioned much the same as in Wm. Ford's account.) patience, fortitude, intrepidity, and humanity, I must declare upon this solemn occasion, are qualities in which he excels all men I ever knew, and which .t ever was his desire to employ for the relief and preservation of his father's subjects. I believe rather, that this report was spread to palliate and excuse the murders they themselves committed in cold blood after the battle of Culloden. I think it my duty to return my sincere acknowledgments to Major White and Mr. Fowler, for their humane and complaisant behaviour to me during my confinement. I wish I could pay the same compliment to General Williamson, who used me with the greatest inhumanity and cruelty; but having taken the sacrament this day, I forgive him, as I do all my enemies. I die in the religion of the Church of England, which I look upon as the same with the Episcopal Church of Scotland, in which I was brought up.

After delivering this speech, Lord Balmerino laid his head upon the block, and said, "God reward my friends, and forgive my enemies, bless and restore the King, preserve the Prince and the Duke of York and receive my soul." The executioner then being called for and kneeling to ask forgiveness, Lord Balmerino interrupted him "Friend, you need not ask my forgiveness the execution of your duty is commendable." He then gave the headsman three guineas, saying, "this is all I have, I can only add to it my coat and waistcoat," which, accordingly, he took off. laying them on the coffin for the executioner. After putting on a flannel jacket made for the occasion and a plaid cap, he went to the block in order to show the executioner the signal. He then returned to his friends. "I am afraid," he said, addressing them, "that there are some here who may think my behaviour bold: remember, sir," he added, addressing a gentleman near him, "what I tell you; it arises from a just confidence in God, and a clear conscience." Memorable, and beautiful words, distinguishing

between the presumption of indifference, and the security of a living faith. When he laid his head on the block to try it, he said, "if I had a thousand lives, I would lay them all down in the same cause." Lord Balmerino then showed the executioner where to strike the blow; he examined the edge of the axe, and bade the man to strike with resolution; "for in that, friend," he said, as he replaced the axe in the hand of the man, "will consist your mercy." He asked how many strokes had been given to Lord Kilmarnock. Two clergymen coming up at that moment, he said, "no, gentlemen, I believe you have already done me all the service you can." He called loudly to the warder, and gave him his periwig; and instantly laid down his head upon the block, but being told that he was on the wrong side, he vaulted round, and extending his arms uttered this short prayer: "O Lord, reward my friends, forgive my enemies" he uttered. It has been stated, another ejaculation for King James but that petition was suppressed in the printed accounts of his death, then, pronouncing these words, "receive my soul," he gave the signal by throwing up his arm, as if he were giving the signal for battle. His intrepidity, and the suddenness of that last, sign terrified the executioner, whose arm became almost powerless. The affrighted man struck the blow on the part directed, but though, it is hoped, it destroyed all sensation, the head was not severed, but fell back on the shoulders, exhibiting a ghastly sight. Two more strokes of the axe were requisite to complete the work. Then, the head having been received in a piece of scarlet cloth, the lifeless remains of the true and noble hearted soldier were deposited in a coffin, and delivered to his friends.

A vast multitude viewed this spectacle, so execrable in its cruelty, so great in the deportment of the sufferers. Even on the masts of ships, in the calm river, were the spectators piled, all classes of society were interested in this memorable scene; and, for a few short weeks, the fashionable circles were diverted by the humours of Lady Townshend, and the witticisms of George Selwyn. During the imprisonment of Kilmarnock, it had been the fancy of the former to station herself under the window of his chamber in one of the dismal towers in which he was detained; to send messages to him, and to

obtain his dog and snuff-box. But even this show of affected feeling failed to make compassion fashionable in the regions of St. James's. Calumny was busy at the grave of the beheaded Jacobites; and the accounts of those who attended them in their last hours were attacked by anonymous pamphleteers. It was said, among other things, that Balmerino uttered no prayer at the last moment; and his behaviour was contrasted with that of Kilmarnock. On this allegation, Mr. Ford, the Under-Sheriff, who was on the scaffold, observes, "the authors of these attacks being concealed are unworthy of other notice, since nothing is easier to an ingenious and unprejudiced mind, than to distinguish between the subject and the man: my Lord Kilmarnock was happily educated in right principles, which he deviated from, and repented; whereas, the great, though unhappy Balmerino. was unfortunate in his, but, as he lived, he died."

The characters of these two noblemen, who, in life, held a very dissimilar course, until they cooperated in arms, are strongly contrasted. To Kilmarnock belonged the gentle qualities which enhance the pleasures of society, but often, too, increase its perils: the susceptible, affectionate nature, not fortified by self-control; the compassionate disposition, acting rather from impulse than principle. Infirm in principle, his rash alliance with a party who were opposed to all that he had learned to respect in childhood and whom he joined, from the stimulus of a misdirected ambition, cannot be justified. To this, it was generally believed, he was greatly incited by the persuasions of his mother-in-law, the Countess of Errol.

Whilst we bestow our cordial approbation on those who engaged in civil strife from a sense of duty, and from notions of allegiance, which had never been exterminated from their moral code, we condemn such as, attaching themselves to the Jacobite party, outraged their secret convictions, betrayed the trusts of government, and violated the promise of their youth. Such a course must spring either from selfishness, or weakness, or from a melancholy union of both. In Lord Kilmarnock it was far more the result of weakness than of self-interest his fortunes were desperate, and his mind was embittered towards the ruling government his admiration was

attracted by the gallantry and resolution of those who adhered to the Chevalier. His sense of what was due to his rank, and the consciousness of high descent, coupled with empty honours and real poverty, stimulated him to take that course which seemed the most likely to regain a position, without ever enjoying which a man may be happy, but which few can bear to lose. This was his original error he joined the standard of Charles Edward, but he was no Jacobite. He fought against his own convictions the hereditary prepossessions implanted in the heart by a parent.

From henceforth, until immured in the Tower, all in the career of Lord Kilmarnock was turbulence, and, it must be acknowledged, crime. For nothing can justify a resistance of sovereign power, save a belief in its illegality. "I engaged in the rebellion," was Lord Kilmarnock's confession, "in opposition to my own principles, and to those of my family; in contradiction to the whole tenor of my conduct." Such were his expressions at that hour when no earthly considerations had power to seduce him into falsehood. By those historians who espouse the Jacobite cause, this avowal has been severely censured; and Lord Kilmarnock has been regarded as deserting the party which he had espoused. But, with his conviction, such a line of conduct as that which he pursued in prison, could alone be honest, and therefore alone consistent with his religious hopes, before he quitted life. Such censure has been well answered in Lord Kilmarnock's own words, "I am in little pain for the reflections which the inconsiderate or prejudiced part of my countrymen, (if there are any such whom my suffering the just sentence of the law has not mollified,) may cast upon me for this confession. The wiser or more ingenious will, I hope, approve my conduct and allow with, that next to doing right is to have the courage and integrity to avow that I have done wrong." These sentiments were not, be it observed, made public until after his death.

If, in early life, the career of Lord Kilmarnock were tainted by dissolute conduct, his deep contrition, his sincere confession of his errors, his endeavours to amend them, redeem those very errors in the eyes of human judgment, as they will probably plead for him,

with One who is more merciful than man. In his prison, his patience in suspense, his forbearance to those who had urged on his death, his generous sentiments towards his companions in misfortune, his care for others, his trust in the mercy of his Saviour, present as instructive a lesson as mortals can glean from the errors and the penitence of others. Contrasted with the gentle, unfortunate Kilmarnock, the gallant bearing of Balmerino rises to heroism. One cannot, for the sake of his party, help regretting that he had not taken a more prominent part in the councils of the young Chevalier or held a more distinguished position in the field. His integrity, his strong sense, and moral courage might have had an advantageous influence over the wavering and confirmed the indecisive. In the field, his would have been the desperate valour which suits a desperate cause but his resources were few, and his influence proportionately small. The soldier of fortune, driven at an early age from home, sent from country to country, serving, with little hope of advancement, under various generals, Balmerino had learned to view life almost as a matter of indifference, compared with the honest satisfaction of preserving consistency. His existence had been one of trial, and of banishment from all domestic pleasures, and in the perils of his youthful days, he had learned to view it as so precarious, that his final doom came not to him as a surprise, but seemed merely a natural conclusion of a career of danger and adventure. His heroism may excite less admiration even than the resignation of those who had more to lose; but his intrepidity, his courageous sincerity, his contempt of all display, his carelessness of himself, and the tender concern which he evinced for others, are qualities which we should not be English not to appreciate and venerate. His were the finest attributes of the soldier and the Jacobite: the firm adherence; the enthusiastic loyalty; the utter repugnance to all compromising; and the lofty disregard of opinion, which extorted, even from those who endeavoured to ridicule, a reluctant respect. For the relentless pretext of what was called justice, which sent this brave man to his doom, there is no possibility of accounting, except in the deep party hatred of the Government. Lord Kilmarnock is believed to have owed his

death to the false report industriously spread of his having treated the English prisoners with cruelty: but no such plea could injure Balmerino. One dark influence, at that time all powerful at court, all powerful among the people, denied them mercy and the crowds which witnessed the death of Kilmarnock and of Balmerino, hastened to do homage to the Duke of Cumberland. Nothing can, in fact, more plainly show the effect of frequent executions upon the character of a people than the details of the year 1746. With the inhabitants of London, like the French at the time of the revolution, the value of life was lowered; the indifference to scenes of horror formed a shocking feature in their conduct. In the great world, jests, and witticisms delighted the Satellites of power. It was the barbarous fashion to visit Temple Bar for the purpose of viewing the heads exhibited their spying glasses being let out for the ghastly spectacle. The course, unfeeling invectives of the press prove the general state of the public mind, in those days, more effectually than any other fact could do in the present times, the cruelty which pursues its victim to the grave would not be tolerated.

In his latest hours, the chief concern of Lord Kilmarnock seems to have been for his eldest son, to whom he addressed the following beautiful letter:

Extract of the late Earl of Kilmarnock's letter to his son Lord Boyd.

Dated. Tower, 17th of August, 1746.

Dear Boyd,

I must take this way to bid you farewell, and I pray God may ever bless you and guide you in this world, and bring you to a happy immortality in the world to come. I must, likewise, give you my last advice. Seek God in your youth, and when you are old. He will not depart from you. Be at pains to acquire good habits now, that they may grow up, and become strong in you. Love mankind, and do justice to all men. Be good to as many as you can, and neither shut your ears nor your purse to those in distress, whom it is in your power to relieve. Believe me, you will find more joy in one beneficent action; and in your cool moments you will be more happy with the reflection of having made any person so, who without your assistance would have been

miserable, than in the enjoyment of all the pleasures of sense (which pall in the using), and of all the pomps and gaudy show of the world. Live within your circumstances, by which means you will have it in your power to do good to others. Above all things, continue in your loyalty to his present Majesty, and the succession to the crown as by law established. Look on that as the basis of the civil and religious liberty and property of every individual in the nation. Prefer the public interests to your own, wherever they interfere. Love your family and your children, when you have any; but never let your regard to them drive you on the rock I split upon; when, on that account, I departed from my principles, and brought the guilt of rebellion, and civil and particular desolation on my head, for which I am now under the sentence justly due to my Prince. Use all your interest to get your brother pardoned and brought home as soon as possible, that his circumstances, and bad influence of those he is among, may not induce him to accept of foreign service, and lose him both to his country and his family. If money can be found to support him, I wish you would advise him to go to Geneva, where his principles of religion and liberty will be confirmed, and where he may stay till you see if a pardon can be procured him. As soon as Commodore Burnet comes home, inquire for your brother Biliie, and take care of him on my account. I must again recommend your unhappy mother to you. Comfort her, and take all the care you can of your brothers: and may God of His infinite mercy, preserve, guide, and comfort you and them through all the vicissitudes of this life, and after it bring you to the habitations of the just, and make you happy in the enjoyment of Himself to all eternity!"

LETTER DELIVERED BY THE LATE EARL OF KILMARNOCK TO MR. FOSTER.

Sunday, 17th of August, 1746.

As it would be a vain attempt in me to speak distinctly to that great concourse of people, who will probably be present at my execution, I chose to leave this behind me, as my last solemn declaration, appealing for my integrity to God, who knows my heart.

I bless God I have little fear of temporal death, though attended with many outward circumstances of terror; the greatest sting I feel in death is that I have deserved it.

Lord Balmerino, my fellow-sufferer, to do justice, dies in a professed adherence to the mistaken principles he had imbibed from his cradle. But I engaged in the Rebellion in opposition to my own principles, and to those of my family; in contradiction to the whole tenour of my conduct, till within these few months that I was wickedly induced to renounce my allegiance, which ever before I had preserved and held inviolable. I am in little pain, for the reflection which the inconsiderate or prejudiced part of my countrymen may cast upon me for this confession.

The wiser, or more ingenious, will, I hope, approve my conduct, and allow with me that, next to doing right, is to have the courage and integrity to own that I have done wrong.

Groundless accusations of cruelty have been raised and propagated concerning me; and charges spread among the people of my having solicited for, nay, even actually signed orders of general savage destruction, seldom issued among the most barbarous nations, and which my soul abhors. And that the general temper of my mind was ever averse from, and shocked at gross instances of inhumanity, I appeal to all my friends and acquaintance who have known me most intimately, and even to those prisoners of the King's troops to whom I had access, and whom I ever had it in my power to relieve; I appeal, in particular, for my justification as to this justly detested and horrid crime of cruelty, to Captain Master, of Ross, Captain-Lieutenant Luton and Lieutenant George Cuming of Alter.

These gentlemen will, I am persuaded, as far as relates to themselves, and as far as has fallen within their knowledge as credible information, do me justice; and then, surely my countrymen will not load a person, already too guilty and unfortunate, with undeserved infamy, which may not only fix itself on his own character, but reflect dishonour on his family.

I have no more to say, but that I am persuaded, if reasons of state, and the demands of public justice had permitted his Majesty to follow the dictates of his own royal heart, my sentence might have been mitigated. Had it pleased God to prolong my life, the remainder of it should have been faithfully employed in the service of my justly offended sovereign, and in constant endeavours to wipe away the very remembrance of my crime.

I now, with my dying breath, beseech Almighty God to bless my rightful sovereign, King George, and preserve him from the attacks of public and private enemies.

May his Majesty, and his Illustrious descendants, be so guided by the Divine Providence as ever to govern with that wisdom, and that care for the public good, as will preserve to them the love of their subjects, and secure their right to reign over a free and happy people to the latest posterity.

That Lord Boyd reciprocated the affection of his father appears from the following letter, which he addressed, a few days after the execution of Lord Kilmarnock, to Colonel Walkinehaw Craufurd, who was then at Scarborough.

My Dear Jons,

I had yours last post, and I don't know in what words to express how much I am obliged to you for doing the last duties to my unfortunate father; you can be a judge what a loss I have suffered; you knew him perfectly well, that he was the best of friends, the most affectionate husband, and the tenderest parent. Poor Lady Kilmarnock bears her loss much better than I could have imagined; but it was entirely owing to her being prepared several days before she got the melancholy accounts of it. I shall be here for some time, as I have a good deal of business to do in this country; so I shall be extremely glad to see you as soon as possible. I am, my dear John, your most sincere friend and obedient humble servant, Boyd.

Kilmarnock (House) August 27th, 1746.

Yet the young nobleman did not, it appears, entirely satisfy the expectations of those who were interested in his fate, and attached to his father's memory, as the following extract from a letter written by Mr. George Posse, to Colonel Craufurd, shows.

Dear Sir,

I am favoured with yours of the thirteenth from Scarborough, and had the honour of one letter from Lord Boyd since his father's execution, and sorry to tell you. it was not wrote in such terms as I could show or make any use of. If you had seen him, I dare say it would have been otherwise. However, I took the liberty of writing with plainness to him, in hopes of drawing from him, what may be shown to his honour, and to his own immediate advantage.

Put him in mind of writing to his cousin, Duke of Hamilton, and Mr. Home; an omission, which, with submission, is unpardonable, as he was apprised of their goodness to his father; and I gave him some hints with relation to himself, by authority of the ministry, which, if he continue in the army, may be improved upon. Those things I think proper to mention to you, as I know your friendship for Boyd, that you may take an opportunity of mentioning them to him. when you are with him, which I hope will be soon. He is appointed deputy Captain-Lieutenant; but that I look upon as a step to higher preferment. I should like to hear from you; direct to (Crawfurdland) Kilmarnock, and I am, dear sir. your most obedient, humble servant.

Geo. Bosse.

Leicestereld, September 16th, 1746.

Notwithstanding these seeming acts of negligence, which may possibly have been explained, Lord Boyd became, in every way, worthy of being the representative of an ancient race. He was an improved resemblance of his amiable, unhappy father. Possessing his father's personal attributes, he added, to the courtesy and kindness of his father's character, strength of principle, a perfect consistency of conduct, and sincere religious connections, both in the early and latter period of his life. His deportment is said to have combined both the sublime and the graceful: His form, six feet four inches in height, to have been the most elegant his manners the most polished and popular of his time. To his domestic relations he was exemplary, systematic, yet with the due liberality of a nobleman, in his affairs; sagacious and conscientious as a magistrate generous to his friends. "He puts me in mind," said one who knew him, "of an ancient hero and I remember Dr. Johnson was positive that he resembled Homer's character of Jaspedon." "His agreeable look and address," observes that adorer of rank, Boswell, "prevented that restraint, which the idea of his being Lord High Constable of Scotland might otherwise have occasioned."

At the time of his father's execution, Lord Boyd was only twenty years of age. He claimed and obtained the maternal estate and obtained it in 1731. In 1758 he succeeded Mary, Countess of Errol in

her own right, his mother's aunt, as Earl of Errol, and left the army in which he had continued to serve. He retired to Slains Castle, where he passed his days in the exercise of those virtues which become a man who is conscious, by rank and fortune, of a deep responsibility, and who regards those rather as trusts, than possessions. He died at Calendar-house, in 1778, universally lamented, and honoured.

The Countess of Kilmarnock survived her husband only one year and died at Kilmarnock in 1747. Two sons were, however, left, in addition to Lord Boyd, to encounter, for some years, considerable difficulties. Of these, the second, Charles, who was in the insurrection of 1745, escaped to the Isle of Arran, where he lay concealed, in that, the ancient territory of the Boyd's, for a year. He amused himself, having found an old chest of medical books, with the study of medicine and surgery, which he afterwards practised with some degree of skill among the poor. He then escaped to France and married there a French lady; but eventually he found a home at Skins Castle, where he was residing when Dr. Johnson and Boswell visited Scotland. He was a man of considerable accomplishment but, as Boswell observed "with a pompousness or formal plenitude in his conversation," or as Dr. Johnson expressively remarked, "with too much elaboration in his talk." "It gave one pleasure," adds Boswell, "to see him, a steady branch of the family, setting forth all its advantages with much zeal." William Boyd, the fourth son of Lord Kilmarnock, was in the Royal Navy, and on-board Commodore Burnet's ship at the time of his father's execution. He was eventually promoted to a company of the 14th Foot, in 1761.

Lord Balmerino left no descendants to recall the remembrance of his honest, manly character. His wife, Margaret Chalmers, survived him nearly twenty years, and died at Restalrig, on the 24th of August 1755, aged fifty-six. The remains of these two unfortunate noblemen were deposited under the gallery, at the west end of the chapel in the Tower. Beside them repose those of Simon, Lord Lovat. "As they were associates in crime, so they were companions in sepulchre," observes a modern writer, "being buried in the same grave." But the more discriminative judge of the human

heart will spurn so rash, and undiscerning a remark and marvel that, in the course of one contest, characters so differing in principle, so unlike in every attribute of the heart, and viewed, even by their enemies, with sentiments so totally opposite, should thus be mingled together in their last home.

(Mrs. Howison Craufurd, the Lady of William Howison Craufurd, Esq., of Craufurdland Castle, Ayrshire. To this Lady I am indebted for much of the information (afforded by her admirable letters) which has been introduced into this Memoir of Lord Kilmarnock. To this lady I addressed an inquiry respect an original portrait of Lord Kilmarnock. Her efforts to obtain any intelligence of on have been wholly unavailing; and we have been led to the conclusion that, in the fire at Dean Castle, all the portraits of Lord Kilmarnock must have been destroyed; his resemblance, his name, his honour, and his Castle thus becoming extinct at once. At Craufuidland Castle there is a fine portrait of Lord Kilmarnock's brother, his widow and daughter, painted in oils, after a singular fashion, black pad white; giving it a ghastly hue. This perhaps accounts for the local tradition near Kilmarnock, "that on hearing of his brother's death, Mr. Boyd's colour fled, and never returned; nor was he ever seen to smile again." A tradition not difficult of belief.

The present Mr. Craufurd, of Craufurdland Castle, represents also the family of Howison of Braehead. In Mrs. Howison Craufurd's family an amusing circumstance relative to Lord Lovat occurred. He was one evening in a ballroom, and was paying court to the great-grandmother of that lady. As he was playfully examining, and holding in his hand her diamond solitaire, a voice whispered in his ear, "that Government officers were in pursuit of him; and that he must decamp," Decamp he did, taking with him, perhaps by accident, the costly jewel. The young lady was in the greatest trepidation, and her family were resolved to recover the ornament. Many years after, on his return from France, Lovat, whose character, in no respect, rose above suspicion, was taxed with the robbery, and refunded a sum which gave twenty pounds to each of e host of granddaughters, then in their girlhood.)

"The family of Craufurd," observes Mr. Burke, "is one of antiquity and eminence in a part of the empire where ancestry and exploit have ever been held in enthusiastic admiration." By marriage, in the thirteenth century, it is allied anciently with the existing house of Loudon; and its connection and friendship with the House of Boyd was cemented by the death of one of its heads, Robert Craufurd. In 1487, in consequence of a wound received at the Wyllielee, from attending James Boyd, Earl of Arran, in a duel with the Earl of Eglintoun. In the days of Charles the First and Second, the Craufurds had been Covenanters, as appears in the history of that time and in the year 1745, they were staunch Whigs; and Colonel Walkinshaw Craufurd had, when called upon to pay a mournful proof of respect to Lord Kilmarnock, attained the rank of Colonel in the British army. Besides the ancient friendship of the family, there had been several intermarriages; and the father of Colonel Craufurd had espoused, after the death of Miss Walkinshaw. Elenora, the widow of the Honorable Thomas Boyd, the brother of Lord Kilmarnock.

Colonel Walkinshaw Craufurd was a fine specimen of the true Scottish gentleman, and of the British officer. He was a very handsome, stately man, of highbred manners, and portly figure, whom his tenantry both feared and honoured. He lived almost continually in the highest circles in London, except when in service, and also at the Court, visiting his Castle in Ayrshire only in the hunting season, for he kept a pack of hounds. To such a man the sacrifice of public opinion, then all against the Jacobites, — the sure loss of Court favour. — the risk of losing all military promotion, were no small considerations; yet he cast them all to the winds, and came nobly forward to pay the last respect to his kinsman and friend.

Already had he distinguished himself at the battle of Dettingen and Fontenoy; and he might reasonably expect the highest military honours: yet he incurred the risk of attending Lord Kilmarnock on the scaffold, and performing that office for him which that nobleman required. I almost blush to write the sequel; for this act, Colonel Craufurd was, immediately after the last scene was over, put down to the very bottom of the army list. (*In a letter from Mr.*

Craufurd of Craufurdland to the author this fact is stated. It is mentioned traditionary elsewhere, but is attested by the family.) Such was the petty and vindictive policy of the British Government, influenced, it may be presumed, by the same dark mind that visited upon the faithful Highlanders the horrors of military law, in punishment of their fidelity and heroism. "The King," observes Horace Walpole, referring to these and other acts, "is much inclined to mercy; but the Duke of Cumberland, who has not so much of Cassar after a victory, as in gaining it, is for the utmost severity." (*H. Walpole, vol ii p. 167*)

Whilst the mind of Lord Kilmarnock was thus gradually prepared for death, Lord Balmerino passed cheerfully the hours which were soon to terminate in his doom. Fondly attached to his young wife, Balmerino obtained the boon of her society in his prison. So much were the people attracted by the hardihood and humour of this brave old man, that it was found necessary by the authorities to stop up the windows of his prison-chamber in the Tower, in order to prevent his talking to the populace out of the window. One only was left unclosed, with characteristic cruelty: it commanded a view of the scaffolding erected for his execution. (*H. Walpole's Letters to Mr. Montagu*) One day the Lieutenant of the Tower brought in the warrant for his death: Lady Balmerino fainted. "Lieutenant," said Lord Balmerino, "with your d-d warrant you have spoiled my Lady's dinner."

Lord Balmerino is said to have written to the Duke of Cumberland a "very sensible letter," requesting his intercession with the King; but this seems to have been unavailing, from the well-known exclamation of George the Second, when solicited for the other prisoners, "Will no one speak a word to me for poor Balmerino?"

The day appointed for the execution was the eighteenth of August, at eight in the morning. Mr. Foster visited Lord Kilmarnock, and found him in a calm and happy temper, without any disturbance of that serenity which had of late blessed his days of imprisonment. He affected not to brave death, but viewed it in the awful aspect in which even the best of men, and the most hopeful Christians, must consider that solemn change. He expressed his belief, that a man who had led a dissolute life, and who yet believed the consequences of death, to affect indifference at that hour, showed himself

either to be very impious, or very stupid. One apprehension still clung to his mind, proving how sensitive had been that conscience which strove in vain to satisfy itself. He told Mr. Foster "he could not be sure that his repentance was sincere, because it had never been tried by the temptation of returning to society."

Lord Kilmarnock continued in a composed state of mind during the whole morning. After a short prayer, offered up by Mr. Foster, at his desire, he was informed that the sheriffs waited for the prisoners. He heard this announcement calmly; and said to General Williamson, with his wonted grace, "General, I am ready to follow you." He then quitted his prison, and descended the stairs. As he was going down, he met Lord Balmerino; and the friends embraced. "My Lord," said the noble Balmerino, "I am heartily sorry to have your company in this expedition." (*Foster's Account, p. 31*)

The prisoners then proceeded to the outward gate of the Tower, where the Sheriffs, who had walked there in procession, received them: this was about ten o'clock in the morning of the eighteenth of August. The bodies of the two noblemen having been delivered with the usual formalities to the Sheriffs, they proceeded to the late Transport Office, a building near the scaffold. Two Presbyterian ministers, Mr. Foster and Mr. Home, accompanied Lord Kilmarnock, whilst the Chaplain of the Tower and another clergyman, attended Lord Balmerino. Three rooms, hung with black, were prepared; one for each of the condemned noblemen; another, fronting the scaffold, for spectators. Here, those who were so soon to suffer, had a short conference with each other, chiefly relating to the order, said to have been issued at Culloden, to give no quarter. This was a subject, not only of importance to Lord Kilmarnock's memory, but to the character of the Jacobite party generally.

"Did you, my Lord," said the generous Balmerino, still anxious, even at the last hour, to justify his friends, "see or know of any order, signed by the Prince, to give no quarter at the battle of Culloden?"

"No, my Lord," replied Kilmarnock.

"Nor I neither," rejoined Balmerino; "and therefore it seems to be an invention to justify their own murderous scheme."

To this Lord Kilmarnock answered, "No, my Lord, I do not think it can be an invention, because, while I was a prisoner at Inverness, I was told by several officers that there was such an order, signed George Murray,' and that it was in the Duke of Cumberland's custody." To this statement, (which was wholly erroneous) Lord Balmerino exclaimed, "Lord George Murray! Why then, they should not charge it on the Prince." After this explanation, he bade Kilmarnock a last farewell: as he embraced him, he said, in the same noble spirit, that he had ever shown, "My dear Lord Kilmarnock, I am only sorry I cannot pay all this reckoning alone: once more, farewell for ever."

Lord Kilmarnock was then left with the sheriffs, and his spiritual advisers. In their presence, he solemnly declared himself to be a Protestant, and said that he was thoroughly satisfied of the legality of the King's claim to the throne. He had been educated in these principles, and thoroughly repented having ever engaged in the Rebellion. He afterwards stated to his friends that he had within this week taken the sacrament twice in evidence of the truth of his repentance.

The hour of noon was now fast approaching, when the last act of relentless justice was to be performed. Mr. Foster, after permitting the Earl a few moments to compose himself, suggested that he should engage with him in prayer, and afterwards proceed to the scaffold. The minister then addressed himself to all who were present, urging them to join with him in this last solemn office, and in recommending the soul of an unhappy penitent to the mercy of God. Those who were engaged in this sad scene, sank on their knees, whilst, after a petition relating to the prisoner, a prayer was offered up "for King George, for our holy religion, for our inestimable British liberties." This prayer, for the royal family, Lord Kilmarnock had often protested he would, at the latest moment, offer up to the throne of God.

After this solemn duty had been performed, Lord Kilmarnock bade an affectionate farewell to the gentlemen who had accompanied him, and here Mr. Foster's office ceased, the Rev. Mr. Home, a young clergyman, and a personal friend of Lord Kilmarnock, succeeding him in attendance upon the prisoner. Many reports prevailed of Lord

Kilmarnock's fear of death, and of the weakness of his resolution; and Balmerino, it is said, apprehended that he would not "behave well," an expression used, perhaps, in reference to his opinions, perhaps in anticipation of a failure of courage. As leaning upon the arm of his friend Mr. Home, Lord Kilmarnock saw, for the first time, that outward apparatus of death to which he had taken such pains to familiarise himself; "nature still recurred upon him;" — for an instant, the home of peace, to which he was hastening, was forgotten; — "the multitude, the block, the coffin, the executioner, the instrument of death," appalled one, whose character was amiable, rather than exalted. He turned to his attendant, and exclaimed, "Home, this is terrible!" Yet his countenance, even as he uttered these words, was unchanged, and in a few moments, he regained the composure of one whose hope was in the mercy of his Creator. What else could sustain him in the agonies of that moment? "His whole behaviour," writes Mr. Foster, "was so humble and resigned, that not only his friends, but every spectator, was deeply moved; the executioner burst into tears, and was obliged to use artificial spirits to support and strengthen him." As the man kneeled down, after the usual custom, to pray for forgiveness, Lord Kilmarnock desired him to have courage, and placing a purse of gold in his hand, told him that the dropping of a handkerchief should be the signal for the blow.

Mr. Foster having rejoined Lord Kilmarnock on the scaffold, a long conversation, in a low voice, took place between them; for Lord Kilmarnock made no speech. "I wish," said Mr. Foster, "I had a voice loud enough to tell the multitude with what sentiments your Lordship quits the world." Again, the unfortunate nobleman embraced his friends; and bade Mr. Foster, who quitted the scaffold a few minutes before his execution, a last farewell. During all this time, which was more than half an hour, he took no notice of the multitude below: yet, observing that the green baize over the wall obstructed the view, he desired that it might be lifted up that the crowd might see the spectacle of his execution.

A delay now took place, attributed by some to Lord Kilmarnock's "unwillingness to depart:" (*Walpole*) but owing to a few trivial

circumstances which, as Mr. Foster remarks, "are unnecessary to be mentioned in order to vindicate the noble penitent from the imputation of fear in the critical moment." To the last, a scrupulous attention to decorum, and nicety in dress characterized Lord Kilmarnock. At his trial, he was described as having been a little too precise, and his hair "too exactly dressed for a person in his situation." On the scaffold the same care was manifested. He appeared in a mourning suit, and his hair, which was unpowdered, was dressed according to the fashion of the day, in a bag, which it took some time to undo, in order to replace the bag by a cap. Even then, the cap being large, and the hair long, his lordship was apprehensive that some of the hair might escape, and intercept the stroke of the axe. He therefore requested a gentleman near him, to tie the cap round his head, that he might bind up the hair more closely. As this office was performed, the person to whom he had applied, wished his lordship a continuance of his resolution until he should meet with eternal happiness. "I thank you," returned Lord Kilmarnock, with his usual courtesy and sweetness; "I find myself perfectly easy and resigned."

There was also another impediment,—the tucking of his shirt under his waistcoat was next adjusted. Then Lord Kilmarnock, taking out a paper containing the heads of his last devotions, advanced to the utmost stage of the scaffold, and kneeled down at the block, on which, in praying, he placed his hands, until the executioner remonstrated, begging of him to let his hands fall down, lest they should be mangled, or should intercept the blow. He was also told that the neck of his waistcoat was in the way; he therefore arose, and with the help of Colonel Walkinshaw Craufurd, had it taken off. Near him were standing those who held the cloth ready to receive his head; among these Mr. Home's servant heard Lord Kilmarnock tell the executioner, that in two minutes he would give the signal. A few moments were spent in fervent devotion; then the sign was given, and the head was severed from the body by one stroke. It was not exposed to view according to custom: but was deposited in a coffin with the body, and delivered to his Lordship's friends. One peculiarity attended this execution. It is not required by law that the head of a person decapitated should be exposed; but is a custom adopted in order to satisfy the multitude that the execution has been accomplished. Since, by Lord Kilmarnock's dying request, this

practice was omitted, the Sheriffs ordered that all the attendants on the scaffold should kneel down, so that the view of the execution might not be impeded (*Ford's Account in State Trials*, p.18, 522) to those who were below.

The scaffold was immediately cleared, and put in order for another victim; and Mr. Ford, the Under-Sheriff, who had attended the first execution, went into the room in the Transport Office where Balmerino awaited his doom. "I suppose," inquired the undaunted Balmerino, "that my Lord Kilmarnock is no more." And having asked how he died, and being told the account, he said: "It is well done, and now, gentlemen, I will no longer detain you, for I desire not to protract my life." He spoke calmly, and even cheerfully; Lord Kilmarnock had shed tears as he bade his friends farewell, but Balmerino, whilst others wept, was even cheerful, and hastened to the scaffold. His deportment, when in the room where he awaited the summons to death, was graceful and yet simple, without either any ostentation of bravery, or indications of indifference to his fate. He did not defy the terror, he rose above it. He conversed freely with his friends, and refreshed himself twice with wine and bread, desiring the company to drink to him, as he expressed it in his Scottish phrase, "amn degrae ta haiven ;" but above all, he prayed often and fervently for support, and support was given.

True to the last to his professions, Lord Balmerino was dressed in what was called by a contemporary, "his Rebellious Regimentals," such as he had worn at Culloden ; they were of blue cloth, turned up with red; underneath them was a flannel waistcoat and a shroud. He ascended the scaffold, "treading," as an observer expressed it, "with the air of a General," and surveying the spectators, bowed to them; he walked round it, and read the inscription on his coffin, "Arthurus Dominus de Balmerino, decollatus, 18^o die August. 1746, aetatis auae 58^o;" observed "that it was right," and with apparent pleasure looked at the block saying, it was his "pillow of rest." Lord Balmerino then pulling out his spectacles, read a paper to those who stood around him, and delivered it to the Sheriff to do with it as he thought proper. It was subsequently printed in a garbled form, much of it being deemed too treasonable for publication, and in. that form is preserved in the State Trials. (*"I was brought up in true, loyal, and anti-*

revolution principles and I hope the world is convinced that they stuck to me. I must acknowledge I did a very inconsiderate thing, for which I am heartily sorry, in accepting a company of Foot from the Princess Anne, who I know had no more right to the Crown than her predecessor the Prince of Orange

To make amends for what I had done I joined the. . . (Pretender) when he was in Scotland in 1716, and when all was over I made my escape, and lived abroad till the year 1734.

"In the beginning of that year I got a letter from my father which very much surprised me; it was to let me know he had a promise of a remission for me. I did not know what to do; I was then, (I think,) in the canton of Berne, and had nobody to advise with: but next morning I wrote a letter to the . . . (Pretender) who was then at Rome, to acquaint the . . . (Pretender) that this was come without my asking or knowledge, and that I would not accept of it without his consent. I had in answer to mine, a letter written with . . . (The Pretender's) own hand, allowing me to go home; and he told me his banker would give me money for my travelling charges when I came to Paris, which accordingly I got. When the . . . (the Pretender's son) came to Edinburgh I joined him, though I might easily have excused myself from taking arms on account of my age; but I never could have had peace of conscience if I had stayed at home I am at a loss when I come to speak of the . . . (Pretender's son,) I am not a fit hand to draw his character, I shall leave that to others. (Here he gives a fulsome character of the Pretender's son.)

For the original of Lord Balmerino's real speech, which is highly characteristic of its author, I am indebted to Charles Kirkpatrick Sharpe, Esq.

I was bred in the anti-revolution principles, which I have ever persevered in, from a sincere persuasion that the restoration of the Royal Family, and the good of my native country, are inseparable. The action of my life which now stares me most in the face, is my having accepted a commission in the army from the late Princess Anne, who I knew had no more right to the crown than her predecessor, the Prince of Orange, whom I always considered as an infamous usurper.

"In the year 1715, as soon as the King landed in Scotland, I thought it my indispensable duty to join his standard, though his affairs were then in a desperate situation.

"I was in Switzerland in the year 1734, where I received a letter from my father acquainting me that he had procured me remission, and desiring me to return home. Not thinking myself at liberty to comply

("Pardon me if I say, wherever I had the command, I never suffered any disorders to be committed, as will appear by the Duke of Buccleugh's servants at East Park; by the Earl of Findlater's minister, Mr. Lato, and my Lord's servant, A. Cullen; by Mr. Rose, minister at Nairn, (who was pleased to favour me with a visit when I was prisoner at Inverness;) by Mr. Stewart, principal servant to the Lord President at the House of Culloden; and by several other people. All this gives me great pleasure, now that I am looking upon the block on which I am ready to lay down my head; and though it would not have been my own natural inclination to protect everybody, it would have been my interest to have done it for . . . (the Pretender's son) abhorred all those who were capable of doing injustice to any - I have heard since I came to this place, that there has been a most wicked report spread, and mentioned in several of the newspapers that . . . (the Pretender's son) before the battle of Culloden, had given out orders that no quarter should be given to the enemy. This is such an unchristian thing, and so unlike . . . (the Pretender's son,) that nobody (the Jacobites) that knows him will believe it. It is very strange if there had been any such orders, that neither the Earl of Kilmarnock, who was Colonel of the regiment of the Foot Guards, nor I, who was Colonel of the second troop of Life Guards, should ever have heard anything of it; especially since we were both at the head-quarters the morning before the battle; I am convinced that it is a malicious report industriously spread to . . .

"Ever since my confinement in the Tower, when Major White or Mr. Fowler did me the honour of a visit, their behaviour was always so kind and obliging to me that I cannot find words to express it; but I am sorry I cannot say the same thing of a General Williamson: he has treated me barbarously, but not quite so ill as he did the Bishop of Rochester; and had it not been for a worthy clergyman's advice, I should have prayed for him in the words of David, Psalm 109, from the 6th to the 15th verse. I forgive him and all my enemies. I hope you will have the charity to believe I die in peace with all men; for yesterday, I received the Holy Eucharist from the hands of a clergyman of the Church of England, in whose communion I die as in union with the Episcopal Church of Scotland.)

"I shall conclude with a short prayer."--(Here a prayer is mentioned much the same as in Wm. Ford's account.)

with my father's desire without the King's approbation, I wrote to Rome to know his Majesty's pleasure, and was directed by him to return home; and at the same time I received a letter of credit upon his banker at Paris, who furnished me with money to defray the expense of my journey, and put me in repair. I think myself bound, upon this occasion, to contradict a report which has been industriously spread, and which I never heard of till I was prisoner; that orders were given to the Prince's army to give no quarter at the battle of Culloden. With my eye upon the block, which will soon bring me unto the highest of all tribunals, I do declare that it is without any manner of foundation, both because it is impossible it could have escaped the knowledge of me, who was captain of the Prince's Life Guards, or of Lord Kilmarnock, who was colonel of his own regiment; but still more so, as it is entirely inconsistent with the mild and generous nature of that brave Prince, whose patience, fortitude, intrepidity, and humanity, I must declare upon this solemn occasion, are qualities in which he excels all men I ever knew, and which it ever was his desire to employ for the relief and preservation of his father's subjects. I believe rather, that this report was spread to palliate and excuse the murders they themselves committed in cold blood after the battle of Culloden.

"I think it my duty to return my sincere acknowledgments to Major White and Mr. Fowler, for their humane and complaisant behaviour to me during my confinement. I wish I could pay the same compliment to General Williamson, who used me with the greatest inhumanity and cruelty; but having taken the sacrament this day, I forgive him, as I do all my enemies. "I die in the religion of the Church of England, which I look upon as the same with the Episcopal Church of Scotland, in which I was brought up." Laying his head upon the block, he said, "God reward my friends, and forgive my enemies: bless and restore the King; preserve the Prince, and the Duke of York, and receive my soul."

The executioner then being called for, and kneeling to ask forgiveness, Lord Balmerino interrupted him. "Friend, you need not ask my

forgiveness; the execution of your duty is commendable." He then gave the headsman three guineas, saying, "this is all I have; I can only add to it my coat and waistcoat," which, accordingly, he took off, laying them on the coffin for the executioner. After putting on a flannel jacket made for the occasion, and a plaid cap, Lord Balmerino went to the block in order to show the executioner the signal. He then returned to his friends. "I am afraid," he said, addressing them, "that there are some here who may think my behaviour bold: remember, sir," he added, addressing a gentleman near him, "what I tell you; it arises from a just confidence in God, and a clear conscience." Memorable, and beautiful words, distinguishing between the presumption of indifference, and the security of a living faith. When he laid his head on the block to try it, he said, "if I had a thousand lives I would lay them all down in the same cause."

Lord Balmerino then showed the Executioner where to strike the blow; he examined the edge of the axe, and bade the man to strike with resolution; "for *in that*, friend," he said, as he replaced the axe in the hand of the man, "will consist your mercy." He asked how many strokes had been given to Lord Kilmarnock. Two clergymen coming up at that moment, he said, "no, gentlemen, I believe you have already done me all the service you can." He called loudly to the warder, and gave him his perriwig ; and instantly laid down his head upon the block, but being told that he was on the wrong side, he vaulted round, and extending his arms uttered this short prayer: "O Lord, reward my friends, forgive my enemies:" — he uttered, it has been stated, another ejaculation for king James; but that petition was suppressed in the printed accounts of his death; then, pronouncing these words, "receive my soul," he gave the signal by throwing up his arm, as if he were giving the signal for battle. His intrepidity, and the suddenness of that last sign terrified the executioner, whose arm became almost powerless; the affrighted man struck the blow on the part directed, but though, it is hoped, it destroyed all sensation, the head was not severed, but fell back on the shoulders, exhibiting a ghastly sight. Two more strokes of the axe were requisite to complete the work. Then, the head having been received in a piece of scarlet cloth, the lifeless remains of

the true, and noble hearted soldier were deposited in a coffin, and delivered to his friends.

A vast multitude viewed this spectacle, so execrable in its cruelty, so great in the deportment of the sufferers. Even on the masts of ships, in the calm river, were the spectators piled; all classes of society were interested in this memorable scene; and, for a few short weeks, the fashionable circles were diverted by the humours of Lady Townshend, and the witticisms of George Selwyn. During the imprisonment of Kilmarnock, it had been the fancy of the former to station herself under the window of his chamber in one of the dismal towers in which he was detained; to send messages to him, and to obtain his dog and snuff-box. But even this show of affected feeling failed to make compassion fashionable in the regions of St. James's. Calumny was busy at the grave of the beheaded Jacobites; and the accounts of those who attended them in their last hours were attacked by anonymous pamphleteers. It was said, among other things, that Balmerino uttered no prayer at the last moment; and his behaviour was contrasted with that of Kilmarnock. On this allegation, Mr. Ford, the Under-Sheriff, who was on the scaffold, observes, "the authors of these attacks being concealed are unworthy of other notice, since nothing is easier to an ingenious and unprejudiced mind, than to distinguish between the subject and the man: my Lord Kilmarnock was happily educated in right principles, which he deviated from, and repented; whereas, the great, though unhappy Balmerino, was unfortunate in his, — but, as he lived, he died." (*The account which I have given of Lord Kilmarnock's behaviour and fate, and also of Lord Balmerino's, is taken from the following works, to which I have not thought it necessary separately to refer. Foster's Account of the Behaviour of Lord Kilmarnock; and the Vindication of Foster's Account from the misrepresentations of some Dissenting Teachers: London, 1746. Account by T. Ford, Under-Sheriff at the Execution, in the State Trials, vol. xviii. p. 325. Horace Walpole's Letters to Geo. Montagu, and to Sir H. Mann. Scots' Magazine for 1746; and Buchan's Life of Marshal Keith; also a Collection of Tracts in the British Museum, relating to the Rebellion, 1746, and chiefly published during that year.*)

The characters of these two noblemen, who, in life, held a very dissimilar course, until they cooperated in arms, are strongly contrasted. To Kilmarnock belonged the gentle qualities which enhance the pleasures of

society, but often, too, increase its perils: the susceptible, affectionate nature, not fortified by self-control; the compassionate disposition, acting rather from impulse than principle. Infirm in principle, his rash alliance with a party who were opposed to all that he had learned to respect in childhood; and whom he joined, from the stimulus of a misdirected ambition, cannot be justified. To this, it was generally believed, he was greatly incited by the persuasions of his mother-in-law, the Countess of Errol.

Whilst we bestow our cordial approbation on those who engaged in civil strife from a sense of duty, and from notions of allegiance, which had never been exterminated from their moral code, we condemn such as, attaching themselves to the Jacobite party, outraged their secret convictions, betrayed the trusts of Government, and violated the promise of their youth. Such a course must spring either from selfishness, or weakness, or from a melancholy union of both. In Lord Kilmarnock it was far more the result of weakness than of self-interest: his fortunes were desperate, and his mind was embittered towards the ruling government: his admiration was attracted by the gallantry and resolution of those who adhered to the Chevalier: his sense of what was due to his rank, and the consciousness of high descent, coupled with empty honours and real poverty, stimulated him to take that course which seemed the most likely to regain a position, without ever enjoying which a man may be happy, but which few can bear to lose. This was his original error; he joined the standard of Charles Edward, — but he was no Jacobite. He fought against his own convictions, the hereditary and ineffaceable prepossessions implanted in the heart by a parent.

From henceforth, until immured in the Tower, all in the career of Lord Kilmarnock was turbulence; and, it must be acknowledged, crime. For nothing can justify a resistance of sovereign power, save a belief in its illegality. "I engaged in the rebellion," was Lord Kilmarnock's confession, "in opposition to my own principles, and to those of my family; in contradiction to the whole tenor of my conduct." Such were his expressions at that hour when no earthly considerations had power to seduce him into falsehood.

By those historians who espouse the Jacobite cause, this avowal has been severely censured; and Lord Kilmarnock has been

regarded as deserting the party which he had espoused. But, with his conviction, such a line of conduct as that which he pursued in prison, could alone be honest, and therefore alone consistent with his religious hopes, before he quitted life. Such censure has been well answered in Lord Kil-marnock's own words, "I am in little pain for the reflections which the inconsiderate or prejudiced part of my countrymen, (if there are any such whom my suffering the just sentence of the law has not mollified,) may cast upon me for this confession. The wiser or more ingenious will, I hope, approve my conduct, and allow with me, that next to doing right is to have the courage and integrity to avow that I have done wrong." These sentiments were not, be it observed, made public until after his death.

If, in early life, the career of Lord Kilmarnock were tainted by dissolute conduct, his deep contrition, his sincere confession of his errors, his endeavours to amend them, redeem those very errors in the eyes of human judgment, as they will probably plead for him, with One who is more merciful than man. In his prison, his patience in suspense, his forbearance to those who had urged on his death, his generous sentiments towards his companions in misfortune, — his care for others, his trust in the mercy of his Saviour, present as "instructive a lesson as mortals can glean from the errors and the penitence of others.

Contrasted with the gentle, unfortunate Kilmarnock, the gallant bearing of Bahnerino rises to heroism. One cannot, for the sake of his party, help regretting that he had not taken a more prominent part in the councils of the young Chevalier, or held a more distinguished position in the field. His integrity, his strong sense, and moral courage might have had an advantageous influence over the wavering, and confirmed the indecisive. In the field, his would have been the desperate valour which suits a desperate cause; but his resources were few, and his influence proportionately small.

The soldier of fortune, driven at an early age from home, sent from country to country, serving, with little hope of advancement, under various generals, Balmerino had learned to view life almost as a matter of indifference, compared with the honest satisfaction of preserving consistency. His existence had been one of trial, and of banishment from

all domestic pleasures, and in the perils of his youthful days, he had learned to view it as so precarious, that his final doom came not to him as a surprise, but seemed merely a natural conclusion of a career of danger and adventure. His heroism may excite less admiration even than the resignation of those who had more to lose; but his intrepidity, his courageous sincerity, his contempt of all display, his carelessness of himself, and the tender concern which he evinced for others, are qualities which we should not be *English* not to appreciate and venerate. His were the finest attributes of the soldier and the Jacobite: the firm, unflinching adherence; the enthusiastic loyalty; the utter repugnance to all compromising; and the lofty disregard of opinion, which extorted, even from those who endeavoured to ridicule, a reluctant respect.

For the relentless pretext of what was called justice, which sent this brave man to his doom, there is no possibility of accounting, except in the deep party hatred of the Government. Lord Kilmarnock is believed to have owed his death to the false report industriously spread of his having treated the English prisoners with cruelty; but no such plea could injure Balmerino. One dark influence, at that time all powerful at court, all powerful among the people, denied them mercy; — and the crowds which witnessed the death of Kilmarnock and of Balmerino, hastened to do homage to the Duke of Cumberland. Nothing can, in fact, more plainly show the effect of frequent executions upon the character of a people than the details of the year 1746. With the inhabitants of London, like the French at the time of the Revolution, the value of life was lowered; the indifference to scenes of horror formed a shocking feature in their conduct. In the great world, jests, and witticisms delighted the Satellites of power. It was the barbarous fashion to visit Temple Bar for the purpose of viewing the heads exhibited there; spying glasses being let out for the ghastly spectacle. And the coarse, unfeeling invectives of the press prove the general state of the public mind, in those days, more effectually than any other fact could do: — in the present times, the cruelty that pursues its victim to the grave would not be tolerated. In his latest hours, the chief concern of Lord Kilmarnock seems to have been for his eldest son, to whom he addressed the following beautiful letter.

**EXTRACT OF THE LATE EARL OF KILMARNOCK'S
LETTER TO HIS SON LORD BOYD.**

"DEAR BOYD,

"Dated, Tower, 17th of August, 1746.

"I must take this way to bid you farewell, and I pray God may ever bless you and guide you in this world, and bring you to a happy immortality in the world to come. I must, likewise, give you my last advice. Seek God in your youth, and when you are old He will not depart from you. Be at pains to acquire good habits now, that they may grow up, and become strong in you. Love mankind, and do justice to all men. Do good to as many as you can, and neither shut your ears nor your purse to those in distress, whom it is in your power to relieve. Believe me, you will find more joy in one beneficent action; and in your cool moments you will be more happy with the reflection of having made any person so, who without your assistance would have been miserable, than in the enjoyment of all the pleasures of sense (which pall in the using), and of all the pomps and gaudy show of the world. Live within your circumstances, by which means you will have it in your power to do good to others. Above all things, continue in your loyalty to his present Majesty, and the succession to the crown as by law established. Look on that as the basis of the civil and religious liberty and property of every individual in the nation. Prefer the public interests to your own, wherever they interfere. Love your family and your children, when you have any; but never let your regard to them drive you on the rock I split upon; when, on that account, I departed from my principles, and brought the guilt of rebellion, and civil and particular desolation on my head, for which I am now under the sentence justly due to my Prince. Use all your interest to get your brother pardoned and brought home as soon as possible, that his circumstances, and bad influence of those he is among, may not induce him to accept of foreign service, and lose him both to his country and his family. If money can be found to support him, I wish you would advise him to go to Geneva,

where his principles of religion and liberty will be confirmed, and where he may stay till you see if a pardon can be procured him. As soon as Commodore Burnet comes home inquire for your brother Billie, and take care of him on my account. I must again recommend your unhappy mother to you. Comfort her, and take all the care you can of your brothers: and may God of His infinite mercy, preserve, guide, and comfort you and them through all the vicissitudes of this life, and after it bring you to the habitations of the just, and make you happy in the enjoyment of Himself to all eternity!"

**PAPER DELIVERED BY THE LATE EARL OF
KILMARNOCK TO MR. FOSTER.**

"Sunday, 17th of August, 1746.

"As it would be a vain attempt in me to speak distinctly to that great concourse of people, who will probably be present at my execution, I chose to leave this behind me, as my last solemn declaration, appealing for my integrity to God, who knows my heart.

"I bless God I have little fear of temporal death, though attended with many outward circumstances of terror; the greatest sting I feel in death is that I have deserved it.

"Lord Balmerino, my fellow-sufferer, to do justice, dies in a professed adherence to the mistaken principles he had imbibed from his cradle. But I engaged in the Rebellion in opposition to my own principles, and to those of my family; in contradiction to the whole tenour of my conduct, till within these few months that I was wickedly induced to renounce my allegiance, which ever before I had preserved and held inviolable. I am in little pain for the reflection which the inconsiderate or prejudiced part of my countrymen (if there are any such, whom my suffering the just sentence of the law has not mollified,) may cast upon me for this confession.

"The wiser, or more ingenious, will, I hope, approve my conduct, and allow with me that, next to doing right, is to have the courage and integrity to own that I have done wrong.

"Groundless accusations of cruelty have been raised and propagated concerning me; and charges spread among the people of my having solicited for, nay, *even* actually signed orders of general savage destruction, seldom issued among the most barbarous nations, and which my soul abhors. And that the general temper of my mind was ever averse from, and shocked at gross instances of inhumanity, I appeal to all my friends and acquaintance who have known me most intimately, and even to those prisoners of the King's troops to whom I had access, and whom I ever had it in my power to relieve; I appeal, in particular, for my justification *as* to this justly detested and horrid crime of amity, to Captain Master, of Ross, Captain-Lieutenant Luon, and Lieutenant George Cuming of Alter.

"These gentlemen will, I am persuaded, as far as relates to themselves, and as far as has fallen within their knowledge as credible information, do me justice; and then, surely my countrymen will not load a person, already too guilty and unfortunate, with undeserved infamy, which may not only fix itself on his own character, but reflect dishonour on his family.

"I have no more to say, but that I am persuaded, if reasons of state, and the demands of public justice had permitted his Majesty to follow the dictates of his own royal heart, my sentence might have been mitigated. Had it pleased God to prolong my life, the remainder of it should have been faithfully employed in the service of my justly offended sovereign, and in constant endeavours to wipe away the very remembrance of my crime.

I now, with my dying breath, beseech Almighty God to bless my rightful sovereign, King George, and preserve him from the attacks of public and private enemies.

"May his Majesty, and his illustrious descendants, be so guided by the Divine Providence as ever to govern with that wisdom, and that care for the public good, as will preserve to them the love of their subjects, and secure their right to reign over a free and happy people to the latest posterity."

That Lord Boyd reciprocated the affection of his father appears from the following letter, which he addressed, a few days after the execution of Lord Kilmarnock, to Colonel Walkinshaw Craufurd, who was then at Scarborough.

"MY DEAR JOHN,

"I had yours last post, and I don't know in what words to express how much I am obliged to you for doing the last duties to my unfortunate father; you can be a judge what a loss I have suffered; you knew him perfectly well, that he was the best of friends, the most affectionate husband, and the tenderest parent. Poor Lady Kilmarnock bears her loss much better than I could have imagined; but it was entirely owing to her being prepared several days before she got the melancholy accounts of it. I shall be here for some time, as I have a good deal of business to do in this country; so I shall be extremely glad to see you as soon as possible. I am, my dear John, your most sincere friend and obedient humble servant,

BOYD."

"Kilmarnock (House) August 27th, 1746."

Yet the young nobleman did not, it appears, entirely satisfy the expectations of those who were interested in his fate, and attached to his father's memory, as the following extract from a letter written by Mr. George Rosse, to Colonel Craufurd, shows. (*For both these letters, hitherto unpublished, I am indebted for the courtesy of Mrs. Craufurd of Cmuferdland Castle*)

"DEAR SIR,

"I am favoured with yours of the thirteenth from Scarborough, and had the honour of one letter from Lord Boyd since his father's execution, and sorry to tell you, it was not wrote in such terms as I could show or make any use of. If you had seen him, I dare say it would have been otherwise. However, I took

the liberty of writing with plainness to him, in hopes of drawing from him, what may be shown to his honour, and to his own immediate advantage.

* * * * *

I put him in mind of writing to his cousin, Duke of Hamilton, and Mr. Home; an omission, which, with submission, is unpardonable, as he was apprised of their goodness to his father; and I gave him some hints with relation to himself; by authority of the ministry, which, if he continue in the army, may be improved upon. Those things I think proper to mention to you, as I know your friendship for Boyd, that you may take an opportunity of mentioning them to him, when you are with him, which I hope will be soon. He is appointed deputy Captain-Lieutenant; but that I look upon as a step to higher preferment. I should like to hear from you; direct to (Crawfurdland) Kilmarnock, and I am, dear sir, your most obedient, humble servant.

" GEO ROSSE "

Leicesterfield, September 8th, 1746.

Notwithstanding these seeming acts of negligence, which may possibly have been explained, Lord Boyd became, in every way, worthy of being the representative of an ancient race. He was an improved resemblance of his amiable, unhappy father. Possessing his father's personal attributes, he added, to the courtesy and kindness of his father's character, strength of principle, a perfect consistency of conduct, and sincere religious connections, both in the early and latter period of his life. His deportment is said to have combined both the sublime and the graceful; his form, six feet four inches in height, to have been the most elegant; his manners the most polished and popular of his time. In his domestic relations he was exemplary, systematic, yet with the due liberality of a nobleman, in his affairs; sagacious and conscientious as a magistrate; generous to his friends. "He puts me in mind," said

one who knew him, "of an ancient hero; and I remember Dr. Johnson was positive that he resembled Homer's character of Jaspedon (*Forbes's Life of Beattie, vol. ii. p. 361*). His agreeable look and address," said that adorer of rank, Boswell, "prevented that restraint, which the idea of his being Lord High Constable of Scotland might otherwise have occasioned." (*Journey to the Hebrides, p. 108*)

At the time of his father's execution, Lord Boyd was only twenty years of age. He claimed and obtained the maternal estate, and obtained it in 1751. In 1758 he succeeded Mary, Countess of Errol in her own right, his mother's aunt, as Earl of Errol, and left the army in which he had continued to serve. He retired to Slains Castle, where he passed his days in the exercise of those virtues which become a man who is conscious, by rank and fortune, of a deep responsibility, and who regards those rather as trusts, than possessions. He died at Calendarhouse, in 1778, universally lamented, and honoured.

The Countess of Kilmarnock survived her husband only one year; and died at Kilmarnock in 1747. Two sons were, however, left, in addition to Lord Boyd, to encounter, for some years, considerable difficulties. Of these, the second, Charles, who was in the insurrection of 1745, escaped to the Isle of Arran, where he lay concealed, in that, the ancient territory of the Boyds, for a year. He amused himself, having found an old chest of medical books, with the study of medicine and surgery, which he afterwards practised with some degree of skill among the poor. He then escaped to France, and married there a French lady; but eventually he found a home at Slains Castle, where he was residing when Dr. Johnson and Boswell visited Scotland. He was a man of considerable accomplishment; but, as Boswell observed, "with a pompousness or formal plenitude in his conversation," or as Dr. Johnson expressively remarked, "with too much elaboration in his talk." "It gave me pleasure," adds Boswell, "to see him, a steady branch of the family, setting forth all its advantages with much zeal."

William Boyd, the fourth son of Lord Kilmarnock, was in the Royal Navy, and on board Commodore Burnet's ship at the

time of his father's execution. He was eventually promoted to a company of the 14th foot, in 1761.

Lord Balmerino left no descendants to recall the remembrance of his honest, manly character. His wife, Margaret Chalmers, survived him nearly twenty years, and died at Restalrig, on the 24th of August, 1765, aged fifty-six.

The remains of these two unfortunate noblemen were deposited under the gallery, at the west end of the chapel in the Tower. Beside them repose those of Simon, Lord Lovat. "As they were associates in crime, so they were companions in sepulchre," observes a modern writer, "being buried in the same grave." (*Bayley's History of the Tower*, p. 122) But the more discriminative judge of the human heart will spurn so rash, and undiscerning a remark; and marvel that, in the course of one contest, characters so differing in principle, so unlike in every attribute of the heart, and viewed, even by their enemies, with sentiments so totally opposite, should thus be mingled together in their last home enemies, with sentiments so totally opposite, should thus be mingled together in their last home.

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5 August 2019