

*W. Stephen,  
H. C. C.*

THE  
SUTHERLAND EVICTIONS  
OF  
1814

FORMER AND RECENT STATEMENTS  
RESPECTING THEM EXAMINED

BY  
THOMAS SELLAR

LONDON  
LONGMANS, GREEN, AND CO.  
1883

## PREFACE.

---

THE publication, in the course of the past year, of statements injurious to the memory of Mr. Patrick Sellar has cast upon the writer, as his representative, the task of entering on a public discussion of matters, long gone by, in which Mr. Sellar took part.

It is needless to say that this discussion would gladly have been avoided, if only on account of the reluctance felt by Mr. Sellar's family to publish to the world a narrative of personal details. They also felt that the public might justly resent the intrusion of personal matters into the consideration of a great question,—namely, the question by what means improvement in the condition of the Highlands may best be effected.

The apology which the writer has to offer is that the discussion is not of his seeking, but has been thrust upon him. It was not to be avoided, unless he was willing to permit the memory of his father to rest under unmerited obloquy.

It was the intention of the writer to go at length into the history of the Sutherland clearances—their antecedents, concomitant circumstances, and results—feeling, as he did, that a narrative of mere personal details relating to Mr. Patrick Sellar would be an inadequate performance of his duty. He had provided himself, to some extent, with material for the purpose, but the appearance of Mr. Mackenzie's book ('The History of the Highland Clearances'), and the allusions in the press to Mr. Patrick Sellar, have necessitated an early publication; and he has had to content himself with a short statement, in the introductory chapter, which he hopes will give a sufficient general outline of the circumstances.

The writer, and the writer only, is responsible for the statements and arguments put forward. For obvious reasons—in order that no one should feel himself compromised by those statements and arguments—he has avoided all communication, direct or indirect, with the representatives of persons concerned in any manner with the management of the Sutherland Estate.

THOMAS SELLAR.

HALL GROVE, BAGSHOT: *May* 1883.

# CONTENTS.

---

CHAPTER	PAGE
I. INTRODUCTORY . . . . .	1
II. THE INCIDENTS OF 1814-16, AND THE TRIAL . . . . .	27
III. OBSERVATIONS OF LATER WRITERS . . . . .	42
IV. EXAMINATION OF DONALD MACLEOD'S LETTERS . . . . .	73

## APPENDIX.

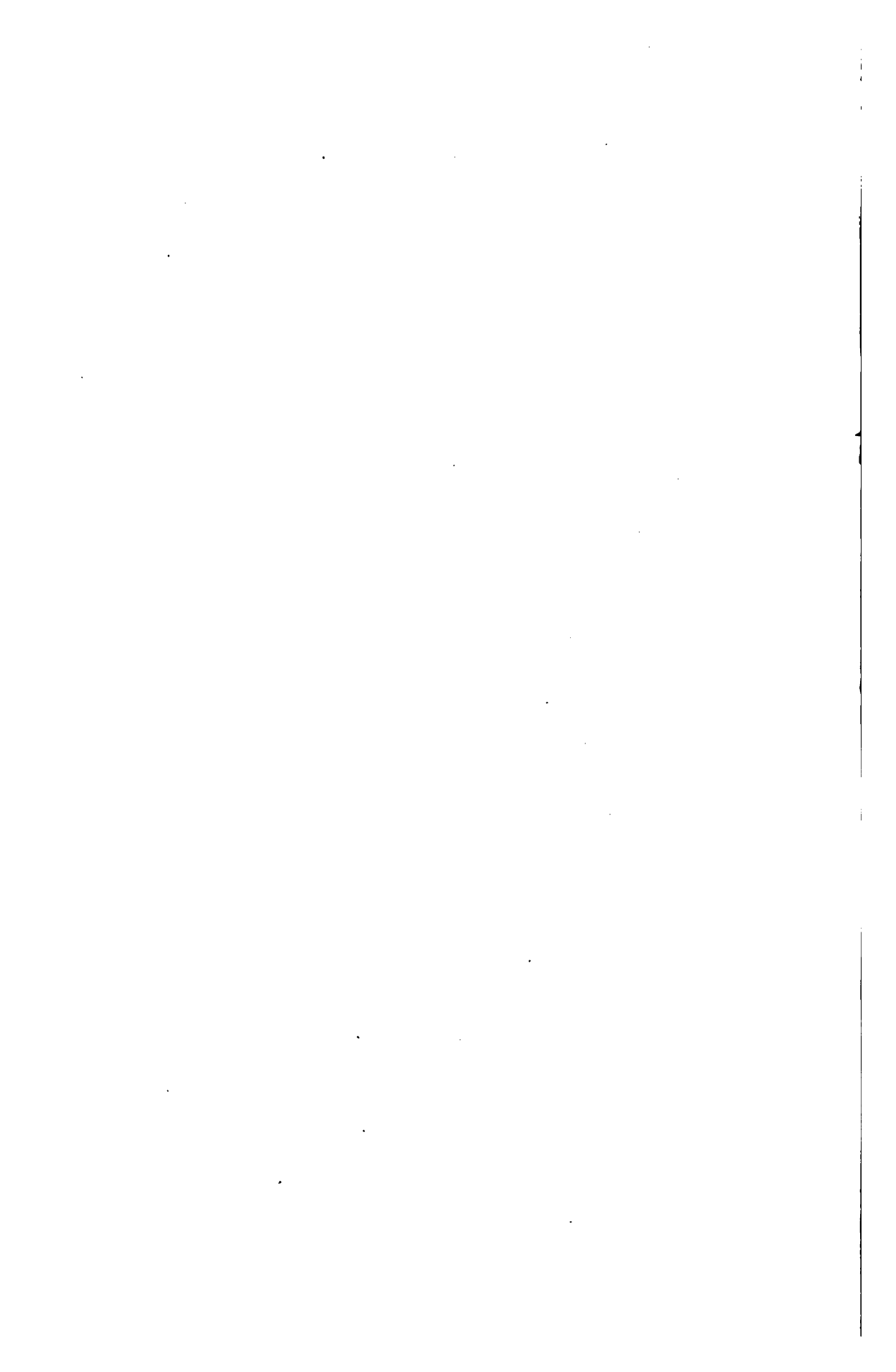
I. DESCRIPTION BY MR. LOCH OF THE COTTAGES OF THE PEOPLE . . . . .	iii
II. DESCRIPTION BY MR. LOCH OF DISTRESS IN 1816-17 . . . . .	vii
III. REPORT OF TRIAL . . . . .	xv
IV. EXTRACT FROM 'INVERNESS JOURNAL' . . . . .	lix
V. CORRESPONDENCE WITH MR. MACKID . . . . .	lxiii
VI. CORRESPONDENCE WITH MR. ALEXANDER MACKENZIE . . . . .	lxix
VII. CORRESPONDENCE WITH MR. A. RUSSELL WALLACE . . . . .	lxxvii
VIII. CORRESPONDENCE WITH PROFESSOR BLACKIE . . . . .	xcv

---

## MAPS.

COUNTY OF SUTHERLAND AS HELD IN 1810 . . . . .	} <i>To face Title-page</i>
THE FARM LET TO MR. SELLAR FROM WHITSUNDAY 1814 . . . . .	





THE  
SUTHERLAND EVICTIONS OF 1814.

CHAPTER I.

INTRODUCTORY.

THE condition of the population of the Scottish Highlands at the close of the last and the beginning of the present century was deplorable. Mr. John Knox,<sup>1</sup> who, in sixteen journeys in the course of twenty-three years, had penetrated, from philanthropic motives, into the remotest parts of the country, and who claimed to have accumulated more information about the condition of the Highland people than had ever been acquired by any one before, declared, in 1785, that it was 'such as no language could describe.'<sup>2</sup>

Knox's  
*Tour*, p.  
lxxi.

Knox's  
*View, &c.*,  
vol. i.  
p. 122.

<sup>1</sup> *A View of the British Empire, and more especially Scotland*: by John Knox, 1785. *A Tour throughout the Highlands of Scotland*: by John Knox, 1787. Among the various panaceas which have been suggested from time to time for the amelioration of the condition of the Highland people, and of other kindred races, the one which commended itself to Mr. Knox, and to many other persons at the time, was the establishment of fishing stations, by means of which, not only fishermen, but artisans of various kinds, were to be developed. Mr. Knox was an active promoter of the 'British Society for the Extension of Fisheries, &c.' incorporated in 1786; and for the purpose of examining the sites best suited for fishing stations, he travelled in one expedition along the whole coast, from Oban, by Cape Wrath and John o' Groat's House, to the Moray Firth, and thence onward to the Firth of Forth.

<sup>2</sup> Dr. Garnett (*Observations on a Tour in the Highlands*, 1800, vol. i. p. 178) confirms Mr. Knox's view of the condition of the Highland people in the following terms:—'Mr. Knox's description of the distresses of the Highlanders has often affected me with horror, even when I hoped it was exaggerated; but my own observation and information convince me that his pictures are not too highly coloured.'

The county of Sutherland—the most remote and most barren of the Highland counties—was more beyond the reach of the civilising influences then at work over the kingdom, than any other portion of Great Britain. It was reached with difficulty from the south across two arms of the sea, and, in a country composed mostly of mountain and morass and intersected by numerous rapid rivers and streams, there were no made roads or bridges.

The people, settled to a great extent in the interior of the county, were engaged almost entirely in agriculture, without, as regards those in the interior at least, any other means of employing or supporting themselves. Every inhabitant was 'connected with the soil,' and there was no such thing as a separation of employment anywhere throughout the county.

Their system of agriculture was the same as it had been for centuries.<sup>1</sup> They took continuous crops of corn and potatoes from the land, which from time to time they pared and burned. The animals they reared were cattle of an inferior description, and some ponies and goats. They had few sheep.

The climate, at all times severe and bleak, was every few years destructive of the crops ;<sup>2</sup> and mildew, produced by want of sun in the straths and glens, or by the exhalations which arose from the morasses, lochs, and

<sup>1</sup> 'The agriculture of the Highlanders,' said Professor Walker, 'appears to have undergone but little improvement since the era that domestic cattle and the cultivation of grain were first introduced, which happened probably in the third or fourth century.' (Professor Walker's *Economical History of the Hebrides and Highlands*, 1808, vol. i. p. 3.)

<sup>2</sup> Mr. Knox (*Tour*, p. xci.) says, speaking of the Highlands generally, that every third year was a year of famine. Dr. Garnett (vol. i. p. 169) reports failure of crops on an average every third or fourth year. Mr. Loch (p. 54) says there was distress to a greater or less degree every third or fourth year, when the people required support from the landlord. The reporter for Assynt, in the *Old Statistical Account of Scotland*, says every ninth or tenth year turned out distressing by loss of crops, or cattle, or both. The discrepancy in these accounts probably arises from the different views of the parties as to what constituted distress.

streams, attacked them continually.<sup>1</sup> The cattle died in large numbers every severe winter.

The inhabitants increased rapidly through early marriages, induced by a low standard of comfort. They lived in cottages identical in character with those which their ancestors had constructed for centuries,<sup>2</sup> and which were often inconsistent with comfort, cleanliness, or even with civilisation. 'Sometimes,' as was said at a later period of certain Ross-shire crofters, 'the parents and several married children of the family to several generations were huddled together in one black hole.'<sup>3</sup>

The organisation of society in Sutherland, as well as elsewhere in the Highlands, had sprung out of conditions, into which considerations of physical well-being and economic development did not enter.<sup>4</sup> Middlemen (the tacksmen) rack-rented the people and subjected them to various servitudes, compelling them often at seed and harvest times to neglect their own holdings and to

<sup>1</sup> A farmer who has recently attempted to cultivate a little land in a favoured situation in the interior of Sutherland describes as follows what happened in the spring of 1882 to some oats and barley growing near the river side. 'They were mildewed,' he says, 'and entirely killed about the 20th May. The mildew was occasioned by a fog which rose from the river. The sun was hot during the day, and there was severe frost at night.' Mildew, however, occurs more frequently at the approach of harvest, when it arrests the filling and ripening of the grain.

<sup>2</sup> 'It is a fact that the Highlanders of the present day, like the Highlanders of 400 years ago, live in huts of exactly the same construction, and their mode of agriculture has been quite as stationary.' (Mr. Hugh Miller, Gairloch, 1823. See his *Life* by Mr. P. Bayne, vol. i. p. 115.)

<sup>3</sup> For a description of the cottages of the people in Sutherland, see extract from *Improvements on the Estates of the Marquis of Stafford*, by James Loch, Esq., 1820, in Appendix I. See also extract from letter read by Mr. Loch in the House of Commons, in same Appendix.

To readers whose memories go back thirty or forty years, it is unnecessary to state that Mr. Loch was the Commissioner and trusted agent and friend of the Sutherland family, and of other well-known families, during a long life extending to the year 1863. For many years he was the representative in Parliament of the Northern Boroughs.

<sup>4</sup> 'The value of landed property was in those times to be reckoned, not by the rent it produced, but by the men it could send into the field.' (Earl of Selkirk, *Observations on the Highlands, &c.*, 1805, p. 5.)

Knox's  
Tour, p.  
lxxxviii.

work without fee on their (the tacksmen's) possessions. So onerous was the character of these servitudes that it was averred that no improvement could take place in the state of the country while they continued to exist. They were described as a degree of 'bondage almost equal to that of the negroes in the West Indies.'<sup>1</sup>

The wages of a day labourer at the close of the last century were 6*d.* a day all over Sutherland,—occasionally 9*d.*,—but continuous employment was hardly to be had.<sup>2</sup>

Much the larger part of the county was turned to no useful purpose whatever, and was abandoned to deer and other wild animals; for the cattle and the ponies which the tenants reared were unsuited for pasturing on the mountains and morasses, of which the county generally consisted. These were accessible only to sheep.

Knox's  
Tour, p.  
250.

While inhabitants of other parts of Scotland came to the shores of Sutherland for the purpose of catching the fish that swarmed there, very few of the inhabitants of the county occupied themselves with fishing at all. Yet Sutherland, as was said by Mr. Knox, though it has the most barren country, has the richest seas. 'Many counties,' he said, 'have one coast; a small number have a double coast; but Sutherland has a triple coast, which affords access to the fisheries on the west, north, and east.'

The whole exports of the county consisted, at the end of the last century, of a few droves of cattle (estimated by Pennant in 1772 as 2,500 head), of the value apiece, when full grown, of 2*l.* 10*s.* to 3*l.* and 4*l.*;<sup>3</sup> and of a few hundred barrels of fish and a few cargoes of kelp.

<sup>1</sup> They are so described by the reporter for Tongue, a parish in the north of Sutherland, in the *Old Statistical Account of Scotland*, published at the close of the last century.

<sup>2</sup> See *Old Statistical Account of Scotland*, 1793-1799.

<sup>3</sup> Pennant's prices are 2*l.* 10*s.* to 3*l.* The Statistical Account goes as high as 4*l.* Pennant quotes 3*l.* as the value, in 1772, of ponies in Gairloch, in Ross-shire; the best in the west of Sutherland were worth 7 to 8 guineas. (*Report from Eddrachellie.*)

We are sufficiently familiar with the results of such a state of society as that which then existed in Sutherland, to know that starvation must have occurred in it from time to time; and, in point of fact, the evidence is clear and indisputable, that, in the course of every few years, there was a year of famine, when misery of the most acute kind was suffered.<sup>1</sup>

It was, however, the fashion of certain writers about the middle of the present century to ignore all evidence contemporaneous with the period referred to, and out of their own imaginations to picture the state of the county as having been a happy one. But, as was said at the time by a well-known writer, in contradiction to the views

<sup>1</sup> In 1812-13, and more especially in 1816-17, the inhabitants in the interior suffered, according to Mr. Loch, the extreme of want and of misery. To assist in alleviating the distress in 1816-17, Mr. Loch went expressly to Sutherland, and he relates that those who lived in the more remote parts of the interior had to subsist on broth made of nettles, thickened with a little oatmeal, or, if they had cattle, 'they had recourse to the wretched expedient of bleeding them.' They mixed the blood with a little oatmeal, and cut the mixture into slices, which they fried. At the same time the inhabitants on the coast, Mr. Loch says, 'hardly felt the distress.' (See Appendix I. for extract in full from Mr. Loch's book describing the state of distress then prevailing, and the comparative immunity of the people on the coast.)

It must not be supposed that there is exaggeration in this statement as to the means to which the people resorted to sustain life. Mr. Knox, for instance, writes as follows: 'In winter, when the ground is covered with snow, and the naked wilds afford neither shelter nor subsistence, the few cattle, small, lean and ready to drop down through want of pasture, are brought into the hut where the family resides, and frequently share with the inmates their little stock of meal, while the cattle thus sustained are bled occasionally to afford nourishment for the children.' Dr. Garnett quotes this passage (vol. i. p. 179), and adds that the practice referred to had become less common when he wrote than it had been previously, though it was still, he said, resorted to occasionally.

Knox's  
*View*,  
vol. i.  
p. 122.

The description by Pennant, in 1772, of what he saw in Assynt—a parish on the west coast of Sutherland,—is familiar enough. 'This tract,' he says, 'seems the residence of sloth, the people almost torpid with idleness and most wretched, their houses most miserable. Climate conspires with indolence to make matters worse. . . . Till famine pinches they will not bestir themselves. They are content with little at present and thoughtless of futurity. Dispirited and driven to despair by bad management, crowds are now passing, emaciated with hunger, to the east coast on the report that a vessel is there laden with meal,' &c. (Pennant's 'Tour' in 1772: London, 1780: vol. ii. p. 366.)

of those persons,<sup>1</sup> 'Every trace of evidence in existence is to the effect that, without exception or interval, the mass of the Scottish Highlanders always lived a life of as great penury and privation as could be imagined or endured. This is not a point on which there is doubtful or conflicting evidence.'

It is not meant that there is blame to be attached to the people for the circumstances in which they found themselves; nor will it be contended that their condition was attributable to defect of race. The contrary can, it is believed, be shown to be the case; for the Northern Highlander, when placed in circumstances suitable for his development, takes his place with credit alongside of his fellows.

Nor is it to be questioned that the Highlander in his inland home possessed many amiable qualities, and had in him the elements out of which has been developed the admirable peasantry now to be found in many parts of Sutherland; but, to use the words of a well-wisher of the Highland people if ever there was one, 'Their sad disregard for what are called comforts, and their fearfully contented dispositions, unfitted them for exertions without which comforts and independence were not to be obtained.'<sup>2</sup> Nor, as it was said by another writer, had they in those times any ambition or desire beyond the enjoyment of the indolent life which they had always been accustomed to lead.

During the first ten years of the present century a commencement was made throughout the north of Scotland, in opening up communication with the southern part of the kingdom. Previously to that time, intercourse with the south was a difficult and arduous undertaking, for while from Aberdeen to Inverness the roads are described

<sup>1</sup> Mr. Alexander Russell (of the *Scotsman*) in the *Edinburgh Review* for October, 1857.

<sup>2</sup> Dr. Mackenzie, Commissioner on the Gairloch Estate, so described the character of the old Highlanders in a letter to Lord Russell, written in 1851.

as having been 'lamentable,' north of Inverness they are said to have been 'the mere semblance of roads.'<sup>1</sup> Parliament in 1803 came forward, agreeing to advance one-half the cost of certain main roads, and the heritors of the shires of Inverness and Ross thereupon undertook the construction of a line of road extending to the borders of Sutherland. On its completion, Sutherland, which had been previously, it was said, in a state of almost total exclusion from the rest of the country, would come at once into easy and rapid intercourse with the outer world.

At that time the Marquis of Stafford, a man of mark and capacity, who had occupied a distinguished post in the service of his country, and who might have occupied posts of still greater distinction had his ambition lain in that direction, was the possessor, through the Countess of Sutherland, to whom he was married in 1785, of the Sutherland estate. Though of much less magnitude than it now is, for the 'Reay country' and the estate of Bighouse were not added to it till 1829 and 1830,<sup>2</sup> the Sutherland estate extended even then over two-thirds of the county.

Up to the year 1807, little or no change had taken place in the condition of the Sutherland estate, which remained much the same as it had been for centuries. Elsewhere important changes had been carried out. In the south, and in other parts, of Scotland, there had been extensive removals of the smaller occupants,<sup>3</sup> wherever the land was better adapted for pasture than for tillage. Movements of a similar character on a large scale took

<sup>1</sup> Mr. Loch's *Memoir of the First Duke of Sutherland*, p. 13. The Marquis of Stafford was created Duke of Sutherland in 1833 by the Reform ministry of that day.

<sup>2</sup> The estate of Armadale which had been 'cleared' by the former owner was acquired in 1812.

<sup>3</sup> Adam Smith, indeed, writing in 1775, stated as an historical fact that the diminution of the number of cottagers and other small occupiers of land had, in every part of Europe, been the immediate forerunner of improvement and better cultivation. (*Wealth of Nations*, bk. i. chap. xi.)



place in Ross-shire before the close of the last century; and, in the early years of the present century, Lord Reay and most of the other Sutherland proprietors removed the smaller tenantry settled on their estates. But on the Sutherland Estate itself no such movement had taken place.

On the approach of the great change to be produced by the opening of easy communication with the South—with the tide of civilisation close at hand—the need of action in dealing with the estate, for the development and well-being of which the Marquis of Stafford was responsible, necessarily became urgent, and pressed itself on his mind. The problem before him was how best to bring about a beneficial change in a state of things which, with his experience of other and more favoured regions, could not but have been intolerable to him, and he determined, by a great effort and at a bound, to remodel society in the county.

The policy decided on was to remove, as leases fell in, the population, passing an indolent and precarious existence in the interior, to the coasts, as near as possible to their former holdings,—where education and the benefits of civilisation could be better extended to them,—where illicit distillation, largely practised in the interior, and its demoralising influences would cease,—where the people would have other means of living besides that from the soil alone, and would acquire habits of regular and continuous industry,—where also the crops would to a great extent be beyond the reach of the dreaded mildew, and where the land could be fertilised by the ‘seaware,’ there nearly everywhere accessible.<sup>1</sup> The middlemen were to be swept away, and the whole population was to be brought into direct relations with the landlord. It was

Loch,  
p. 113.

Loch,  
p. 73.

<sup>1</sup> This scheme, in intention at least, was no other than that policy of ‘migration,’ apart from emigration, which certain Irish politicians press on the British Government with reference to people somewhat similarly situated in Ireland at the present day.

likewise decided to place the interior under sheep, for which it was admirably adapted.

At the same time, works on a great scale were to be carried out, and the whole county was to be opened up. As a matter of fact, the two intervening arms of the sea to the south of the county were bridged during the next ten years under the direction of Telford,<sup>1</sup> roads were opened up in all directions,<sup>2</sup> bridges and harbours were made, and fishing stations were established. A coal-pit was opened at Brora, salt-pans, and brick and tile works were also established there; while the building of houses of all kinds, inns, dwelling-houses, farm-buildings, &c., was proceeded with, and the drainage and improvement of land were extensively carried on. General Stewart,<sup>3</sup> of Garth, no friendly critic of the management of the Sutherland estate, estimated in 1825 the amount spent on improvements as having been upwards of 210,000*l.*—a liberality, General Stewart added, ‘which stood unparalleled and alone.’<sup>4</sup> Besides this, large sums of public money were expended on roads, bridges, &c., and there was a considerable outlay by individuals on improvements. Previous to 1810 little or nothing had been similarly spent in the county.

Loch,  
p. 25, and  
following  
pages.

Loch, p.  
126 to the  
end.

Across the more northern of those arms of the sea, a viaduct (‘the Mound’) was constructed 995 yards long, with sluices at one end, closed at high and opened at low water. When other contractors declined to tender for its construction, on account of the risk involved, Earl Gower, Mr. Young, and Mr. Sellar undertook on public grounds its construction, and after one failure their efforts were successful. (Loch, p. 29.)

<sup>1</sup> Though in 1812 there was no road throughout the whole county of Sutherland, and there was only one bridge—namely, that at Brora—there were at the time of the Marquis of Stafford’s death in 1833 no less than 450 miles of good roads in the county, and 184 bridges exceeding 10 feet span. (Loch’s *Memoir of the Duke of Sutherland*, p. 13.)

<sup>2</sup> *Sketches of the Character, Manners, and Present State of the Highlanders*, by Major-General Stewart. Third edition, 1825, vol. i. p. 175.

<sup>3</sup> Mr. Loch, in his place in the House of Commons, in May 1845, stated that between the years 1811 and 1833 (the latter the year of Lord Stafford’s death) not only had the whole income of the Sutherland Estates been expended in the county, but a sum of 60,000*l.* besides.

Under what influence or advice the course adopted was decided on is not known, but as it was commenced in 1807 under one set of agents, continued under another from 1810 to 1816, and concluded by a third in 1819 and 1820, the policy must be assumed to be one which the Marquis of Stafford personally adopted and made his own.<sup>1</sup>

Loch,  
p. 76.

In the year 1807, as is stated by Mr. Loch, the new arrangements determined on commenced, and they were carried on, he adds, from time to time, as the different existing leases expired. What the removals were between 1807 and 1810 is not distinctly mentioned anywhere, but they are believed to have been mostly in portions of the parishes of Rogart, Lairg, Golspie, and Farr.

Loch,  
p. 65.

In 1810, a commencement was to be made of the great works and improvements contemplated by the Marquis of Stafford. To aid in carrying them out, Mr. William Young, a native of Morayshire, and a gentleman who had acquired a reputation as an able man of business and a successful improver of land, was invited to become Commissioner on the Sutherland estate. Mr. Young accepted the appointment, and asked, it is believed, that Mr. Patrick Sellar should be associated with him.

Mr. Sellar was at the time about thirty years of age. He had received a legal training in Edinburgh, to enable him to join his father, who was in an extensive way of business as a writer (solicitor) in Elgin, the county town of

<sup>1</sup> It is sometimes supposed that it was for the convenience of the agents that the 'clearances' were made (the factors, it is said, having a 'natural desire to get clear returns with as little trouble as possible'). It is not, however, explained how the convenience and ease of the agents were to be furthered, when every tenant dispossessed of his old holding was to have the offer of a new allotment on the estate, and when the large masses of tenants, previously holding under the tacksmen, were to hold directly from the landlord, and to be placed under his immediate control. That theory may therefore be placed on one side.

Morayshire, and Mr. Patrick Sellar practised for some years in the Morayshire courts. His conduct of business and character for humanity while he practised there, are described in terms of high commendation by the Sheriff-Depute and Sheriff-Substitute, in whose courts he was in the habit of appearing and who had known him all his life. He was Procurator Fiscal (Public Prosecutor) of the county, and had the leading practice in it. Appendix,  
p. xlviii.

The management of the Sutherland estate, which now devolves on three sets of agents, the commissioner, the factors, and the law-agent, was in those early days conducted by two agents—namely, the commissioner, who resided in the county and performed most of the duties of factor, and the factor, who was rather law-agent than factor.

Mr. Sellar, in his judicial declaration, made before the Sheriff-Substitute in 1815, defined his duties as being the collection of rents and the carrying into effect the arrangements made by Mr. Young, and particularly the 'out-putting' and 'in-putting' of tenants in fulfilment of such arrangements. In a Statement which he published in 1826 he said he had to collect the rents, prepare the leases and other writings connected with the estate, &c., and 'to carry legally into effect such arrangements as should be directed by the commissioner acting under Lord and Lady Stafford's instructions.' Appendix,  
p. xxxix.

His previous training as a lawyer would serve him well in the performance of such duties as those described, while his having acted as Public Prosecutor to the satisfaction of the judicial persons before whom he was in the habit of appearing in court, afforded a guarantee, it may have been thought, that he would perform his new duties with discretion. Infra,  
p. 48.

The first removals carried out under the new management were in 1812 in Assynt, of which the only record Infra,  
p. 49.

known to exist is contained in Mr. Sellar's Statement, published in 1826, which will be found at page 47 of this volume. He says of these removals, that the gentlemen, the former tacksmen, who received possession of the lands had so much influence over the people, that he had little to do but to expedite the necessary warrants.

*Infra,*  
p. 49.

The next removals were in 1813 in parts of the parishes of Kildonan and Clyne,—the former an inland parish, described in the appendix to Pennant's 'Tour' as fit only for pasture ;<sup>1</sup> the latter bordering, on its southern side, on the sea, and described as partly corn land. The opposition there was very great, so much so, that before even notices of removal were served, military aid had to be called in.<sup>2</sup> The people, at Whitsunday 1813, were, however, removed ; the Kildonan people to the sea-shore in their neighbourhood, where the village and fishing-station of Helmsdale, which have proved beneficial undertakings, were in course of construction ; while the inhabitants of Clyne were transferred to the neighbourhood of the village of Brora ;—that is to say, in each case to the coast nearest to the tenants' former residences.

*Infra,*  
p. 49.

In 1814 the removals were carried out which were the occasion of the Trial of which so much has been heard. They took place in Strathnaver in the parish of Farr, a parish, in the northern part of the county, running upwards of thirty miles inland. Of them a full description is given in the evidence at the trial.

Appendix,  
p. xxxviii.

The whole number of families removed on that occasion was twenty-seven, besides a man of the name of Chisholm, of whom much will be heard hereafter, but who,

<sup>1</sup> At a later period (between 1841 and 1851) the parish of Kildonan was extended on its eastern side to the coast, a portion of Loth being incorporated in it.

<sup>2</sup> A similar rising of the people, but on a much larger scale, took place in Ross-shire in 1792. Lord Selkirk, who was in Ross-shire at the time, describes the people as having had 'for many days entire command of the county.' (Earl of Selkirk's *Observations on Present State of Highlands, &c.*, 1805, p. 123.)

differing in this respect from the other persons removed, was to be expelled from the estate, by the orders of the Commissioner, on account of his bad character. These removals were all from a portion of the right bank,—the more barren side of the river—and comprised the tenants of half only of the locality. The tenants left on the ground had their tenancies extended for four years, and the more fertile left bank was not disturbed then, or till after Mr. Sellar ceased to be factor.

*Infra*,  
p. 49.

*Infra*,  
p. 49.

No further re-arrangements of the Sutherland Estate took place till after Mr. Sellar's resignation of his post in 1818.<sup>1</sup>

*Infra*,  
p. 60.

The experience of 1816—in which year, according to Mr. Loch, who was then in the county, the settlers on the coast hardly felt the destitution which was so intense in the interior—led, he relates, not merely to a continuance, but to an extension of the policy of removing the people from the interior to the coast. The leases on a large portion of the estate expired between 1818 and 1820, and advantage was taken of their expiry to make extensive removals of the tenants at the Whitsuntide terms of 1819 and 1820.

Appendix,  
p. ix.

Loch,  
p. 82.

All arrears, whether for rent or for meal, were abandoned by the landlord, and the offer was made to the tenants of a year's exemption from rent, on condition of their moving without delay to their new allotments. In some parts of Strathnaver and a certain part of Kildonan, they settled, Mr. Loch states, on their allotments with cheerfulness, and had in consequence their seed corn given them as a gift. The aggregate amount of rent abandoned, and of expenditure by the landlord on behalf of the tenants removed, was upwards of 15,000*l*.

Loch,  
p. 86.

Loch,  
p. 89.

Loch,  
p. 88.

But the mass of the tenants offered a passive resistance

Loch,  
p. 88.

<sup>1</sup> Mr. Young had resigned in 1816, and was succeeded as Commissioner by Mr. Loch.

Loch,  
p. 91.

to their removal, and took no steps to prepare for the change. It appears, likewise, that some of the people returned to their cottages after having left them, and had to be ejected a second time.

Loch,  
p. 90.

These removals of 1819–1820 were chiefly from the left bank of the river Naver, from parts of Kildonan and Clyne, and from Assynt. Mr. Loch relates, as regards those from Strathnaver, that by the abandonment on the part of the landlord of a large arrear of rent due by a ‘tacksman,’ the surrender was obtained of the lease of an extensive farm, on which ‘the greatest scene of subtenancy on the estate’ existed. The subtenants of this tacksman had the same terms offered to them as if they had held direct from the landlord, and were thus, Mr. Loch states, saved from ‘the greatest state of want.’ ‘For,’ he says, ‘whatever benefits were afforded to those holding immediately from the landlord, it was very rare that any advantage of a similar nature was extended by the middlemen to their subtenants.’ The tenants removed in Strathnaver went mostly to the coast near the mouth of the river, and thence onward to the boundary of the estate of Bighouse.

Loch,  
p. 90.

Loch,  
p. 100.

Loch,  
p. 100.

Of the people removed from Kildonan it is related merely that they were settled near the thriving village of Helmsdale, with the exception of some who preferred going into Caithness.

Loch,  
p. 101.

The tenants removed in Clyne and from the adjoining parts of Loth were settled near the village of Brora, where, Mr. Loch says, they had the means of ‘immediate and constant employment, whether they became fishermen or not.’

Loch,  
p. 101.

The Assynt tenants were removed to the sea-shore in their immediate neighbourhood, where they were placed in one of the best situations, according to Mr. Loch, for the prosecution of fishing in the Western Highlands.

With these removals the Sutherland 'clearances' were practically closed.<sup>1</sup> Mr. Loch relates, in 1820, that the mass of the removed tenants were then settled on the coast, and were adopting with alacrity the cultivation of their land and the prosecution of the herring fishing.

Loch,  
p. 7.  
Loch,  
p. 90.

The allotments to which the people were moved were, at the commencement of the new arrangements, of a larger size and with a proportionally larger quantity of hill pasture than those of a later period, because the persons first removed were unacquainted with the sea, and possessed no boats. But when the herring fishing had become familiar to the people, the lots, Mr. Loch states, were reduced in size, so that, while they were sufficient for the maintenance of a family, they were not sufficient to admit of the young men remaining idle at home as they had formerly done.

Loch,  
p. 104.

Loch,  
p. 105.

The size of the lots varied considerably, the generality being about two Scotch acres, or two and a half English acres, of tillage land, with a run of hill land. For land reclaimed a bonus of 5*l.* per acre was paid, and leases were given, at generally nominal rents, for fourteen years, with a break at the end of seven years.

Loch,  
pp. 106  
and 107.

Mr. Loch, in his book published in 1820, and Mr. Sellar, in his statement published in 1826, both declare that no person of good character was forced to leave the estate. Every tenant of good character who was removed was offered an allotment on the estate; and Mr. Sellar states that he was not aware that anyone, during his factorship, was

Loch,  
p. 169.

*Infra*,  
p. 50.

<sup>1</sup> The number of persons removed from their ancient holdings to new allotments in Sutherland from 1810 to 1820 is often stated as having been 15,000. How this figure has been assumed it has not been possible to discover; but there can be no doubt that it is a very great exaggeration, for the whole population of the Sutherland Estate was no more. The best opinion obtainable is that the number of families removed on the estate, between 1810 and 1820, did not exceed 600. This may be exclusive of such of the 408 families of squatters found on the estate in 1816 as were removed. (See footnote, p. 32.)



‘done ultimate diligence’ against for non-payment of rent. Mr. Loch, indeed, asserts that advantages were afforded to the people removed, on the Sutherland estate, which were never before afforded to any people similarly dealt with.

Loch,  
p. 112.

One other observation has to be made respecting the ‘clearances.’ It was narrated by Mr. Sellar to one now living, and undoubtedly narrated truly, that during his factorship no portion of any premises was set fire to by his orders, excepting the timber appertaining to the house of the man Chisholm, and then only after the timber had been appraised and paid for. At a later period, after the removals of 1818–20 took place, Mr. Loch relates that the timber of the dismantled cottages, after having been paid for, was collected and burnt by the local management, in the exercise of their discretion, the people being supplied with timber on their new allotments at the cost of the landlord. Mr. Loch, in the most positive and direct manner, denies ‘the attempt to apply to those proceedings the character of cruelty and oppression.’

Personal  
statement.

Loch,  
pp. 93.  
and 86.

Loch,  
p. 88.

Loch,  
p. 93.

During the ten years from 1810 to 1820 a complete revolution had taken place in the county.<sup>1</sup> From lying in a state of indolent repose, with no hope, according to all analogy, of the people rousing themselves to exertions for the promotion of their comfort and advancement, which is a process extremely irksome to those who are un-

<sup>1</sup> A writer in the *Edinburgh Review*, in July 1847, who is referred to later on (p. 60) as holding the opinion that the laws were unjust which permitted the compulsory removal of the tenants, thus describes the change:—‘The Highlander,’ he says, ‘who had left his country thirty years ago would now scarcely recognise his native glen. While the rest of Scotland has been creeping slowly and steadily along, he would find the black-eyed children of the Gael, whom he left reclining half naked in the sun, . . . succeeded by stout industrious men in broadcloth coats and wide brimmed hats, learned in the rotation of crops and the breeding of live stock. The old turf hovels, looking like gigantic fungi that had grown out of the filth by which they were surrounded, are replaced by neat stone houses, &c.’

For a description of Mr. Sellar’s view of the changes effected, see Note at the end of this chapter.

used to such exertions,—from having no roads, no traffic, and hardly any hired employment,—the county emerged in 1820 with nearly the same appearance externally as it now has. In 1810 there were hardly any ‘merchants’ (shopkeepers) in the county. In 1818 Mr. Loch relates that such were the sums of money distributed among the people through the works then being carried on, that at a fair held at Brora in that year their purchases amounted to 1,500*l*.

Loch,  
p. 122

While, however, the appearance of the county in 1820 was much the same as it now is, and its state was such that a career was opened to the inhabitants, it is not meant that the people at once became what they now are. The condition of the people, as well as their habits and character, have undergone considerable modifications during the last sixty years,—resulting from the fostering care of three successive Dukes of Sutherland,<sup>1</sup> from the introduction of an improved system of husbandry into the county, and from the progress of civilisation everywhere.

The important question—the most important of all for us of the present day—remains: What is the present condition of the people actually, and relatively to what it was when they occupied their ancient holdings in the interior?

That over the whole of the southern portion of Sutherland bordering on the Moray Firth, and in the inland parishes adjoining, the people are in a satisfactory condition, and infinitely better off than they were before they were moved there, who can doubt who goes among them with any knowledge of their former state? The

<sup>1</sup> Mr. Loch states, in a private memorandum dated 1845, that the ‘improvement of the condition of the people had been the landlord’s anxious care and the factor’s most important duty.’ He adds that the rents of the small tenants were reduced materially by the Marquis of Stafford, as much, he states, with reference to certain parishes which he names, as 36 per cent. These rents have ever since remained, as a rule, on the same moderate scale, though most other rents in the county have risen immensely.

crofters have become, as before stated, an admirable peasantry, and the fishermen, no longer half fishermen and half crofters,—in both capacities doing their work imperfectly,—are now real toilers of the sea. The crofters of the southern and eastern coasts of Sutherland are described by the latest witness who has spoken with authority about them, namely, the sub-commissioner on the recent agricultural commission, as being ‘generally thriving and industrious,’ and also ‘very comfortable and contented,’ like the crofters on the east coast in all the adjacent counties.

On the north and west coasts the change is not so marked, but two prominent facts stand out. First, while wages at the close of the last century were 6*d.*, sometimes 9*d.*, per day, they were in 1834 1*s.* 6*d.* (according to the Statistical Account of Scotland of that period), and they are now 2*s.* 6*d.* Secondly, while famine, in the days before the ‘clearances,’ was present every few years in those regions, it is rarely heard of in Sutherland now. From 1847 till the present year there has been no general suffering in the county. Even in the present year, while so much distress prevails on the west coast of other counties, we hear from the north and west of Sutherland that, except in isolated localities, all the assistance the tenants will require is a supply of potatoes and oats for seed.<sup>1</sup>

While such is the improved condition of the people, relieved from ever-recurring famine,<sup>2</sup> and with civilisation and all its benefits opened up to them, what other results

<sup>1</sup> See local reports in the *Inverness Courier*. Mr. Peterkin, General Superintendent of Poor, reports to the Board of Supervision on May 5, 1883, as follows: ‘The same influences affected the crops everywhere along the coast parishes, more especially those exposed to the severe storm of October last; but the cry of destitution seems to have spent the last of its strength at Cape Wrath.’ In other words, it does not extend to Durness Tongue and Farr, though the storm prevailed there as much as elsewhere.

<sup>2</sup> ‘Recurrent famine from her holds he chased.’

*Lines on the Death of the Duke of Sutherland.*

By his son, Lord Francis Egerton (first Earl of Ellesmere).

have been produced?<sup>1</sup> It has been already stated that at the beginning of the present century the whole exports of the county were a few droves of poor cattle, a few hundred barrels of fish, and some cargoes of kelp. In 1831 the exports were estimated to be 180,000 fleeces of wool, 40,000 sheep,<sup>2</sup> many droves of cattle, a few cargoes of corn, and some choice whisky. There were besides upwards of 50,000 barrels of herrings cured in the county, of which the greater portion was exported.

On the whole, who can question the immense benefits derived from the changes effected? And who can doubt, on the other hand, what the state of the population would have been, had they been left in the glens and on the hill-sides of the interior?<sup>3</sup> These changes were carried out compulsorily; but they were not carried out with wanton or other cruelty. That, in particular, Mr. Patrick Sellar did not commit the acts of inhumanity, only to be characterised as stupid or reckless, which are sought to be fixed on him, it is the purpose of the following pages to demonstrate. He was not a fool or a madman—as such acts, if committed, would show him to have been—but an experienced, able, and energetic man of business, who did his duty justly, faithfully, and fearlessly, through his whole life.

That he sympathised with the labouring people among

<sup>1</sup> Mr. Loch, in his private memorandum of 1845, states that, while in 1811 there was hardly a cart in the county belonging to the people, they had 518 carts in 1828; in 1831, tenants under 10*l.* of rent had 681 carts, and in 1845 they had 800. In 1811 culture by the small tenants was nearly altogether by spade—(there were not, Mr. Sellar states in his letter to Mr. Loch already referred to, six ploughs or harrows armed with iron in the whole fertile coast-line to the south). In 1831 Mr. Loch says the small tenants had 538 ploughs, and in 1845 they had 569.

<sup>2</sup> This estimate is found in a Farm Report, supplied by Mr. Sellar, in 1831, to the 'Society for the Diffusion of Useful Knowledge.' There could be no better authority for the estimate of wool and sheep exported.

<sup>3</sup> It is the case that persons who originally were opposed to the 'clearances,' thanked God, when the famine of 1847 came, that the people were no longer clustered in masses in the interior as they formerly were.

whom he lived may be inferred from the following description by him of the class from which his workpeople were drawn. It is taken from a farm report furnished by him in 1831 to the well-known society of that day, the 'Society for the Diffusion of Useful Knowledge,' and published by it in its series of Farm Reports.

'One seldom meets,' Mr. Sellar says, 'with a peasant's son of this district who has not, from such slender wages as this report speaks to, been taught to read, write, and perhaps to cast up an account. If a tolerable proficient, away he goes to seek his fortune, and the proverb says, "It is a bare moor but he will find a cove (a tuft of heather) on it." Go where he may, his heart is with his father's house, and if he succeeds in life, which he generally does to a certain extent, the inmates there are generally the better for it. The first feeling of a Scottish peasant is affection for his kindred; the second is his sense of their mutual but sole dependence, under Providence, on industry and thrift, to save them from the shame of beggary. The parent wrestles hard to push forward some part of his family by dint of education: the child unknown to any—

Deposits his hard-won penny fee,  
To help his parents dear, should they in hardship be.

'By reciprocal good offices, by joint industry, sobriety, and prudence, they get on wonderfully. In sickness they apply at the nearest house where any medicine or comfort is likely to be obtained for their friend in distress: they seem to expect it as a debt, or rather a loan due from one Christian to another; and for the least drop of honey, jelly, wine, or even vinegar obtained, there is a visit from the patient, as soon as he can crawl abroad, with a thousand thanks, and a fowl and some eggs, or the like, which how to refuse, or pay for without offence, it requires some tact to discover.

'On entering the habitation of the cotter, his fare is found to be very simple. In summer, oatmeal porridge with milk for breakfast, potatoes for dinner, and bread and milk or something similar for supper. In winter, porridge, with perhaps a little bit of butter or some treacle for breakfast; potatoes mashed, cut into slices, and done on the gridiron, and eaten with a very little fish, pork, or a bit of cheese, for dinner; and gruel, with a few potatoes or a bit of oaten or barley bread, for supper. His abstinence is

nearly complete from tea, coffee, sugar, candles, soap, ale, parliament whisky, and every taxed commodity, except tobacco, which the nature of the climate has rendered one of the necessities of life.<sup>1</sup>

‘Let us hope that we shall live to see the working man and his family admitted to a better share of the comforts of life.’

<sup>1</sup> [That this very meagre diet is not incompatible with long life, health, and strength, is shown by the fact, that of three working men who entered the service of Mr. Sellar as labourers on the farm of Culmaily in the parish of Golspie soon after 1820, two, both Highlanders, are now alive at the age of over eighty, still doing some light work about the same farm; the third died there a year or two ago, aged about eighty.—T. S.]

---

#### NOTE.

The following extract from a letter from Mr. Sellar to Mr. Loch, dated May 1, 1820, and published in Mr. Loch’s book, describes in graphic language his view of the condition of things in the county on his first arrival in it, and of the changes which had been effected between 1810 and 1820 :—

‘In 1809, when I lived in Morayshire, Sutherland was very little known or thought of in that county. The honest folks there used to call the whole ridge of country which they saw on the opposite side of the Frith, “The Ross-shire Hills,” and there was no communication betwixt the counties, except when an occasional passenger would cross by boat, or a deer was brought to Burghead or Findhorn for General Grant of Ballindalloch. Eight of the Morayshire proprietors, including Mr. Young and my father, bought Burghead<sup>1</sup> about that time, built a harbour there, and, turning their thoughts to the encouragement of trade in that place, it occurred to them, that, by the establishment of a packet vessel to sail at stated times betwixt the Burgh and the north side of the Moray Firth, the prosperity of their new purchase might be advanced. The doers for the noble family of Stafford listened favourably to the suggestions of the Burghead owners. A

<sup>1</sup> [Burghead is a headland on the Morayshire coast, sheltering a bay to the west of it, which was susceptible of being made a small harbour.—T. S.]

packet was set on foot, and in the first trip of the vessel, in May 1809, Mr. Young and I, and several other Morayshire men, embarked to see this *terra incognita*. We came into Dunrobin Bay in a beautiful morning, a little after sunrise; and I shall never forget the effect produced upon us by the beauty of the scenery—the mountains, rocks, woods, and the castle reflected on the sea as from a mirror.

‘We stayed about a week in the country, and, after surveying the coast from Dornoch to Loth, and rambling a few miles up Strathfleet, we returned home. There was no road in the country, no harbour, not a single steading of houses [set of farm offices] except Major Houston’s, at Clynelish. We saw no appearance of tillage beyond the old cairn or mearing,<sup>1</sup> which had limited the work of former generations—not above six ploughs or harrows armed with iron—and the dung was then in the process of being carried out to the field on women’s and ponies’ backs. There was no attempt to drain, and, except a very small portion of turnip and grass at Dunrobin and Rhives, neither turnips, grass, nor wheat in twenty miles of tillage land. The Gaelic seemed universally the language of the country, which reposed under the domination of the old half-pay officers and other tacksmen, who held it by their sub-tenants. The tract betwixt the Ord of Caithness and Helmsdale was possessed by a multitude of poor people, under the heirs of Pope of Naviedale, who was second middle-man under the proprietors. Helmsdale was held in the same way under Mr. Ross, the tract betwixt that and Culgower under William Pope. Crackaig was then occupied by Colonel Clunes, the father of Major Clunes, Lothbeg under Mr. Thomas Houston, Kintradwell under Mr. Joseph Gordon, Clynelish under Mr. Hugh Houston; Uppat belonged in property to Achany; Dunrobin farm lay full of docks and thistles (which proved afterwards difficult to eradicate), and it had no offices. The new Inn at Golspie was in the course of building. All betwixt Rhives and Craigton lay in “run rig” among an indolent tenantry, who burrowed under turf, and raised oats and barley in succession *ad infinitum*. Craigton was under John M’Kay and his sub-tenants, Aberscross under John Polson,

<sup>1</sup> [Mearan, or mearing, ‘a slip of uncultivated ground of varying breadth between two corn ridges.’—Jamieson’s *Scottish Dictionary*. In the ‘lazy-bed’ system of cultivation of the Highlanders, a ridge of uncultivated land intervened between ridges under crop. The ‘cairn’ was the heap of stones gathered from the cultivated land, and thrown on the ‘mearan.’ There was necessarily under such a system much waste of ground or ‘limitation’ of cultivation.—T.S.]

Morvich under Mrs. M'Leod, Kinnauld under Captain Duncan Sutherland, and up Strathfleet the possession appeared the same.

'The people seemed to be all of one profession—that is to say, every man was his own mason, carpenter, tanner, shoemaker, &c., and Mr. Falconer, the factor, told us that work could not be got done in the country for love or money. Every man wore his own cloth, ate his own corn and potatoes, sold a lean kyloe to pay the rent, had no ambition for any comfort or luxury beyond the sloth he then possessed.

'We heard mentioned with execration the names of some Englishmen, for whom, in the interior of the country, many families had been removed nearer to the coast to give place to sheep farming; but it seemed the general belief that their stay in the country would be short, and we learned from Mr. Christie, Mr. Falconer's clerk, that the premiums formerly paid for the destruction of foxes, eagles, and other vermin had just been recalled by the Dornoch county meeting. The tacksmen took from their sub-tenants, and the factor took from the Golspie villagers, a tithe of any fish caught to supply their tables; and no exportation from the country was heard of by us, except some tons of kelp from the southern shore and a few droves of lean kyloes annually sent to the south country markets.

'Morayshire is by no means a well-improved country. I think it is now, generally speaking, far behind Sutherland as now peopled. But at that time Sutherland seemed a century behind it—a circumstance imputable as well to the difficulty of access into Sutherland as to the difference of language and customs; and to the impossibility of any stranger settling in Sutherland getting forward, among a people so constituted, with anything like industry.

'As the sea-shore showed plainly the limestone on which the country rested, and the rents were not at all in proportion to those drawn from inferior land in Morayshire, Mr. Falconer<sup>1</sup> found very little difficulty in tempting me to embark with Culmailly farm, calculated at 300 Scots acres, which (with the pasture in the mountain behind into the bargain) he offered me at 25s. per acre, with an advance, at 6½ per cent., of 1,500*l* to assist in the improvement.

'At this time, nothing could have led me to believe that, in the short space of ten years, I should see in such a country, roads made in every direction, with the mail-coach daily driving through it; new harbours built, in one of which upwards of twenty vessels

<sup>1</sup> [Mr. Falconer was the factor at that time.]



have been repeatedly seen at one time taking in cargoes for exportation; coal, and salt, and lime, and brick works established; farm steadings everywhere built; fields laid off and substantially enclosed; capital horses employed, with south-country implements of husbandry, made in Sutherland, tilling the ground *secundum artem* for turnips, wheat, and artificial grasses; an export of fish, wool, and mutton to the extent of 70,000*l.* a year; the women dressed out from Manchester, Glasgow, and Paisley; the English language made the language of the country; and a baker, a carpenter, a blacksmith, mason, shoemaker, &c., to be had as readily, and nearly as cheap too, as in other countries.

‘ At the time I came here the fifty miles of country situated betwixt this and Inverness was just in the process of being opened by means of roads from the south. Through that country, the tide of knowledge and of industry, so long pent up, broke in upon us; and, being received with every favour by the noble proprietors, who expended immense sums of money in encouraging strangers to settle among us, and in the establishment of means of industry among the people, we have jumped up at once to the level of our neighbours, with a velocity, I believe, quite unprecedented.

‘ You desire an account of my own particular progress, and to that I shall confine myself; but I cannot help mentioning a circumstance, which you will scarcely believe of a man who now farms a good many thousand sheep feeding in districts lately occupied by inhabitants; and that is, that I came to this country full of the belief that the growth of wool and sheep in the Highlands of Scotland was one of the most abominable and detestable things possible to be imagined. The report of the Highland clergymen, in Sir John Sinclair’s Book of Statistics, the essays written in the periodical publications, and the general assertion of every Highland gentleman whom one met with in the low country, and of every low-country man who had never been in the Highlands, convinced my mind, as it did that of others who possessed similar means of forming their judgment, that the inroads then making on the ancient habits and manners of the children of the Gael were cruel and impolitic in the extreme.

‘ Before I had been one or two years in Sutherland I explored the interior of the country. I found it to consist of extensive tracts of great bog,—broken into mountains, and rocks, and wild scenery, and interspersed here and there with patches of land, under imperfect tillage, near the river banks. Each patch, or

haugh, or field, was surrounded by a country of bog, the exhalations raised by the sun from which were condensed during the night on the crops attempted to be grown, which, during four years out of six, were mildewed and destroyed. I found an infinity of fine Alpine pasturage, which, by reason of the softness of the bog or the inaccessible nature of the ground, the cattle of the Highlanders never cropped. I found that, while the cotton grass was in spring flowering with great luxuriance and fading untouched, the cattle were dying by scores. One gentleman, Capt. Matthieson of Shiness, lost two hundred, I think, in one spring, and Colonel Sutherland of Culmally buried, the first year I came to Sutherland, eighteen milk cows and a bull in one hole or ravine.

Moreover, the inhabitants of the hills were fed every second or third year with meal imported by the proprietors from other countries, and all this misery was endured, in contending, in a country so situated, against nature. Countless myriads of herrings, cod, ling, &c., at the same time were swimming around the coast, and in every creek and bay of it, untouched. Why? Because the people in the interior remained in misery there, preventing it from being possible to apply its pasturage to any useful purpose; and those on the shores were sub-tenants of gentlemen whose style of education and pursuits through life made them quite indifferent to the treasures spread out before them.

‘On inspecting the grounds possessed by Atkinson and Marshall, the new stock-farmers, and comparing the condition of these with that of the ground, pared for turf, &c., in the occupation of the inhabitants; and on viewing the condition of the plants, trees, and living creatures on the former farm, and contrasting it with the filth of the native huts, and the lean and miserable condition of every horse, cow, and sheep possessed by them, I was at once a convert to the principle now almost universally acted on in the Highlands of Scotland—viz., that the people should be employed in securing the natural riches of the sea-coast; that the mildew of the interior should be allowed to fall upon grass, and not upon corn; and that the several hundred miles of Alpine plants, flourishing in these districts in curious succession at all seasons, and out of the reach of anything but sheep, should be converted into wool and mutton for the English manufacturer.

‘Let any person, I don’t care who he be, or what his prejudices are, view the inside of one of the new fishermen’s stone cots in Loth—the man and his wife and young children weaving their nets around the winter fire—let him contrast it with the sloth,

and poverty, and filth, and sleep of an unremoved tenant's turf hut in the interior. Let him inspect the people, stock, cattle, horses, trees, and plants, in a stock-farmer's possession, and compare them with the pared bottom from which turf in all ages had been taken—with the closely cropped roots of grass, and bushes, and miserable 'lazy-bed' culture that surround a Highlander's cabin,—with the starved kyloes, and scabbed ponies and sheep that stagger about his place, picking up half an existence; and let him believe, if he can, that men are injured by civilisation, and that, during the last ten years, a most important benefit has not been conferred on this county.'

*[The remainder of the letter consists of farming details, not of general interest.]*

## CHAPTER II.

*THE INCIDENTS OF 1814-16, AND THE TRIAL.*

THE river Naver, issuing from the loch of the same name, and running its course of some eighteen or twenty miles nearly due north to its mouth in the Pentland Firth, divides the strath into two portions of unequal natural fertility. The picturesque mountain of Cliebrig, rising on the other side of Loch Naver to a height of over 3,000 feet, closes in the scene to the south, and the strath, as it now appears, has a certain pastoral beauty.

The left or western side rises in most places gradually from the river bank, and in the lower portion of it extends in long low haughs or meadows, suitable for tillage. In the year 1814 it contained a considerable population, holding under tacksmen. With this bank and its population the present narrative is not concerned. No one on that side of the river Naver was affected by any 'clearances' carried out during Mr. Sellar's factorship.<sup>1</sup>

The right bank, that on the east side, rises in most places abruptly from the river, and the nearer hills

<sup>1</sup> It was the 'clearance' from this bank and what he termed the 'vast heaps of ruined clachans' he 'came upon' during his walk down that side of the river (see introductory chapter to *Lays of the Highlands and Islands*, by Professor Blackie, London, 1872), over which Professor Blackie, twenty years ago, shed the tears to which he refers in his letter of December 5 (Appendix, p. xcix.). To this 'clearance' he constantly refers, applying first one opprobrious epithet to it and then another. It was not carried out by Mr. Sellar.

ascend to a greater height, and more steeply than those on the opposite side. There are few signs now on that bank of former settlements (at least in the upper part of the strath, where the clearances of 1814 took place), and few localities in it are adapted for tillage.

Appendix,  
pp. xxxix.  
and xl.

On December 15, 1813, there was a 'set' at Golspie, in accordance with previous advertisement, of certain farms on the Sutherland Estate, and among others then to be let was a farm, offered as a pastoral farm, on the right, the more barren, bank of the river Naver.

Appendix,  
p. xxxviii.

The tenants on the farm were in attendance at Golspie on the day of the 'set'; and on the morning of that day the Commissioner issued a notice to them, which was explained to them by their minister in Gaelic, to the effect that any one dispossessed on the farm would have a new allotment on lands nearer the mouth of the river, together with a 'sufficient quantity of pasture.'

Appendix,  
p. xl.

At the 'set' Mr. Sellar offered for the farm. His offer was preferred to that of other applicants, and a lease, to take effect from the following Whitsunday, was agreed to be granted to him.

Appendix,  
p. xl.

After Mr. Sellar had taken the farm, Mr. Young asked him if he would allow some of the tenants to remain for a time on the ground, and Mr. Sellar readily assented. He so informed the people who were present, and he told them likewise that he would meet them in their neighbourhood at the rent day, when he would be able to explain fully the arrangements which he contemplated. He met them accordingly on January 15, 1814, and he then selected those who should remain on the ground, and made a bargain with them as to rent. He explained to the others that he would require possession of the ground occupied by them on the following Whitsunday.

Before proceeding further with the narrative, it is

proper to state that, during the same winter, Mr. Sellar was informed confidentially by Mr. Ross, the Procurator-Fiscal, that he had learned from Mr. Robert MacKid, the Sheriff-Substitute, that he was lying in wait to do him (Mr. Sellar) an injury.<sup>1</sup> It is not to be supposed that such an intimation would fail to influence Mr. Sellar on the side of caution. He says, in the statement hereafter quoted, which he published in 1826, that it was a matter of satisfaction to him, under the circumstances, that, at the ensuing Whitsunday, there would be only one farm to be 'cleared'; and that, as he himself was to be the tenant of it, he would be able to limit his duty to the removal, at that time, of the tenantry on one half of it, and to extend the tenancies on the other half for four years.

*Infra,*  
p. 49.

*Infra,*  
p. 50.

Subsequently to Mr. Sellar's meeting with the tenantry on the rent day, there is no evidence of anything having occurred between the Commissioner, Mr. Sellar, and the tenants till about the Whitsunday term, which fell on May 26. It seems that as the term-day approached, the allotments had not been laid out by the Commissioner. Mr. Young states in his evidence given at the trial, that it was his intention to have the new allotments ready for the tenantry early in spring, and the surveyor who was to lay them out arrived in the county for the purpose about April 20, but in consequence of illness in his family he had to leave without making the necessary surveys. He returned to Sutherland on May 20, and between that date and May 31 he was employed in laying out the allotments. On June 4, everything, Mr. Young states, was ready for the people, and between May 31 and June 4 every man was present on the ground, and was informed of his allotment.

Young's  
evidence,  
Appendix,  
p. xxxviii.

<sup>1</sup> This was confirmed on oath by Mr. Ross at the trial. See Appendix, p. xxix. For one cause of this personal hostility on the part of Mr. MacKid see foot-note, p. 48.

Appendix,  
p. xlvi.  
and *infra*,  
p. 50.

Mr. Sellar had the right of entry on May 26. He waited for the people (whom he had in January informed that he would at Whitsuntide require the land occupied by them) to move to their new allotments; but towards the middle of June, finding that the people, though they had given repeated promises to leave, showed no signs of moving, he gave the officers orders to put their warrants into force. He remained with the officers during the earlier period of the evictions, but after the officers had evicted from a few houses, the tenants of the houses in the neighbourhood removed, he says, of themselves. He then went to the south, leaving the officers to see to the removal of the remainder of the tenants.

Appendix,  
p. xlii.  
and wit-  
ness 6 for  
defence,  
p. li.

Young's  
evidence,  
Appendix,  
p. xxxviii.

*Infra*,  
p. 50.

Appendix,  
p. xxxviii.

Loch,  
p. 53.

The total number of tenants dispossessed and offered new allotments was, as previously stated, twenty-seven. They carried with them their rude furniture, and the timber of their cottages, to the new allotments prepared for them by the Commissioner. For their reception, till they built new cottages on their allotments, there were a hundred and twenty-three barns and byres ready, and these, Mr. Young states, were at least as good as the houses which they had left. The construction of their houses was a simple matter, and one to which they were accustomed, for, since their huts could not, owing to their character, be kept clean, it was their practice to pull them down whenever they became too filthy for habitation, and to rebuild them on new sites. The construction of a cottage was effected with the assistance of the neighbours in a few days.<sup>1</sup>

What happened at the evictions can be traced in detail by a perusal of the fourth chapter of this publication in conjunction with the report of the trial of Mr. Sellar, to be

<sup>1</sup> See *New Statistical Account of Scotland*, Parish of Clyne.

found in the Appendix. It would involve an anticipation of what will be stated in that chapter, and a useless accumulation of details, were the circumstances which occurred at the evictions to be here fully related. It is sufficient to state generally, that lone women were left undisturbed, as also were sick persons, and their dwelling-houses. No witness for the prosecution, except Chisholm, pretended that he had furniture or other personal property injured, or that his house or his neighbour's was burned; and the witnesses for the defence swore that they had strict injunctions to hurt nothing which belonged to the tenants, and that, in point of fact, neither furniture nor any other property of the tenants was destroyed or injured.

Appendix,  
p. xlii.

Appendix,  
pp. xxxiii.  
to xxxvii.

Witnesses  
5, 6, 7, and  
9 for de-  
fence,

When every other ground of complaint against Mr. Sellar failed, in respect of the seven-and-twenty tenants removed to new allotments, it was contended by the prosecution at the trial that certain barns which had been pulled down ought not, in accordance with the custom of the Sutherland estate, to have been pulled down at the time. Mr. Sellar's answer was, that he left the tenants in possession of a barn each on their old holdings, for, he believed, every seven acres, which would be enough for their requirements.

Appendix,  
p. xlii.

So much at present as regards the tenants who went to the new allotments.—There remains the case of the eviction (which was attempted to be carried out but failed, for the man was still on the same spot two years later) of the tinker Chisholm, whose name has already been mentioned. This was not a case of 'clearing,' as that term is understood. It was an attempt to expel from the estate, by the Commissioner's orders, a man against whom there had been complaints for two years, of 'his being a worthless character.' Chisholm, a tinker, formerly a smith, as he described himself when examined, had settled on an

Young,  
Appendix,  
p. xxxviii.  
and *infra*,  
p. 49.



*Infra*,  
p. 49.

outlying piece of moorland (a piece of extremely wild ground on a 'morass among the mountains,' Mr. Sellar calls it),<sup>1</sup> and was represented by the people to be a vagrant who had settled there without authority,<sup>2</sup> and he was accused by them of bigamy, theft, and riotous conduct. He was, therefore, if possible, to be expelled from the estate.

*Infra*,  
p. 77.

Appendix,  
p. xxxii.

All the circumstances connected with the attempt to effect Chisholm's eviction will be found at page 76 and succeeding pages of this volume, and in the report of the trial in the Appendix. It will be enough to state here that Chisholm, who perjured himself in the most barefaced way while giving his evidence, and a witness of the name of MacKay—the latter a tenant of Mr. Sellar who had been 'warned out' by him—swore that Mr. Sellar perpetrated the monstrous act of setting fire to Chisholm's hut while a decrepit old woman, incapable of movement, was lying in it, who, they declared, was rescued from the flames while the blankets about her were on fire. On the other hand the officers swore that the woman was carried by her daughter from the place where she was lying, to a hut thirty yards off, soon after their arrival, and before Mr. Sellar came to the spot; while fire was not set to the timber of the cottage, from which the old woman had been removed, till some time subsequent to Mr. Sellar's arrival; after Chisholm had indicated to Mr. Sellar his determination not to leave the spot, and after the timber had been appraised and paid for. An independent witness, a Caithness farmer, confirmed the officers in the clearest manner, and Mr. Sellar declared he never saw the old woman during the day. The jury believed the witnesses for the defence and disbelieved the witnesses for the prosecu-

Witnesses  
7 and 9 for  
defence.  
Appendix,  
pp. li.  
and lii.;  
and *infra*,  
p. 81.

Witness 8  
for de-  
fence.  
Appendix,  
p. lii.;  
and *infra*,  
pp. 81 and  
82.

<sup>1</sup> It still goes by the name of the tinker's 'floue.'

<sup>2</sup> Mr. Loch states in his book that in 1816 there were found to be no fewer than 408 families, numbering about 2,000 persons, squatting on the estate nearly one-seventh of the population (Loch, p. 89).

tion, as it will be found on a perusal of the evidence they could not have failed to do.

Such were the circumstances which came to light at the trial with respect to the evictions which formed the subject of the indictment against Mr. Sellar. It will be difficult for the reader of this narrative to imagine how, under such circumstances, a criminal prosecution could have been instituted. The explanation is not a difficult one, after a careful examination of the occurrences now to be related.

It is the fact that two persons, each of them members of an evicted family, died soon after the evictions. The old woman just referred to, said to be of great age (Chisholm made her out to be 100 years old),<sup>1</sup> died, he swore, five days after the attempted eviction, and a poor man of the name of MacBeath died of cancer in the face from which he had been suffering for five years. MacBeath was one of the sick persons whose dwelling-houses were not disturbed.

Appendix,  
p. xxx.  
Appendix,  
p. xxxiii.

Round the undoubted fact of the death from natural causes of those two persons, a whole mountain of fiction grew up. The credulous, uneducated population of that remote region (who, knowing little of the outer world and living on tales of wonder, hardly discriminated between fact and fiction) would willingly receive as authentic the inferences and misstatements repeated to them respecting what had occurred, especially when they were made against the man whom they looked upon as their enemy. The tales which they related to one another of the incidents would become exaggerated and distorted in the repetition, as any one who has lived in those regions knows such tales become, amidst such

<sup>1</sup> Chisholm declared that a sum of 3*l.*, which he swore was in his house, was there in readiness to provide whiskey for the suitable celebration of the interment of his mother-in-law. Appendix, p. xxx.

Appendix,  
p. xvii.

a population. What finally those exaggerations and distortions became may be seen in the indictment preferred against Mr. Sellar, and can be likewise seen in the extract from the 'Annual Register,' describing Mr. MacKid's precognition, which will be found at page 36. The deaths of the two persons who died from natural causes were attributed to him, and other deaths of unknown persons, as well as injuries done to various other persons. It was, in fact, stated that he had destroyed whole villages by fire.

*Infra*,  
p. 61.

This state of feeling among the people was taken advantage of by that portion of society which objected on a variety of grounds to the new system of management on the Sutherland Estate,—by the middlemen, whose personal interests and social position were injuriously affected—and by those who bore personal malice against Mr. Sellar.

Appendix,  
p. xxvii.

The first step taken was to present memorials to Lord Stafford and his son Lord Gower, setting out the grievances which the tenants alleged they had suffered, and complaining of the conduct of Mr. Sellar. To these representations the answer given was to the effect that, if any illegality had been committed, the courts of law were open to the complainants. Mr. Sellar, however, remained in the undisturbed discharge of his duties as factor, from which it is to be inferred that his employers did not give credence to the charges made against him.

Appendix,  
p. xxix.

In the spring of 1815 the plot was ripe, and steps were taken to bring Mr. Sellar to trial. And now Mr. Robert MacKid appeared as the active agent in promoting the prosecution. His animus towards Mr. Sellar has already been referred to, and Mr. Ross in court confirmed on oath the statements in that regard which he had previously made to Mr. Sellar. Mr. MacKid carried his feeling against Mr. Sellar so far, that on arresting him in 1815 he refused to accept bail, and compelled Mr. Sellar to apply

Appendix,  
pp. xxv.  
and xxvi.

to the Court of Justiciary in Edinburgh for an order that bail should be accepted—an order which was at once granted by the Court. He struck him from the roll of procurators practising before his court, without complaint and without hearing; and he wrote a letter to Lord Stafford on effecting Mr. Sellar's arrest, in which he did not attempt to conceal the feeling of triumphant malignity with which he contemplated the success thus far of his proceedings. Such, in fact, was the malevolence displayed by Mr. MacKid, that on being tendered by the Crown at the trial as a witness on a merely technical point, he was objected to by Mr. Sellar's counsel; and on proof being given of the course of his proceedings, the judge, though allowing his evidence *cum notâ*, recommended the prosecuting counsel 'to pass from it' under the circumstances of the case.

Appendix,  
p. xxvi.

Appendix,  
p. xxvii.

Appendix,  
p. xxx.

Among the evicted tenants Mr. MacKid went to take their evidence; and though he occupied a judicial position, he went alone, without the Sheriff-Clerk, or the Procurator-Fiscal. The Procurator-Fiscal, on whom, as public prosecutor, the task of collecting evidence in criminal cases devolves, was, he said, from home, and he did not wait for his return. With a people in the frame of mind which has been described, and with a man like MacKid to take their evidence, what might not be expected? Every untrue story, all the excited and malicious gossip of the country side,—evidence which MacKid himself afterwards admitted amounted to absolute falsehood, and of his credence in which he then said he was thoroughly ashamed,—was accepted and taken down by him as authentic testimony, and this testimony, laid before the Lord Advocate of the day, with the countenance and support of the Sheriff-Substitute, necessitated the ordering of a public trial.

Appendix,  
p. xxvi.  
and *infra*,  
p. 52.

But it is evident that the Lord Advocate acted with considerable hesitation. The evidence which MacKid

greedily accepted, but of which he was afterwards so ashamed, might well be seen through by a practised legal mind free from bias; and it is stated that the Lord Advocate endeavoured to persuade the people that their proper remedy, if they had grievances, was by means of a civil suit.<sup>1</sup>

Appendix,  
pp. xvi.  
and lix.

Before this, however, the public press had been resorted to by the partisans of the tenants, and the public mind had become greatly excited. Certain journals, and particularly a newspaper called the 'Military Register,'<sup>2</sup> teemed with statements attacking as well the policy of the 'clearances' as the conduct of Mr. Sellar, who, it is stated, was branded with every opprobrious epithet. It is not now possible to refer to these articles; their character<sup>3</sup> can only be judged of from the observations of Lord

Appendix,  
p. xvi.

<sup>1</sup> See *Inverness Journal*, April 20, 1816, in Appendix, p. lix.

<sup>2</sup> The animus shown by certain military journals is thus explained. Till the close of the last century, the 93rd regiment (the Sutherland Highlanders) was a 'family regiment,' officered by the Earls of Sutherland from among their kinsmen and tacksmen, who, on their part, found the rank and file among their subtenants. Up to that period it was the custom of the chief to grant 'tacks' of land to those who had served in the regiment, as well by way of reward for past as of incentive to future services. But when the regiment became a regiment of the line, and was subject to the regulations of the King's army, it ceased to be the duty of the chief, or to be of any advantage to him, to reward those who had served. When, therefore, the discharged men of the regiment returned home and no longer received the rewards to which they had looked forward, they resented the disappointment which befel them, and became hostile to the proprietor and to his proceedings. They were centres of discontent in the county, and instruments in disseminating misrepresentations respecting the 'clearances' (Loch, pp. 55 to 59).

<sup>3</sup> Some conception of the character of the statements set afloat may be obtained from the following description contained in the *Annual Register* of May 1815, of the result of what is called the 'precognition.' 'An inquest or precognition,' it is said, 'was held and closed on the evening of May 25, before Mr. MacKid, Sheriff-Substitute of the County of Sutherland, to investigate the charges brought against Patrick Sellar by certain tenants of the Parish of Farr, of cruelties exercised by him in June 1814, when several lives were alleged to have been lost by hurry in pulling down the houses about the people's heads. The tenants proved their cases to the fullest extent on the most distinct evidence. Three lives were lost. One woman old and bedridden, by her house being set on fire, and two men; one woman whose house was pulled down, and being far advanced in pregnancy, miscarried from terror, and a man aged ninety and upwards, whose house was pulled down, had an arm fractured while in bed.

Pitmilly, who, when they were referred to by the counsel for the defence as likely to exert undue prejudice against Mr. Sellar, expressed himself to the effect that they appeared to him to be of the most contemptible character; and that so far from prejudicing Mr. Sellar in the minds of the jury, they ought to operate the other way; 'that is,' he said, 'against the cause requiring such aid.' And when he released Mr. Sellar from the bar, he referred to the great and improper agitation which had prevailed in the country.

Appendix,  
p. xxiv.

Appendix,  
p. lv.

With the country in such a state of agitation, it need hardly be stated that the criminal prosecution had to be proceeded with. Nothing else, it was said, would appease the popular clamour which existed. But even then unusual delay took place in bringing Mr. Sellar to trial; and it was not till April 1816, nearly two years after the evictions, and a year after his arrest, and at the instance, it is believed, of Mr. Sellar himself, who insisted that the charge so long hanging over him should be proceeded with, that finally the trial took place.

Appendix,  
p. lix.

In the end the trial became, as it has been described by Lord Cockburn, 'a criterion between two factions.'<sup>1</sup> And thus, unfortunately for Mr. Sellar, his name and fair fame became, and to this day remain, the sport of party controversy.

On Tuesday, April 23, 1816, Mr. Sellar was brought to trial at the Circuit Court of Justiciary at Inverness, before Lord Pitmilly and a jury, as is usual in Scotland, of fifteen jurymen. The trial was looked forward to with interest over the whole of the North of Scotland. It was

Appendix,  
p. lix.

The Sheriff was so affected by the details, that he fainted in court, overpowered by his feelings!<sup>1</sup>

The echo of those ancient sounds we are even now listening to in the fictions respecting the Sutherland Clearances which have been recently revived.

<sup>1</sup> It is thus described by Lord Cockburn (who, as Henry Cockburn, was one of the counsel for the defence) on the flyleaf of a report of the trial in the British Museum.

a case, as was said at the time, of 'great expectation.' Not only was there the interest in it, which is so attractive to many minds, of a person in a place of trust being brought before a court of justice, but there was the greater and more real interest of an important social movement being passed under review by a public tribunal.

Appendix,  
p. xvi.

'Through Mr. Sellar,' it was said, 'a stab was to be given' to the policy which had been inaugurated on the Sutherland estate.

On the other hand a genuine interest may well have been felt by many in the trial of an innocent man, sought to be destroyed by a concocted scheme of 'long continued and active defamation.' 'For eighteen months,'<sup>1</sup> it was said, 'certain English journals had teemed with paragraphs, and the northern districts with reports of a variety of crimes of a heinous character ascribed to Mr. Sellar . . . and the most severe and inflammatory statements had been circulated'—the whole originating 'in misconception, malice, and personal hostility.' The exposure of so scandalous a course of proceeding had an interest of its own.

Appendix,  
p. xvii.

The indictment on which Mr. Sellar was tried charged him with 'culpable homicide,' and also 'real injury and oppression' in connection with the 'clearances' carried out on the right bank of the Naver in June 1814, of which a description has been given. Fifteen witnesses were examined for the Crown, nine were examined for the defence, and the trial lasted from ten o'clock of one morning, till one o'clock on the following morning.

Official  
record.

Appendix,  
p. lv.

While certain witnesses for the prosecution (whose evidence, however, if received would, the Advocate-Depute subsequently stated, have made no difference in the result of the trial) were rejected on account of errors in their designations, it was represented, on the other hand, at the close of the evidence for the defence, that a vast number

Appendix,  
p. liii.

<sup>1</sup> *Inverness Journal*, April 26, 1816, Appendix, p. lix.

of additional witnesses in exculpation were in attendance, but that it was thought 'quite superfluous to occupy the time of the court by calling them.' At a late hour of the night the evidence was summed up for the prosecution by the Advocate-Depute, Mr. Home Drummond; and Mr. James Gordon, advocate, spoke for the defence.

Lord Pitmilley charged the jury, and then having directed them (so runs the official record of the trial) to 'converse among themselves in another room, in which he ordered them to be enclosed, he informed them that, if they were agreed, the Court would remain to receive their verdict. They returned,' it is added, 'in a few minutes,' and gave in an unanimous verdict of 'not guilty.'<sup>1</sup>

Official  
record.

The Judge then addressed the Jury, telling them that his opinion completely concurred with theirs, and that in dismissing them, after so long a trial, he was happy to say they had paid the most patient attention to the case, and had returned a verdict satisfactory to the Court.

Appendix,  
p. iv

Next turning to Mr. Sellar, he addressed him in these words :—

Appendix,  
p. iv.

Mr. Sellar, it is now my duty to dismiss you from the bar; and you have the satisfaction of thinking that you are discharged by the unanimous opinion of the Jury and the Court. I am sure that, although your feelings must have been agitated, you cannot regret that this trial took place; and I am hopeful it will have due effect upon the minds of the country, which have been so much and so improperly agitated.

The whole fabric of fiction, which had been erected by malice and credulity, fell to pieces at the touch of legal investigation, and Mr. Sellar stood acquitted of all the charges which had been got up against him. What more could be done to make the verdict an absolute assurance of the truth? Mr. Sellar believed that there had been an illegal combination against him on the part

<sup>1</sup> It may be mentioned that the verdict of a majority of the jury is taken in Scotland; also a verdict of 'not proven.'



of certain persons, and he determined on proceeding against them at law. He commenced with Mr. MacKid, who had made himself conspicuous, and with whom there can be no doubt the proceedings originated. Other actions were to follow, as is expressly stated by Mr. Sellar in his letter to Mr. Gordon, of September 22, 1817.

Appendix,  
p. lxv.

Personal  
statement,

Those actions were not proceeded with because his father on his deathbed entreated him to discontinue them, and because it was considered that his reputation had been completely cleared. But the suit against Mr. MacKid proceeded. It ended in the abject submission of that gentleman, by his resigning his office of Sheriff-Substitute, and by his sending to Mr. Sellar, by the hands of his agent (Mr. Gordon, of Edinburgh, Writer to the Signet), a letter, containing the admission, before mentioned, that the charges against Mr. Sellar were so exaggerated as to amount to 'absolute falsehood,' and the acknowledgment that he was thoroughly ashamed of having given credence to them. He paid the costs of the suit and substantial damages. On his doing so, the proceedings were discontinued, but the correspondence relating the circumstances and containing the admissions above narrated, was, at the time, formally recorded as a probative writ in the Sheriff Court Books of Dornoch, and it can be there referred to. (The correspondence as extracted from those books will be found in the Appendix, p. lxiii.)

Appendix,  
p. lxiv.

Not only were the jury and the judge satisfied of Mr. Sellar's innocence—not only will the evidence produced at the Trial be found amply to justify the verdict which the jury delivered and the judge completely concurred in—but the very man who organised the proceedings, who went among the people, and with the persistence of malice raked up every charge that imagination could invent—this man, who knew more of the circumstances than any one else, is compelled to come forward and, with the concurrence of his legal adviser, and in the most

formal manner, admit the 'absolute falsehood' of the charges. Exoneration more complete it is impossible to conceive.

---

NOTE.

It was stated in the first edition of a book by Mr. A. R. Wallace, recently published ('Land Nationalisation,' Trübner, 1882), that Mr. Sellar was acquitted because the landlord influence was too strong. It was also stated that he was dismissed from his post of factor. In a later edition of his book Mr. Wallace has voluntarily withdrawn these assertions; but as they were circulated for some time, it is necessary here to take notice of them, lest hereafter some one should quote them as uncontradicted statements.

First, as regards the former of Mr. Wallace's assertions, namely, that as to landlord influence being too strong. It is to be remarked that Mr. Wallace produced no evidence whatever of the exercise of such influence on the jury. He did not even state how he supposed it was exercised. In point of fact he found the result of the trial to be a difficulty in his way, and he drew from his imagination the theory of landlord influence, without having the slightest ground for his assertion. The jury is described by the press at the time as being a most respectable jury; they were drawn from various parts of the north of Scotland,<sup>1</sup> and were of various avocations. And it is only necessary to examine the evidence to see that no jury could have come to any other conclusion than that to which the jury who tried the indictment against Mr. Sellar came.

Second, as to Mr. Wallace's other assertion, namely, that Mr. Sellar was dismissed from his post, the writer is in a position to state that it is not true. The trial took place in April 1816. Mr. Sellar retained his factorship till November 1818, at which time he resigned it, as he had meanwhile succeeded to a considerable property on the death of his father, and had, besides, taken large farms, which thenceforth required his undivided attention. Moreover, the writer can state from his own knowledge that Mr. Sellar retained the confidence and esteem of the Marquis and Marchioness of Stafford to the end of their respective lives.

<sup>1</sup> There were no persons from Sutherland or Caithness on the jury, because, in consequence of the difficulties of communication from the want of roads and bridges, the inhabitants of these counties were exempt from serving on juries at Inverness till 1819.

## CHAPTER III.

*OBSERVATIONS OF LATER WRITERS.*

THE verdict of the jury, in conjunction with the evidence produced at the trial, would, under ordinary circumstances, have put an end to all controversy respecting the subject-matter of the trial, and it was undoubtedly supposed at the time that such would be the case with reference to the charges preferred against Mr. Sellar. The address of the Judge, on dismissing him from the bar, Mr. MacKid's letter acknowledging the falseness of the charges, the comments of the Press at the time,<sup>1</sup> all indicate the same conclusion,—namely, the conviction that Mr. Sellar's reputation had been completely cleared. Nowhere can it be discovered that any doubt or question respecting his innocence was raised at the time or for some years subsequently.

Nevertheless, such is the force of passion and prejudice in cases which give rise to party controversy or to race or class sensibilities, and such the nature of slander, ('for ever housed, where it gets possession'), that, as time wore on, writers appeared who, ignorant of or ignoring the facts proved at the trial, referred to the circumstances con-

<sup>1</sup> See article in the *Inverness Journal* of April 26, 1816, in Appendix, page lix. The comments of the *Scots Magazine*, the *Edinburgh Evening Courant*, and the *Edinburgh Advertiser* are substantially the same, being indeed reproductions in whole or in part of the article in the *Inverness paper*. No other observations of the Press at the time have been discovered.

nected with it as if, instead of the charges against Mr. Sellar having been disproved, they had been sustained. The slanders published by a portion of the Press previously to the trial, which have been already referred to, had, without doubt, sunk deep in the imagination of that portion of society which was favourable to the old order of things. In the present day, their effect would be neutralised by the publication in the Press, in like manner as the slanders, of the evidence given at the trial.<sup>1</sup> But at that period, newspaper reporting of legal proceedings, as now practised, did not exist. There was nowhere any publication of the evidence,<sup>2</sup> so far as can now be discovered, except in the Report of the future Lord Robertson, and with his Report the writers in question do not appear to have occupied themselves.

The first writer who can be discovered to have, subsequently to the Trial, cast any aspersion on Mr. Sellar was Major-General Stewart of Garth, who, in 1822, published a book, which though entitled 'Sketches of the Character, Manners, and present State of the Highlands of Scotland,' was chiefly occupied with the history of the various Highland regiments of the British army. This gentleman, a lover of the old state of society in the Highlands, its clans and the relations of chieftain and followers, lamented the changes which had taken place, as clan relationships gave way to modern institutions, and deplored the consequences of them, more especially from the point of view of the effect which he supposed they would have on the military spirit of the Highlanders,

<sup>1</sup> As an illustration how false allegations were left uncontradicted, it may be mentioned that while the 'Annual Register' of 1815 contained the sensational report of the 'precognition' before quoted, no mention or allusion whatever was made in the 'Register' of 1816 to the more prosaic proceedings at the trial, or to the disproof of the monstrous and fabulous charges stated to have been made and even, it was said, proved at the 'precognition.'

<sup>2</sup> Lord Robertson, indeed, expressly states, in the preface to his Report, that till its publication there had been no detailed account of the facts.

and of their tendency, as he thought, to narrow the area of recruiting ground for Highland regiments. He came with a mind highly biased to the consideration of the questions arising out of the trial, to which, in the first editions of his book, he referred in an unfair and offensive manner; quoting against Mr. Sellar the malevolent language of Mr. MacKid, addressed to Lord Stafford—language from which MacKid had entirely departed. On this language, indeed, and on the general outcry to which MacKid's proceedings had largely contributed, General Stewart seems at that time to have relied in forming his opinion of the 'clearances.' He doubtless, too, had seen, and perhaps relied on, what Lord Robertson calls the 'false and inflammatory statements' of 'The Military Register.' General Stewart brought no new evidence forward, and he did not indeed contest the propriety of the verdict.<sup>1</sup> The line he took at that period was rather to transfer the responsibility for the wrongs, which he considered had been inflicted, from the agent to the principals.

Thus much appears upon a perusal of the first and second editions of General Stewart's book (the only editions commonly referred to); but in the course of 1823 General Stewart visited the county of Sutherland, and in 1825 he brought out a new edition of his book, in which, although his attachment to the old order of things, his objection to the policy of the 'clearances,'<sup>2</sup> and his sympathy for the tenants, continue unabated, a greatly

<sup>1</sup> He said the verdict of the jury proceeded on the principle that the 'agent acted under legal authority.' (Stewart, 1822, p. 157, vol. i.) He could only mean that the agent, while enforcing the legal rights of the landlord, committed no act of an illegal character. No one suggested at the trial, and it is absurd to suppose, that a man could be held to be justified, in respect of the acts of illegality charged in the indictment, by the circumstance that he had acted under legal authority—if he had committed those acts.

<sup>2</sup> He says, however, as to the 'clearances' that he was 'fully aware that many held very different opinions.'

changed tone is apparent. The whole of the offensive paragraph respecting Mr. Sellar has disappeared, as well as all reference to him. While the liberality<sup>1</sup> of Lord Stafford is lauded in the terms already referred to, and his benevolent intentions are admitted, it is added that, with what General Stewart called a return of ancient kindness, there would be 'ancient fidelity and attachment,' and that the people, if they were rendered comfortable and contented, would be 'loyal, warlike, and brave.'

Stewart,  
3rd. ed.  
1826, vol.  
i. pp. 175  
and 176.

On the appearance of the first edition of General Stewart's book, Mr. Sellar submitted the observations referring to him which were contained in it to the consideration of counsel; but he was advised that from the peculiar manner in which the offensive paragraph was worded,—no direct allegation of culpability on the part of Mr. Sellar being in fact made—General Stewart could not at his instance be brought before a jury.

In the beginning of 1826, having prepared the statement about to be quoted, Mr. Sellar sent General Stewart a copy of it, and, in ignorance of the changes made by General Stewart in the third edition of his book, addressed the following letter to him:—

Morvich, Golspie, January 9, 1826.

Sir,—The errors regarding Sutherland, and more especially regarding myself, which are contained in your book on the Highlands, have induced me to publish a statement in my own vindication, of which I think it proper to send you a copy enclosed.

I will candidly inform you that when your book was published, I submitted a case to counsel; and being advised that from the peculiar manner in which the paragraph is worded, the author could not at my instance be brought before a jury, I then wished

<sup>1</sup> Lord Stafford's liberality to his larger tenants during the agricultural depression, which followed the resumption of specie payments, is commented on by General Stewart. Lord Stafford's generous treatment of those tenants was in keeping with the spirit of liberal expenditure in which all his dealings with the Sutherland estate were conducted.

to address you, but allowed myself to be persuaded 'that I had no occasion to trouble myself in the matter.' Mr. Browne's subsequent publication, and some more recent paragraphs in the Irish prints—all following on the statements in your book—render it imperative on me to show where the truth lies. I have done this, I hope, with every delicacy. At the same time I am prepared to support the truth.

I am Sir,

Your humble Servant,

PAT. SELLAR.

Major-General Stewart, of Garth.

In the year 1825 Dr. James Browne, an ardent Celtic partisan, in the book referred to in Mr. Sellar's letter to General Stewart, and entitled 'A Critical Examination of the work of Dr. McCulloch on the Highlands of Scotland' (the latter consisting of a series of letters addressed to Sir Walter Scott, which described in temperate language from Dr. McCulloch's point of view the condition of the Highlands),<sup>1</sup> referred in equally offensive and unjust terms to Mr. Sellar. Dr. Browne, however, when appealed to, acknowledged Mr. Sellar's innocence, and corrected what was offensive to him in a later edition of his book.

*Infra,*  
p. 53.

It now became evident, that statements of the character referred to could not be passed over in silence, and Mr. Sellar then printed and circulated the following statement:—

<sup>1</sup> Dr. McCulloch's *Observations on the Highlands* are stated by him to have been founded on a series of eleven journeys, between 1811 and 1821. After making the tour of the county of Sutherland, he thus wrote of the 'clearances' and their results: 'I need not tell you that this part of Sutherland is the seat of the greatest and most conspicuous experiment in the transportation of the interior population which has been made. To shut our eyes to its success, and to its beneficial consequences, is to be hopelessly prejudiced or incurably dull; to treat the experiment with obloquy, is to add anger to prejudice. But, unfortunately, so much personality has been intermixed with the discussions to which it has given rise, that it is unpleasant to dwell upon it. Defence or explanation it can no longer require to those who have sense to understand and coolness to judge' (McCulloch, London, 1824, vol. iv., p. 476).

*STATEMENT by PATRICK SELLAR, sometime factor on the Earldom of Sutherland, in answer to certain misrepresentations published concerning his conduct, while he held the above-mentioned situation.*

In several late publications, on the subject of the Highlands of Scotland, the authors have indulged themselves in invective against the noble proprietors of the Earldom of Sutherland; accusing them of cruelty to their people, of folly in the administration of their private affairs, and of causing gross injury to the public weal.

The noble proprietors, themselves, never having deigned to notice these publications, I will not presume to intrude my poor opinion on the subject; but, in so far as it has been believed by these writers, or insinuated or inferred in their works, that I myself was guilty of inhumanity, I hope I may be forgiven for submitting a brief explanation.

I allude to General Stewart of Garth's book, and to 'The Critical Examination' of Dr. McCulloch's work 'On the Highlands of Scotland.'—I shall first quote distinctly the passages that are injurious to me, then submit what I hope will appear a refutation of those passages. And I wish it to be distinctly understood, that I do not mean to impeach the honour of the gentlemen who are the authors of these works; although I shall certainly make it appear that they have mistaken the truth, and misrepresented it with respect to me.

General Stewart, in his work, page 103, says, 'If more lenient measures had been pursued, vindication would have been unnecessary, and the exposure of the trial of one of the acting agents would have been avoided. This trial was brought forward at the instance of the Lord Advocate, in consequence of the loud cry of indignation raised in the country against proceedings, characterised by the sheriff of the county as "conduct which has seldom disgraced any country."'

The author of 'The Critical Examination' exclaims, 'Do not these identical praiseworthy superiors occasionally eject a refractory tenant by fire, and sometimes in their hurry forget to remove the aged and the bed-ridden from the huts to which they have applied the flaming brand? Can the public have forgotten the facts which were brought to light on the trial of Patrick Sellar? This man



was tried before the Circuit Court of Justiciary on April 23, 1816, for the crimes of culpable homicide, real injury, and oppression.'

Every reader unacquainted with the circumstances is cruelly left to infer that I had committed the most atrocious acts; and not one word is said to explain the fact, that I was an innocent man, delivered from a foul conspiracy by the fifteen hours' patient investigation of a British Jury.

My story is very short, and I beg the favour of a deliberate consideration of it.

In the year 1810 I had the honour to be engaged by the Marquis and Marchioness of Stafford, to be factor of the Earldom of Sutherland: that is to say, to collect the rents; prepare the tacks and other writings connected with the estates; protect the game that was under the charge of the keepers; and carry legally into effect such arrangements as should be directed by their commissioner, acting under their instructions.

This gentleman, in exploring the estate, found it to consist of a huge mountainous tract of wet peat bog, interspersed with narrow strips of low haugh subject to mildew, and skirted round by shores conterminous to fishing-ground, not perhaps much less valuable than the estate itself.

He found the country very much possessed under middlemen; of whom, one, or two, and in some instances three, intervened betwixt the landlord and tenant; and he came to the resolution of dispossessing the middlemen, removing the people nearer to the sea-shore, and putting the mountains under Cheviot sheep—a resolution which it may be believed made my duty no sinecure. It was the more arduous, that the sheriff-substitute of the county, the person referred to by General Stewart of Garth, was addicted to poaching—I mean, to killing hares on the corn braird at breeding time; to shooting partridges by the covey, when sitting close together in time of snow; and to otherwise destroying the game, without either certificate or liberty from the proprietor. He had met with several checks from the keepers, from myself, and in one instance from the Marquis of Stafford; none of which checks were, I believe, calculated to compliment this man of authority, or to flatter his vanity.<sup>1</sup>

The first district where I was desired to carry the new

<sup>1</sup> When the Sheriff had been detected for the third time, he wrote a letter to the Marquis and Marchioness of Stafford, requesting that he might not be prosecuted. Lord Stafford's answer passed through my hands. I cannot do it justice; but it was somewhat to this effect—that, including the Sheriff, there

arrangements into effect was the Parish of Assynt. It was at the term of Whitsunday 1812. The mountains were divided among the persons who had formerly been tacksmen or middlemen in that parish. I expedited the necessary warrants; but the gentlemen who were to receive possession had so much influence over the people, that little or no interference of mine was necessary.

In spring 1813 I was desired to carry into effect similar arrangements in the Parish of Kildonan and part of Clyne; the mountains of which were to be put under Cheviot shepherds as well as Cheviot sheep. Such was the tumult occasioned by this proposal, that before the notices could be served it was necessary to call in military aid. At the term of Whitsunday 1813, however, the mountains were put into possession of the sheep farmers and their shepherds; and the people were transferred to the neighbourhood of Helmsdale, where the Marquis of Stafford then proposed to build a harbour, and to establish a Herring Fishery.

In the year 1814 it was proposed to arrange in like manner the ground near the sources of the river Brora and the Parish of Farr: I was desired, of consequence, to prepare myself for removing the population of these districts to the neighbourhood of fishing-ground; and as it is here that inhumanity is alleged to have been committed by me, I particularly request the attention of the reader to what follows.

These districts were intended to be divided into sheep farms; but, much to the relief of my official duty, the farms, excepting one, were not taken by sheep farmers. That one being taken by myself, it was in my power to leave one-half of it, for four years, in possession of the old tenantry; who were of course allowed the whole of those four years to transfer themselves, their families and property, to the new allotments provided for them; so that in point of fact there were removed, in 1814, only 27 tenants, and one tinker or caird, who had taken possession of a piece of extremely wild ground in a morass among the mountains, was accused by the tenantry of bigamy, theft, and riotous conduct, and was put down in my instructions as a person to be expelled from the estate.

But, before going further, I ought to mention, that one day in winter 1813-14, and long before the last-mentioned arrange-

were seven poachers detected in different parts of the county, and contained in the same report; that whatever difference might exist between the condition of the culprits, the quality of the offences was the same; and therefore, in granting the Sheriff's request, his Lordship had directed me to discharge the whole.

ment was carried into effect by me, I was waited upon by Mr. Ross, Procurator-fiscal, or in other words Crown Agent, for the county of Sutherland. This gentleman said he wished to have a confidential conversation with me, and he communicated to me the important fact, that the Sheriff-substitute was lying in wait to do me an injury; that he had learned this from the Sheriff himself, so far back as the month of July 1813; and he advised me to be extremely cautious in all my proceedings. It may be believed that this information did not diminish the satisfaction which I felt at being able to limit my duty in the manner above explained; and, in order that I might not be committed in any particular (although I suffered considerable damage by not receiving possession on May 26, 1814, the day from which my rent began to run, and on which the tenantry ought to have been removed), I waited patiently until June 13; and when it was then found necessary to cause the Sheriff's officers to eject the tenants, I attended personally to watch that no impropriety was committed. The 27 tenants above-mentioned were then legally ejected, and sent to the allotments prepared for them by the Commissioner. They carried their rude furniture and the sticks of their huts along with them. After this part of my duty had been effected, I sent the Sheriff's officers to expel the tinker. The sticks of his hut, or cabin, consisted of two sorts; of birch boughs, which belonged to the proprietor, and of pieces of moss or bog fir, for which, by the practice of the country, persons removed are allowed payment. To prevent the possibility of any injustice being done to this man, I caused the moss fir, after his ejection, to be valued. I paid him 6s., which I think was double the value of it, and then caused the party to collect the whole together, and consume them by fire; leaving the tinker, and the second of his wives and her family, in possession of a small cabin; from which I thought he would probably soon withdraw himself.

'This is the head and front of my offending.' I continued in the noble family's employment in this department until Martinmas 1818; but no further arrangement of the estate followed; and I must add (although the fact be little connected with my exoneration) that, during the whole time of my service, I am not aware that a single tenant was roused or done ultimate diligence against for payment of rent; or a single person of good character removed without being previously offered an allotment on the estate.

My surprise, therefore, will be guessed when I learned, in winter 1814-15, that proof was organising among the removed tenantry, that I had committed a number of atrocities at these last-mentioned removings;—when I found it stated in certain London prints, and from the pen of certain friends of certain middlemen upon the estate, that I had caused the death of a number of individuals, and consumed whole villages by fire!—when I found my ‘friend’ the Sheriff engaged in fishing among the removed peasantry for witnesses against me; and a report current through the country, that, if the people only stuck to their text, every man would be restored to the ground from which he had been ejected.

As these calumnies were chiefly intended to wound the feelings of the noble family whom I served, I expected that my constituents would have brought the libellers before a Court of Justice; but they declined to interfere in the smallest respect; and as at that time I was unable to defray the charges of such a measure, I patiently waited a trial before a jury of my country, as the only consummation of the Sheriff’s proceedings at all desirable to me.

The hour of this, to me important, trial at length arrived. Every calumny that had been imagined and said against me was contained in the indictment, and the first witness brought forward by the Crown was this same sheriff! Need I add, that upon the evidence of Mr. Ross, the Fiscal, and others, and upon production by me of the very letter founded on by General Stewart, his testimony was rejected. My acquittal followed. But I hope I shall be permitted to tell the story from the speech of the presiding judge, and from the concluding part of the trial itself. His Lordship said, ‘That if the jury were at all at a loss on this part of the case, they ought to take into view the character of the accused; for this was always of importance in balancing contradictory testimony. Now here there was, in the first place, real evidence, from the conduct of Mr. Sellar in regard to the sick; for this, in several instances, had been proved to be most humane: and, secondly, there were the letters of Sir George Abercrombie, Mr. Brodie, Mr. Fenton, which, although not evidence, must have some weight with the jury; and here were the testimonies of Mr. Gilzean and Sir Archibald Dunbar, all establishing Mr. Sellar’s humanity of disposition.’

The jury having retired for a quarter of an hour, returned a *vivâ voce* verdict, unanimously finding Mr. Sellar—not guilty.

Lord Pitmillly then addressed Mr. Sellar. His Lordship said,

‘Mr. Sellar, it is now my duty to dismiss you from the bar; and you have the satisfaction of thinking that you are discharged by the unanimous opinion of the jury and the court. I am sure that, although your feelings must have been agitated, you cannot regret that this trial took place; and I am hopeful it will have due effect on the minds of the country, which have been so much and so improperly agitated.’

The trial lasted from ten o'clock on Tuesday till one o'clock on Wednesday morning, and the court-room was crowded to excess.

How soon, after this trial, forms would admit, a suit was instituted at my instance against the same sheriff whose authority is founded on by General Stewart; and this suit was presently followed by his resignation of his office, by his quitting the county, and by his addressing a letter to me, from which the following is an extract:—‘Sir,—Being impressed with the perfect conviction and belief, that the statements to your prejudice contained in the precognition which I took<sup>1</sup> in Strathnaver, in May 1815, were to such an extent exaggerations as to amount to absolute falsehoods, I am free to admit that, led away by the clamour excited against you, on account of the discharge of the duties of your office as factor for the Marchioness of Stafford in introducing a new system of management on the Sutherland estate, I gave a degree of credit to those mis-statements, of which I am now thoroughly ashamed, and which I most sincerely and deeply regret. From the aspersions thrown on your character I trust you need not doubt that you are already fully acquitted in the eyes of the world. That you would be entitled to exemplary damages from me, for my participation in the injury done you, I am most sensible; and I shall therefore not only acknowledge it as a most important obligation conferred on me and on my innocent family, if you will have the goodness to drop your lawsuit against me, but I shall also pay the expenses of that suit, and place at your disposal, towards the reimbursement of the previous expenses which this most unfortunate business has occasioned to you, any sum you may exact, when made acquainted with the state of my affairs—trusting to your generosity to have consideration to the heavy expense my defence has cost me, and that my connection with the unfortunate affair has induced me to resign the office of sheriff-substitute of Sutherland.’

<sup>1</sup> He had taken it by himself without the Fiscal and without the Sheriff-Clerk.

Yet this is the authority on which General Stewart seems to believe me guilty of 'conduct which has seldom degraded any country!' and I leave the public to judge what sort of authority that is. Surely I shall be pardoned for thinking, that General Stewart might have paused before he thus wounded the feelings of his fellow-creature on such bad authority, and in the face of the verdict of fifteen Highland gentlemen, unanimously acquitting him from the charge of oppressing Highlanders.

The author of 'The Critical Examination' seems to me to have been hurried away by the false impressions which the General's statement is calculated to create. I am possessed of a letter from him acknowledging my innocence, and promising to correct what is offensive to me in his next edition—a promise not the less agreeable to me that he makes it voluntarily, considering himself not within the reach of a legal prosecution.<sup>1</sup> And as the circumstances which I have detailed are perfectly understood in the small circle of my acquaintance, and generally over the North of Scotland, I should not have now intruded myself, unless for the purpose of preventing strangers residing at a distance from being misled, as I believe these gentlemen have been.

PATRICK SELLAR.

Morrich in Sutherland, December, 1825.

[<sup>1</sup> This was accordingly done in an edition published in 1826.—T. S.]

For many years subsequently, and till the publication, about the year 1840, of the letters of Donald MacLeod, no unfavourable reference, so far as is known to the writer, was made to Mr. Sellar in connection with the management of the Sutherland estate. Previously to the publication of those letters, any unfavourable reference made to him had been in the shape of unfair and offensive allusions to the trial—allusions which the writers of their own accord subsequently withdrew; but Donald MacLeod professed to narrate as an eye-witness numerous acts of culpability which he alleged had been committed by Mr. Sellar.

Those acts were the identical acts which were charged in the indictment, and no others. Either the evidence at the trial was all wrong, or MacLeod's allegations were

a tissue of malignant falsehoods. Nor must it be lost sight of that they were made by a man who, being a resident of the locality, and professing to have been an eye-witness of much that he narrates, tells nothing of it all at the trial, when his evidence, if true, would have been of the greatest value, but reserves the whole for five-and-twenty years, and then only breaks silence.

When these letters of MacLeod are examined, they are found to be of the most sensational character. The language is loose and extravagant; everything is in the superlative, to such a degree as frequently to be absurd or grotesque. The tales, not those only with respect to Mr. Sellar, but those also which he narrates respecting various other persons, are many of them quite incredible; some of them impossible or preposterous. The whole has the air and character of a bad romance.<sup>1</sup>

<sup>1</sup> There will be found (*infra*, p. 88) a specimen of MacLeod's tales. The following, which purports to be a narrative of incidents which occurred, he says, under his own eyes during the clearances of 1819—transactions which occurred after Mr. Sellar ceased to be factor—affords another specimen of the character of his statements. Mr. Loch's account of the same occurrences will be found *supra*, pp. 13 to 16.

'Strong parties, furnished with faggots and other combustibles, rushed on the dwellings of the people, and immediately commenced setting fire to them. . . . The consternation and confusion were extreme. . . . The cries of the women and children, the roaring of the affrighted cattle, hunted by the yelling dogs of the shepherds among the smoke and fire, altogether presented a scene that completely baffles description. . . . I counted 250 blazing houses, many of the owners of which were my relatives. . . . whose personal condition in or out of the flames I could not tell. . . . During one of those days a boat lost her way in the dense smoke, as she approached the shore, but at night she was enabled to reach a landing place by the light of the flames.' [It should be borne in mind that the cottages from which the people were removed were all at a distance from the coast.] . . . 'Donald MacKay of Grubmore was ordered out of his parent's house. He obeyed in a state of delirium and, nearly naked, ran into some bushes adjoining, where he lay for a considerable time deprived of reason. The house was immediately in flames and his effects burned. . . . Robert MacKay, whose family were in the fever, or otherwise ailing, had to carry his daughters on his back a distance of about twenty-five miles. . . . An old man of the same name betook himself to a deserted mill and lay there unable to move. To the best of my recollection, he died there. He had no sustenance but what he obtained by licking the dust and refuse of the meal strewed about, and was defended from the rats and other vermin by his faithful collie, his companion and protector' (MacKenzie, pp. 28 to 30.)

They were sent in the first place by MacLeod to the 'Edinburgh Weekly Journal,' which, after publishing one of them, refused the next. They were then accepted and published by the 'Edinburgh Weekly Chronicle,' a newspaper which at no time circulated among the educated classes in Scotland, and was at the time of the publication of MacLeod's letters in 1840 and 1841, in its last days.

Mackenzie's  
'Highland  
Clearances,'  
p. 4.

Of the man himself, all that is known is what he himself narrates.<sup>1</sup> He had been, it would seem, a mason residing in the locality, but he was compelled, he tells his readers, to leave it from having become 'particularly obnoxious to those in authority, owing to his showing sometimes a disposition to oppose their tyranny.' It appears also that he had debts, which, it may be gathered, contributed to his departure. He avows as his actuating motive for writing his letters that he was a Highlander, and must have revenge for the wrongs which he says he had suffered.<sup>2</sup>

MacLeod's  
Letter  
XIII.  
(Mackenzie's  
edition).

Letter  
XXI. (in  
the British  
Museum).

It would have seemed incredible that statements of such a nature, and by such a man, should obtain credence

<sup>1</sup> In MacLeod's 21st letter (p. 93 of Mr. Mackenzie's book) will be found the record by MacLeod himself of a remarkable dialogue and transaction between MacLeod and the minister of the parish—a clergyman whose sympathies were with the people. MacLeod, it appears, waited in the autumn of 1830 on his minister for the purpose of obtaining a certificate of moral character, when the following dialogue (according to MacLeod, writing ten years later) took place.

*Minister.* 'Well, MacLeod, I am not intending to give you a certificate!'

*MacLeod.* 'Why so, sir?'

*Minister.* 'Because you have told falsehoods of me to Mr. Loch, and I cannot certify for a man that I know to be a liar.'

MacLeod retired on that occasion unsuccessful in his application, but, ultimately, by incessant applications, as he states, he got a certificate, of which he publishes a copy. As a voucher of character, however, it seems of very negative value, since all it certifies is, that MacLeod was 'free from church censure, and might be received as a gospel hearer, wherever Providence might order his lot.'

<sup>2</sup> Mr. Mackenzie says, in a short preface to MacLeod's letters, that he has toned down two or three passages in them. The only 'toning down' which has been discovered, is the suppression of the paragraph in which MacLeod expresses his determination to have revenge.



anywhere; but they have done so in certain quarters. On this account, and also because they form the only sort of evidence which the assailants of Mr. Sellar's reputation have to offer, it has been thought advisable to make an examination of them, placing them in juxtaposition with the evidence given at the trial. This examination is contained in the fourth chapter of this publication, and will be found to show that MacLeod's tales are nothing more than a revival, one and all of them, of the old disproved fictions which were current among the uneducated people of the locality previous to the trial, dressed up by MacLeod in a sensational fashion.

At the time of the publication of these letters, and for some years subsequently, much excitement prevailed throughout Scotland, and especially in the Highlands, with regard to ecclesiastical matters and Church polity, nearly all the smaller Highland tenantry and the crofters taking one side, and many of the landlords taking the other; and thus some degree of feeling and passion was aroused on one side and the other—or at least between some of the supporters of the two parties.

MacLeod's extravagant and sensational narrative, imputing to those in authority conduct of the most inhuman character, suited well the spirit of the masses in the Highlands at the time. It was accepted as authentic by Mr. Hugh Miller, who, with his ardent imagination, amplified and dressed up MacLeod's allegations,<sup>1</sup> and, employing the gift of telling rhetoric and invective which he possessed, hurled opprobrium on the then Duke

<sup>1</sup> The reader is directed to a sample of Mr. Miller's manner of dressing up MacLeod's statements, at page 91, where he will be found to have made out of an ordinary act of husbandry an offence of great atrocity. A friendly critic, quoted by Mr. Bayne in his *Life of Hugh Miller* (vol. ii. p. 214), thus describes Mr. Miller's literary method: 'He never engaged in controversy, without not only slaying, but battering, bruising and beating out of shape, his antagonist.'

of Sutherland, who, by refusing to grant Free Church sites, had rendered himself obnoxious to the supporters of the Free Church.

Mr. Hugh Miller, however, raised the question above the level of mere personal detail, of which MacLeod's letters consisted ; and it was not so much the action of the agents, to whom, indeed, he hardly referred, as that of the principals which he attacked.

It was in consistence with the character of the man that he never stopped to enquire whether the narrative of MacLeod was an accurate or authentic narrative. It took hold of his imagination, and he accepted without question every detail, however extravagant or incredible. Nothing in his writings indicates that he ever sought to check the allegations it contains by the evidence given at the trial, or by any other evidence. Nor does he produce any new fact or statement to corroborate in the slightest degree MacLeod's allegations.

It was at this period, in the excitement of those times, that what has been called the 'persistent tradition,' which attributes every kind of enormity to those engaged in the Sutherland clearances, took possession of the minds of the Celtic people. Mr. Patrick Sellar did what he could to check the tide of opinion, as regards his own conduct, in connection with the 'clearances.' He reprinted and circulated afresh the statement he had written in 1826, and, when occasion seemed to require it, he struck out vigorously for himself. But he was one against many, and the narrative of MacLeod, intensified in the invective of Mr. Hugh Miller, took too deep a hold of the Celtic imagination, for the voice of one man materially to counteract the effect produced by it on that class of society which was appealed to by those writers.

Contemporaneously with, or succeeding, those popular

appeals, other writers discussed with greater calmness the policy of the 'clearances,' and the manner in which they had been carried out. M. de Sismondi, in his 'Études sur l'Économie Politique,' published in Paris in 1837, devoted a chapter to the 'expulsion des cultivateurs,' and referred at length and in condemnatory terms to the Sutherland 'clearances.' M. de Sismondi, acknowledging that party spirit so mixes itself up with the consideration of such questions, and so distorts the facts, as to render it very difficult to get at the truth, took the statements of Mr. Loch, in his book on the 'Improvements on the Estates of the Marquis of Stafford,' as the basis on which he founded his arguments, introducing, however, other statements, not as facts, but as assertions made. M. de Sismondi, while he did not acquit any one connected with the clearances from blame, directed his arguments much more to what he considered the injustice of the laws which permitted those clearances than to the manner of their being carried out.

Sismondi,  
Paris,  
1837, vol.  
i. p. 211.

P. 214.

His economical reasoning is addressed to a refutation of what he calls 'l'école chrématistique'—a school which disregards, as he assumes, the welfare of the people for the mere accumulation of riches. But the principles of that school—if, indeed, in the form assumed by M. de Sismondi they are held by anyone in practical economics—were not the principles which dictated the Sutherland 'clearances.' The real well-being and advancement of the people have resulted from those 'clearances,' not less than the development and increase of the resources of the country.

M. Léonce de Lavergne, another foreign economist of less general celebrity than M. de Sismondi, but one nevertheless of some distinction in his own country, in connection especially with the science of agriculture, visited Great Britain at the time of the International Exhibition of 1851, for the purpose of making an examination of the

agriculture of this country with the view of promoting agricultural science in France; and he published the results of his visit, which extended to the extreme north of Scotland. His book, which is entitled 'Économie rurale en Angleterre, Irlande, et Écosse,' went through several editions in France, and was translated into English. In it M. de Lavergne, while he did not question or debate the principle of M. de Sismondi, that there was injustice in the law which permitted the forcible eviction of the tenantry, struck a blot in M. de Sismondi's argument. M. de Sismondi states the following proposition:—'Si elle (l'expulsion des cultivateurs) diminue le nombre des individus heureux—des individus moraux et intellectuels—elle est mauvaise.' As respects one portion of this proposition—namely, the assumption of a diminution in the population—it is certain, if it was meant to apply to the Sutherland 'clearances,' that it is in error; for the population of the county was not diminished in the decade from 1810 to 1820.<sup>1</sup> As regards the other portion of it—namely, that the people were happy, moral, and intellectual in their old settlements—it is, of course, a complete *petitio principii* to assume that they were so. M. de Lavergne contended, that they were miserable before their removal, and that their condition was ameliorated by it.<sup>2</sup>

Sismondi,  
vol. i.  
p. 209.

In an article in the 'Edinburgh Review' of July 1847, while the writer, adopting M. de Sismondi's principle, contended that the 'Highland clearings were a scandal to the laws' which permitted the forcible removal without

<sup>1</sup> The population of the county of Sutherland as derived from the census returns, which in 1801 was 23,117 persons, was in 1811 23,629, in 1821 23,846, and in 1831 25,518. In 1881 it was 23,366.

<sup>2</sup> It is needless to state that M. de Sismondi and M. de Lavergne did not occupy themselves with those personal details which have such attraction—whether true or not appears immaterial—to minds of a different stamp.

compensation of the tenants from their holdings, he, at the same time, made the following statement: 'Of the humanity, and even the self-sacrificing liberality, with which the operation was conducted throughout the county of Sutherland, which has been historically associated with the system—in whatever dust the turmoil of controversy may have once clouded the question, there can now' (in 1847) 'be no doubt. Wherever else cruelty or selfishness may have shown themselves, the world is now possessed of full and conclusive evidence that the Sutherland clearings were conducted with as much forbearance as intelligence.' In another article (October 1857) the writer, Mr. Alexander Russell, declared the removal of the tenantry to have been a necessity, if they were to be rescued from ever-increasing poverty and wretchedness.

Mr. Patrick Sellar died in 1851, and subsequently to his death, his family were not aware of any publication appearing during the following thirty years which assailed his reputation. But it seems that in the year 1856, some residents of Greenock reissued MacLeod's letters. This reissue bears, it is believed, the name of no publisher, it was not entered at Stationers' Hall, and is not to be found in any of the public libraries of England or Scotland, and its existence was unknown to Mr. Sellar's family.

During the past twelve months, upwards of thirty years after Mr. Sellar's death, and nearly seventy years after the events which gave rise to the Trial, all the old allegations have been reproduced in connection with the Celtic revival now in progress, and the land agitation which is going on. Mr. Mackenzie, of Inverness, the editor of the Celtic magazine of that town, has republished MacLeod's letters *in extenso*, and Mr. Alfred Russell Wallace, and Professor J. Stuart Blackie have reproduced the most startling and sensational portions of them.

These gentlemen have been addressed, and asked to justify their respective publications. With Mr. Mackenzie it was believed that little parley need take place. In his answer to the letter addressed to him, he carefully avoided any expression of opinion as to the truth of MacLeod's assertions respecting Mr. Sellar, saying only that MacLeod's book was corroborated by other writers. It may, however, be confidently asserted that so far as it relates to Mr. Sellar at least, it is corroborated by no book, and by no testimony.<sup>1</sup> He says, again, that Mr. Sellar was acquitted of the 'specific' acts charged against him, as if there were other acts with which he might be charged. But up to the present date there have been no acts charged against him except those in the indictment, which are identical with MacLeod's charges. Nor can it be understood on what principle Mr. Mackenzie feels himself justified in reproducing as a true statement of facts, the 'specific' charges of which he admits Mr. Sellar was acquitted. The correspondence with Mr. Mackenzie will be found at page lxi. of Appendix.

Besides republishing MacLeod's letters, Mr. Mackenzie has just (April, 1883) published a reprint of the Trial, to which he has appended a preface of studied unfairness and deception. He of course repeats the usual tale of disappointed partisans,—that the judge was partial; and he insinuates that the jury was biased. He even makes it a subject for observation, that the jurymen, besides being persons of a certain position, were nearly all magistrates

<sup>1</sup> It appears from a footnote by Mr. Mackenzie, appended to one of MacLeod's letters, that the writers who, he considers, corroborate MacLeod are General Stewart of Garth, Mr. Hugh Miller and Professor Blackie. What exact meaning Mr. Mackenzie wishes to convey by the word 'corroborate' it is impossible to say; but it is certain that these writers do not corroborate MacLeod, in the sense of confirming, by evidence of their own or of others, the truth of any one of MacLeod's sensational tales, or of imparting in any other manner authenticity to his narrative.

and Justices of the Peace, and that being such they would be especially susceptible to the appeal, of the counsel for the defence, in favour of law and order. All that may be passed by ; but when he accuses the judge of doing with reference to MacKid<sup>1</sup> what he says no judge of the present day would do, it becomes important to examine what the judge actually did.

Till not many years ago, it was the law of the land that no one interested pecuniarily in a case could give evidence in it. Nor, at the time of the Trial, could any one do so against whom agency could be proved, or 'malice or partial counsel' of a grave character. When, then, a witness was tendered for examination who was supposed to come within any of these categories, it was competent for the other side to show that his evidence was not admissible, and with that object the witness himself, as well as other witnesses, might be examined,—

Appendix,  
p. xxv.

When MacKid was tendered as a witness for the Crown, for the purpose of proving a purely technical point—proved otherwise during the Trial—Mr. Sellar's counsel objected to him as having evinced 'malice or partial counsel, or both.' Upon this challenge MacKid and other witnesses were examined, and documents were put in ; and the Judge after hearing the evidence pronounced the following interlocutor :

Appendix,  
p. xxx.

Lord Pitmilley having heard the evidence in support of the objection, and having likewise heard the Counsel for the parties on the import thereof, repels the objection, and allows the evidence of Robert M'Kid to be taken *cum nota*, recommending it, however, to the Advocate-Depute to pass from the evidence of the witness in the circumstances of the case.

<sup>1</sup> See Appendix, p. xxv. and following pages, or report of the objections taken at the Trial to MacKid's evidence, and for report of the proceedings with reference to those objections.

The whole proceeding was in due form, and appears to have been in every respect unobjectionable. Mr. Mackenzie omits to mention that other witnesses besides Mac-Kid were similarly challenged at the Trial. It was the common practice at the time.

He makes also the technical complaint, which, if just, would be trivial, that the Judge permitted the reading to the jury of letters, as to previous reputation, of three gentlemen unable to attend from illness. This proceeding on the part of the Judge would likewise appear to have been consistent with the practice of that period; for it is stated in Lord Robertson's Report (Appendix, p. xlvi.) that such letters, 'although not regular evidence, were usually received in the practice of the Criminal Court in relation to points of character.'

Then Mr. Mackenzie prints in italics (as if he was calling attention to something very important) the plea put forward for the defence, that 'the ejectments were done in due order of law and under the warrants of the proper judge issued on regular process.' Mr. Mackenzie wishes his readers to believe that Mr. Sellar was acquitted on this purely technical ground.

It was necessary in point of law to put in this technical defence; but Mr. Mackenzie knows that that was not, and could not have been, the ground on which Mr. Sellar was acquitted. Mr. Sellar was acquitted because the whole of the accusations against him broke down in substance and in fact, when brought to the test of legal investigation.

Next Mr. Mackenzie states that the witnesses for the defence were 'almost to a man Mr. Sellar's servants on the Sutherland Estate.'<sup>1</sup> There is palpable inaccuracy in this description of these witnesses; but passing that over, Mr.

<sup>1</sup> There was only one of Mr. Sellar's servants, a shepherd, examined at the Trial.



Mackenzie knows that Mr. Sellar was relieved of every charge against him for personal injury, except the charge of Chisholm, by the inability of the witnesses for the prosecution to allege anything against him at the Trial; while, as regards Chisholm's charge, the evidence was overwhelmingly in Mr. Sellar's favour; Chisholm's own evidence being absolutely worthless, for he perjured himself in a manner to destroy his credibility as a witness.

*Infra,*  
p. 77.

To add prejudice to his statements, Mr. Mackenzie observes that most of the witnesses for the defence had been engaged in setting fire to the people's houses. Mr. Mackenzie knows that this statement is untrue, as shown by the evidence of the witnesses for the prosecution alone, without reference to that of the witnesses for the defence. He cannot point to a single house that any witness alleged was burned, except the house, or the timber of the house of Chisholm, under the circumstances already narrated.

The spirit of Mr. Mackenzie's proceedings, with reference to the charges he makes against Mr. Sellar, may be inferred from the specimen afforded by the preceding examination of the few sentences forming the preface to his reprint of the Report of the Trial.

Mr. Wallace's publication<sup>1</sup> has been already referred to. On the attention of that gentleman being called to the statements contained in it respecting Mr. Sellar, he at once admitted that some at least of them were inaccurate. He added that he had no knowledge of there being any descendants of Mr. Patrick Sellar living to whom his observations would give pain, and he proceeded of his own accord to issue a later edition of his work, in which all reference to Mr. Sellar by name or otherwise was eliminated. MacLeod's allegations, however, were sub-

Appendix,  
p. lxxvi.

<sup>1</sup> *Land Nationalisation*, by Alfred Russell Wallace, 1882.

stantially retained in that later edition, but without the names of any agents being mentioned.

The mere elimination of Mr. Sellar's name was not the object which his family had in view. They believed and believe those allegations of MacLeod, which Mr. Wallace has reproduced, to be absolutely untrue, and what they had and have at heart is to demonstrate their untruth. They laid before Mr. Wallace the evidence given at the trial, disproving them in every particular, and he was appealed to, to admit that they were untrue.

A lengthened correspondence, which will be found in the Appendix, followed with Mr. Wallace, but it was found to be impossible to induce him to say that the acts of criminal inhumanity which he alleged, and which if committed were necessarily the acts of Mr. Sellar, were not committed. He indeed admitted fully that Mr. Sellar had been legally exculpated by the verdict and the 'balance of evidence' taken, and he also admitted that many of MacLeod's 'details' might be inaccurate; but though he was solicited to state what, in his opinion, were those inaccurate details, he gave no reply, and he continues to put the whole forward in his book as unquestioned facts.

At the close of the correspondence, after reading the report of the trial, he states, while, as before mentioned, he does not question the verdict on the evidence presented to the jury, that he has evidence, in MacLeod's narrative, which was not presented to this jury, and on this so-called evidence he relies for the justification of the allegations he makes. The evidence in MacLeod's narrative consists entirely of MacLeod's bare and unsupported assertions. So that it comes practically to this, that the truth of MacLeod's allegations reproduced by Mr. Wallace being the question under discussion, he, by an ingenious process, quotes MacLeod's assertions as proof of the truth of MacLeod's allegations. He cites nothing else in corro-

boration of them, and it may be safely asserted, looking to the nature and scope of the evidence given at the trial, that it is beyond the power of Mr. Wallace, or of anyone, to corroborate them.

Appendix,  
p. xci.

MacLeod's assertions are not supplemental to, and consistent with, the evidence given at the trial. They are in direct antagonism with it. It was pointed out to Mr. Wallace that he could not believe both : that either the evidence given at the trial or MacLeod's narrative was false, and that he must choose between them. He was in vain asked whether he seriously thought that the uncorroborated statements of a man made five-and-twenty years after the events, not made under oath or subject to cross-examination, were to weigh for a moment against the mass of evidence given, at the time, in a court of justice. To these considerations Mr. Wallace made no reply.

*Infra*,  
pp. 80 to  
84.

It is only necessary to define the position which Mr. Wallace takes up to demonstrate its complete unsoundness. It was proved at the trial, to the satisfaction of the jury, and with the expressed concurrence of the judge—and it was proved conclusively, as a reference to the evidence will show—that the allegation was untrue which charged that the house of Chisholm was set fire to, while a decrepit old woman was lying in it, who, according to the allegation, was removed from it amidst the flames and while the blankets were on fire in which she was wrapped. Yet Mr. Wallace, on no better ground than the bare assertion of MacLeod, repeats, as an unquestioned fact, the statement that an act of this monstrous character was perpetrated, and adds not one word to warn his readers that it was disbelieved by the jury and the judge.

*Infra*,  
p. 85.

It was stated under oath at the trial by the sheriff's officer that Mr. Sellar, before leaving for the south, told him that the dwelling-house of Donald MacBeath was to

remain, and Hugh MacBeath, the son, a witness for the prosecution, who unroofed the byre, stated that the roof, where his father was lying, was not removed. Yet Mr. Wallace alleges that Donald MacBeath, an infirm and bed-ridden old man, had his house unroofed over him, and was left to die exposed to wind and rain.

Three witnesses swore that they saw Donald Munro on the day before and on the day of his eviction, and that he was then well, Donald Munro himself not being called. Mr. Wallace, however, on MacLeod's authority, states that Donald Munro was turned out of doors while lying ill of fever, and, in the face of the evidence just quoted, he adheres to that statement. *Infra,*  
p. 86.

Twelve residents of the locality were produced at the trial as witnesses for the prosecution, not one of whom alleged that any house was set fire to, except in the case of Chisholm; no one alleged that his furniture or other personal effects, or the effects of his neighbours, were injured or destroyed; and the witnesses for the defence swore that strict instructions were given them not to hurt anything belonging to the people, and that, in fact, neither furniture nor anything else belonging to them was destroyed or injured. Yet Mr. Wallace puts forward, as an unquestioned statement of fact, the allegation that gangs of men went about burning and destroying all before them, houses, furniture, and everything else, amidst scenes of horror which beggared all description. *Infra,*  
p. 89.

It is desired to speak of Mr. Wallace without one word of disrespect; but it is self-evident that to argue, in the hope of convincing him, with one whose ideas as to the value of evidence, with respect to matters of fact, are such as the preceding narrative has shown, was a hopeless task, and it was with a sense of relief that his last letter was received, containing no fresh proposition which demanded a reply, and closing the correspondence.

The allegations put forward by Professor Blackie are contained in a book of his entitled, 'Altavona, Fact and Fiction,' and are substantially the same as those contained in Mr. Wallace's book. At the instance of his publisher, he, too, struck the name of Mr. Sellar out of the second edition of his book, referring to him only as the 'person charged with the crime.' He withdrew certain vituperative epithets, and he made one or two minor changes, but he, like Mr. Wallace, retained MacLeod's allegations in the later edition of his book substantially as originally published.

It is needless to repeat, in answer to Professor Blackie's statements, the arguments used with reference to the allegations of Mr. Wallace; the allegations, of which he makes himself the mouthpiece, being practically identical with those of Mr. Wallace. But Professor Blackie's 'treatment of the case,' as he calls his statements respecting the matters under discussion, requires special mention.

In the preface to his book he expresses his detestation of one-sided views, and his desire to appreciate his adversaries' point of view; and, with reference to the transactions connected with the 'clearances,' he professes, when entering on the discussion of them, that he will judge them with perfect impartiality. When, however, he proceeds to carry this perfect impartiality into practice, it will hardly be credited that, while putting forward every charge that was ever made against Mr. Sellar, and while relating as 'facts' the incredible tales of MacLeod, he cites not one iota of the evidence produced at the trial, or any circumstance, of a character favourable to Mr. Sellar, except the fact of his acquittal; and even in making this necessary admission, he seems to take pains, especially in the earlier edition of his book, to minimise the effect of it.

Altavona,  
pp. 278,  
279.

When his attention was called to this deviation from

his praiseworthy principles, he actually referred to a passage he had quoted from Mr. Loch's book, as if it afforded counter-evidence to MacLeod. But the passage from Mr. Loch's book quoted by him had no bearing whatever on the question under discussion,—namely, the manner in which the 'clearances' were carried out. It dealt exclusively with the policy of the 'clearances;' and it is literally the fact, all these protestations of Professor Blackie notwithstanding, that he puts forward every allegation ever made against Mr. Sellar, and cites not one particle of the overwhelming evidence in his favour.

Appendix,  
p. xcix.

Altavona,  
p. 274.

But though this mode of treating the subject is sufficiently misleading, more remains of a character even more conducive to a wrong impression being created in the minds of his readers. The reason he assigns for bringing the Sutherland 'clearances' to the notice of the public is that the 'facts' connected with them 'were brought before a court of justice, and were besides largely commented on, in perfectly reliable published documents.' It was to be expected, under these circumstances and after this introduction, that the 'facts brought out in court' would be submitted to his readers. So far, however, from this being done, it is the case that Professor Blackie never once quotes any portion of what 'was brought out in court,' and that of the 'perfectly reliable documents' of which he speaks the only publication from which he quotes is the unveracious publication of Donald McLeod. On proceeding to quote from that publication the allegations contained in it, he first called them 'the facts as they took place;' in his later edition he speaks of them as 'the facts stated by MacLeod under excited feelings.' Are these facts of MacLeod the same as the facts 'brought out in a court of justice'? The implication is that they are the same, and that they are therefore to be entirely depended on. No reader of Pro-

Altavona,  
p. 272.

Altavona,  
p. 278.

fessor Blackie's book can suspect that the two sets of 'facts' are not identical. So far from their being identical, they are in direct contradiction to one another. But of this Professor Blackie gives his readers no intimation whatever.<sup>1</sup>

Altavona,  
p. 277.

But this is not all. Immediately after quoting MacLeod's tales respecting Chisholm and the others, Professor Blackie, in the dialogue form in which the discussions in his book are conducted, continues as follows :—

*Ch.* But did not all this come out at the trial? And the accused, you say, was acquitted?

*Mac.* Yes, some of it came out, &c.

The only way in which any of the allegations in question can be said to have 'come out at the trial,' is that they were charged in the indictment, and disproved on the evidence. In that sense the whole, and not some of them, 'came out;' but in the sense usually attributed to

Altavona,  
pp. 280,  
281.

<sup>1</sup> Professor Blackie introduces MacLeod to his readers in the following singular fashion :—

'*Mac.*—I will read one of the pamphlets in this sanguineous volume :

THE SUTHERLAND CLEARANCES

BY

DONALD MCLEOD.

CELTIC TENURE OF LAND

BY

M. DE SISMONDI.

GREENOCK : 1866.

'*B.*—That sounds very Highland.

'*Mac.*—Yes, the title is significant; and the name of Sismondi, you will admit, makes it respectable.

'*Ch.*—Highly respectable.'

In what manner the juxtaposition of the two names of MacLeod and M. de Sismondi as above indicated imparts respectability to MacLeod, and thus presumably authenticity to his narrative, Professor Blackie does not explain. Is it by reason of some one having bound the two *brochures* together in one volume? If so, can anything be more disingenuous? Whatever the explanation may be, it is extremely improbable that M. de Sismondi, then residing near Geneva, and, amidst the pangs of a mortal disease, which carried him off in 1842, struggling to complete his *History of the French*, ever even heard of MacLeod. The *Celtic Tenure of Land* is doubtless an extract from M. de Sismondi's *Études sur l'Économie politique*, published in Paris in 1837.

the words, and generally understood to be their meaning, not one of them 'came out at the trial.'

Professor Blackie's attention was called in three consecutive letters to the gross injustice done to Mr. Sellar by his mode of 'treating the case,' and to the grave reflection thereby cast on his own reputation for fair dealing. He paid not the slightest heed to either consideration.<sup>1</sup>

Appendix,  
pp. xcv.  
to ciii.

It is not without pain that these details are mentioned. They can only be explained, and matters of an equally unusual character, but too personal to be here narrated, can only be explained, by the hypothesis that Professor Blackie is so swayed by his zeal for the cause with which he has identified himself, as to be incapable of judging of his proceedings according to the ordinary rules of fair dealing, or of conveying to his readers a candid and faithful statement of facts.

To the representations made on behalf of Mr. Sellar's family to Professor Blackie, a vague and indirect reply was received, making absolutely no allusion to the points brought to his notice. In reply to a second letter, asking him either to vindicate his charges or withdraw them, he curtly requested the correspondence to be closed. It will be found at Appendix, page xcv.

It results on the whole from the preceding narrative, that, while actuated by party feeling, or by race or class

<sup>1</sup> Professor Blackie has made in the *Athenæum* of March 17, 1883, the avowal that 'he had neither the inclination nor the means to inquire into the nature of the evidence which had been led in Mr. Sellar's defence.' So that he considers that he is entitled to hold a dead man up to public obloquy without even looking at the evidence for him—making too the protestations of 'perfect impartiality' which have been quoted. The 'means' of inquiry were open to him as to any one else, and he himself quoted the report of the trial as a voucher for his statements. In point of fact, a paper substantially the same as Chapter IV. of this publication was laid before him last December, and an offer was made to send him the Report of the Trial (see Appendix, pp. xcv. and xcvi.). Professor Blackie did not ask for the Report of the Trial, and never, apparently, looked into the other paper. It is the 'inclination' that is wanting with Professor Blackie,—not the means of inquiry.



animosity, various persons have sought to cast obloquy on the reputation of Mr. Patrick Sellar, no one has been, or is, able to make a single charge against him, which was not made at the trial, and which was not then conclusively disproved.

The circumstances of the case afford an illustration of the manner in which what is called history is often made in times of excitement. Slanders of a kind grateful to some popular sentiment of the moment are started—set afloat, it may be, by the ‘baser sort,’ with set purpose of detraction<sup>1</sup>—and are eagerly accepted and spread abroad. They may be disproved at the time, but they are repeated by subsequent writers of a partisan character, who accept without examination allegations of a telling nature favourable to their cause. The factious tale, as much as faction itself, ‘like fire suppressed, breaks forth again, and blazes higher.’ ‘Persistent tradition’ comes at length to be cited in proof of the truth of the allegations, and finally History adopts them as her own.

An effort is now made to arrest the progress of this process in the present case.

<sup>1</sup> ‘All means,’ it is stated in the programme of a socialistic sect, ‘are good and necessary to combat the rich, not excepting steel, fire, and even slander.’—M. de Laveleye, in the *Fortnightly Review*, April 1883.

## CHAPTER IV.

*EXAMINATION OF DONALD MACLEOD'S LETTERS.*

[In this chapter statements which have already appeared in the preceding pages will be found repeated in the course of the argument. The paper is to be looked upon, not as a continuation of that which goes before, but as a corroborative statement.]

ALTHOUGH it would have seemed to be impossible for any educated man to be misled by MacLeod's letters,—so loose and wild is his language, and so incredible, or preposterous, are many of his allegations—yet the spirit of party is as violent at the present moment as ever it was, and it warps and obscures the judgment of some men to such a degree, that they would appear to be incapable of appreciating the value of evidence.

As, however, MacLeod's letters constitute the evidence, and the sole evidence, on which every writer who has attacked Mr. Sellar's reputation since their publication has based his allegations, it has been thought well to make an examination in detail of the statements contained in them, placing them in juxtaposition with the evidence given at the trial.<sup>1</sup>

<sup>1</sup> A verbatim reprint of the Report of the Trial will be found at page xv. of the Appendix. The Report was published in 1816, and is thus described in the preface:—'It has been thought that an accurate statement of the evidence may not be unacceptable. The accuracy of this Report may be depended on. It is published by the junior Counsel for Mr. Sellar, from notes taken in court, and omits nothing but the arguments of Counsel.' That junior Counsel was Patrick Robertson, afterwards Lord Robertson.

Mr. Mackenzie, in his preface to his reprint of the Report of the Trial, insinuates a doubt as to its trustworthiness; and Mr. Wallace has gone the

Before proceeding to the examination of the statements relating to Mr. Sellar in these letters, a pertinent question has to be asked. MacLeod states that he was an eye-witness of many of the scenes which he describes, and of acts done by Mr. Sellar on a great scale, any one of which would, if proved at the trial, have led to Mr. Sellar's conviction. He says, in 1840, that he was then ready to substantiate the truth of his statements by his testimony. Why, it is asked, was he not ready to do so in 1816 at the trial at Inverness? <sup>1</sup> Mr. MacKid examined forty witnesses on the precognition which he took in Strathnaver. Was MacLeod one of those forty witnesses? He nowhere says, or gives any hint, that he was. If he was ready to tell in 1815 and 1816 what he stated in 1840, he could not have failed to be examined by MacKid among the witnesses whom MacKid then examined in Strathnaver with, as he states, 'much patient perseverance;' and if he gave the evidence then which he published in 1840, he must have been called as a witness at the trial. What explanation, consistent with MacLeod being a truthful witness, can be given of this readiness to give evidence five-and-twenty years after the trial, and of his want of

Appendix,  
p. xxviii.

length of saying (Appendix, p. lxix.) that, being issued by the defendant's counsel, it is only *ex parte* evidence, as it would be the *duty* (underlined) of counsel to make it as favourable as possible to his client. As a matter of fact, his duty would be the very reverse of this, for nothing is more inconsistent with the duty and honour of a member of the bar than to garble evidence in a report made by him. In the present case Lord Robertson gave the assurance that the Report was to be depended on, adding, by way of corroboration of his statement, that the evidence was published from his notes taken in court. The Report was, moreover, published at the time, and any unfairness in it, if unfairness of such a character could be supposed possible on the part of Lord Robertson, would have been at once detected, and would not only have brought discredit on himself, but would have injured his client.

To such shifts are these gentlemen driven in their efforts to keep alive prejudice with respect to the matters under discussion. It may be safely asserted that there are few events of which the record is more authentic.

<sup>1</sup> He was of full age at the time, for he was married in 1818 (letter xix.), and it will be seen that he speaks of himself as taking a lead in connection with the burning of Chisholm's cottage.

readiness to give that evidence at the time of the trial? MacLeod complains that of the forty witnesses 'pre-cognosed' by MacKid, only eleven were examined at the trial, and he especially complains of the absence of Donald Munro. Why does he not refer to the absence of Donald MacLeod, whose evidence, if he had then testified to even a small portion of what he subsequently stated in his letters, would have been of more importance than that of all the other witnesses for the prosecution put together? Nevertheless, that the facts may be fully brought to light, and that there may be no doubt as regards MacLeod's complete untruthfulness, the examination of his allegations will be proceeded with.

The allegations made by him are twofold—one class of them charging Mr. Sellar with inflicting personal injury on individuals; the other composed of general accusations of tyranny and oppression.

I. The charges brought by MacLeod under the first of those heads involve four cases of injury done to individuals. They are identical with four out of the five cases which were charged in the indictment preferred at the trial, and his accuracy with respect to them can thus be thoroughly tested.

The most serious accusation is that connected with the case of William Chisholm. It is thus stated by MacLeod :—

I was present at the pulling down and burning of the house of William Chisholm, Badinloskin, in which was lying his wife's mother, an old bedridden woman of near 100 years of age, none of the family being present. I informed the persons about to set fire to the house of this circumstance, and prevailed on them to wait until Mr. Sellar came. On his arrival, I told him of the poor old woman being in a condition unfit for removal.<sup>1</sup> . . . Fire

Mackenzie,  
p. 16.

<sup>1</sup> Here follows, in the original letter, an observation of extreme brutality attributed to Mr. Sellar, which is omitted, although it is of such a nature that its insertion here could only have the effect of discrediting MacLeod.

was immediately set to the house, and the blankets in which she was carried were in flames before she could be got out. She was placed in a little shed, and it was with great difficulty they were prevented from firing it also. The old woman's daughter arrived while the house was on fire, and assisted the neighbours in removing her mother out of the flames and smoke, presenting a picture of horror which I shall never forget, but cannot attempt to describe. Within five days she was a corpse.<sup>1</sup>

Witnesses  
3, 4, and 5  
for the  
prosecu-  
tion.

Appendix,  
pp. xxx.  
to xxxii.

The evidence bearing on this case is contained in the testimony of Chisholm himself, a tinker, and a man reputed to be of bad character; of a woman named Henrietta MacKay, with whom he had formed a bigamous connection; and of John MacKay, a tenant of Mr. Sellar, who had at the time of the trial been 'warned out' by Mr. Sellar. These witnesses were called for the Crown.

Witnesses  
7 and 9  
and Wit-  
ness 8 for  
the de-  
fence.  
Appendix,  
p. li.

The witnesses for the defence were Alexander Sutherland and James Fraser, two of the Sheriff's officers, and James Burns, a Caithness farmer. Mr. Sellar's declaration, made before the Sheriff-Substitute on his judicial examination at the time of his arrest, which took place in May, 1815, was, in the usual manner, put in as evidence by the Crown.

Address of  
Advocate-  
Depute to  
Jury.  
Appendix,  
p. liii.

This charge—the charge in Chisholm's case—was the only one in the indictment alleging personal injury to an individual which was left, at the close of the evidence, to the consideration of the jury. It was rightly so left; for, if Chisholm and John MacKay were to be believed, there was evidence, not indeed of 'culpable homicide,' for that charge was admitted to be untenable, but of 'injury.'

Before entering on the details of the case, some observations should be made on the character of the evidence. Who and what the witnesses were has been already stated.

<sup>1</sup> MacLeod, it appears, issued an edition of his letters in Canada in 1857, and he then declared that he had got his hand burned in taking out Chisholm's mother-in-law 'from amidst the flames.' (Mackenzie, p. 123.) This important piece of corroboratory testimony he had not bethought himself of when he originally wrote his letters sixteen or seventeen years before!

As to their demeanour while under examination we, of course, have no means of judging, and, to this important extent, we, and all now living, are at a disadvantage as compared with the jury and the judge. But on the evidence, as it appears in print, it is competent to us to form some opinion respecting the truthfulness of the witnesses, and it is clear that Chisholm, at least, was guilty of gross and wilful perjury

There was an allegation in the indictment, to the truth of which Chisholm swore, as to 3*l.* in bank notes having been burned in the house. He stated that they were in a chest, of which his wife had the key; that she was not at home at the time, but returned in the evening. The chest, he stated in cross-examination, was usually locked; his wife had the key. Some of his neighbours and he saw the money the day before; and at six o'clock on the morning of the eviction he went himself to see that the money was in the chest. The man's wife was called, and she said that she returned home a little after twelve o'clock noon; that, instead of the money being in the chest, she herself had put it in a hole in the wall six weeks before; that she had no key that day with her; and that there was, in fact, no lock or key to any chest in the house. She did not know whether the money was burnt or taken away. She was under no apprehension about it, no one knowing that it was in the hole in the wall. She never looked whether the 3*l.* remained. No one was produced on the part of the Crown to corroborate in any way either side of this remarkable evidence. It only remains to be added that neither Mr. Sellar, nor any of the witnesses for the defence who were present at the eviction, and who were examined on the subject, heard a word about this loss of money at the time.

Witness 3  
for the  
prosecu-  
tion.

Witness 4  
for the  
prosecu-  
tion.

Judicial  
examina-  
tion of  
Mr. Sellar  
on his  
arrest, and  
Witnesses  
7 and 8 for  
the de-  
fence.

In proceeding to deal with the facts of the case, the

first step will be to give an outline of the circumstances, and then to deal with the evidence bearing on the allegation of 'injury' to the old woman.

Sellar's  
judicial  
examina-  
tion, and  
Witness  
15 for the  
prosecu-  
tion.

Chisholm was, as before stated, to be evicted by the Commissioner's orders and expelled from the estate, as a man of bad character, and the usual writs had been taken out with that object. The Sheriff's officers arrived on the spot with their warrants some time in the course of the morning, or at all events before noon, on Monday, June 13, 1814, and Mr. Sellar came up, on his way to the south, accompanied by a Caithness farmer of the name of Burns, some time later. Mr. Sellar states that on his arrival he found the house nearly unroofed, the furniture was already taken out, and the man's wife (Henrietta MacKay) was employed removing their things from the green into a small detached house, which was left untouched, about thirty yards distant. It was Mr. Sellar's intention to have the wife and the family and furniture taken down to the lower strath, in order to get the tinker away, and he had requested the neighbouring tenants, one from every house in Rossall, it was said, to be present, in order to assist in their removal, and to take them with them. But the tenants who had come up before him met him on his arrival, some seventy yards from the house, and told him that there was an old woman on the premises, the mother of Chisholm's wife, so infirm that she could not be removed so far as the lower strath, and that her daughter must remain to take care of her.

Sellar's  
judicial  
examina-  
tion.

Witness 8  
for the  
defence,  
and  
Sellar's  
judicial  
examina-  
tion.

Witness 8  
for the  
defence.

Sellar's  
judicial  
examina-  
tion.

Witnesses  
5 for the  
prosecu-  
tion, and 9  
for the  
defence.

Mr. Sellar, after learning the circumstances, abandoned his intention of having the wife, family and furniture of the man removed to the strath, getting only a promise from the tenants to take them there as soon as the old woman could be removed. He sent for Chisholm, and asked him if he would take himself off; but Chisholm indicated that he would not go, and then Mr.

Sellar determined, as Chisholm was considered to be a lawless man, who might rebuild his house, regardless of the law, to have the wood which formed the roof of the house removed from the premises or destroyed; in order, so far as it was in his power, to deprive him of the means of rebuilding and re-occupying the house.<sup>1</sup> He then proceeded to have the moss or bog timber, which was held to be the property of the tenant, appraised, and the officer's party and the people separated it from the other part. It was then valued, and the price of it, six shillings, was paid to and accepted by Chisholm. The whole of the timber being then Mr. Sellar's property, he offered it to the tenants who were present; they took a portion, but a considerable part remained; and he then ordered that which remained to be put in a pile in the 'place,' along with the turf which had been taken from the roof, and to be burned; and then he proceeded on his journey to the south. It seems probable that, after his departure, the flames from the burning pile communicated themselves to the turf walls of the unroofed cottage, and that the cottage itself was thus burnt.<sup>2</sup>

Sellar's  
judicial  
examina-  
tion.

Witnesses  
7 and 9  
for the  
defence  
refer to  
the ap-  
praisement  
and pay-  
ment of  
the money.

But it would appear that, apart from this, there was an alarm of fire, during, or immediately after, the consultation with the tenants, for Mr. Burns, the Caithness farmer, relates that after 'this' (after the consultation as to removing the woman to the strath), the people observed that there was fire coming from the house. How this fire originated, whether or not from the sods falling on the fire, which it is stated had been left burning on the

Witness 8  
for the  
defence.

<sup>1</sup> The man, it would appear, did rebuild the house, and he was reported to be living in it a year later (*Sellar's Judicial Examination*). He is described, indeed, at the trial as even then, in 1816, residing in Badinloskin.

<sup>2</sup> The preceding narrative has been largely drawn from Mr. Sellar's declaration on his judicial examination (Appendix, p. xxxix.); the perfect candour of which will be admitted by anyone of fair mind who reads it. It was confirmed in all important respects by the evidence subsequently given, and was invalidate in none.



floor of the byre, or whether or not it was a false alarm, does not appear. It cannot have been serious, for we hear no more of it, and it has no direct importance bearing on the case, though it has an indirect value, as hereafter described. It is only mentioned here, because it creates some confusion unless it is separated from the burning which was purposely done.

The more important and serious question remains, whether or not there were grounds for the charge of 'injury' inflicted by Mr. Sellar in respect of the removal of the old woman.

Witness 5  
for the  
prose-  
cution.

The first we hear of her on the day of the attempted eviction is from John MacKay, who says, that on his arrival in the course of the morning he found her lying on a bed in the byre to which she had been removed. The byre adjoined the dwelling-house, and was under the same roof with it. There was a fire burning in it, but no fireplace.

Witnesses  
7 and 9  
for  
defence.

The next we hear of her is from Sutherland and Fraser, the Sheriff's officers, who came up after MacKay. Sutherland found her lying on the bed (shake-down) in the byre, where MacKay describes her to have been. He also mentions the fire, which he says was close to her bed. Both officers relate that they found Chisholm unroofing his house when they came up.

Thus far there is no disagreement between the two sets of witnesses, but at this point they diverge. Chisholm and MacKay both swore that the woman was not removed from where she was lying in the byre till after Mr. Sellar's arrival, nor till after the house had been set fire to by Mr. Sellar's orders. She was then removed, they said, by her daughter, a sister of Chisholm's wife, while the house, or, as Chisholm said, her very bed, was on fire.

The officers, on the other hand, stated in explicit terms that the woman was removed to a small cottage, thirty yards away, before Mr. Sellar's arrival, and before, of course, anything was set fire to. Sutherland swore that he saw her brought out by her friends; Fraser that he himself saw her removed by her daughter-in-law (daughter<sup>1</sup> it should be) to the small house; both stating that this took place before Mr. Sellar's appearance.

The crucial point was the question when the old woman was removed, and under what circumstances. It was for the jury to decide which of the two sets of witnesses told the truth with reference to this question.

In arriving at a conclusion they had of course to take into account the demeanour of the witnesses while under examination, and the credibility in itself of the evidence which they respectively gave. But, besides this, they had the advantage of hearing the evidence of a third witness for the defence, Mr. John Burns.

Mr. Burns was, as before stated, a Caithness farmer, who came up with Mr. Sellar, and that is all that is known of him; but he could have had no connection with the evictions, and he appears to have been there by accident. After describing his arrival on the spot in company with Mr. Sellar, and their being met by the tenants, he states, as before quoted, that the people, after the consultation as to removing the old woman to the strath, observed that there was fire coming from the house;

Witness 3  
for the  
defence.

<sup>1</sup> This woman was not called as a witness. Her sister's evidence, that of Chisholm's wife, which is at direct variance in several important respects with that of Chisholm, was to the effect that her mother had been already removed to the small cottage before she returned home, which she fixed as having taken place a little after twelve o'clock. Her evidence, therefore, did not assist the case for the prosecution. It was, indeed, favourable rather to the case for the defence; for if Mr. Sellar was correct in supposing that she was the woman whom he saw on his arrival engaged in moving the furniture, and the hour she fixed for her return home would seem to indicate that she was there before Mr. Sellar came up, her evidence alone would prove the removal of the old woman before Mr. Sellar's arrival.

Witness 4  
for the  
prosecu-  
tion.

and he then says, 'Mr. Sellar upon this started up. He desired the people immediately to take out the fir wood, for it belonged to the tinker.'<sup>1</sup>

Upon this evidence an observation has to be made:—Chisholm and McKay, the witnesses for the prosecution, swore that the old woman was not taken out of the house till after it had been set fire to by Mr. Sellar's personal directions. If they spoke the truth, the woman must have been in the house when the alarm of fire, mentioned by Mr. Burns, occurred, for it is clear from Mr. Sellar's manner and action on hearing this alarm of fire, that up to that time he had given no orders to set fire to anything. If that was so—if the woman was still in the house—how came it that Mr. Sellar showed anxiety for the timber belonging to Chisholm of the value of six shillings, and showed none for the safety of the woman, whose life, if their evidence was true, must have been in jeopardy? The answer is contained in the next two sentences of Mr. Burns's evidence.

For he goes on to say: 'The men said the woman had been already removed to the small house.' Evidently, in order to make sure that the woman, whose case had just been under consideration, was out of reach of the fire of which the alarm had been given, some one<sup>2</sup> asked if she was out of the house, and he got for answer that she had been already removed.

Mr. Burns then adds, as being within his own knowledge:—'The woman was removed before Mr. Sellar and I came up, and before Mr. Sellar ordered fire to be put

<sup>1</sup> This anxiety lest what was held to be the property of the occupant should be destroyed, indicates the scrupulous care of a lawyer that no act, capable of being held to be illegal, should be committed.

<sup>2</sup> Probably Mr. Sellar, who may then have put the question referred to by Sutherland in the following evidence given by Sutherland: 'On Mr. Sellar's arrival near the place, he asked witness if he had seen the old woman, and witness answered, she was in the bothy. The bothy was thirty yards distant from the house and byre' (Appendix, p. li.).

to the house.' If this man's evidence stood alone, it would appear to be conclusive as to the fact of the woman's earlier removal.<sup>1</sup>

It was impossible for the jury to come to any other conclusion than that she was removed before Mr. Sellar's arrival. That being so, it follows, as a matter of course, that he was not responsible for it, supposing it to have been culpable, unless his instructions were of a nature to justify improper conduct on the part of the officers. Now what is the evidence in this respect?

Duncan Ross, ground officer, Farr, says :

Witness 6  
for the  
defence.

Mr. Sellar gave strict instructions to hurt nothing belonging to the people. . . . He [witness] was at Rhimsdale. And a man having made application to Mr. Sellar for three persons who were sick, Mr. Sellar ordered the best end of the house [that is, the dwelling-house ends, but not the byres, of their respective houses] to be reserved for them, and he permitted them to remain.

Andrew Ross, carpenter and appraiser, says :

Witness 6  
for the  
defence.

There was only one house taken down at Rhimsdale, and three houses, where there were said to be sick people, were allowed to remain. . . . During all these removals [he states subsequently] he knows of no injury done by Mr. Sellar or by his orders, saw no instance of cruelty, and no damage was done to the furniture.

Alexander Sutherland, of Golspie, says :

Witness 7  
for the  
defence.

They [the officers] then went to Rhimsdale. Mr. Sellar said he had a letter from the Minister of Farr, stating that there were sick people in that place, and therefore that they must not proceed in the ejections.

After this, what remains to be said? Clearly, if there was culpability in the treatment of the old woman, the

<sup>1</sup> Mr. Sellar did not see the woman at all, which of course he must have done, had she been removed after his arrival, under the circumstances stated by Ohisholm and MacKay (Appendix, p. xliii.).

blame does not rest with Mr. Sellar ; but was there culpability? How can it be said that the woman's life was shortened or was endangered by her daughter carrying her from one hut to another hut, thirty yards away, on a June morning? It would have been very different had the evidence for the Crown been worthy of belief, namely, that the woman was only removed when the flames had approached the bed on which she was lying, and when the blankets about her were burning ; but that allegation, incredible in itself, was on the evidence found to be fabricated and false.

It now only remains to call attention to MacLeod's allegations, and to point out how entirely inconsistent they are with the facts as they were proved at the trial. Not only so, but on certain points they go beyond and exceed in extravagance the discredited allegations of the very witnesses for the prosecution.

Address of  
Advocate-  
Depute to  
Jury.  
Appendix,  
p. liii.

The remaining three charges alleged by MacLeod, of injury and oppression to individuals, can be more speedily disposed of. The evidence produced at the trial in support of them was absolutely nil, and they were as a matter of course withdrawn by the prosecuting counsel from the consideration of the jury.

The first of these cases mentioned by MacLeod is thus stated :—

Mackenzie,  
p. 16.

John MacKay's wife, Ravigail, in attempting to pull down her house in the absence of her husband, to preserve the timber, fell through the roof. She was in consequence taken with premature labour in the open air, and in the view of the bystanders.

This allegation, if true, amounts to no more than that the woman met with an accident ; and, in point of fact, all her husband states in his evidence is that his wife, who was unwell, fell through the roof of the house, Mr. Sellar not being present. He says nothing of her being taken

in premature labour, or of the other sensational circumstances related by MacLeod.

The actual charge in the indictment was that the woman, while lying ill in bed from the effects of a fall, was turned out of doors, in spite of entreaties, at the imminent peril of her life. Not a word of this, however, was attempted to be proved in evidence. Appendix,  
p. xix.

The next case is that of Donald Munro, Garvault, who, MacLeod says, was lying ill of a fever, and was turned out of his house and exposed to the elements. He complains in one of his letters of the conduct of the trial, and asks why Donald Munro was not called to prove his case. There was a very sufficient reason for his not being called, for three witnesses were examined for the defence, two of whom testified that they saw the man at a 'foxhunt' the day before the eviction, apparently in perfect health; one of those two saw him on the day of the eviction come out of his house 'well and laughing,' and another witness says that, though on the day of the eviction his mother said he was sick, he saw him, when the witness went up to him, leap out of his bed with his clothes on, in perfect health. Mackenzie,  
p. 16.

Witnesses  
3 and 4  
for the  
defence.

Witness 4  
for the  
defence.

Witness 5  
for the  
defence.

The last case cited by MacLeod is that of Donald MacBeath, Rhimsdale, which is thus stated :—

Donald MacBeath, an infirm and bedridden old man, had the house unroofed over him, and was in that state exposed to wind and rain, till death put a period to his sufferings. Mackenzie,  
p. 16.

Donald MacBeath was one of the sick persons at Rhimsdale whose dwelling-houses were not to be disturbed; and Fraser, the officer, relates that Mr. Sellar, before leaving for the south (for the evictions at Rhimsdale took place on the 14th and 15th, after Mr. Sellar's Witness 9  
for the  
defence.

Witness 6  
for the  
prosecu-  
tion.

departure on the 13th), gave him express instructions to allow MacBeath's dwelling-house, but not his byre, to 'remain.' Hugh MacBeath, the son, the witness called on the part of the prosecution to prove this charge, practically admitted that this was done; for though he minimised the space which he said was left untouched over his father's bed, he stated that there was a partition 'standing between his father and the weather,'—the partition, that is to say, between the dwelling apartment and the byre. The only complaint he made of the apartment was that the 'wind was coming through' the partition. He made no complaint of the state of the roof, nor was he able to say that the wind coming through the partition was injurious to his father. In the middle of June it was hardly likely to be so.<sup>1</sup>

Donald MacBeath's house was not unroofed over him, as alleged by MacLeod, nor was he exposed to wind and rain.

MacLeod's allegations charging Mr. Sellar with inflicting personal injury on individuals have now been examined by the test of the evidence produced at the trial,—with the result, that no witness has been discovered who alleged that 'injury' was inflicted on any individual except on the mother-in-law of Chisholm; and that as to her case the evidence for the prosecution was disbelieved by the jury and the judge, and was in fact fabricated and false. MacLeod's charges under this head are all absolutely untrue.

II. The examination of MacLeod's general allegations of tyranny and oppression will next be proceeded with.

Appendix,  
p. xxxiv.

<sup>1</sup> It was Hugh MacBeath himself who took the sods off the roof of the byre, thus practically unroofing it; so that it was really his business to have made the partition weather-tight, if it was not so.

They are even more extravagant than the charges made of injury done to individuals.

The first allegation is as follows :—

The houses had been all built, not by the landlord as in the low country, but by the tenants or their ancestors, and consequently were their property by right, if not by law. They were timbered chiefly by bog fir, which makes excellent roofing, and by immemorial usage this species of timber was considered the property of the tenant. To the upland timber [that is, timber taken from the woods of the proprietors] the landlords might lay some claim, but not so to the other sort. In former removals the tenants had been allowed to carry away this timber [that is, the bog timber], but now a more summary mode was adopted, by setting fire to the houses. . . . Immediately after the May term day, . . . a commencement was made to pull down and set fire to the houses over their heads. The old people, women and others, began to try to preserve the timber, which they were entitled to consider their own. But the devastators proceeded with the greatest celerity, demolishing all before them, and when they had overthrown the houses in a large tract of country, they ultimately set fire to the wreck, so that timber, furniture and every other article that could not be instantly removed was consumed by fire, or otherwise totally destroyed.

Mackenzie,  
p. 14.

These proceedings were carried on with the greatest rapidity, as well as with the most reckless cruelty; the cries of the victims, the confusion, the despair and horror painted in the countenances of the one party, and the exulting ferocity of the other, beggar all description. In these scenes Mr. Sellar was present, and apparently, as sworn by several witnesses at his subsequent trial, ordering and directing the whole. Many deaths ensued, &c. &c.

MacLeod, in the foregoing passage, correctly describes the usage as respects the two kinds of timber, and it will have been seen from the evidence cited in the earlier part of this paper, that, so far from its being set at defiance by Mr. Sellar, it was scrupulously respected. As to this, the evidence of Andrew Ross, carpenter and official appraiser on the Sutherland estates, who accompanied the Sheriff's



officers during the evictions, is conclusive. He states as follows :

Witness 6  
for the  
defence.

He was employed by Mr. Sellar to appraise the value of the wood. . . . The moss-fir was fairly appraised. Mr. Sellar paid the people the value of it. . . . This was at Garvault. . . . The party went to Rhimsdale ; . . . Mr. Sellar bought the moss-fir here also, and paid for it, and no objection was made. . . . During all these removings he knows of no injury done by Mr. Sellar, or by his order. . . . Value was allowed for the moss-fir, which on an average formed about the tenth part of the wood in the house, as by the practice of the country it belongs to the outgoing tenant, but nothing was given for the birch wood, as it belonged to the proprietor.

No witness was produced by the Crown to contradict this evidence in any respect. MacLeod's allegation, therefore, that the moss or bog timber was taken from the tenants without compensation, is false.

But the more serious accusation is that of setting fire to the houses. His words, already quoted, are :—

When they [the devastators] had overthrown the houses, they ultimately set fire to the wreck ; so that timber, furniture, and every article that could not be instantly removed was consumed by fire, or otherwise totally destroyed ; [these proceedings being carried on with] the greatest rapidity, and the most reckless cruelty, [amidst] the cries, confusion, despair, and horror of the victims, [and the] exulting ferocity [of the devastators], which beggared all description, Mr. Sellar directing the whole.

As an instance of MacLeod's extravagance of statement this passage claims attention.<sup>1</sup> It might be a sufficient refu-

Mackenzie,  
p. 124.

<sup>1</sup> The following passage, in which MacLeod in 1857 apostrophised Mrs. Beecher-Stowe, purports to describe the same fictitious scenes of conflagration and horror. It affords another specimen of the sort of statements which MacLeod was capable of making, and which Mr. Mackenzie, Mr. Wallace, and Professor Blackie seem capable of believing.

'Had you,' he says, 'the opportunity of seeing' (*sic*) 'the scenes which I and hundreds more have seen—the wild ferocious appearance of the infamous gang who constituted the burning party, covered over, face and hands, with soot and ashes of the burning houses, cemented by torch-grease and their own sweat, kept continually drunk or half drunk while at work; and to (*sic*) observe

tation of it to ask whether it can be believed that, in any society emerged from the savage state, bands of men could have gone about openly burning and destroying all before them in the manner described.

But passing by this consideration, it is self-evident that if there had been any truth whatever in the allegation, there could have been no difficulty in convicting Mr. Sellar. If it could have been shown that he had wilfully burnt or destroyed articles belonging to the tenants, a conviction must infallibly have followed, since destruction of furniture and other effects is one of the 'heinous crimes' charged in the indictment. The prosecution strove to show that this 'crime' had been committed. They tried to prove that the 3*l.* which Chisholm swore he was possessed of had been burnt; they even endeavoured to show 'injury' by the fact of a few yards of growing corn belonging to Chisholm having been accidentally scorched; and they did their utmost to procure a verdict, on the ground of certain barns having been pulled down. Why should they have resorted to such attempts to make out their case, if it had been true that timber, furniture, and everything of the tenants not instantly removed, had been consumed by fire or otherwise destroyed? But, except in Chisholm's case, which will be referred to separately, not a single person, though the whole strath had combined and raised subscriptions for bringing Mr. Sellar to trial, ever alluded to anything being set fire to, nor did any one allege that he had furniture or any of his personal property

Witnesses  
8, 9, 10,  
and 11 for  
the prosecu-  
tion.

Evidence,  
*passim.*

the hellish amusements some of them would get up for themselves and for an additional pleasure to their leaders! . . . When this fiendish party found any quantity of meal [in boxes in the people's houses], they would carry it between them to the brink [of the adjoining declivity] and despatch it down the precipice amidst shrieks and yells. It was considered grand sport to see the box breaking to atoms, and the meal mixed with the air. When they would set fire to a house, they would watch any of the domestic animals making their escape from the flames, such as dogs, cats, hens, or any poultry. These were caught and thrown back to the flames—grand sport for demons in human form!

destroyed. There were twelve residents of the strath examined as witnesses for the prosecution. If there had been any such burning of houses or destruction of property as alleged by MacLeod, how was it that not one of them told of his own house having been burned, or of having seen the houses of his neighbours destroyed by fire? <sup>1</sup>

Witnesses  
5, 6, and 7  
for the  
defence.

Thus much appears on the case for the prosecution as presented in court. On the part of the defence, the proof is carried a step further, for it was testified by the witnesses produced for Mr. Sellar, that he gave the officers strict injunctions to hurt nothing belonging to the people, and that in fact neither furniture nor anything else was destroyed or injured.

It is, over and above all that precedes, in the power of the present writer to affirm that, during the whole period of Mr. Sellar's factorship, no house but that of Chisholm was set fire to by him or by his orders.

Chisholm's case, as will have been seen, was an entirely exceptional one. It was not the case of a removal to a new allotment, but it was an eviction, such as may happen at any time on any estate the inhabitants of which are in a rude state, when a disreputable character has to be got rid of by force of law. There, undoubtedly, fire was set to the wreck, but not till Chisholm had indicated his determination not to leave the place, or till after his legal rights had been satisfied, and his furniture and effects had been removed. When one sees what a commotion this one case of burning occasioned, it may be safely assumed that had there been any semblance of another case of the kind, it would have been produced at the trial.

It has been said that MacLeod's allegation that the moss-timber was taken from the tenants without compensa-

Witness 6  
for the  
prosecu-  
tion.

<sup>1</sup> The first witness called, after the Chisholm witnesses had been disposed of, stated that he saw no houses burned. After that answer, no other witness was questioned on the subject.

tion is false. But how is it possible adequately to stigmatise his allegation of the wilful destruction by fire, or by any other means, of the tenants' property, timber, furniture, and everything, under circumstances of horror such as he narrates? MacLeod was a native and resident of the district, a witness, as he more than once says, of the scenes he describes. He could not possibly have seen the fires he tells us of, for there were no such fires. Yet he says he was an eye-witness of them! What name can be applied to such a statement, except that it is a deliberate fabrication and wilful falsehood of the grossest kind?

Another allegation of MacLeod's is as follows:—

In order to ensure and hasten their [the tenants'] removal, with their cattle, the greatest part of the heath pasture was set fire to and burnt by order of Mr. Sellar. . . . Deprived of pasture by the burning, . . . the cattle were generally without food. . . . Great part of the cattle were lost or sold for a trifle. Mackenzie, p. 13.

As an example how charges against individuals grow in the repetition, it may be allowable to quote the language of Mr. Hugh Miller with reference to this allegation:—

Atrocities unexampled in Britain (he says) for at least a century were perpetrated in the clearing of Sutherland. . . . We shall instance one only of the severities inflicted. In March 1814 a large proportion<sup>1</sup> of the inhabitants of Kildonan and Farr were summoned to quit their farms; a few days after, the surrounding heaths on which they pastured their cattle, and from which at that season the sole supply of herbage is derived, were set on fire and burnt up. . . . There was that sort of policy in the stroke which men deem allowable in a state of war. The starving cattle went roaming over the burnt pasture. . . . Many perished, and the greater part of what remained, though in miserable condition, the Highlanders had to sell perforce. Mr. Hugh Miller—  
'Sutherland as it was and is,' Edinb. 1843, p. 20.

<sup>1</sup> We know (Appendix, xxxviii.) that the whole number of families 'summoned to quit their farms' on that occasion was just twenty-eight!

It is scarcely credible, but it is the fact, that all this wild language is directed against a simple act of beneficial husbandry, namely, the annual heather burning, which is carried out on a portion of every hill farm, in the spring of the year—an act in the present instance beneficial as well to the tenants who were ejected as to the incoming tenant. For as regards the interests of the former, the outgoing tenants, Mr. Sellar states in his examination before the sheriff-substitute, that ‘ he perambulated a considerable part of the farm after Whitsunday with the shepherd who had done the burning of the heather. That the shepherd pointed out the spots he had burnt, and they were then full of herbage, and the inhabitants’ cattle were pasturing on them. . . . He knows that it was no injury, but a benefit to the tenants, and it was besides only a small portion of the “floues” (moorland) ‘it was necessary to burn.’ He says elsewhere in his examination that ‘ he has always understood that after the month of March comes in, the old heath is of very little use till burnt. But the Alpine herbage mixed with the new heather comes up in a few days after the burning, and is after burning a valuable pasturage in March, April, and May.’ So that it comes to this, that the tenants’ cattle pastured on the herbage growing on the burnt ground till the time of their removal, while they would not have found the same pasturage on it, had it not been burnt.

Mr.  
Sellar's  
judicial  
examina-  
tion.

But, although it is a fact that no injury, but a benefit, was done to the tenants by the heather burning, yet the lands at the time were in the legal occupation of the tenants, and unquestionably, had Mr. Sellar entered on those lands forcibly, he would have been guilty of an act of illegality, which would have exposed him to punishment ; but the fact is, that he entered on the lands, for the purpose of burning the heather, with the consent of the tenants. After the observation that the Alpine herbage

comes up in a few days after burning, and forms a valuable pasturage, the evidence is continued as follows :—  
 ‘The declarant, therefore, conceives, and he believes the people were of the same opinion, that permission to burn part of the heath was no great favour, and they readily consented to it.’

Mr.  
Sellar's  
judicial  
examina-  
tion.

The charge—namely, that of setting fire to the heath pasture—was made in the indictment, and the names of various persons were set out as having suffered injury from the burning of their pasturage, but not one of them, when he appeared in the witness-box, referred to heather-burning at all, except the first witness called after the Chisholm witnesses had been disposed of, and he, when questioned about it, made no complaint.

Witness 6  
for prose-  
cution.

MacLeod was a native of the locality, and knew perfectly what heather-burning was; yet he describes it as a malignant act, done for the purpose of forcing the tenants out, by the savage proceeding of destroying the pasturage of their cattle, and he has misled Mr. Hugh Miller into treating it as if it were an act of war. What can be said of this charge, except that it is a malicious perversion of fact, knowingly and wilfully perpetrated?

MacLeod's charges against Mr. Sellar have now been all brought to the test of the evidence produced at the trial. Is it possible to conceive any allegations more absolutely false than they have been shown to be?

Nevertheless, men of education and position, in order to stimulate a factitious excitement in favour of political and other objects which they advocate, or for other ends, have thought fit to revive these allegations of a reckless and mendacious partisan, and, in the face of the verdict of the jury and the opinion of the judge that they were untrue, and in spite of the evidence which proves their untruth, they put them forward as undisputed facts. And some

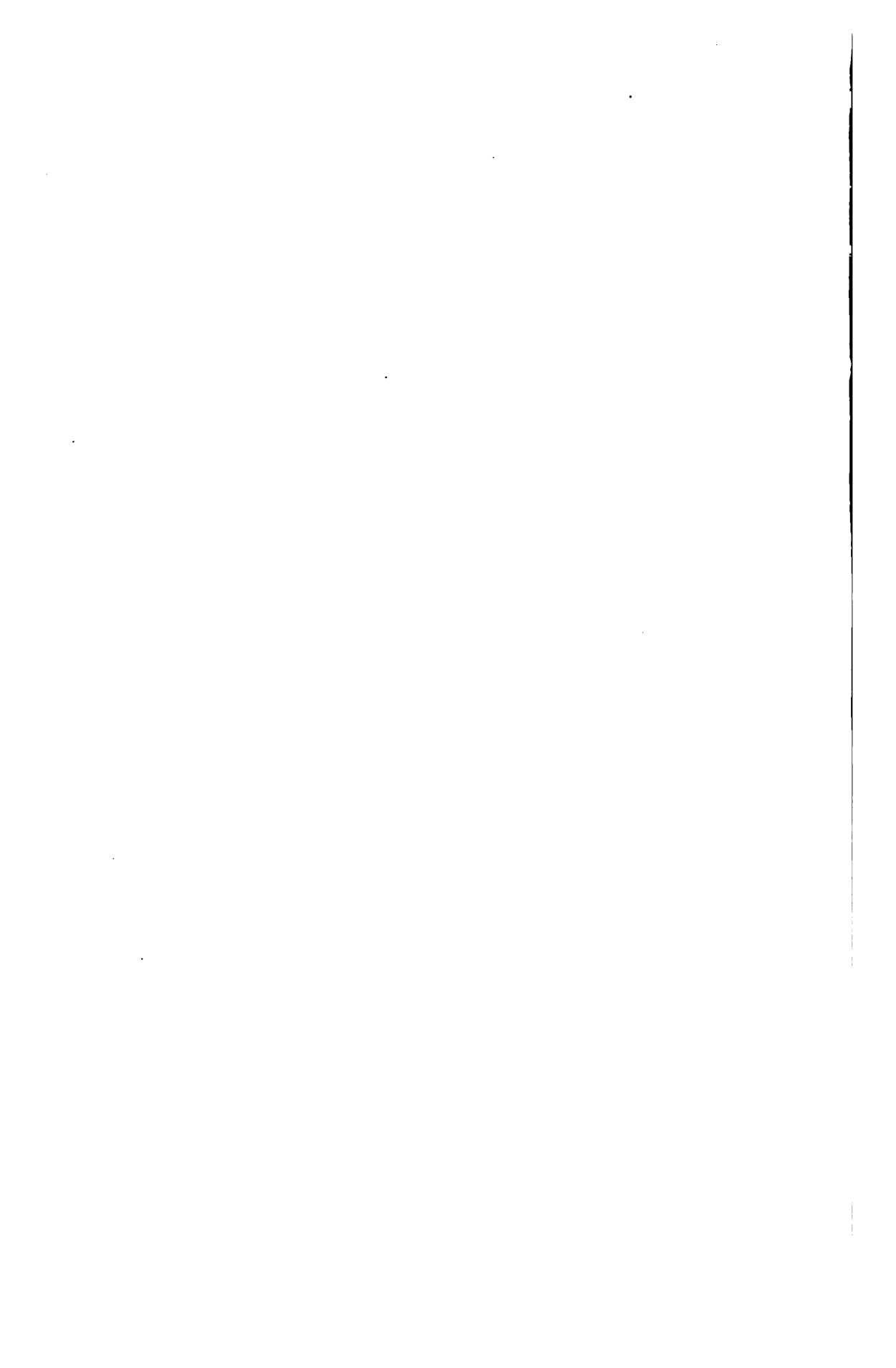
of them have not scrupled to resort to means, for the purpose of giving currency to the untruths they circulate, which are in the highest degree unfair and uncandid.

If such a course of proceeding were directed against a living man, these writers would meet with the punishment which a court of law would inflict upon them. But as it is directed against a man who has been for more than a quarter of a century in his grave, they escape with impunity, so far as legal action is concerned. The only course open to Mr. Sellar's representatives is to appeal to public opinion, which, when duly informed, never fails to mete out justice—especially in such a case as this is, in which the persons injured are powerless to redress in any other manner the wrongs inflicted on them.

APPENDIX I.

*DESCRIPTION OF THE COTTAGES OF THE PEOPLE.*





## APPENDIX I.

### *DESCRIPTION OF THE COTTAGES OF THE PEOPLE.*

(Extract from Mr. Loch's *Improvements on the Estates of the Marquis of Stafford*, pp. 52 and 53.)

The huts of the people were of the most miserable description. They were built of turf, dug from the most valuable portions of the mountain side. Their roof consisted of the same material, which was supported upon a rude wooden frame, constructed of crooked timber, taken from the natural woods belonging to the proprietor, and of moss-fir dug from the peat bogs. The situation they selected was uniformly on the edge of the cultivated land, and of the mountain pastures. The huts were placed lengthwise, sloping with the declination of the hill. This position was chosen in order that all the filth might flow from the habitation without further exertion upon the part of the owner. Under the same roof, and entering at the same door, were kept all the domestic animals belonging to the establishment. The upper portion of the hut [that highest up the hill] was appropriated to the use of the family. In the centre of this upper division was placed the fire, the smoke from which was made to circulate throughout the whole hut, for the purpose of conveying heat into its farthest extremities; the effect being to cover everything with a black glossy soot, and to produce the most evident injury to the appearance and eyesight of those most exposed to its influence. The floor was the bare earth, except near the fireplace, where it was rudely paved with rough stones. It was never levelled with much care, and it soon wore into every sort of inequality according to the hardness of the respective soils of which it was composed. Every hollow formed a receptacle for whatever fluid happened to fall near it, where it remained until absorbed by the earth. It was impossible that it should ever be swept; and when the accumulation of filth rendered the place

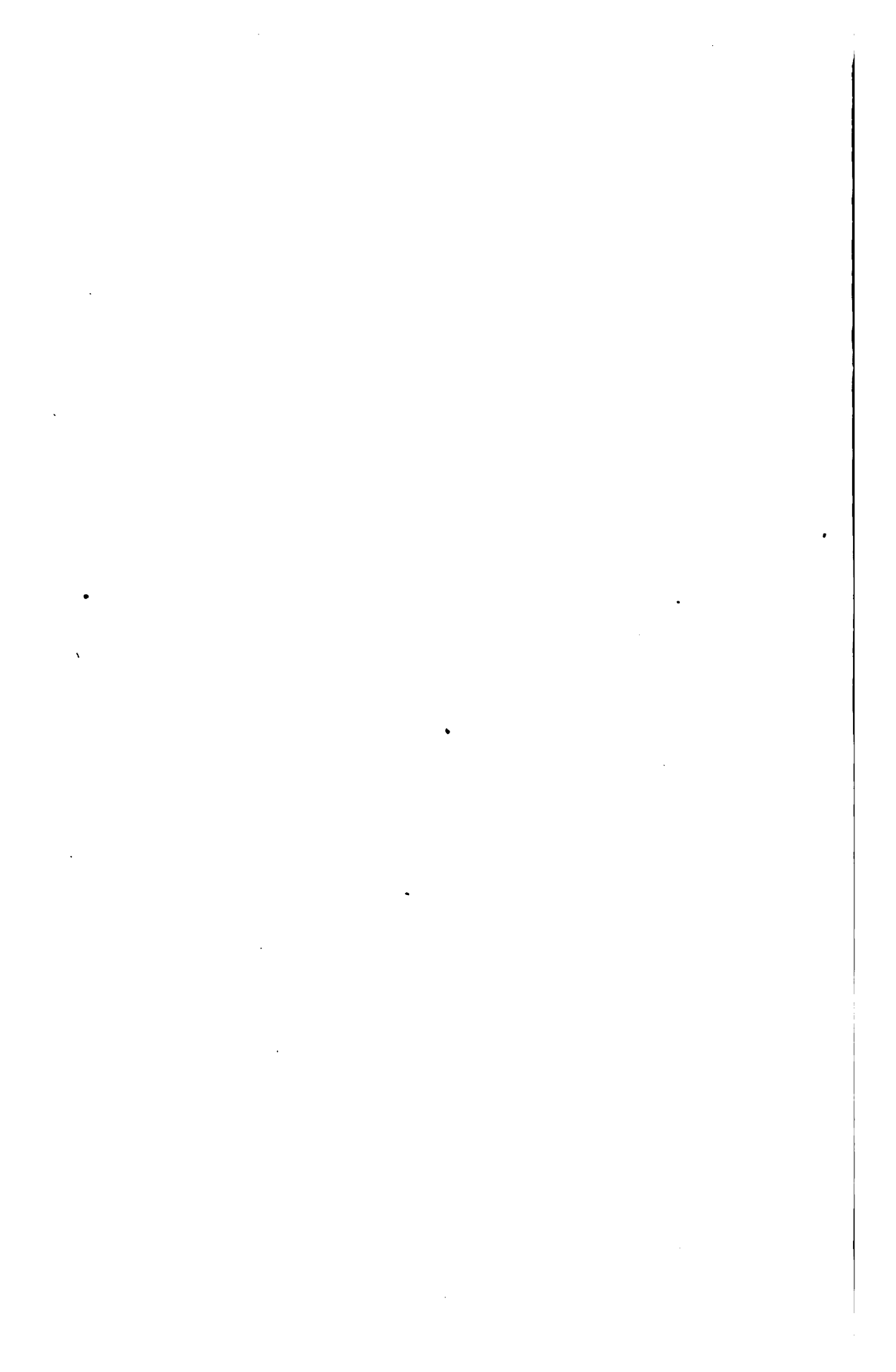
uninhabitable, another hut was erected in the vicinity of the old one. The old rafters were used in the construction of the new cottage, and that which was abandoned formed a valuable collection of manure for the next crop.

(Extract read by Mr. Loch in the House of Commons in May, 1845, from a letter dated 1824, written by a native of the south of Scotland.)

‘After our arrival in the county we first visited a portion of the estate in the interior of Strath Brora, where we understood the under-tenants of some middlemen or tacksmen still held their old possessions. Here we expected to have seen the poor but cheerful peasantry tending their little flocks under at least some degree of comfort and happiness; but we were surprised to behold many of these poor creatures in such a state as scarcely to deserve the name of human beings—covered with filth and cutaneous disease—living in mud hovels into which one could only enter by stooping nearly on hands and knees;—and the scene which the interior presented was not only shocking but really degrading to human nature. There are, indeed, some who do not put dependence on their precarious and scanty crops, or on the few cattle and sheep they may raise, to whom these observations do not apply.’

APPENDIX II.

*DISTRESS IN SUTHERLAND, MORE ESPECIALLY  
IN 1816-1817.*



## APPENDIX II.

### *DISTRESS IN SUTHERLAND, MORE ESPECIALLY IN 1816-1817. —THE COMPARATIVE IMMUNITY OF THE PEOPLE ON THE COAST.*

(Extract from Mr. Loch's *Improvements on the Estates of the Marquis of Stafford*, pp. 53 to 55.)

The introduction of the potato [which took place in the early part of the second half of the last century] proved no blessing to Sutherland, but only increased the state of wretchedness, inasmuch as its cultivation required less labour, and it was the means of supporting a denser population. The cultivation of this root was eagerly adopted, but being planted in places where man never would have fixed his habitation but for the adventitious circumstances<sup>1</sup> already mentioned, this delicate vegetable was, of course, exposed to the inclemency of a climate for which it was not suited, and fell a more ready and frequent victim to the mildews and early frosts of the mountains, which frequently occur in August, than the oats and bear.<sup>2</sup> This was particularly the case along the course of the rivers, near which it was generally planted on account of the superior depth of soil. The failure of such a crop brought accumulated evils upon the poor people in a year of scarcity, and also made such calamities more frequent. For in the same proportion as it gave sustenance to a larger number of inhabitants when the crop was good, so did it dash into misery, in years when it failed, a larger number of helpless and suffering objects.

As often as this melancholy state of matters arose—and upon an average it occurred every third or fourth year to a greater or

<sup>1</sup> [These circumstances were (1) the accumulation of population for fighting purposes without reference to economic ends, and (2) an accession of population from the lands 'cleared' farther south, and from the influx of persons who took refuge in the wilds of Sutherland to avoid the payment of debts, or for other reasons.—Loch, pp. 46 and 47.]

<sup>2</sup> [An early but inferior description of barley.]

lesser degree—the starving population of the estate became necessarily dependent for their support on the bounty of their landlord, an appeal which was never made in vain. This relief was by no means confined to those who held immediately of the chief. It was claimed by every individual on the estate. Nor was it always easy to draw the proper line of distinction. The tacksmen, although deriving the whole benefit arising from the services of their sub-tenants in years of plenty, endeavoured to cast as large a share of their support from off themselves as it was possible, when the pressure of the times made an exertion in behalf of the people necessary. The payment of what they owed in such times, by the smaller tenants, was out of the question; and none of the tacksmen were unwilling to make such a distressing state of things an apology for the non-payment or a deduction of rent. It cannot but be remarked, that in proportion as the claims upon the landlord increased was his means of satisfying them diminished.

Pp. 76 to 78.

Bad years and the failure of crops continued to produce the same miserable effects they had constantly occasioned to that portion of the population which still continued to reside among the mountains. This calamity fell with great severity upon them in the seasons of 1812–13 and 1816–17.

During the later period they suffered the extremes of want and of human misery, notwithstanding every aid that could be given to them through the bounty of their landlords. Their wretchedness was so great that, after pawning everything they were possessed of to the fishermen on the coast, such as had no cattle were reduced to come down from the hills in hundreds, for the purpose of gathering cockles on the shore. Those who lived in the more remote situations of the country were obliged to subsist upon broth made of nettles, thickened with a little oatmeal; those who had cattle had recourse to the still more wretched expedient of bleeding them, and mixing the blood with oatmeal; they afterwards cut the mixture into slices and fried it. Those who had a little money came down and slept all night upon the beach, in order to watch the boats returning from the fishing, that they might be in time to obtain a part of what had been caught.

In order to alleviate this misery, every exertion was made by

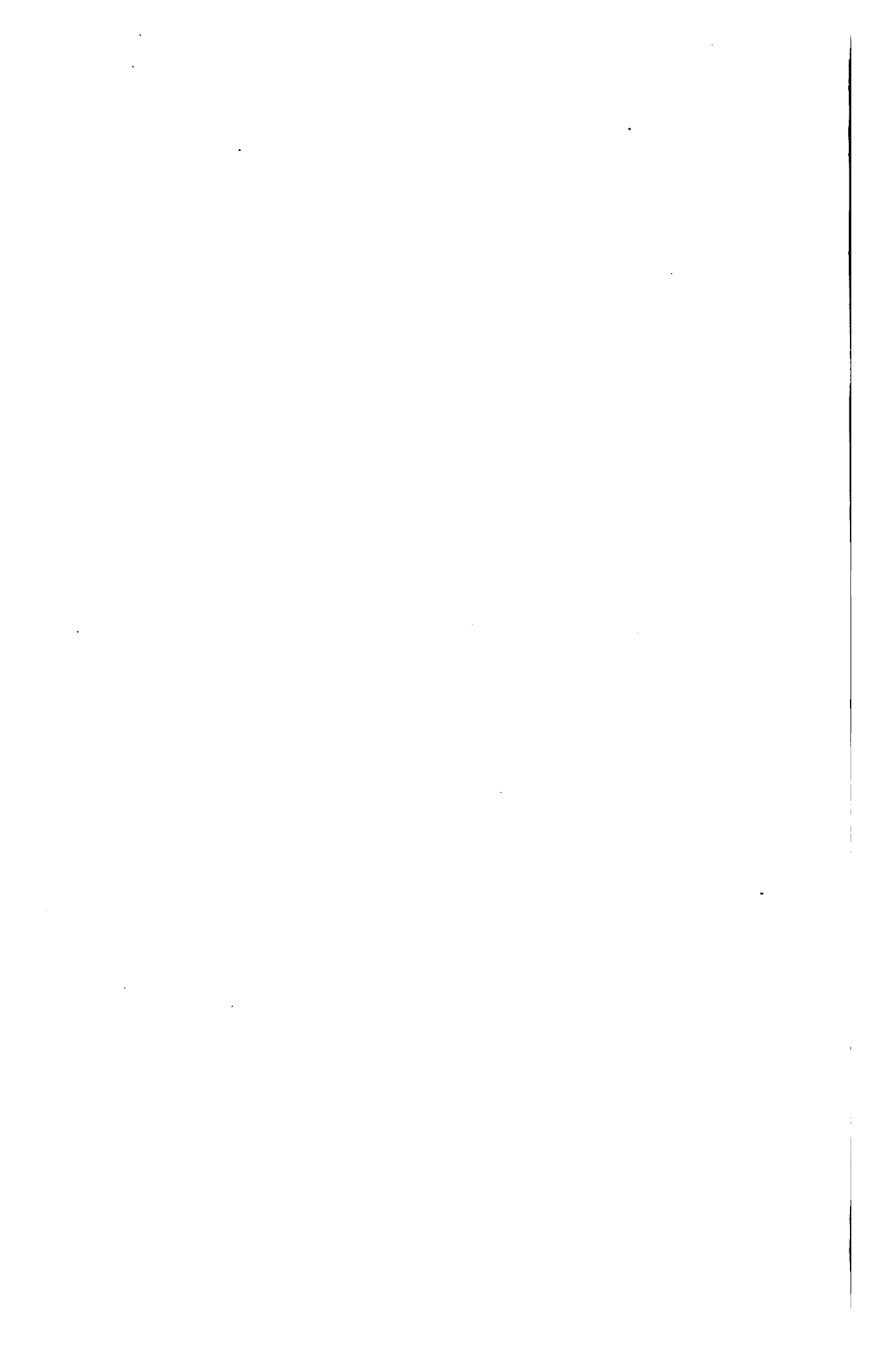
Lord Stafford. To those who had cattle he advanced money to the amount of above 3,000*l*.

To supply those who had no cattle he sent meal into the country to the amount of nearly 9,000*l*. Besides which, Lady Stafford distributed money to each parish on the estate. In order that no pains or consideration might be wanting, it was arranged that the gentleman who is at the head of his Lordship's affairs, the writer of this statement (Mr. Loch), should go to Dunrobin to settle with the local management and the clergymen what was the best and most effectual way of distributing his Lordship's relief.

Similar means were taken by Lord Reay to alleviate the distresses of his people. While such was the distress of those who still remained among the hills, it was hardly felt by those who had been settled upon the coast. Their new occupation as fishermen rendered them not only independent of that which produced the misery of their neighbours, but enabled them at the same time, in some degree, to become contributors towards their support, both by the fish they were able to sell to them, and also by the regular payment of their rents.

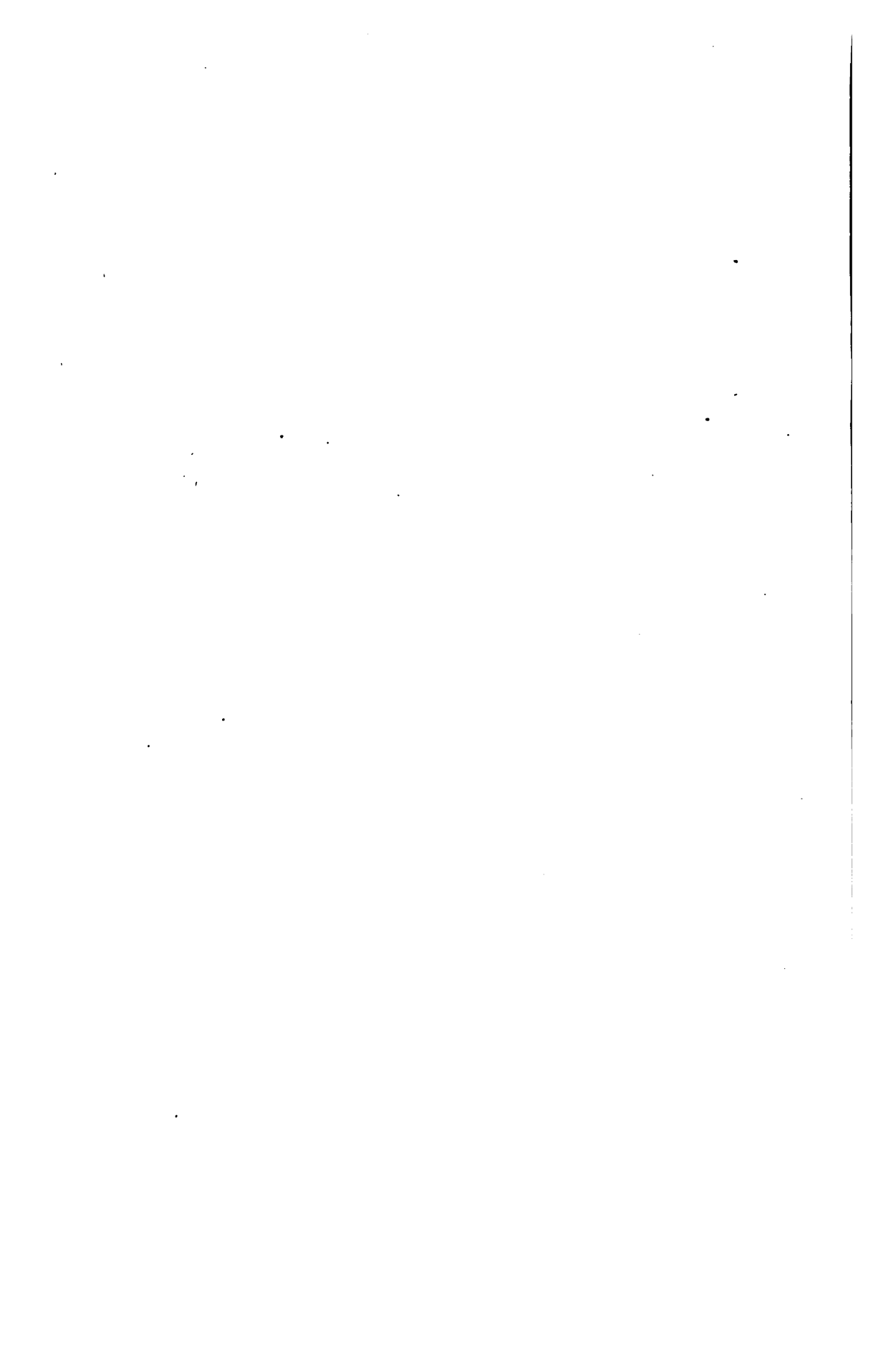
If any doubt had remained of the propriety of the system which had been adopted, the experience of this year put that doubt to rest. There could be no hesitation on the part of those at the head of the management to advise that that system (the removal of the tenants from the interior to the coast) should not merely be continued, but that it should be extended.





APPENDIX III.

*REPORT OF TRIAL.*



REPORT  
OF THE  
TRIAL  
OF  
PATRICK SELLAR, ESQ.

FACTOR FOR THE MOST NOBLE THE MARQUIS AND  
MARCHIONESS OF STAFFORD,

FOR THE CRIMES OF

CULPABLE HOMICIDE, REAL INJURY, AND  
OPPRESSION,

*Before the Circuit Court of Justiciary, held at Inverness, on  
Tuesday, 23rd April, 1816,*

BY THE HON. DAVID MONYPENNY, OF PITMILLY,  
One of the Lords Commissioners of Justiciary.

*Counsel for the Crown:—Messrs. H. HOME DRUMMOND, Advocate-  
Depute; and JOHN FRASER, Advocates.*

*Counsel for the Pannel:—Messrs. J. GORDON, H. COCKBURN, and P.  
ROBERTSON, Advocates.*

*Agents:—Messrs. JAS. ROBERTSON, W. S. and A. SHEPHERD, Solicitor,  
Inverness.*

EDINBURGH:

PRINTED BY MICHAEL ANDERSON

AND SOLD BY MACREDIE, SKELLY, & MUCKERSY, 52 PRINCES STREET,  
EDINBURGH; A. BROWN & CO., ABERDEEN; J. GRANT & Co., INVERNESS,  
AND ISAAC FORSYTH, ELGIN.

1816.

# CONTENTS.

	PAGE
PREFACE . . . . .	xv
INDICTMENT . . . . .	xvii
DEFENCES AND STATEMENT IN DEFENCE . . . . .	xxii
NAMES OF THE JURYMEN . . . . .	xxv
<i>Witness for the Crown</i> —ROBERT M'KID . . . . .	xxv
OBJECTED TO—INTERLOCUTOR ON OBJECTION. . . . .	xxx
WILLIAM CHISHOLM . . . . .	xxx
HENRIETTA MCKAY . . . . .	xxxii
JOHN MCKAY . . . . .	xxxii
HUGH MCBEATH . . . . .	xxxiii
GEORGE ROSS . . . . .	xxxiv
JAMES MCKAY . . . . .	xxxiv
WILLIAM GORDON . . . . .	xxxv
JOHN GORDON . . . . .	xxxv
ALEXANDER MANSON . . . . .	xxxvi
JOHN MCKAY . . . . .	xxxvi
MURDO MCKAY . . . . .	xxxvii
THE REV. DAVID MCKENZIE . . . . .	xxxvii
WILLIAM YOUNG, ESQ. . . . .	xxxvii
NOTICE TO STRATHNAVER TENANTS . . . . .	xxxviii
MR. SELLAR'S DECLARATION . . . . .	xxxix
LETTERS—MR. BRODIE, SIR GEORGE ABERCROMBY, AND MR. FENTON. . . . .	xlvii
<i>Witness for the Defence</i> —THOMAS GILZEAN, ESQ. . . . .	xlix
SIR ARCHIBALD DUMBAR . . . . .	xlix
ROBERT GUNN . . . . .	xlix
JOHN DRYDEN . . . . .	l
DUNCAN ROSS . . . . .	l
ANDREW ROSS. . . . .	l
ALEXANDER SUTHERLAND . . . . .	li
JOHN BURNS . . . . .	lii
JAMES FRASER . . . . .	lii
ADDRESSES TO THE JURY . . . . .	liii
VERDICT . . . . .	lv

APPENDIX III.  
*REPORT OF TRIAL.*

---

PREFACE.

FROM the general interest which the trial of Mr. Patrick Sellar has excited in the north of Scotland, it is thought that a correct detail of the proceedings may not be unworthy of public attention. Mr. Sellar is the son of Thomas Sellar, of Westfield, in Morayshire, and was in the year 1810 appointed Factor over the estates of the Marchioness of Stafford, in Sutherland. That extensive county has from peculiar circumstances been left more in a state of nature than any other part of Scotland. It consists chiefly of a vast range of very high mountains, calculated, both from their natural situation and from the succession of Alpine herbage with which they abound, for sheep pasture. Along the coast there is a fringe of arable land well suited for improvements, and the ocean bountifully furnishes all sorts of fish.

But these advantages had been long disregarded. Strangers were in the habit of fishing along the coast, while the inhabitants lived in the recesses of the mountains, rearing with difficulty small patches of corn, following habits of idleness, and chiefly earning their subsistence from the profits of illicit distillation. In this state of the country it was the object of Lady Sutherland to turn the mountainous districts into sheep pasturage, to bring down the inhabitants to the coast, and set out portions of land for their convenience. At the same time it was the intention of the noble proprietrix to introduce among the people regular habits of industry, to encourage the supply of their wants from the bounties of the ocean, to promote the cultivation of the arable land, and, while she thus improved the general state of the country, to secure their happiness and comfort.

This object, however advantageous, was extremely unpopular,

both among the common small tenants, and also among the upper tacksmen or middlemen, and the judicious attempts at improvements were thwarted in every possible way. Although it is an undoubted fact that the population over the whole estate has actually increased, yet great outcry was made against the new system, as if Lady Stafford meant to depopulate the country, and to force the Highlanders to emigration. This, too, it was insinuated, was done merely for the purpose of increasing her ladyship's rent-roll, although more than the income from the estate was annually expended in improvements. So far, however, did these prejudices prevail, that in the years 1812 and 1813 open violence and riot ensued. But even after the riots were quelled, the disaffection of the people, or rather of the middlemen, and the unreasonable opposition to the improvements, were not at an end. A new mode of attack was reserved, and every attempt made to poison the public mind. Certain English journals, particularly a paper called 'The Military Register,' teemed with the clamours of the disaffected. It contained attacks on the whole system of management, and the most false and inflammatory statements of the mode in which this system was put in execution.

Mr. Sellar, in particular, was selected as the victim of these disgraceful publications; he was branded with the names of tyrant, oppressor, and murderer; exposed to public view as a man of the most atrocious character, and every sort of abandoned cruelty was laid to his charge. A subscription was entered into for the purpose of prosecuting Mr. Sellar, and through him a stab was to be given to Lady Sutherland's new mode of management. It is also a fact, that certain designing and malicious persons stirred up farther the deluded people, joined them in the plot formed for ruining Mr. Sellar, in order to gratify their own enmity, whilst they attempted to undermine the progress of improvement. At last, this gentleman was imprisoned by the Sheriff-substitute, and, nearly two years after the crimes of which he was accused were said to have been committed, he was brought to trial at the instance of His Majesty's Advocate. To this measure, his Lordship seems to have been induced, chiefly for the purpose of satisfying the public mind and putting an end to the clamours of the country.

Mr. Sellar, after a full investigation into all his proceedings, has been honourably acquitted by the unanimous voice of a most respectable jury, and his reputation placed above the reach of clamour or prejudice. Although this acquittal is no doubt of itself

sufficient to prove Mr. Sellar's innocence of the crimes laid to his charge, yet as the publications alluded to have not been contradicted by any detailed account of the facts, and as at any rate the public interest has been so much excited by this trial, it has been thought that an accurate statement of the evidence may not be unacceptable. The accuracy of this report may be depended on. It is published by the junior Counsel for Mr. Sellar, from notes taken in Court, and omits nothing but the *arguments* of the Counsel, which are kept back, lest it may be supposed that this publication was intended to convey anything beyond the mere facts of the case. The honour of Mr. Sellar, the purity of his intentions, his humanity of disposition, and the legality of his proceedings, must be clear to every person who candidly peruses this account of his trial; and if there still be any who are so prejudiced as to disregard truth and justice, when coupled with his name, or with the Sutherland improvements, their opinions can only be treated by that gentleman with the contempt which they deserve.

## INDICTMENT.

Patrick Sellar, now or lately residing at Culmally, in the parish of Golspie, and Shire of Sutherland, and under-factor for the Most Noble the Marquis and Marchioness of Stafford. You are indicted and accused, at the instance of Archibald Colquhoun, of Killermont, his Majesty's advocate for his Majesty's interest, that albeit, by the laws of this and every other well governed realm, culpable homicide, as also oppression and real injury, more particularly the wickedly and maliciously setting on fire and burning or causing, and procuring to be set on fire and burnt, a great extent of heath and pasture, on which a number of small tenants and other poor persons maintained their cattle, to the great injury and distress of the said persons; the violently turning, or causing and procuring to be turned out of their habitations, a number of the said tenants and other people, especially aged, infirm and impotent persons, and pregnant women, and cruelly depriving them of all cover or shelter, to their great distress and the imminent danger of their lives; the wickedly and maliciously setting on fire, burning, pulling down and demolishing, or causing and procuring to be set on fire, burnt, pulled down and demolished, the dwelling-houses, barns, kilns, mills, and other buildings, lawfully occupied by the said



persons, whereby they themselves are turned out, without cover or shelter, as aforesaid, and the greater part of their different crops is lost and destroyed from the want of the usual and necessary accommodation for securing and manufacturing the same; and the wantonly setting on fire, burning, and otherways destroying or causing and procuring to be set on fire, burnt, and otherways destroyed growing corn, timber, furniture, money, and other effects, the property, or in the lawful possession of the said tenants and other poor persons, are crimes of a heinous nature, and severely punishable: Yet true it is, and of verity, that you the said Patrick Sellar, are guilty of the said crimes or of one or more of them, actor or art and part: In so far as you the said Patrick Sellar did on the 15th day of March 1814, or on one or other of the days of that month or of April and May immediately following, and on many occasions during the said months of March, April, and May wickedly and maliciously set on fire and burn or cause and procure John Dryden and John M'Kay, both at that time shepherds in your service, to set on fire and burn a great extent of heath and pasture, many miles in length and breadth, situate in the heights of the parishes of Far and Kildonan in the county of Sutherland and in particular in the lands of Ravigill, Rhiphail, Rhiloisk, Rossal, Rhimsdale, Garvault, Truderskaig, and Dalcharrel, whereby many of the tenants and others in the lands aforesaid were deprived of pasturage for their cattle and in consequence thereof reduced to great distress and poverty; and many of them were obliged to feed their cattle with the potatoes intended for the use of their families and with their seed corn; particularly, William Gordon, James M'Kay, Hugh Grant, and Donald M'Kay, all then tenants in Rhiloisk aforesaid; John Gordon and Hugh M'Beath then tenants in Rhimsdale aforesaid; Donald M'Beath then tenant in Rhiphail aforesaid; Murdo M'Kay and John M'Kay then tenants in Truderskaig aforesaid. And further you the said Patrick Sellar did, upon the 13th day of June, 1814, or on one or other of the days of that month, or of May immediately preceding or of July immediately following, together with four or more persons, your assistants, proceed to the district of country above mentioned and did then and there violently turn or cause, or procure to be turned out of their habitations, a number of the tenants and poor people dwelling there; and particularly Donald M'Kay, a feeble old man of the age of four score years or thereby, then residing in Rhiloisk aforesaid; who, upon being so turned out, not being able to

travel to the nearest inhabited place, lay for several days and nights thereafter in the woods in the vicinity, without cover or shelter, to his great distress and to the danger of his life ; As also Barbara M'Kay, wife of John M'Kay then tenant in Ravigill aforesaid, who was at the time pregnant, and was moreover confined to her bed in consequence of being severely hurt and bruised by a fall ; and you the said Patrick Sellar did then and there, notwithstanding the entreaties of the said John M'Kay, give orders that the said Barbara M'Kay should be instantly turned out, whatever the consequences might be, saying, 'That you would have the house pulled about her ears,' and the said John M'Kay was accordingly compelled, with the assistance of some women and neighbours, to lift his said wife from her bed and carry her nearly a mile across the country to the imminent danger of her life ; As also, time last above mentioned, you the said Patrick Sellar did forcibly turn out, or cause and procure your assistants aforesaid to turn out of his bed and dwelling in Garvault aforesaid, Donald Munro, a young lad who lay sick in bed at the time. And further you the said Patrick Sellar did, time aforesaid, wickedly and maliciously set on fire, burn, pull down, and demolish, or cause and procure your assistants aforesaid to set on fire, burn, pull down, and demolish a great number of the dwelling-houses, barns, kilns, mills, and other buildings, lawfully occupied by the tenants and other inhabitants in the said district of country, and in particular the houses, barns, kilns, mills lawfully occupied by the above mentioned William Gordon, James M'Kay, Hugh Grant, in Rhiloisk aforesaid, and John Gordon in Rhimsdale aforesaid. As also the barns and kilns in Rhiphail aforesaid lawfully occupied by Alexander Manson, John M'Kay, and others then tenants or residenters there ; the barns and kilns in Ravigill aforesaid, lawfully occupied by John M'Kay, Murdo M'Kay, and others then tenants there ; and the barns and kilns in Garvault aforesaid, lawfully occupied by William Nicol and John Munro then tenants there. As also the house and barn in Ravigill aforesaid, lawfully occupied by Barbara M'Kay, an infirm old widow nearly four score years of age, and who was obliged to sell three of her five cattle at an under value, in order to support herself, her crop being destroyed from want of her barn. As also the greater part of the houses, barns, kilns, mills, and other buildings in the whole district of country above mentioned, was, time aforesaid, maliciously set on fire, burnt, pulled down and demolished by

you the said Patrick Sellar or by your assistance, or by your orders, whereby the inhabitants and lawful occupiers thereof were turned out, without cover or shelter, and the greater part of their different crops was lost and destroyed from want of the usual and necessary accommodation for securing and manufacturing the same; and especially the lawful occupiers of the barns, kilns, mills, and other buildings, particularly above mentioned to have been set on fire and destroyed as aforesaid, did sustain great loss in their crops from being thus deprived of the means of securing and manufacturing the same. And further you the said Patrick Sellar did, time aforesaid, culpably kill Donald M'Beath, father to Hugh M'Beath, then tenant in Rhimsdale aforesaid, by unroofing and pulling down, or causing to be unroofed and pulled down, the whole house in Rhimsdale aforesaid, where the said Donald M'Beath was then lying on his sick bed, saving only a small piece of the roof to the extent of five or six yards, whereby the said Donald M'Beath was exposed in a cold and comfortless situation, without cover or shelter, to the weather; and he the said Donald M'Beath, in consequence of being so exposed, never spoke a word more, but languished and died about eight days thereafter, and was thereby culpably killed by you the said Patrick Sellar; or otherwise you the said Patrick Sellar did, time and place aforesaid, cruelly expose the said Donald M'Beath to the weather, without cover or shelter, by pulling down and unroofing, or causing, to be pulled down and unroofed, the greater part of the house where he then lay, sick in bed, to his great distress, and the imminent danger of his life; and this you the said Patrick Sellar did, notwithstanding the entreaties of the said Hugh M'Beath and others, you saying, in a rage, when it was proposed that the said Donald M'Beath should remain, 'The devil a man of them, sick or well, shall be permitted to remain,' or words to that effect. And further you the said Patrick Sellar did, time aforesaid, wickedly and maliciously set on fire, burn and demolish, or cause and procure your assistants to set on fire, burn and demolish, the dwelling-house, barn, kiln, sheepcot, and other buildings then lawfully occupied by William Chisholm in Badinloskin in the parish of Farr aforesaid, although you knew that Margaret M'Kay, a very old woman of the age of ninety years, less or more, and who had been bedridden for years, was at the time within the said house; and this you did, notwithstanding you were told that the said old woman could not be removed without imminent danger to her life; and the flames having

approached the bed whereon the said Margaret M'Kay lay, she shrieked aloud in Gaelic 'On Teine,' that is to say, 'O the fire,' or words to that effect; and was forthwith carried out by her daughter, Janet M'Kay, and placed in a small bothy, and the blanket in which she was wrapped was burnt in several places; and the said Margaret M'Kay never spoke a word thereafter, but remained insensible from that hour, and died in about five days thereafter in consequence of the fright and alarm, and in particular in consequence of her removal as aforesaid from her bed into a cold and uncomfortable place, unfit for the habitation of any human being, and the said Margaret M'Kay was thereby culpably killed by you the said Patrick Sellar; or otherwise you the said Patrick Sellar did, time and place aforesaid, cruelly turn, or cause to be turned, out of her bed and dwelling-place the said Margaret M'Kay, by setting on fire, burning, and demolishing, or causing and procuring to be set on fire, burnt, and demolished, the said house and other buildings in manner above mentioned, to her great distress and the imminent danger of her life: And further, all the persons whose houses, barns, kilns, mills, and other buildings were burnt and destroyed, or caused and procured to be burnt and destroyed, by you the said Patrick Sellar, all as above described, did sustain great loss in their moss, wood, and other timber, which was broken and demolished, and destroyed by fire and otherwise, at the same time and in the same manner, with the buildings as aforesaid; and also in their furniture and other effects, all their lawful property, or in their lawful possession at the time; And in particular the said Barbara M'Kay in Ravigill aforesaid lost her door and door posts and timber of her house and barn, her meal chest, and several articles of furniture, all her property or in her lawful possession, which were then and there destroyed, or caused to be destroyed, by you the said Patrick Sellar as aforesaid; and the greatest part of the furniture and timber belonging to the said William Chisholm, together with 3*l.* in bank notes and a ridge of growing corn, all the property, or in the lawful possession of, the said William Chisholm, in Badinloskin aforesaid, were then and there destroyed by fire or otherwise by you the said Patrick Sellar: And you the said Patrick Sellar, having been apprehended and taken before Mr. Robert Mackid, Sheriff-Substitute of Sutherland, did in his presence at Dornoch, on the 31st day of May, 1815, emit and subscribe a declaration, which declaration, together with a paper entitled, 'Notice is given to the Shathnaver tenant, 15 Dec.,

1813,' being to be used in evidence against you at your trial, will be lodged in due time in the hands of the Clerk of the Circuit Court of Justiciary, before which you are to be tried, that you may have an opportunity of seeing the same. At least, time and places above mentioned, the said heath and pasture was wickedly and maliciously set on fire and burnt, or caused and procured to be set on fire and burnt, to the great injury and distress of the said tenants and others; and the said persons were violently turned, or caused and procured to be turned, out of their habitations and deprived of all cover and shelter, to their great distress and the imminent danger of their lives; and the said Donald M'Beath and Margaret M'Kay were culpably killed in manner above mentioned or were cruelly turned out of their habitations as aforesaid; and the said dwelling-houses, barns, kilns, mills, and other buildings, lawfully inhabited and occupied by the said persons, were maliciously set on fire, burnt, pulled down, and demolished, or were caused and procured to be set on fire, burnt, pulled down, and demolished, and the inhabitants and lawful occupiers thereof turned out as aforesaid; and the greater part of their different crops was lost or destroyed from want of the usual and necessary accommodation for securing and manufacturing the same; and the growing corn, timber, furniture, money, and other effects, the property, or in the lawful possession, of the said persons, were wantonly set on fire, burnt, and otherways destroyed, or caused and procured to be set on fire, burnt, and otherways destroyed; And you the said Patrick Sellar are guilty of the said crimes, or one or more of them, actor or art and part; All which, or part thereof, being found proved by the verdict of an assize before the Lord Justice General, the Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Circuit Court of Justiciary to be holden by them, or by any one or more of their number within the Burgh of Inverness, in the month of April in this present year, 1816, you, the said Patrick Sellar, ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

H. HOME DRUMMOND, A.D.

'Mr. Sellar having pleaded not guilty, the following defences were read:—1st. The pannel objects to the relevancy of various parts of the libel. 2nd. In so far as the libel is relevant, the pannel denies its truth; the whole of the charges are utterly false, in so much so, that the Prosecutor is not only unable to

bring any sufficient evidence in support of his own accusations, but the pannel will bring positive proof *against* them. The pannel will prove, that the ejectments which have given rise to this trial, were done in due order of law, and, under the warrants of the proper Judge, issued on regular process. Further, he will prove that great indulgence was shown to the tenants even after they had resisted the regular decrees of the Judge; that nothing was done on his part, or with his knowledge or approval, either cruel, oppressive, or illegal; That he committed no acts of homicide; and, on the whole, he will prove, that throughout every part of this affair, he (the pannel) has been the victim, not only of the most unfounded local prejudices, but of long-continued and active defamation, on the part of certain persons, who have made it their business to traduce the whole system of improvements introduced into the Sutherland Estate, and to vilify the pannel, by whom they have been pleased to suppose that these improvements have been partly conducted. He rejoices, however, in the first opportunity, which has now been afforded to him, of meeting these calumnies and prepossessions in a Court of Justice, and relying, as he does, with implicit confidence on the candour and dispassionate attention of a British Jury, he has no doubt whatever of being able to establish his complete innocence of all the charges now brought against him.

*Under protestation to add and eik.*

J. GORDON.

H. COCKBURN.

PAT. ROBERTSON.'

Mr. ROBERTSON opened the case on the part of the pannel. The object of addressing the Court at this time was to state such observations as occurred on the relevancy of the indictment, and to give a general view of the line of defence. On the former, he remarked, that various objections did occur to the relevancy of the charges, particularly to the second and fourth branches of the indictment. With these, however, he did not mean to trouble the Court, as Mr. Sellar was so conscious of his innocence, that he courted investigation, being unwilling that any part of his conduct should be left uninvestigated. No objection was, therefore, made to the relevancy of any part of the indictment, so far as it charged any specific crime against which the pannel might be prepared to defend himself. But, certainly, he did object to those parts of it which contained *general* charges of destroying

'a number of houses,' injuring 'a number of tenants,' &c., unless these were understood merely as introductory to the specific crimes mentioned. He also objected to the last charge, if meant as anything more than matter of mere *aggravation*.

On the merits, he gave a short sketch of the causes which gave rise to the present trial—alluded to the clamour which had been raised in the country—the prejudices of the people—the disgraceful publications in a newspaper called 'The Military Register,' and the pains which had been taken to circulate these false and mischievous papers through Sutherland and the adjacent counties. The general line of defence he stated to be, that, as to the first charge of heath burning, this was done with the express consent of the tenantry, and, as could be proved, to their positive advantage. As to the removings, the defence was quite clear. The lands mentioned in the indictment were advertised to be set on December 5, 1813, at the Inn of Golspie, and Mr. Sellar was preferred as the highest offerer. Before Whitsunday, 1814, he brought regular actions of removing, and it was not until after he had obtained decrees in these actions, charged the whole of the tenants to remove, and taken out precepts of ejection against them, that they were, in the month of June, actually removed from their lawless and violent possession. These facts were established by the decrees and precepts in the hands of the Clerk of Court. As to the demolition of the houses, no houses were pulled down till after the ejections had been completed, and the property had become Mr. Sellar's. No furniture was destroyed by him or by his orders, no unnecessary violence was used, nor any cruelty exercised, but everything was done in due order of law, and without oppression of any kind. The charges of culpable homicide were quite out of the question, and Mr. Sellar defied the Public Prosecutor to prove them. Upon the whole, it was not doubted, that if truth and justice were to prevail over malice and conspiracy, Mr. Sellar would obtain an honourable and triumphant acquittal.

The Advocate-Depute having here stated that he did not mean to insist on any charges, excepting those which were specially and particularly mentioned in the indictment, Lord Pitmilley said:—

'It would be improper for me to enter at present into the origin of the prosecution, or the nature of the defences. Neither shall I say anything of the publications which have been alluded to, except that they appear to be of the most contemptible nature,

and the only prejudice which I can ascertain is the other way ; that is, against the cause requiring such aid. I have no doubt as to the relevancy of the libel.'

The usual interlocutor of relevancy was then pronounced, and the following gentlemen were named as a jury :—

James Fraser, of Belladrum.  
 William Fraser, of Culbockie.  
 William M'Intosh, of Balnespeck.  
 Duncan Fraser, of Fingask.  
 Alexander Smith, merchant in Inverness.  
 John Gillanders, of Highfield.  
 William Reid, of Muirtown.  
 William M'Kenzie, of Strathgarve.  
 George Falconer M'Kenzie, of Allangrange.  
 Robert Denham, tacksman of Dunglass.  
 George Kay, residing at Tannachy.  
 Bailie Robert Joss, merchant in Elgin.  
 John Barclay, Writer there.  
 John Collie, farmer at Alvas.  
 John Smith, tacksman of Greens.

#### EVIDENCE FOR THE CROWN.

The first witness proposed to be adduced was

1. Mr. ROBERT M'KID, Sheriff-Substitute of Sutherland, to whom it was objected, that the proposed witness has evinced malice or partial counsel, or both, against the pannel in so far as he imprisoned him, without a complainer, upon an illegal warrant which the Court of Justiciary quashed *ex facie* of itself, refused bail, struck him off from the roll of procurators, without a complainer, a trial, or any previous notice, and afterwards wrote an inflammatory and false statement of the pretended circumstances of this case to the Marquis of Stafford, and stated to various persons that the pannel ought to be hanged, that Botany Bay was too good for him, and that they, though willing to find bail for him, ought to have nothing to do with him.

Answered by the Advocate-Depute: That if it be true that the pannel was imprisoned without a regular complaint, it was only an irregularity in the proceedings, and that the Court of Justiciary stated, in their finding on the petition for liberation, irre-



gularity as a ground for allowing bail. That the prisoner was committed for a capital offence, and but for the irregularity in point of form, he could not have been bailed. That the mere circumstance of the pannel being struck off the roll of procurators, if true, is no ground of malice, and may have been justified in the circumstances of the case. That the relevancy of the statement sent to the Marquis of Stafford must depend on the expressions it contains, of which the prosecutor is totally ignorant. That the expressions condescended upon do not infer such deadly malice as to render the witness inadmissible. That the only point on which the prosecutor proposes to examine Mr. M'Kid is as to the practice of Sutherland, with respect to the rights of out-going tenants to retain possession of their barns until the term of removal from the arable ground, as to which he conceives him the fittest person to speak as Judge Ordinary of the bounds.

The Court having allowed a proof of the objections,

Mr. M'Kid himself was examined *in initialibus*. Witness has no malice or ill-will against Mr. Sellar; remembers that he imprisoned that gentleman in the jail of Dornoch; the warrant proceeded on a petition from the tenants of Strathnaver to Lord Gower, transmitted to witness by his lordship. There was no other complaint to witness personally before the warrant was granted. Witness refused to grant bail, as Mr. Sellar was imprisoned for a capital crime. Witness remembers having taken a precognition, in Mr. Sellar's case; he had not the assistance of the Procurator Fiscal, as at the time that gentleman was from home. Witness removed Mr. Sellar from his office of Procurator before his own Court, without any complaint being made against him. Witness never said that Mr. Sellar ought to go to Botany Bay, or be hanged, or that this would be the case; he never said to Mr. Young, Lady Stafford's Commissioner, that that gentleman should have nothing to do with Mr. Sellar; Mr. Young never offered to give bail. Witness wrote a letter to Lord Stafford, in regard to the crimes of which Mr. Sellar was accused, after the precognition, and which letter being shewn to the witness, was identified. Witness never said, at least has no recollection of saying, to Mr. Ross, that if he could, he would ruin Mr. Sellar; he has seen 'The Military Register,' but has no connection with the paragraphs in that paper relative to Mr. Sellar; he has seen the Crown Agent's letter to the Minister of Farr; the publishers of 'The Register' did not get a copy of it from the witness. Cross-examined: Witness wrote to Mr. Cranstoun, the

Sheriff-Depute on the 8th of May, 1815, when he committed Mr. Sellar. The letter was then read, as follows:—

*'To Lord Stafford.*

'Kirktown p. Golspie: 30th May, 1815.

'MY LORD,—I conceive it a duty I owe to your lordship to address you upon the present occasion, and a more distressing task I have seldom had to perform.

'Your lordship knows that in summer last, an humble petition, subscribed by a number of tenants on Mr. Sellar's sheep farm in Farr and Kildonan, was presented to Lord Stafford, complaining of various acts of injury, cruelty and oppression alleged to have been committed upon their persons and property, by Mr. Sellar, in the spring and summer of that year.

'To this complaint, her ladyship, upon the 22nd of July last was graciously pleased to return an answer in writing. In it, her ladyship, with her usual candour and justice, with much propriety, observes, "That if any person on the estate shall receive any illegal treatment, she will never consider it as hostile to her if they have recourse to legal redress, as the most secure way to receive the justice which she always desires they should have on every occasion." Her ladyship also intimates "That she had communicated the complaint to Mr. Sellar, that he may make proper inquiry and answer to her."

'It would appear, however, that Mr. Sellar still refused or delayed to afford that redress to the removed tenants to which they conceived themselves entitled, which emboldened them to approach Earl Gower with a complaint similar to the one they had presented to Lady Stafford.

'To this complaint his lordship graciously condescended, under date 8th February last, to return such an answer as might have been expected from his lordship. His lordship says, that he has communicated the contents to your lordship and Lady Stafford, who, as his lordship nobly expresses himself, "are desirous that the tenants should know that it is always their wish that justice should be impartially administered." His lordship then adds, that he has sent the petition, with directions to Mr. Young that proper steps should be taken for laying the business before the Sheriff-Depute; and that the petitioners would thereafter be assisted by Mr. Young, if they desired it, in having

the precognition taken before the Sheriff-Depute according to their petition.

‘Soon after receipt of Earl Gower’s letter, it would appear that a copy of the petition, with his lordship’s answer, had been transmitted to the Sheriff-Depute by the tenants. Mr. Cranstoun in answer, upon 30th March last, says, “that if the tenants mean to take a precognition *immediately*, it will proceed before the Sheriff-Substitute, as my engagements will not permit me to be in Sutherland until the month of July.”

‘In consequence of these proceedings, of an express injunction from His Majesty’s Advocate-Depute, and a similar one from the Sheriff-Depute, I was compelled to enter upon an investigation of the complaints.

‘With this view, I was induced to go into Strathnaver, where, at considerable personal inconvenience and expense, and with much patient perseverance, I examined about *forty* evidences upon the allegations stated in the tenants’ petition; and it is with the deepest regret I have to inform your lordship that a more numerous catalogue of crimes, perpetrated by an individual, has seldom disgraced any country, or sullied the pages of a precognition in Scotland!!!

‘This being the case, the laws of the country imperiously call upon me to order Mr. Sellar to be arrested and incarcerated in order for trial; and before this reaches your lordship this preparatory legal step must be put in execution.

‘No person can more sincerely regret the cause, nor more feelingly lament the effect, than I do; but your lordship knows well, and as Earl Gower very properly observed, “Justice should be impartially administered.”

‘I have in confidence stated verbally to Mr. Young *my fears* upon this distressing subject; and I now take the liberty of stating my sentiments also to your lordship *in confidence*.

‘The crimes of which Mr. Sellar stands accused are :

‘1. Wilful fire-raising, by having set on fire and reduced to ashes a poor man’s whole premises, including dwelling-house, barn, kiln, and sheep-cot, attended with most aggravated circumstances of cruelty, *if not murder!!!*

‘2. Throwing down and demolishing a *mill*, also a capital crime.

‘3. Setting fire to and burning the tenants’ heath-pasture before the legal term of removal.

‘4. Throwing down and demolishing houses, whereby the lives

of sundry *aged* and *bedridden* persons were endangered, if not *actually lost!*

‘5. Throwing down and demolishing barns, kilns, sheep-cots, &c., to the great hurt and prejudice of the owners.

‘6. Innumerable other charges of lesser importance swell the list.’

‘I subjoin a copy of Mr. Cranstoun’s last letter to me upon the subject, for your lordship’s information, and have the honour to be, &c.

‘(Signed)

ROBT. M’KID.’

(Letter subjoined.)

‘Edinburgh: 13th May, 1815.

‘I am extremely sorry that you have so disagreeable a duty to perform, and would willingly have relieved you of it, if the commencement of the Session had not rendered my presence at Edinburgh indispensable. I feel the embarrassing nature of your situation, but am confident that you will extricate yourself with your usual ability and good sense.

‘Proceed with the precognition, then take Sellar’s declaration, and if there is ground for a criminal proceeding, commit afterwards,’ &c., &c.

The following witnesses were then called in further evidence of the objections:—

1. Mr. HUGH ROSS was Procurator-Fiscal for Sutherland in 1815; knows Mr. M’Kid; conversed with him in July, 1813, about Mr. Sellar; M’Kid repeatedly said, or the witness inferred, that he should be happy to have it in his power to injure Mr. Sellar if he could; witness warned Mr. Sellar of this. Cross-examined: Cannot swear to the specific words; cannot mention the species of injury intended. Witness had never any dispute or difference with M’Kid.

2. WILLIAM YOUNG, Esq.: Witness remembers when Mr. Sellar was imprisoned, went to Mr. M’Kid to offer bail; M’Kid refused, and said the crime was notailable; was advised by him to have as little to do with Mr. Sellar as possible. Witness asked him his opinion as to what would happen to Mr. Sellar, to which Mr. M’Kid answered, ‘I am sorry to say, if he is not hanged, he will certainly go to Botany Bay.’

Mr. COCKBURN then addressed the Court very forcibly in

support of the objection. Mr. Drummond answered, and Mr. Gordon replied. Lord Pitmilley went over the grounds of objection, and the Court pronounced the following interlocutor: 'Lord Pitmilley having heard the evidence in support of the objection, and having likewise heard the Counsel for the parties on the import thereof, repels the objection, and allows the evidence of Robert M'Kid to be taken *cum nota*, recommending it, however, to the Advocate-Depute to pass from the evidence of the witness in the circumstances of the case.'

The ADVOCATE-DEPUTE, in respect of the recommendation of the Court, then declared that he passed from the evidence of Mr. M'Kid.

Mr. Ross, Sheriff-Substitute of Ross-shire, was then sworn as interpreter, many of the witnesses being unable to speak English, and the following persons were adduced:—

3. WILLIAM CHISHOLM, residing in Badinloskin, sworn and examined on the part of the pannel *in initialibus*. Witness promised, two years ago, to contribute part of the legal expenses to be incurred in bringing Mr. Sellar before the Circuit Court or the Criminal Court in Edinburgh. Witness's wife, Henrietta M'Kay, also promised to contribute. Examined *in causa* on the part of the Crown. Witness remembers that in June, 1814, Mr. Sellar, in company with twenty men, besides four Sheriff-officers, came to Badinloskin, pulled down and set on fire the house and barns; some corn was also burnt, and three twenty-shilling notes were consumed. This happened a little after ten, on a Monday morning. Witness's mother-in-law was in the midst of the fire, and no person would dare to take her out, till his sister-in-law, Janet M'Kay, came. His mother-in-law was 100 years old, and confined to bed from her age, but was not sickly. Sellar did not come up till about an hour after the arrival of the officers, and when he arrived witness heard him desire the tenants to carry the old woman out to a sheep-cot. Witness speaks no English, but understands it a little. The house was not set on fire till Sellar came up, and he gave instructions to put fire to it immediately. Sellar himself was active in putting sticks on the fire. One of the men, George M'Leod, was ordered by Sellar to take out the old woman, but he said he would not attempt it, even though they should take off his coat, as he would not be accessory to murder. Sellar desired the woman to be taken out, although she should not live one hour after. It was in about two minutes after this that witness's sister-in-law came and took out the old woman.

The blankets in which she was wrapped were burnt, and the bed was going on fire before she was taken out. She said, 'God receive my soul; what fire is this about me?' and never spoke a word more. At the time she said this she was in bed; lived till the following Sunday, till which time she remained insensible. Before this period she was sensible enough, and could speak rationally. After she was taken out, the bed and clothes were burnt. She was carried to a small sheep-cot, covered with turf. It had no door or window, was six feet in length, and five in width; could only hold a small horse. The woman was not personally injured by the fire, but the alarm and removal caused her death. The three notes which were lost and one shilling were in a chest, of which witness's wife had the key; she was not at home at this time, but returned in the evening. Interrogated: Why they did not remove the furniture and woman in the hour that intervened before Mr. Sellar came? Witness answered, because he was prevailed on not to do so, in expectation that Mr. Sellar would not remove them when he came. The furniture was burned, and the growing corn, which was destroyed, was in extent equal to what would have been twelve sheaves in harvest, and the fire was communicated to it from the house. There was wind, and it burned with extreme vehemence. The timber of the house being of moss fir, belonged to the witness. The wood was thrown down before it was set fire to, and Sellar said, 'There's a bonfire for you.' By the practice of the country the outgoing tenant is entitled to carry away the timber belonging to the house, unless the incoming tenant pays for it. Immediately after the fire Mr. Sellar gave witness three shillings, but 20*l.* would not have been sufficient compensation. Sellar did not tell him that this money was given for the wood. Robert M'Donald also gave him other three shillings from Mr. Sellar, as he said, for the timber, which witness took, saying it was no compensation—the wood and workmanship of the house, independent of the furniture, was worth 20*l.* The house was made of feal and stone. The kiln was not burnt, nor the sheep-cot. The kiln was 100 yards from the house, but the house, barn and byre were close to each other; there were altogether sixteen couples in the house and byre, which were under the same roof. Witness has lived there nine years against next Whitsunday. He took the house from Mr. Falconer, then Lady Sutherland's factor, and at first paid a rent of five shillings, but latterly he paid five guineas. He held of the sub-tenants, and the five guineas were paid to James Gordon, who collected for

behoof of the rest. Cross-examined: Witness was first a smith, then a tinker. The 3*l.* belonged to the old woman, and was intended to buy whisky to be used at her interment. The chest was usually locked, his wife had the key, and some money of hers was in the chest. Witness and some of his neighbours saw the money that day before his wife went from home, which was about 7 o'clock in the morning on the Sunday before Sellar intimated that witness would be ejected; and it was about 6 o'clock of the morning of the ejection that he went to see that the money was in the chest, in case it should be destroyed by the fire, which he expected.

4. HENRIETTA M'KAY, wife of the preceding witness, left Badinloskin early in the morning of the ejection, from that place, and returned a little after twelve o'clock noon; when she came within a mile's distance of the house, saw it going on fire, and she fell down, being afraid that her mother was burnt. She was very weak, and came slowly home, and said she would complain of nothing if no lives were lost. One of the children met her and told her that her mother was alive. She found her mother speechless in a small house, without a door, part of the roof of which was spoiled. The house was not a sheep-cot, but kept for a small horse. Her mother never spoke to her, and died on Saturday thereafter, the fifth day, in the same small house. The blanket in which she had been wrapt was burnt in two or three places. She was weak and sickly, but spoke to those about her that morning before witness left her, and was 92 years of age. The chief part of the furniture had been removed; no chest whatever was burnt. There were 3*l.* in the house, but whether they were burnt or taken away the witness knows not. These three notes were deposited by her six weeks before in a hole in the wall, and there was a shilling which had been picked up by one of the hens—witness never looked whether the three pounds remained, as she was under no apprehension about it, no person knowing it was there. She had no key that day, and there was no lock or key for any chest in the house.

5. JOHN M'KAY, in Achufrish of Rossal, remembers going to Badinloskin, a little past 11 o'clock on the day of the ejection; Sellar came up a little past 12 o'clock; the officers having been there before him, but after the witness; he had no watch. Witness came there, being told by Mr. Sellar, at Auchness meeting-house, to meet him there, for the purpose of removing William Chisholm, and that one out of every house of the tenants of Rossal

must come. Witness said there was a woman lying sick in the house who could not be removed; Sellar said that she must be taken away. Witness saw the old woman next day, and her daughter speaking to her before the ejection, but the old woman could make no answer; witness did not know what her daughter said, but she asked her something or another; this was before Sellar came. He heard the sound of her voice when they were taking her out; she said 'O tien,' or 'O the fire.' Mr. Sellar and John Burns came together, and the tenants of Rossal met them at a small house near Chisholm's, where they remained in conversation for a good while. The tenants were for keeping the house whole, but Sellar sent for the officer, and said 'Put fire to the house immediately.' Fire was put not long after, and then the woman's daughter brought her out; the house was burning before the woman was brought out. There was a heck lying near the house, and Sellar said 'There is a nice thing for carrying out the woman;' but they were not for meddling with her at all, as she was so low in body. This conversation about the heck took place before the fire was actually put to the house, but after it was ordered. The house to which the woman was removed was a small place, not fit for a person to live in. Cross-examined: The officers came after 11 o'clock, and were there for about an hour before Sellar arrived; there was a byre adjoining to the house, and under the same roof, and Margaret M'Kay was in the byre when the witness came, and it was from the byre that the woman was removed. There was no calf in the byre; witness was there almost half an hour before the men had arrived; he was in the house, and saw the woman lying in bed in the byre. Witness is a tenant of Mr. Sellar, but has been warned out. Sellar was about fifty yards distant when he ordered the house to be set fire to; Margaret M'Kay was quite sensible before the ejection; she used to lie in the other end of the house, but had been removed to the byre. There was a fire in the byre but no fire-place. By the Court: On the Monday before orders were given to put fire to the house, witness and most of the tenants remonstrated against the removal of the old woman; but Sellar said she must go. Witness does not know whether any furniture was destroyed, but saw a ridge of growing corn about two inches in height blackened.

6. HUGH M'BEATH, at Kenakyle. Witness remembers that some heather, belonging to him, was burnt by John M'Kay, Mr. Sellar's shepherd, and another man; but he was not present, being



at his mother's funeral ; he saw no houses burnt. It is the practice in Sutherland for the outgoing tenant to retain his barns till he shall thrash out his crop. Witness had one barn, his farm was at Rhimsdale. Witness's father died about ten days after the houses were pulled down ; his father was in a corner of the house, and was left there till he died ; the whole house was taken down, except a small space above his father's bed. Witness began to pull down the house himself, hearing that the party were pulling down the other houses, and destroying the wood. Witness took off the divots and left the couples and the side trees standing, as he was obliged to go away to his good mother's burial, and did not return for four days. On his return he found the couples cut with an axe, and his father in the house. There was a clay partition standing between his father and the weather, but this was not entire, and the wind was coming in. Witness cannot say that this occasioned the state in which he found his father. Witness went to Langdale on the Saturday before the houses were pulled down to request that Mr. Sellar would allow his father to remain, as he was weak and lying ill in bed. Mr. Sellar refused, and said they must remove by Tuesday or Wednesday, well or ill. His words were, 'De'il a one of them shall remain.' Witness's father-in-law said to Sellar, 'That is rather cruel ;' to which he rejoined, 'It's no business of yours.' Sellar then asked his name and put it down in his pocket-book, to look after him. Cross-examined : Did not see Sellar when they were pulling down the house. Witness's father was in bed long before this, as he had a large sore on his eye, which had begun five years before.

7. GEORGE ROSS, in Skelpick, saw Barbara M'Kay's house pulled down, but does not know whether she had a barn ; knows nothing about her cattle ; the house was pulled down by the sheriff's officer and party.

8. JAMES M'KAY, in Skale, knows Donald M'Kay, in Rhiloisk, who was turned out of, or left his house, in June, 1814 ; saw him sitting or lying in the woods sometime after this. There was no house in which he could find shelter, as they were all pulled down, except the one occupied by Mr. Sellar's shepherd. Witness proposed to take Donald to his house, but he gave him no answer. Donald was infirm before this by reason of old age. There were houses on the other side of the river Naver, but witness does not know if Donald M'Kay was able to go over. The nearest house was about an English mile distant ; but witness does not know whether the man could go or not. Witness's furniture had not

been carried off that day, but lay in front of the house; he does not know whether Donald M'Kay was turned out or not. Witness had a barn which was broken down; he was told that it was done by Sellar's party, but he did not see this done; he lost part of his crop from the want of his barn, but he does not know how much; the greatest part was threshed in the open air, and part of it was destroyed by cattle. There was only one barn left for the three tenants in Skale, and they had not room in the barn. William Gordon and Hugh Grant also sustained loss for want of their barns. There was a kiln also pulled down, but witness did not see this done; the kiln was common to all the tenants; considerable inconvenience arose from the want of it; they were obliged to carry their grain over the river to a kiln on the other side. Gordon had two barns; one was pulled down, one was allowed to stand. The outgoing tenant, by the custom of the country, had the use of the kiln and barn till he manufactured his waygoing crop. Cross-examined: The quantity of land in Skale, belonging to the witness, was adequate to the sowing of three bolls of black oats, half a boll of barley, and a portion of potatoes; the rent was 30s.; William Gordon had more crop; tenants were thirled to the mill of Langdale.

9. WILLIAM GORDON, in Bettyhill; three of his barns were destroyed in June, 1814; witness thereby suffered damage. By the custom of the country the outgoing tenant keeps the barns till he threshes out his crop, except the hay barn. The loss sustained by the witness was occasioned by the want of his barns and by the neighbours using the one that was left; there was only one barn left to five tenants; witness was at a distance in Caithness; witness's crop was damaged by sheep breaking into his yard. Cross-examined: The tenants in Bettyhill were thirled to the mill of Langdale, and had nearly as much meal in the year 1814 as in any other year. Witness paid about that time nearly 5*l.* of rent, and the other tenants about 2*l.* 10*s.*; the new allotments were ready for the people some days before the ejections took place, and the tenants were to be allowed to remain till the allotments were ready.

10. JOHN GORDON, at Skelpick, examined *in initialibus* on the part of the pannel. Witness subscribed to bring Mr. Sellar to trial; was collector at a meeting assembled to carry on the subscription, and everybody there paid something. Money was paid into the hands of the witness, he spent it in going to Caithness to employ Mr. Henderson, a man of business, for the

purpose of prosecuting Mr. Sellar. Examined *in causa* for the Crown. The barns in Rhimsdale were pulled down; only one barn was left; it is not the custom to remove the outgoing tenant from the barns; Mr. Sellar and his party destroyed them. Sellar said he would give the people time to cut down the roofs so that the wood might be of more use to them. Witness lost the whole of his crop. It is the custom to build the corn in small ricks and enclose it in a yard. The sheep destroyed the corn, the fence being taken down by the shepherds for fire wood, and thus the sheep got in; the straw belonged to Mr. Sellar as incoming tenant.

11. ALEXANDER MANSON, in Skale. Witness knows that it is the custom for the tenants in Sutherland to keep their barns till their crop be manufactured. He knows that some of the barns in Rhiphail were destroyed by Mr. Sellar's orders, and by his party. He had some conversation with him about the barns, and Sellar said that they were his own, and he might do with them what he pleased. According to the rule of the country the tenants put their furniture into the barns, but this was ordered out by Mr. Sellar. Witness had no barn in Rhiphail. There were nine tenants in Rhiphail and nine barns; three of these barns were left and six were taken down. There was land in this place equal to bear about 24 bolls sowing. The tenants suffered loss in their crop from the want of their barns; the sheep injured it. The crop would have been in the barns if they had not been taken down.

12. JOHN M'KAY, in Rhinovie, examined *in initialibus*. He never subscribed any money for the purpose of prosecuting Mr. Sellar, but he collected some, and went into Caithness for the purpose of soliciting subscriptions. He does not remember hearing any part of *The Military Register* read to him, but knows that a letter was sent to Mr. Cranstoun, requesting that he would bring Mr. Sellar to justice. This witness having been objected to, on the ground of undue and busy interference and agency, Lord Pitmilley said, 'No agency has been proved, and no prosecution has taken place in consequence of the subscription which had been raised; I therefore cannot reject this witness as inadmissible; but the jury have heard the objection, and will give what credit to the witness they think he deserves.'

John M'Kay was then examined *in causa*. There were ten tenants in Ravigill, of whom he was one. By the custom in Sutherland the outgoing tenant retains his barn till he gets his

crop threshed. There were ten barns in Ravigill; eight were taken down, two left, and there were three kilns, two of which were taken down and one left. The custom is the same as to the kilns. The tenants lost a good deal of their crop in consequence, because they were in the habit of putting most of it into the barns. Cross-examined: These barns were of feal and stone, and had some holes in them by way of windows and doors. He is certain there were not five barns left. Witness took down his barn himself, as he preferred doing this to allowing Mr. Sellar to take it down, which he said he would do, if not done by witness. On Saturday he heard of the allotments for the tenants being ready, and was to remove on the Tuesday, as Mr. Sellar would allow him to remain no longer. Witness did not leave his house till it was taken down on Thursday, on which day his wife, who was unwell, fell through the roof of the house. At this time Mr. Sellar was not present; when witness saw him with the party he thought that the law of the country was changed.

13. MURDO M'KAY, in Rhinovie. The barn house and kiln in Ravigill, belonging to the witness, were thrown down in June, 1815; there were eight or nine barns, and as many houses demolished in Ravigill; one kiln and two barns were left at desire of Mr. Sellar. John M'Kay, Hugh M'Kay, Charles Gordon, Adam M'Kay, Donald M'Kay, as well as the witness, sustained loss in their crops, in consequence of the want of their barns. By the custom of the country, these barns belong to the outgoing tenant till he thresh out his crop.

Some other witnesses were called, but rejected in respect that they were erroneously described in the list served on the pannel.

14. The Reverend DAVID M'KENZIE, minister of Farr, identified the notice given to the tenants in Strathnaver, at the set in December, 1813, founded on in the indictment. Witness explained it to the people in Gaelic. He was employed by William Gordon to write Mr. Young about the allotments for the tenantry, but does not know whether this was before or after the term day. Mr. Sellar was in company with witness in the house of Robert Gordon of Langdale; they talked of the tenants, and Mr. Sellar simply observed they were dilatory in removing, to which the witness rejoined that the allotments were not ready on the very day of Whitsunday, and this prevented them from removing.

15. WILLIAM YOUNG, Esq., identified the notice to the tenants in Strathnaver, which was explained to the people at the set in

December, 1813, in Gaelic, by the preceding witness. It was the intention of the witness to have had the allotments ready early in spring, as mentioned in the notice, but the plan of proceeding is this: The number of the tenants to be removed is first ascertained before the allotments are laid off, and then a land surveyor is employed to examine the ground. Accordingly a surveyor arrived about April 20, and he intended immediately to set out for Strathnaver, but that gentleman received a letter, stating that his wife was unwell, and requesting that he would return home. To this the witness consented, and the surveyor was to come back to Sutherland as soon as he could. On May 20 he did return, and went to Strathnaver. He was employed till May 31 in laying off the allotments. By June 4 everything was ready for the reception of the people; and between May 31 and that day they were all present, and every man informed of his allotment. The houses were to be built by the tenants themselves; but there were barns to which the people might have removed if they chose, and these barns were at least as good as the houses which they left. Cross-examined: Witness knows of no tenant who got notice to remove who was disappointed. There were twenty-seven removed at Whitsunday, 1814, and there were allotments for every person, and 123 barns and byres, into which the people might have gone. Some of them, particularly Hugh Grant, George M'Leod, and John M'Kay, refused allotments, and Chisholm the Tinker got none, because, for two years back complaints had been made against him as a worthless character. By the Court: The new allotments were so near the places from which the tenants were removed, that they might easily have carried away their corn; but they had no right to carry away the straw, as it belonged to the incoming tenant.

Here the notice to the tenants in Strathnaver was read by the clerk as follows:—

‘Notice is hereby given to the tenants of Strathnaver and others on the old estate of Sutherland, whose farms are to be set at Golspie this day.

‘That Lord and Lady Stafford have directed that all the grounds from Carnachy on the north, and Dunviellan on the south side of the river, down to its mouth, including Swardly and Kirkatomy, with a sufficient quantity of pasture, is to be lotted out among them, and in which every person of good character will be accommodated.

‘And such of the tenants on both sides the water of Brora as

may be dispossessed will also get allotments on the south or north sides of the water of Brora, which includes Knockarthur, Scotlary and others, down to Ledmore plantation on the south, and Askorlmore, Askorlbeag and other low lands on the south side of the Brora water; *and these lands will be lotted off early in spring*, so that the tenants may enter to possession at Whitsunday first.

‘(Signed) WILLIAM YOUNG.

‘Golspie Inn, December 5, 1813.’

‘Golspie Inn : December 15, 1813.

‘The within, after having been read by Mr. Young, in presence of the people, was explained to them, in Gaelic, by me.

‘(Signed) DAVID M‘KENZIE.’

The Counsel for Mr. Sellar having admitted that the declaration by that gentleman, in presence of the Sheriff-Substitute, was freely and voluntarily emitted, it was read.

*At Dornoch, May 31, 1815, and within the ordinary Court-Room there.*

In the presence of Robert M‘Kid, Esq., Sheriff-Substitute of the Shire of Sutherland, compeared Mr. Patrick Sellar, present prisoner in the tolbooth of Dornoch, who being judicially examined and interrogated, declares: that for about four years and a half past the declarant has acted as under-factor for the Marquis and Marchioness of Stafford; <sup>1</sup> that is, the declarant has a factory for collection of the rents, and for carrying into effect the arrangements made by William Young, Esq., of Inverugie, upon the noble proprietors’ estate in Sutherland, and particularly the department of outputting and inputting tenants, in fulfilment of such arrangements. That the declarant’s place of residence is at Culmaily, in the parish of Golspie, and shire aforesaid: declares, that he knows a set of certain parts of his constituents’ lands was made at Golspie, upon December 15, 1813, in consequence of previous advertisements; that the declarant was present at the said set, at least during the greater part of the time, and he knows that a paper was ready by Mr. Young to those assembled

<sup>1</sup> N.B.—This must have crept in by mistake, Mr. Sellar is *factor*, and never was under-factor over Lady Stafford’s estates.

upon the occasion, and also explained in the Gaelic language by Mr. David M'Kenzie. That the import of the said paper was, that Mr. Young was to lay off allotments in the lower part of the country for the removed tenants. That about the beginning of harvest 1813, the declarant, who farms about 400 arable acres in the low country, in the parish of Golspie, mentioned to his constituents that it would be of much importance to him to possess a pasturage farm to be wrought in connection with it. That Lord and Lady Stafford directed the declarant to offer at the set for any farm he chose, a few pounds beyond the highest offerer; and they directed Mr. Young, on his so offering, to prefer him. That the declarant accordingly made offer for the farms of Rhiloisk and Rossal, near the sources of the rivers Naver and Helmsdale, in the parishes of Kildonan and Farr. That this farm was offered for by the declarant over the previous biddings of Mr. John Paterson, in Sandside, and was taken out by the declarant on the arrangement fixed by his constituents. That it comprehended the places of Rhiloisk, Rossal, Rhiphail, Ravigill, Rhimsdale, Garvault, and Truderskaig. That Mr. Young asked the declarant, after the farm had been set to him, if he would allow any of the people to remain for a season upon the grounds. That the declarant readily answered he would, and he informed the people who were present at the Inn that he would allow as many of them remain on the farm for one year as he possibly could. That it was not in his power then to specify who were to remain, and who were to be removed into allotments, but he would meet them at the counting, and be able to explain fully to them upon that occasion. That the counting happened on January 15, 1814, at the house of John Turnbull, shepherd, in Suisgill, in the parish of Kildonan, and the declarant, in consequence of a previous notice to the inhabitants to meet him and pay the rents, met, among others, the people on his own farm, and he selected those who should remain, made a bargain with them, as he believes, rather under a fair proportion of his average rent on the duration of his lease; and he explained that to the remainder of the ground he must have access at the Whitsunday following, as his flocks and shepherds would then be in preparation. That at the counting the declarant expressed a wish that the tenantry would allow him to burn part of the heath in the ensuing spring; he has always understood that after the month of March comes in, the old heath is of very little use until burnt. That the Alpine herbage mixed among the heath comes up in a few days after burning; and in

the latter end of March, April, and May is, after burning, a most valuable pasturage. That the declarant therefore conceived, and he believes the people were of the same opinion, that the allowance of burning part of the heath was no great favour, and they readily consented to it. That the declarant believes that John Dryden, his principal shepherd, was present upon this occasion; and he understands that Dryden, in the month of March ensuing, burnt several parts of the muir pasturage belonging to the farm. Declares that the declarant was not personally on the farm from the said month of December until the term of Whitsunday; that he perambulated a considerable part of the farm after the Whitsunday, along with Dryden, who pointed out spots that he had burnt, and it was then full of herbage and the inhabitants' cattle, and horses were pasturing upon it; some hundreds of cattle and horses being kept by the tenants on the declarant's ground from the said term of Whitsunday up to the time when possession was got by the strength of the Sheriff's warrant. Interrogated whether the declarant gave orders either to the said John Dryden or to John M'Kay, another of his shepherds, to burn the spots of heather before declared to? Declares in answer that John M'Kay was a young lad under the direction of Dryden; and the declarant rather thinks that he had no conversation with him on the subject, that if Dryden asked the declarant any questions on the subject he certainly must have told him to burn what was proper, as the inhabitants had already consented to the measure: and he knows it was no injury but a benefit to them; and it was besides a small portion of the flows that was necessary to be burnt for the purpose of the shepherds. That although the declarant has every wish to answer explicitly to each interrogatory, he really cannot say that he recollects of any conversation he had with Dryden on the subject; but this he does frankly allow, that in so far as Dryden was the declarant's servant, the declarant is answerable for any damage he might thereby have done the people, if they are entitled to any damages. Declares that he knows that regular processes of removing were brought at the instance of the proprietors against all the principal tenants; and the conclusions of the libels were, that the defenders should 'compear before the Sheriff-Depute, &c., on March 18, and April 4, to hear and see themselves decerned and ordained by decret and sentence of the Sheriff-Depute or his Substitute to flit and remove themselves, wives, bairns, families, servants, sub-tenants, cottars, dependents, and whole goods and gear, forth and from the possession of the



said lands and others, at the term of removal after-mentioned, viz.: from the houses, gardens, grass and mills, at the term of Whitsunday next 1814, and from the arable lands under crop at the separation of crop 1814 from the ground.' That the declarant as agent for the pursuers called the actions regularly in Court, and obtained decreet of removing in terms of the libels. That in the beginning of the month of May, the declarant extracted the decreets, and caused charge the defenders in terms of the decreets, that he thereafter obtained precepts for ejection, and after waiting till about three weeks after the term, he was under the unpleasant necessity of putting the warrants into the hands of the officers of court, and employing them to make the premises void and redd. And being asked who were the officers and party employed upon this occasion? Declares that he does not pointedly remember, but he believes they were Alexander Sutherland, in Backies, and Alexander M'Kenzie, Sheriff Officer in Roggart, and also Kenneth Murray, in Ironhill, as he thinks. Declares that he knows that the officers, under these warrants, made void and redd Rhiloisk, Rhiphail, Ravigill, Rhimsdale, and part of Garvault; the four former places were thereafter in the declarant's occupation, and the last in the occupation of Roderick M'Kay, whom the declarant left there, as he thought him the most decent man in it, and it was necessary, as he had the rent of it to pay at Martinmas, that he should be put into possession as near the term of Whitsunday as the declarant could. That there was a small part of Rhiloisk in the midst of a morass, occupied by a tinker, of the name of Chisholm, and he also was ejected, to make room for the people of Rossal and Truderskaig, in favour of whom the declarant had sub-set that part, and he was ejected on June 13, to the best of the declarant's recollection. That all the people were removed, excepting some persons in Rhimsdale, who were represented to have sickness in their families, and some women in Ravigill. That it was the declarant's intention that the tinker in the upper part of Rhiloisk should be completely removed from his premises, as he was represented by the people to the declarant to be a vagrant who had come there without any authority. That he had married, and lived in family with a second wife in the lifetime of the first, who had lately visited him, in company with some other tinkers, and that he was reputed a thief. Declares that all the houses, with the exception of Rhiloisk House, now in the declarant's occupation, consisted of birch couples and roof, intermixed with a few posts of moss-fir filled up with turf. That on the

removal of the tenants the birch and other natural wood in the houses is the property of the entering tenant, in respect they were cut in the natural woods on the property of the Marquis and Marchioness of Stafford; but if he wish the moss-fir he must pay a value for it by comprisement, unless where the matter is regulated by a lease; that in all the other cases of the removing above noticed, excepting that of the tinker and a house in Rhimsdale, and another in Ravigill, that were necessary for the temporary accommodation of the declarant's shepherds, the declarant, the entering tenant, made the removing tenantry a present of the natural wood in the houses they had lately occupied, and allowed them a fortnight, as he thinks, after the middle of June, for removing any part left behind them at the period of the ejections. That a few of the sub-tenants who were to have entered into the place in the occupation of the tinker, went out there on purpose to bring in the woman he lived with into the Strath at the time of the ejection. That the declarant was not present at the first part of the ejection, but he arrived there on his way to the low country in the afternoon, and on his reaching the place, he found that the officers had already ejected the man's furniture, such as it was, and that the house was nearly unroofed, but there was another small house fronting the east end of the dwelling-house; that it was untouched, and that the tinker's wife was employed removing their things from the green into it. That the declarant mentioned to the entering sub-tenants that they had better take the woman and her family, and such furniture as there was, into the Strath with them, but they informed him that there was an aged person there who could not then be removed such a distance; that she was the mother of the tinker's wife, and it was necessary that this woman should be left there to assist her. Declares that the declarant is not positive, but he understands that the old woman had been removed by this time, by her daughter, into the small house above-mentioned to be opposite the east end of the dwelling-house; and his reason for thinking so is that he did not see her at all, and the dwelling-house or hut was by this time unroofed. That the declarant asked the tinker if he would make off with himself, but he indicated that he would not do so, and as he was considered to be a lawless man, who would rebuild his house and settle again there, in the face of the Sheriff's decret of removing, the declarant thought it proper to purchase the moss fir part, and all the timber being thus the property of the entering tenant, that he would prevail on the sub-tenants

above-mentioned to remove it along with them. That for the purpose of appreciating the moss timber the officer's party and people separated it from the other timber, and having valued it at a few shillings, the declarant paid the amount to the tinker before all present, and the sub-tenants took a part of it. That there was a very considerable part, however, which they left, and the declarant considering it to be his property, ordered the party to collect it in the place and to burn it along with the parcel of turf which had been thrown off the house in the demolishing of it. And thereafter the declarant proceeded on his journey, leaving the tinker's family in the small house into which they had removed. That the entering sub-tenants promised to the declarant that they would remove the woman and her family into Strathnaver as soon as her mother might be better, but the declarant has afterwards heard that the tinker presently set to work to find more timber, erected a new hut equal to that which was demolished, and that he lives there to this day; that the name of the place, the declarant has heard, is Badinloskin, and it is a pendicle of Rhiloisk. Interrogated: If the declarant knows there was a kiln and barn at Badinloskin, and that they were set fire to separately from the dwelling-house? Declares that there was a turf hut opposite, nearly to the west end of the house; that the declarant supposes it may have been the man's barn; that the moss fir was taken out of it in like manner as out of the other house, and it was valued over to and paid for by the declarant: And thereafter the wood of it was burnt; but the declarant does not recollect if it was mixed with the wood of the dwelling-house or separately by itself. Interrogated: If he knows there was a small field of growing corn burnt at the back of Chisholm's house, upon the occasion before declared to? Declares that he remembers perfectly there was a small field of corn near the house, it might have been about a fourth part of an acre, and at that season of the year, and in that climate, was at that time perhaps from an inch and a half to three inches high: That it was not burnt upon that occasion, nor was any corn burnt, to the declarant's knowledge. Declares that along the one side of this field, there was a small broken fence of the moss turf. That the fire communicated for a yard or two from the wood along this fence, and the declarant assisted at putting it out, and it was extinguished. Interrogated: If the declarant knows or was informed by any person that there were 3*l.* sterling in banknotes deposited in a hole in one of the gables of Chisholm's house, and

that had been burnt along with the rest. Declares that the declarant knows that the wood was fairly separated from the house, and the effects of the former occupants to all appearance fully removed from the premises before the comprisement of the timber, and the burning of it above declared to. That the declarant does not believe that there was ten shillings' worth of property of any sort, either in or out of the house at any time. That the furniture consisted of birch boughs made rudely with an axe or knife, into the form of stools, &c., and he apprehends there was no money in it. That after the ignorant people had been stimulated by artful and designing men to complain of oppression, the declarant heard that it was reported by the tinker or his wife that there had been money burnt in the fire, but he put no dependence on their veracity. Interrogated: If he knows the name of William Chisholm was in any of the precepts of ejection which the sheriff's officer had in his possession upon the occasion before declared to. Declares that the officers were possessed of precepts of ejection against tenants of every place in Strathnaver. That the declarant does not at present recollect if the name of William Chisholm was in the precept or not; but if it was not, then the names of the principal tenants of the grounds were, and to the best of the declarant's recollection, it is a pendicle of Rhiloisk on the wadset of Langdale, and all tenants on the wadset were regularly warned out, and their names contained in the precepts before declared to. Interrogated: Whether the declarant had any conversation with Chisholm at the Mission House of Farr, called Achness, in presence of Mr. Gordon of Langdale, and Mr. Gordon of Bracachy, upon the Sunday immediately preceding the day on which the declarant went to Chisholm's house? Declares, That the declarant attended divine worship, at the Mission House of Achness, on a Sunday preceding the ejection of Chisholm. That he was in the company with the Mr. Gordons above alluded to, and being informed among others by them that Chisholm was of bad repute, he asked them to point him out among the people. That on his being pointed out, the declarant intimated to him, that he was not to be allowed to remain on the declarant's farm, and that the officers would certainly throw him out if he did not peaceably remove of his own accord; but he does not recollect that the Mr. Gordons were present when he made this intimation, although it is very possible they might have been so. Interrogated: If the declarant ordered the officers and party to demolish a mill at Rhimsdale, upon the

occasion before declared to? Declares that the declarant did not know that there had been any mill at Rhimsdale; there is little or no corn land near it, as it lies in the middle of a very wide hill; but his directions to the officers were, that they should lawfully eject the tenants; and that after ejecting, they should remove the roof of every house in Rhimsdale, excepting those occupied by the families wherein sickness was mentioned to have been, and the barns necessary for the harvesting of the little crop. Declares that the declarant was not present at the ejections at Rhimsdale, as he understands they happened on the 14th or 15th day of June; and the declarant was under the necessity of leaving them on the 13th, as his duty called him to other parts of the estate. Interrogated: If the declarant was along with the officers and party at the towns of Garvault, Ravigill, Rhiphail, and Rhiloisk, when the precepts of ejection were put in execution? Declares that after repeated promises by the tenants that they would peaceably obey the Sheriff's decret, and after they repeatedly failed in implementing their promises, the declarant was under the necessity, as already mentioned, of directing the officers to execute their warrants. That he was present at the first part of the ejections; but after they had ejected from a few houses, and had unroofed these, the tenants of the others in the neighbourhood yielded obedience to the warrant, and removed of themselves. That it was impossible for the declarant to remain always with the officers, but his directions were that they should eject from the houses where the inhabitants were not yielding obedience to the decreets only, or were making an appearance of removing, in order to put off the time, and weary out the declarant and the party. Interrogated: If the declarant's orders to the officers and party also, were not to throw down the couples and timber of the different dwelling-houses, barns, kilns, and sheep cots, at the respective places before mentioned? Declares that the declarant directed the officers (where the tenants did not obey the decreets by removing of themselves, as they ought to have done) to remove the tenants' property and effects from the premises; and thereafter unroof the huts to prevent them from retaking possession after the declarant should leave that part of the country; but although by law and the force of the warrants, he considered himself entitled to remove from and take possession, as entering tenant, of all the houses or huts at the term of Whitsunday, he left the removed tenants in possession of a barn each as he believes for every seven acres of

arable land under crop ; and as already mentioned, he made them a present of all the timber of the houses, excepting Rhiloisk house, one turf hut on Ravigill, one on Rhimsdale, and the tinker's on Badinloskin before mentioned. Interrogated: If the declarant remembers to have seen any of his party, or his shepherd, John Dryden, forcibly carry away from the house of a Barbara M'Kay, at Ravigill, the door of the dwelling-house, with lock, hinges and door posts? Declares that he has no recollection of any such circumstance, nor did he see any locks or hinges, unless some made of wood, among the huts. All which he declares to be truth.

The Advocate-Depute here declared the proof for the prosecution concluded.

## EVIDENCE IN EXCULPATION.

It was stated on the part of the pannel, that Mr. Sellar meant to have adduced, as witnesses to his character, Sir George Abercromby, of Birkenbog, Baronet, Sheriff-Depute of the county of Elgin and Nairn; George Fenton, Esq., Sheriff-Substitute of that county; and James Brodie, Esq., of Brodie; but that these gentlemen were unfortunately unable to attend from bad health, and regular medical certificates of the inability of Messrs. Brodie and Fenton had been transmitted. It was, therefore, proposed to read letters which these three gentlemen had written, containing their opinion of Mr. Sellar's character for humanity, which, although not regular evidence, were usually received in the practice of the Criminal Court, in relation to points of character. To this proposal the Advocate-Depute made no objection, and the following letters were then read:—

*Letter.—James Brodie, Esq., of Brodie, to Mr. James Robertson,  
Writer to the Signet.*

Brodie House: April 20, 1816.

‘Sir,—Having received a citation, at the instance of your client, Mr. Patrick Sellar, as a witness on his trial, I am truly sorry that my state of health is such as puts it totally out of my power to obey it, and I have, therefore, been obliged to send a certificate for that purpose.

‘As I presume the only motive for calling on me must have

been to bear witness to his character, I sincerely regret that I am prevented from doing him that act of justice. I have known him intimately from his infancy, and he was for many years, while he resided in this country, my man of business. I always considered him a person of the strictest integrity and humanity, incapable of being even accessory to any cruel or oppressive action.

‘ I am, &c.’

*Letter.—Sir George Abercromby, of Birkenbog, Bart., to James Gordon, Esq.*

Forglen House: April 21, 1816.

‘ My Dear Sir,—I received your letter of the 19th yesterday. Indisposition prevents me from attending the Circuit Court at Inverness at present. This I very much regret, on account of the circumstances you mention, as I should have been glad to have given my testimony in person to the good opinion I have always entertained of Mr. Sellar. Mr. Sellar I have known from a boy. He has acted as an agent before the Sheriff Court of Elgin for several years, very much to my satisfaction, and was appointed Procurator-Fiscal. I have always thought him a young man of great humanity, and I think him incapable of being guilty of the charges brought against him, and trust, upon trial, they will turn out to be unfounded, and put a stop to that clamour which was so disagreeable. I am, with great regard,

‘ My Dear Sir,

‘ Your most obedient Servant,

‘ GEORGE ABERCROMBY.’

*Letter.—George Fenton, Esq., to Mr. Gordon.*

Elgin: April 20, 1816.

‘ Sir,—As I understand you are employed as Counsel for Mr. Patrick Sellar, indicted to stand trial at the ensuing Circuit Court of Justiciary at Inverness, and I having got a citation as an exculpatory witness, which, I presume, is for the purpose of bearing testimony to Mr. Sellar’s character, I have unfortunately been unwell for sometime past that prevents my attendance, as will appear from a certificate I have transmitted by the Sheriff-Substitute of the county of Nairn; or otherways I would readily have obeyed the summons, and done that justice to his good character I consider

him entitled to. I have known Mr. Sellar from a boy; for many years an agent before the Sheriff Court, where I presided as Sheriff-Substitute, and I never, in the course of his practice, knew him to do an oppressive act, or one likely to do so, and I have always known him to be a man of sympathy, feeling, and humanity. While in this county, he was considered as a most respectable agent, employed by his Grace the Duke of Gordon, the family of Grant, now the Earl of Seafield, the Earl of Moray, and the greater part of the landed proprietors and most respectable inhabitants of this county.

‘I therefore consider it due to Mr. Sellar’s character to communicate to you my sentiments of him, as I cannot personally attend myself, and I have the honour to be,

‘Sir,

‘Your most obedient Servant,

‘GEO. FENTON.’

Thereafter the following witnesses were called and sworn:—

1. THOMAS GILZEAN, Esq., Sheriff-Substitute for the County of Inverness. Witness has known the pannel from his boyhood. He has borne a most respectable character, and is known to witness to be of a humane disposition. Witness conceives him incapable of doing anything cruel or oppressive.

2. SIR ARCHIBALD DUNBAR, of Northfield, Bart. Witness has known the pannel from his infancy. He is a young man of respectable character, and of a good heart; and witness believes him to be incapable of doing a cruel or oppressive action.

The several decrees of removing, and warrants of ejection against the different tenants, were then produced in evidence.

It was next stated on the part of the pannel that although it was understood from the Public Prosecutor that he had, among many other charges, deserted the second charge in the indictment, yet it was thought advisable to lead evidence in regard to the injury charged in the indictment to have been sustained by Donald Munro in Garvault, as what passed on that occasion would afford a specimen to the jury of what had been the actual conduct of the tenantry in general during these proceedings.

LORD PITMILLY observed that he gave leave to the pannel’s counsel to bring forward evidence as to that charge in the libel if they thought proper.

3. ROBERT GUNN, foxhunter in Tongue. Witness knows Donald Munro in Garvault; remembers the removings at that



place. They were executed on June 8 and May 26 and 27. Munro was in company with the witness, apparently in perfect health. Witness saw him again on June 7 at a foxchase; left him that day about sunset, and at that time witness saw nothing whatever the matter with him.

4. JOHN DRYDEN, shepherd in Rhiloisk. Witness saw Donald Monro in Garvault at a foxchase on June 7 in good health, and on the 8th witness saw him come out of the house in which he lived at Garvault, and Munro was apparently well and laughing.

5. DUNCAN ROSS, ground officer, of Farr. Witness was at Garvault at the removings in June; knows Donald Munro. His mother said that he was sick, but when witness came up he saw Munro leap out of bed with his clothes on, and in perfect health. Witness was present at the ejections. The warrant was first read, and then the furniture was removed from the house. Nothing was destroyed and no damage of any kind was sustained by tenants. Mr. Sellar gave strict instructions to hurt nothing belonging to the people. He told the officer to do his duty, and after everything was out of the houses, the party, in the gentlest manner, took out the pins and let the couples fall. The people were all out at this time. Witness was at Rhimsdale, and a man having made application to Mr. Sellar for three persons who were sick, Mr. Sellar ordered the best end of the house to be reserved for them, and permitted them to remain. There was one barn left at Rhiloisk, three left at Rhiphail, three at Ravigill, two at Garvault and one at Rhimsdale, and these were permitted to remain for a whole year.

6. ANDREW ROSS, Carpenter. Witness has been many years appraiser for the family of Sutherland. Remembers the removings in 1814, was employed by Mr. Sellar to comprise the value of the wood. The party went first to Garvault and took out the furniture. Witness comprised the moss fir, and after everything was out of the houses they took out the pins, and let the couples down. The moss fir was fairly comprised, and Mr. Sellar paid the people the value of it. The party went to Rhimsdale, there only one house was taken down, and three houses, where there were said to be sick people, were allowed to remain. Mr. Sellar bought the moss fir here also, and paid for it, and no objection was made. They next went to Rhiloisk and comprised the houses and offices. Here also only one house was taken down in the same manner as the rest. No injury was done to the furniture. They then

proceeded to Rhiphail. Some of the people there were employed taking down their own houses, and others promised to take them down that day, and upon this they left them to do so. Next they went to Ravigill, where they met Charles Gordon, who said that he would pay 10*l.* if the houses were not down next day. They did nothing here, but comprised one of the houses for Mr. Sellar's shepherd. During all these removings he knows of no injury done by Mr. Sellar, or by his orders, saw no instance of cruelty, and no damage was done to the furniture. Value was allowed for the moss fir, which, on an average, formed about the tenth part of the wood in the house, as by the practice of the country it belongs to the out-going tenant; but nothing was given for the birch wood, as this belongs to the proprietor.

7. ALEXANDER SUTHERLAND, in Backie's of Golspie, was a witness to the removings. The party met first at Badinloch; they went to Garvault. The warrant was read, and the furniture then turned out, no injury being done to it. They next went to Rhiloisk, and proceeded in the same manner there; they received orders not to do any injury. They then went to Rhimsdale. Mr. Sellar said that he had a letter from the minister of Farr, stating that there were sick people in that place, and therefore that they must not proceed in the ejections. They then went to Badinloskin; they arrived there on the Monday forenoon. Chisholm had taken part of the divots off his house. Witness saw an old woman; she was on the floor of the byre on a shakedown, and she had been removed from the house-end to the byre-end. There was a fire close to her on the floor of the byre. Mr. Sellar had not arrived at this time, having stopped with his shepherd. On his arrival near the place he asked witness if he had seen an old woman, and witness answered she was in the bothy. Neither Chisholm's house nor byre were set fire to till a considerable time after the old woman had been removed. The bothy was thirty yards or so distant from the house and byre. Witness heard no cruel expressions from Mr. Sellar as to the old woman. The house, barn, &c., were worth about twenty shillings. Fire was not put to the house till after the comprisedment had been made. Cross-examined: Witness saw the old woman brought out by her friends, and heard her utter some cry. Part of the house was taken down before the woman was brought out, but this was done by Chisholm. The house-end was taken down by the party before the woman was removed from the byre-end. Mr. Sellar was at this time at a distance. Chisholm's furniture was all out before the

fire began, and he said nothing of bank notes. Before the woman was brought out there was a smoke, but this seemed to arise from the divots falling from the roof on the fire. Some growing corn at the back of the house was blackened accidentally by the fire. By the Court: Witness did not observe that the blanket which was round Margaret M'Kay was burnt, though he saw it when she was passing.

8. JOHN BURNS, farmer in Auchwarrisdale, in Caithness. Witness was at Badinloskin on the day of Chisholm's ejection, having accompanied Mr. Sellar there; arrived in the forenoon. When they came in sight of Chisholm's house part of it was already unroofed. They stopped at about seventy yards distance from the house. When Mr. Sellar came here the people met him, and asked him not to destroy the house. Mr. Sellar answered that he could not avoid doing so, for if he did the tinker would not go away. He sent for the tinker, and spoke to him, and Mr. Sellar said he would turn him out, pile up the wood, and burn it. The officer then came up, and Mr. Sellar desired him to go on with his business. The people said that they could not carry away an old woman who was there. Mr. Sellar advised them to take her to Rossal; he said, there was a truck, and they might easily make a bed of it for her and take her out. The people, after this, observed that there was fire coming from the house. Mr. Sellar, upon this, started up; he desired the people immediately to take out the fir wood, for it belonged to the tinker. The men said that the woman had been previously removed to a small house. The woman was removed before Mr. Sellar and witness came up, and before Sellar ordered fire to be set to the house. There was no complaint of furniture or bank notes being burnt that day.

9. JAMES FRASER, residing in Golspie, was a witness to the removings. Came to Badinloskin about one o'clock; the party came from Langdale, and met Mr. Sellar at Badinloskin. Chisholm was unroofing his house when the witness came. Mr. Sellar came about an hour after. When about sixty yards distance from the house, he called for the officer, and gave orders that the furniture should be removed with as little damage as possible. He then paid for the moss fir. Before they arrived, witness heard that there was an old woman there, and he himself saw her removed by her daughter-in-law to a small house at a little distance. This was before Mr. Sellar came up. Witness saw no burning then. The old woman was on a shake-down in the byre

end of the house. She was removed, and all the furniture also, before the burning took place. There was no unnecessary cruelty. The tinker took the money for the moss fir, and made no objection. The value of the house, &c., was nearer twenty shillings than twenty pounds. Witness saw Donald M'Beath at Rhimsdale. He was affected with a sore eye. Mr. Sellar said he would allow the dwelling end of his house to remain, but would destroy the byre to prevent the people from keeping cattle there. Cross-examined: The tenants from Rossal were brought up by Mr. Sellar to assist in removing the people. Part of the house was taken down before the woman was removed. The witness afterwards assisted in setting fire to the house, as Mr. Sellar gave orders to do so.

It was then represented for the pannel that a vast number of additional witnesses in exculpation were in attendance; but that the Counsel conceived that it would be altogether superfluous to detain the court and jury longer.

Mr. DRUMMOND now addressed the jury on the part of the Crown, and stated that he gave up all the charges, except the one which regarded the ejections from the barns, and that of real injury in the case of the old woman at Badinloskin. He certainly did not think the evidence in this last case was sufficient to establish culpable homicide; but he argued that the circumstances proved were sufficient to authorise the jury in finding a verdict of guilty to the extent of an injury, as she had been removed at the risk of her life, which he maintained to be contrary to law. As to the barns he contended, that the conduct of Mr. Sellar was irregular and illegal, and consequently oppressive, the outgoing tenants being entitled, by the custom of Sutherland, to retain them as long as the arable land.

Mr. GORDON addressed the jury on the part of the pannel, and replied to the arguments used on behalf of the prosecution. He entered at great length into the history and objects of the prosecution; the preconcerted plan on which certain persons had instigated the people of Strathnaver to complain at first, and to persist afterwards; the views they entertained of successfully opposing the improvements of Sutherland, by affecting the noble persons to whom the property belonged, through the sides of Mr. Sellar, as a convenient medium of succeeding; the disgraceful measures to which these persons had resorted with a view to affect the channels of justice, the impartiality of jurymen and the purity of evidence. He attacked the measures and conduct of

Mr. M'Kid in the most pointed terms: exposed the character of the evidence of Chisholm and others, and dwelt on the clear evidence of the total innocence of Mr. Sellar, and on the points of law which applied to the particular charges as criminal charges at considerable length, and with reference to various law authorities, and finally concluded by maintaining to the jury that this was not merely the trial of Mr. Sellar, but in truth, a conflict between the law of the land and a resistance to that law. That the question at issue involved the future fate and progress of agricultural and even moral improvements in the county of Sutherland; that (though certainly not so intended by the Public Prosecutor, whose conduct throughout had been candid, correct, and liberal) it was nevertheless, in substance and in fact, a trial of strength between the abettors of anarchy and misrule and the magistracy, as well as the laws of this country.

Lord PITMILLY, after having stated the law as applicable to this case, summed up the evidence in a very clear and able manner. His Lordship stated, that it was unnecessary for the Jury to consider any of the charges, excepting the one in regard to the destruction of the barns and the one in regard to the old woman at Badinloskin. As to the first, there could be no doubt of the practice of the country, of retaining these barns till the crop should be threshed out; neither could it be doubted, that Mr. Sellar had not left the whole of the barns for the use of the outgoing tenants, and in consequence of this the tenants suffered damage. But in point of law, as the Court of Session had decided in a similar question, Mr. Sellar was not bound by any such practice, but was entitled to proceed in the ejections. In regard to the injury charged to have been done to Margaret M'Kay, his Lordship directed the attention of the Jury to the evidence of Chisholm. This witness, although contradicted in some particulars by his wife, was confirmed by John M'Kay, whose testimony his Lordship also laid before them. On the other hand, he brought under their view the evidence of Sutherland, Fraser, and Burns, and stated that it was the duty of the jury to balance betwixt these two sets of witnesses. His Lordship also said that if the jury were at all at a loss on this part of the case, they ought to take into view the character of the accused, for this was always of importance in balancing contradictory testimony. Now here there was, in the *first* place, real evidence, from the conduct of Mr. Sellar in regard to the sick, for this in several instances had been proved to be most humane; and *secondly*, there were the

letters of Sir George Abercromby, Mr. Brodie, and Mr. Fenton, which, although not evidence, must have some weight with the jury; and there were the testimonies of Mr. Gilzean and Sir Archibald Dunbar—all establishing Mr. Sellar's humanity of disposition.

The jury having retired for a quarter of an hour, returned a *vivâ voce* verdict, unanimously finding Mr. Sellar Not Guilty.

Lord PITMILLY observed that his opinion completely concurred with that of the jury, and in dismissing them, after so long a trial, he was happy to say they had paid the most patient attention to the case, and had returned a verdict satisfactory to the Court.

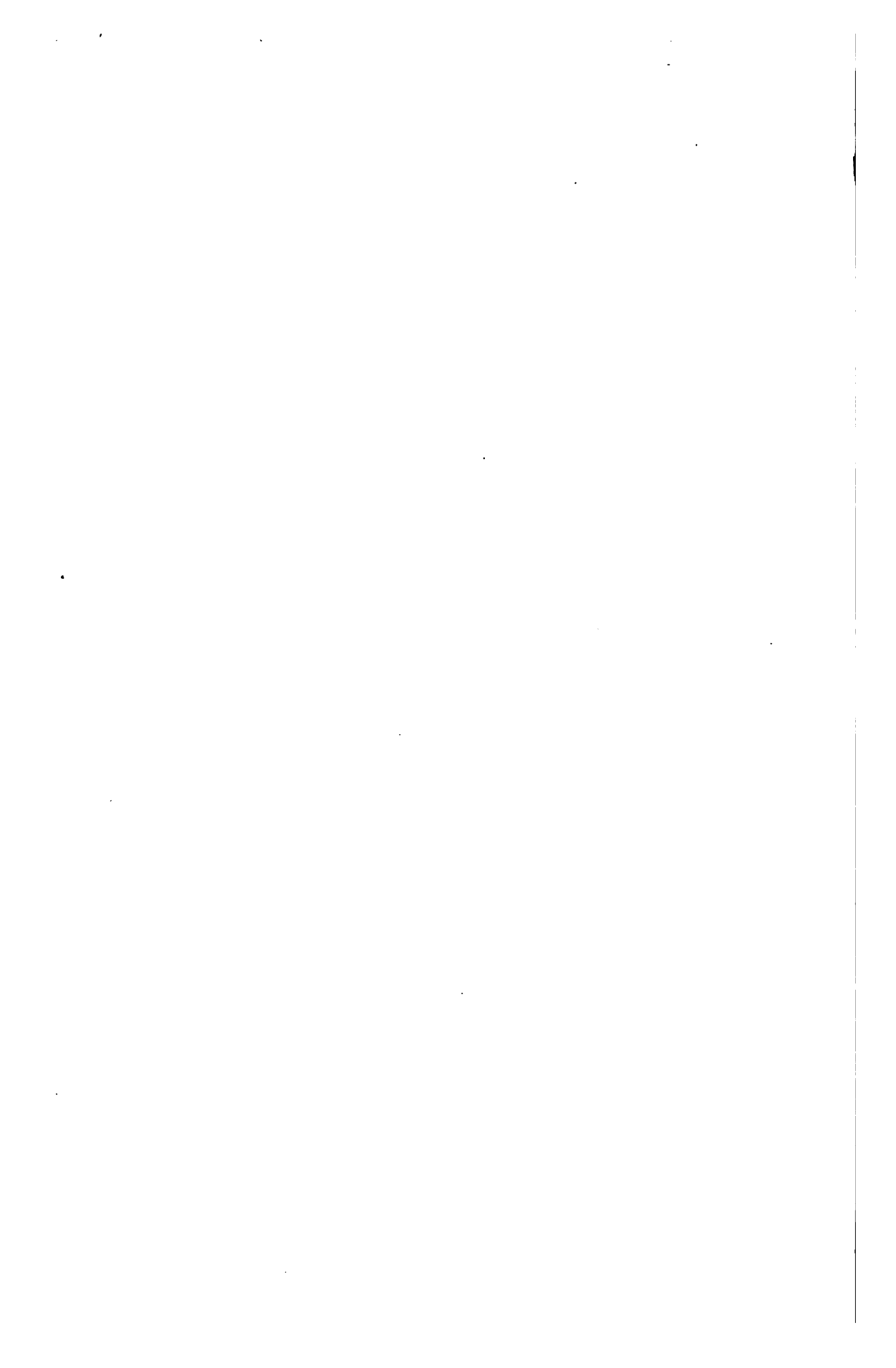
The verdict was then recorded.

The Advocate-Depute declared that he thought it fair to the pannel, and that it would be satisfactory to the jury, to state his conviction that if those witnesses who were rejected on account of errors in their designations had been examined, the result of the trial would have been the same.

Lord PITMILLY then addressed Mr. Sellar. His Lordship said: 'Mr. Sellar, it is now my duty to dismiss you from the bar; and you have the satisfaction of thinking that you are discharged by the unanimous opinion of the jury and the Court. I am sure that, although your feelings must have been agitated, you cannot regret that this trial took place; and I am hopeful it will have due effect on the minds of the country, which have been so much and so improperly agitated.'

The Court then pronounced an interlocutor, in respect of the verdict of the assize, assoilizing the pannel *simpliciter*, and dismissing him from the bar.

The trial lasted from ten o'clock on Tuesday till one o'clock on Wednesday morning, and the Court-room was crowded to excess.

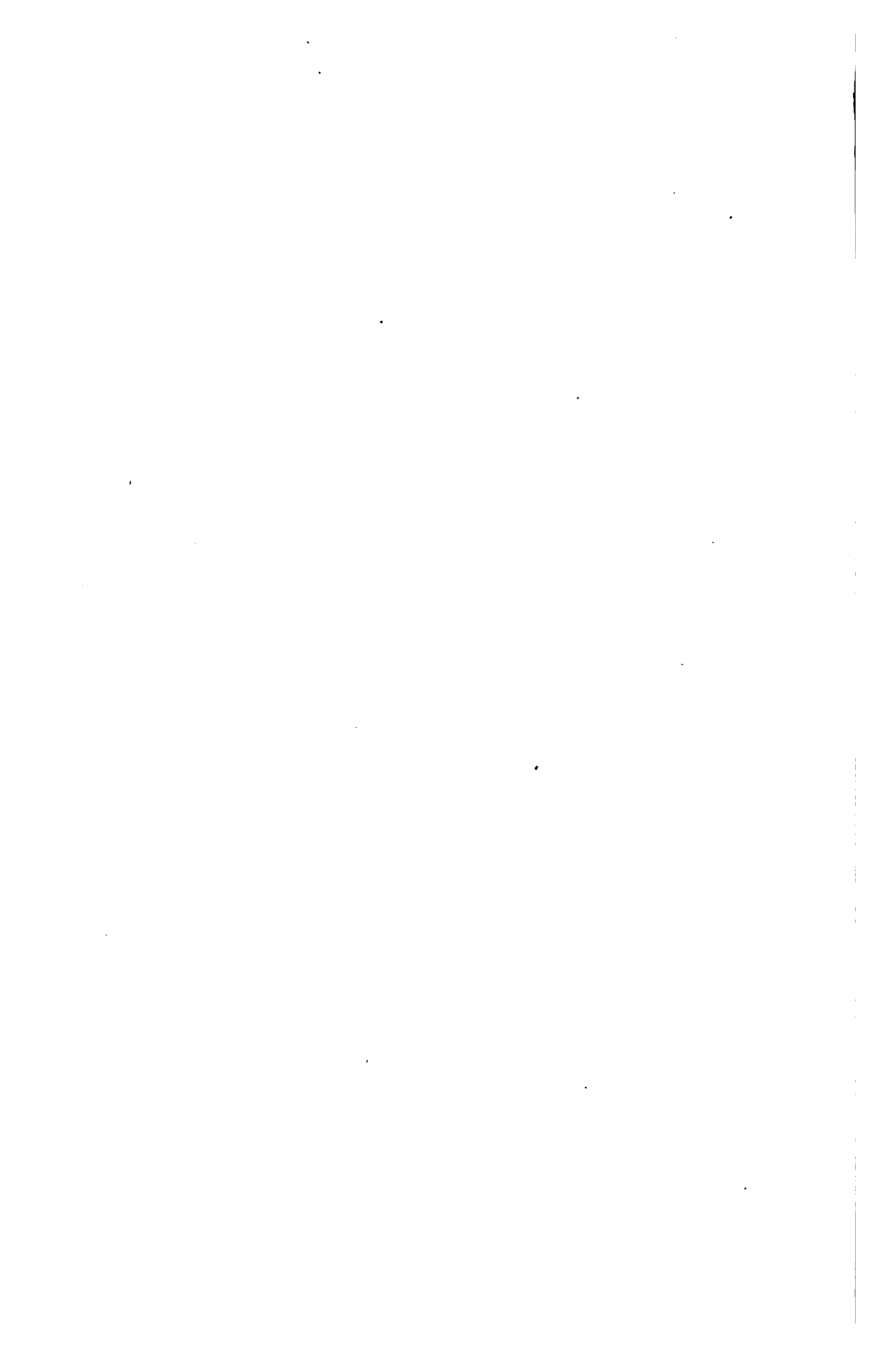


APPENDIX IV.

*EXTRACT FROM 'INVERNESS JOURNAL,'*

*APRIL 26, 1816.*





#### APPENDIX IV.

*EXTRACT FROM 'INVERNESS JOURNAL,' APRIL 26, 1816.<sup>1</sup>*

On Tuesday last the Circuit Court was opened here by the Right Hon. Lord Pitmilley.

The first trial which occupied the attention of the court was that of Mr. Patrick Sellar, son of Mr. Sellar of Westfield, in Morayshire, and factor for the Marchioness of Stafford in Sutherland. This was a case of great expectation and interest. For eighteen months past certain English journals have teemed with paragraphs, and the northern districts of Scotland with reports, of a variety of crimes of a heinous description ascribed to Mr. Sellar, and said to have been committed in June, 1814, on occasion of his executing the removings of certain tenants or cottagers from a particular spot in the district of Strathnaver, in Sutherland. Cruelty, oppression, fire-raising, culpable homicide, and even murder, in repeated instances, were attributed to Mr. Sellar, and the most severe and inflammatory statements were circulated.

Moved by these statements, it would appear that his Majesty's Advocate (after intimating his opinion to the people that the proper course for them to follow was to proceed by civil action if they really thought themselves injured) at length resolved to bring Mr. Sellar to a public trial, as nothing else would appease the clamour which existed.

Accordingly his lordship indicted Mr. Sellar for the crimes of culpable homicide and oppression, as alleged to have been committed in various instances, and the whole tenants complaining were cited as witnesses.

The trial commenced on Tuesday at ten o'clock, and termi-

<sup>1</sup> [The *Scots Magazine*, *Edinburgh Evening Courant*, and *Edinburgh Advertiser* contained articles substantially the same. No other observations of the press at the time have been discovered.—T. S.]

nated at one on Wednesday morning, in an unanimous verdict of a most respectable jury, mixed from the different counties belonging to this circuit. The verdict was *Not Guilty*; and the judge said that he owed it to justice to declare, in this particular case, that this verdict met with his full and perfect concurrence.

It appeared quite evident that the whole of this case originated in misconception, malice, and personal hostility. In misconception, on the part of the tenantry, of the objects of the Marchioness of Stafford, in the arrangements making for the improvement of her estate; and in the malice and hostility of certain persons towards the family of Sutherland and Mr. Sellar, as factor, who thought it proper to instigate the deluded people to resistance and misrepresentation, while they, the instigators, remained in the background.

The proof was complete on all the points of defence, and in all the instances. The Deputy Advocate gave up every charge but two, and even as to these, he candidly declared in open court, after the verdict was returned, that it met with his perfect satisfaction.<sup>1</sup>

The highest character was established on the part of Mr. Sellar for moderation, humanity, and kindness of disposition, from his earliest days upwards, by witnesses of the first rank and respectability among the gentry of this country; and it was proved that his care of the sick and the infirm in several even of the instances complained of, was cautious and remarkable. In short, every man in court seemed to be satisfied that the strongest possible case of defence was made out, and we believe we can affirm with truth, that the tide of prejudice has been completely turned, and upon the best of all grounds, evidence, and the verdict of a jury.

Mr. Drummond charged the jury for the Crown, Mr. Gordon for the panel; counsel for the Crown, Messrs. Drummond and Fraser; for the panel, Messrs. Gordon, Cockburn, and Robertson; agents, Mr. James Robertson, W.S., and Mr. Shepperd of Inverness.

<sup>1</sup> [This was an error. The Advocate-Depute did not express any opinion respecting the verdict, except that if certain evidence, which had been rejected on technical grounds, had been received, the result of the trial would have been the same. (See Appendix, p. lv.)—T. S.]

APPENDIX V.

*CORRESPONDENCE WITH MR. MACKID.*



## APPENDIX V.

### CORRESPONDENCE WITH MR. MACKID.

AT DORNOCH, THE THIRTEENTH DAY OF NOVEMBER, EIGHTEEN HUNDRED  
AND SEVENTEEN YEARS.

In presence of Charles Ross, Esq., Advocate, Sheriff-Depute of the Shire of Sutherland, compeared James Brander, Writer in Dornoch, as procurator for Patrick Sellar, Esq. of Westfield, at Culmaily, who for him produced and gave in the letters underwritten, desiring and requiring that the same might be inserted and registered in the Sheriff-Court Books of Sutherland, as probative writs: which desire being reasonable, the same was directed so to be done, and, accordingly, of which letters the tenor follows in these words, viz. :—

*From Mr. MacKid, late Sheriff-Substitute of the Shire of  
Sutherland, to Mr. Sellar.*

Drummuie: September 22, 1817.

Sir,—Being impressed with the perfect conviction and belief, that the statements to your prejudice contained in the precognition which I took in Strathnaver, in May 1815, were to such an extent exaggerations, as to amount to absolute falsehoods, I am free to admit, that, led away by the clamour, excited against you on account of the discharge of the duties of your office, as factor for the Marchioness of Stafford, in introducing a new system of management on the Sutherland estate, I gave a degree of credit to those misstatements of which I am now thoroughly ashamed, and which I most sincerely and deeply regret. From the aspersions thrown on your character, I trust you need not doubt that you are already fully acquitted in the eyes of the world. That you would be entitled to exemplary damages from

me, for my participation in the injury done you, I am most sensible; and I shall therefore not only acknowledge it as a most important obligation conferred on me and on my innocent family, if you will have the goodness to drop your law-suit against me, but I shall also pay the expenses of that suit, and place at your disposal towards the reimbursement of the previous expenses which this most unfortunate business has occasioned to you, any sum you may exact, when made acquainted with the state of my affairs—trusting to your generosity to have consideration to the heavy expense my defence has cost me, and that my connection with the unfortunate affair has induced me to resign the office of Sheriff-substitute of Sutherland. I beg farther to add, that in case of your compliance with my wish here expressed, you are to be at liberty to make any use you please of this letter, except publishing it in the newspapers, which I doubt not you will see the propriety of my objecting to. I am, Sir,

Your most obedient Servant,

ROBERT M'KID.

Addressed to Patrick Sellar, Esq., of Westfield, Culmaily.

---

*From Mr. Sellar to Joseph Gordon, Esq., of Carrol, W.S.,  
Agent for Mr. M'Kid.*

Culmaily: September 22, 1817.

Dear Sir,—I have instantly received through your hands Mr. MacKid's letter to me of this date, and have heard from you an explanation of the state of his affairs, which (as he is no longer possessed of the power illegally to deprive a British subject of his liberty, or otherwise to oppress him under the form of law) induce me from compassion to Mr. MacKid's family, to drop my suit against him, on his paying the whole expenses of the said suit, and placing at my disposal Two hundred Pounds sterling; and having just now received your obligation as security for Mr. MacKid's performance of this, I cheerfully give this authority for dismissing the proceedings.

From the moderation with which I have acted towards your client in this affair, you will believe, I am sure, that I have no wish to distress Mrs. MacKid and her family, and her connections, by any publication on the subject in the newspapers. At same time I have explained to you, that such publication may happen

in the course of the trial of the other participators in this affair without my being able to prevent it. I am, Sir,

Your most obedient humble Servant,

PATRICK SELLAR.

Addressed to Joseph Gordon, Esq., of Carroll, W.S.

---

*From Joseph Gordon, Esq., of Carrol, W.S., to Mr. Sellar.*

Culmaily: September 22, 1817.

Dear Sir,—Having just now received from you a letter authorising the dismissal of your suit, presently depending before the Court of Session, against Mr. Robert MacKid, sometime Sheriff-substitute of Sutherland, now residing in Thurso, upon his paying the expenses incurred by you in said process, and placing at your disposal the sum of Two hundred Pounds, I oblige myself, as surety for him, that he shall fulfil these terms on or before the twelfth day of November next; it being understood, that in case Mr. MacKid may not have in his power to raise funds for the payment of the said sum of Two hundred Pounds sterling, you will take the acceptance of a respectable gentleman at three months as cash. I am, Dear Sir,

Your most obedient Servant,

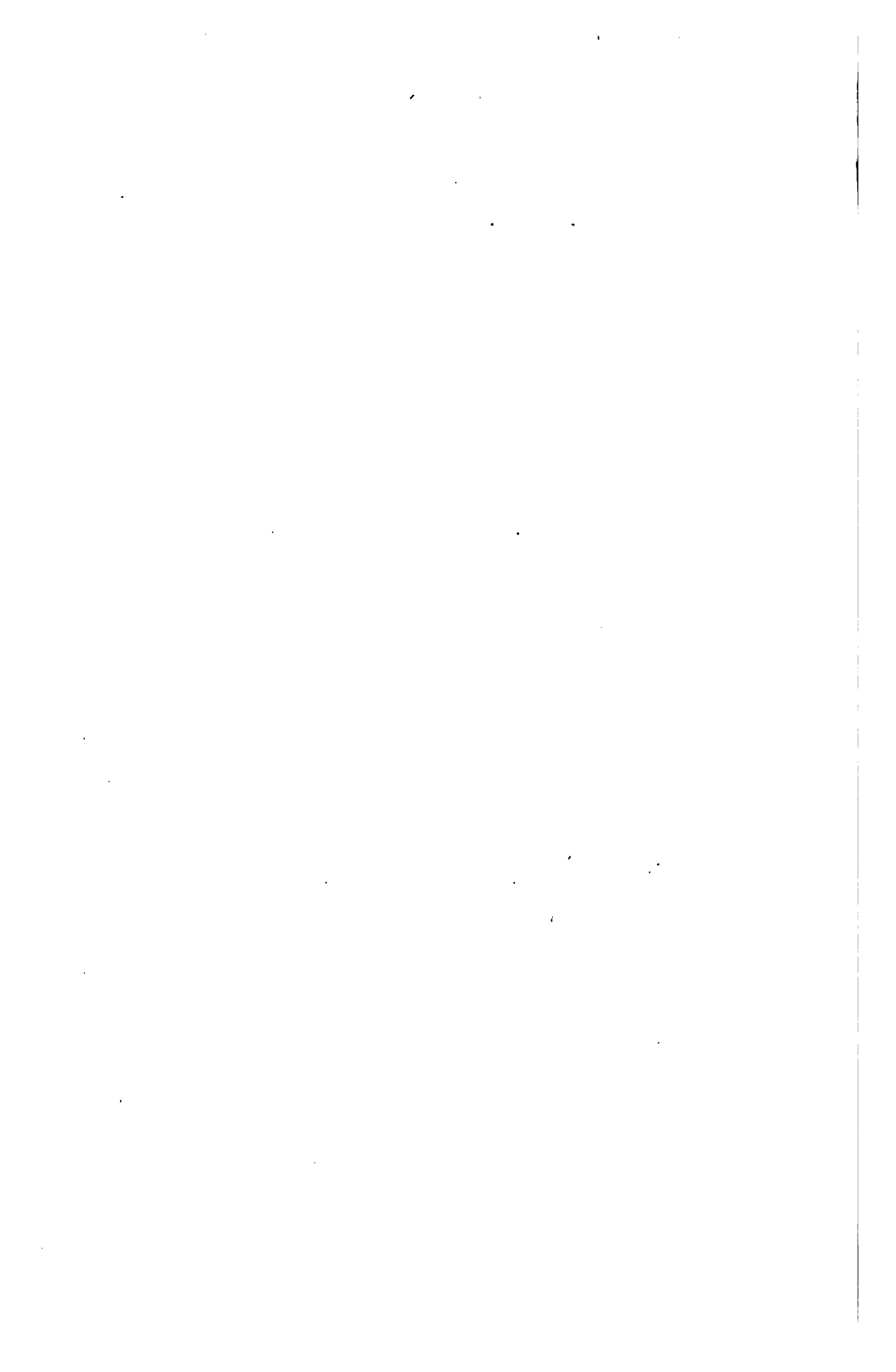
JOSEPH GORDON.

Addressed to Patrick Sellar, Esq., of Westfield, Culmaily.

Extracted from the Register of Deeds and Probative Writs kept for the Shire of Sutherland by me, Sheriff Clerk of said Shire; written, collated, and signed by me this 17th March, 1885.

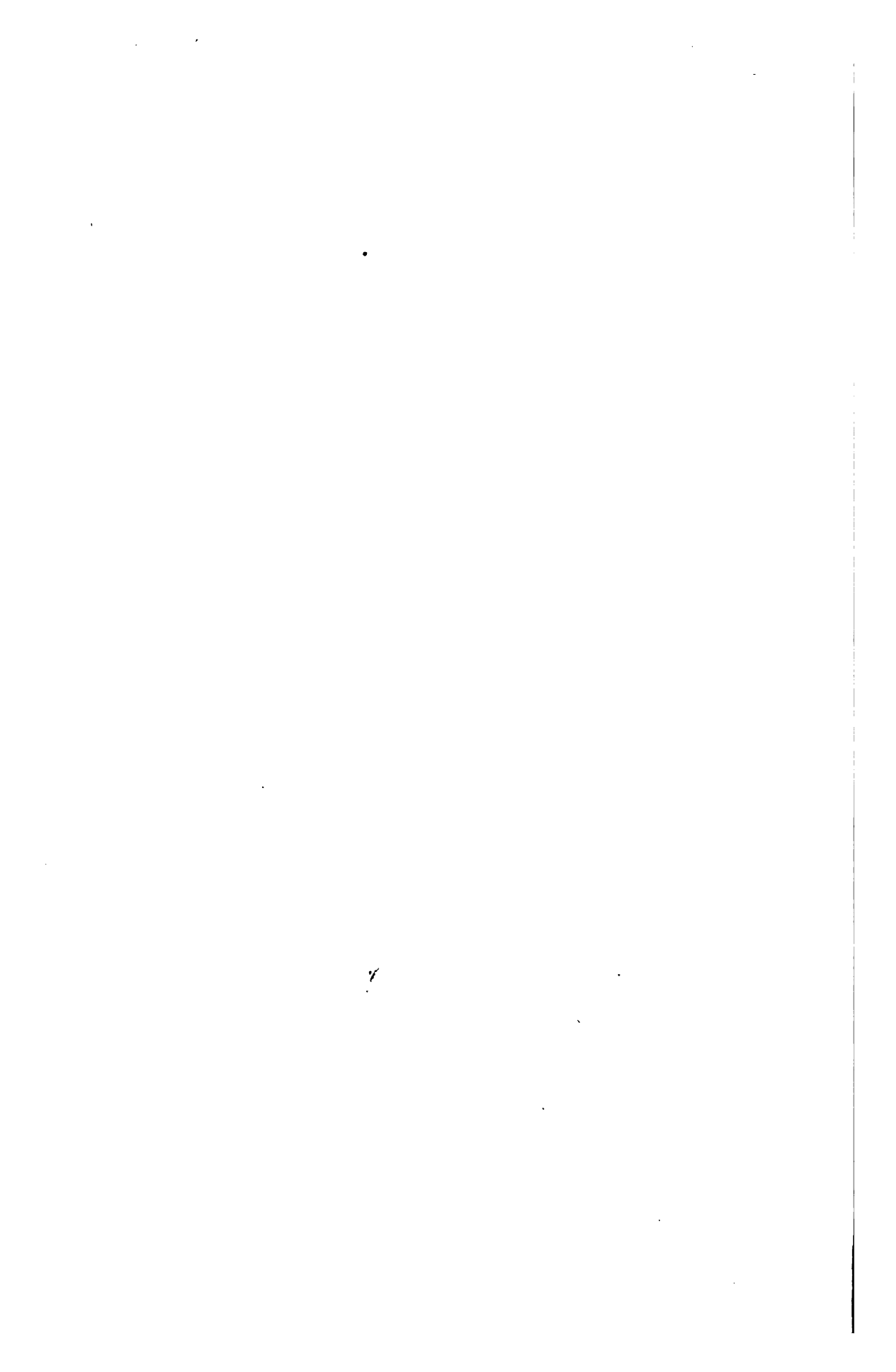
DONALD TAYLOR, S.C.





APPENDIX VI.

*CORRESPONDENCE WITH MR. ALEXANDER MACKENZIE.*



## APPENDIX VI.

### *CORRESPONDENCE WITH MR. ALEXANDER MACKENZIE.*

Hall Grove, Bagshot: March 2, 1883.

Sir,—As an executor, and the eldest son of the late Mr. Patrick Sellar, I have to address you with reference to a book recently published by you, and entitled ‘The History of the Highland Clearances.’

In that book you reprint as authoritative and trustworthy the letters of Donald McLeod. These letters—originally published, as it would appear, in or about the year 1840, in the ‘Edinburgh Weekly Chronicle’ (a newspaper which at no time was of any authority in Scotland, and then was in its last days)—contain false and calumnious accusations against my father—accusations which you reproduce as if they were true.

No reader of your book could suppose from its contents that, as the fact is, every article of McLeod’s accusations had been embodied in the indictment preferred against my father at the trial in April, 1816, when he was declared to be completely exonerated by the unanimous verdict of a Scotch jury of fifteen men, in whose verdict the presiding judge expressed his ‘entire concurrence.’ The whole of the malicious and baseless accusations preferred against my father—the identical accusations made long subsequently by McLeod—fell at once to the ground for want of evidence to support them, when brought to the test of a judicial inquiry.

But, further, you publish in McLeod’s fifth letter, also as authoritative and trustworthy, a letter from the Sheriff-Substitute, Mr. Robert MacKid, to Lord Stafford, dated May 30, 1815, containing a series of similarly false and malicious accusations against my father. Mr. MacKid’s accusations, which led to the trial of April, 1816, where they were found to be baseless, led also to an

action being brought by my father against him, and that action only ended by the abject submission of the defendant, and by his writing a letter of retraction and regret, of which the following is a copy:—

‘Drummuie: September 22, 1817.

‘Sir,—Being impressed with the perfect conviction and belief that the statements to your prejudice, contained in the precognition which I took in Strathnaver, in May, 1817, were to such an extent exaggerations as to amount to absolute falsehoods, I am free to admit that, led away by the clamour excited against you, on account of the discharge of the duties of your office, as factor for the Marchioness of Stafford, in introducing a new system of management on the Sutherland estate, I gave a degree of credit to those misstatements of which I am now thoroughly ashamed, and which I most sincerely and deeply regret. From the aspersions thrown on your character, I trust you need not doubt that you are already fully acquitted in the eyes of the world. That you would be entitled to exemplary damages from me for my participation in the injury done you, I am most sensible; and I shall, therefore, not only acknowledge it as a most important obligation conferred on me and my innocent family, if you will have the goodness to drop your lawsuit against me, but I shall also pay the expenses of that suit, and place at your disposal, towards the reimbursement of the previous expenses which this most unfortunate business has occasioned to you, any sum you may exact, when made acquainted with the state of my affairs—trusting to your generosity to have consideration to the heavy expense my defence has cost me, and that my connection with the unfortunate affair has induced me to resign the office of Sheriff-Substitute of Sutherland. I beg further to add, that in the case of your compliance with my wish here expressed, you are to be at liberty to make any use you please of this letter, except publishing it in the newspapers, which, I doubt not, you will see the propriety of objecting to.

‘I am, Sir, your most obedient servant,

‘ROBERT MACKID.’

Addressed to Patrick Sellar, Esq., of Westfield, Culmally.

This letter is formally recorded in the books of Council and Session at Dornoch, and the original was inserted in open court,

in the Sheriff Court books of Sutherlandshire, and registered as a 'probative writ,' on November 13, 1817, and you can refer to it accordingly. Mr. MacKid paid the costs of the action against him and substantial damages, and he also resigned his office of Sheriff-Substitute.

I put it to you, whether, in common fairness, and even supposing you could justify the reproduction under any circumstances of these calumnies of MacKid and McLeod, you were not and are not bound to give your readers some indication that those identical calumnies were, every one of them, the same which had been long before disproved in a Court of Law, and to make them aware that MacKid had abjectly retracted in writing his share of the calumnies, while McLeod's were stale reproductions, five-and-twenty years after the events, of what at the utmost certain witnesses had professed themselves at the preliminary examination to be ready to state, but which they could not sustain on oath at the trial.

It is not easy to conceive that you can have been ignorant of the record of the trial, or of the retraction by MacKid of the accusations contained in his wicked letter of May 30, 1816. Nor is it easy to understand for what cause you have reproduced those disproved calumnies against a dead man—calumnies holding up to public execration one whose accusers had collapsed at the touch of legal investigation, and who had been legally proved to be, and (as appears from the evidence given at the trial) was, absolutely innocent of the charges preferred against him.

I now ask you what reparation you are prepared to make for your reproduction of these false and wicked calumnies, holding myself free to take such course in the matter as may seem proper after I learn your decision?

Yours faithfully,  
THOMAS SELLAR.

Alex. Mackenzie, Esq., F.S.A., editor of the *Celtic Magazine*, Inverness

---

*Celtic Magazine* Office, Inverness: March 5, 1883.

Sir,—I am in receipt of your favour of the 2nd instant. You can scarcely expect me to reply to it in detail, keeping in view its last two lines.

I may, however, say that the objects I had in view are set forth in the preface to my book, and that it could not possibly have been meant to damage any one.

I was acquainted with the result of Mr. Sellar's trial in 1816. McLeod states it, and the book contains it. I am now preparing a new edition of the trial for the press, so that the public may be in possession of all the facts of the case. It would have been printed ere now, were it not that my copy of it wants a few leaves, and I am waiting for a complete one, which is to reach me to-morrow.

I was not aware of the existence of MacKid's letter, which you quote, or I would certainly have printed it in a footnote, and I will do so yet if the work goes into a second edition; for I have no personal feeling in the matter.

That McLeod's letters were to be reproduced in my 'Highland Clearances' was advertised for months; and I happen to know that members of your family were aware of the fact. It therefore seems somewhat curious that you or some of them did not call my attention to MacKid's letter. When you consider that, according to the conditions declared in the letter itself, it was not to appear in the newspapers at the time, it was not a document which was at all likely to be much known, except to those more immediately concerned.

You would have noticed that some sentences in McLeod's book have been left out, and others considerably toned down in my work.

The great fact of the Sutherland Clearances, as described in McLeod's book, and fully corroborated by other writers, are as true historically as those of the massacre of Cawnpore, and I cannot understand how any one, however closely interested, can expect that such a chapter in the History of the Highlands, with its various lessons, can be permitted to fall into oblivion.

Your father was acquitted of the specific charges brought against him in Court; but the object of my book is to make it impossible that a law should be allowed to remain on the Statute book which still permits the same cruelties to be legally carried

out in the Highlands, as were carried out in Sutherland during the first half of the present century.

I am of opinion that I have, in all the circumstances of the times in which we live, simply done my duty in re-publishing so much of McLeod's book. If I am wrong in this opinion I must prepare myself for the consequences of my error. Meanwhile, and in view of your threat, I cannot enter into any further personal correspondence on the subject. With all respect,

I am, Sir, yours faithfully,

A. MACKENZIE.

Thomas Sellar, Esq., Hall Grove, Bagshot.





---

APPENDIX VII.

*CORRESPONDENCE WITH MR. A. R. WALLACE.*

*The following extract from a letter from Mr. A. R. Wallace to Messrs. Trübner & Co., dated August 1, 1882, is published at the request of Mr. Wallace:—*

‘It was with much surprise and regret that I learnt from your letter that there were any near living relatives of the Mr. Sellar mentioned in my book, and that *some* of the statements about him, at all events, were incorrect.

‘To me of course he was only *a name*, and as the events happened sixty-six years ago, and have always been referred to this *forty years as matter of history*, without apparently *any protest* from his relatives, it is absurd *now* to talk about libel.<sup>1</sup>

‘Numerous writers have referred again and again<sup>2</sup> to Mr. Sellar, and *always in the same terms of strong condemnation*; and when I took my facts from Mr. Mackenzie’s pamphlet (sent me by himself), and considered his position as editor and historian, living in the very district where the scenes referred to happened, I had every right to think I had the best authority.

‘So far then as to the historical correctness of what I have written, even where I have slightly altered Mr. Mackenzie’s statements and conclusions, I should be prepared to justify them from collateral facts and testimony; *but*, now that I know that it becomes a question of personal feeling to living descendants of the individual referred to, I am quite prepared to express my regret, that I should unconsciously have hurt their feelings, and also to do what I can to obviate it for the future.

‘It is, however, not easy to decide how this can best be done.’

---

<sup>1</sup> [There was some misconception here. No threat or suggestion of an action for libel against Mr. Wallace was ever made by any member of Mr. Sellar’s family. The law of England with respect to libels on dead men was well known to them.—T. S.]

<sup>2</sup> [Those ‘numerous writers’ are not known to Mr. Sellar’s family. Reference is made to Chapter III. of this publication.—T. S.]

## APPENDIX VII.

### CORRESPONDENCE WITH MR. A. R. WALLACE.

Hall Grove, Bagshot: October 17, 1882.

Sir,—I have received from Messrs. Trübner and Co. a copy of the new edition of 'Land Nationalisation,' and while I frankly admit that everything has been eliminated from it of a character personally offensive to my family, I regret to find myself compelled to address you—not, however, in any hostile or unfriendly spirit—for the purpose of showing you that the allegations which you have derived from the letters of Donald McLeod, and which you retain in the new edition, respecting acts done in my father's factorship, are inaccurate or untrue.

To assist me in showing this, I avail myself of a letter which I recently addressed to the publisher of 'Altavona,' and which I had printed for readier reference. A copy is enclosed, marked *private and confidential*, the letter not being intended for publication, at least in its present form.

McLeod alleges four acts of inhumanity to individuals. The evidence bearing on these is minutely examined in the first nineteen pages of the enclosed paper. They are as follow:—

'Land Nationalisation,' p. 58.

1. *Chisholm Case*.—You will, I think, admit, after reading the evidence, that the following allegations of McLeod are untrue:—

1st. That none of the family were present.

2nd. That the woman was not removed till after fire had been set to the house.

3rd. That the blankets in which she was carried out were 'in flames' before she could be got out.

4th. That it was ever proposed to set fire to the house to which she was removed; much less that there was great difficulty in preventing it from being set fire to.

2. *John McKay's Wife*.—She no doubt fell through the

roof of her cottage, being unwell at the time; but her husband does not allege that she was prematurely confined in the open air, or in the view of the bystanders; allegations in themselves not easily to be believed. Even, however, if these allegations were true, you will not, I am sure, consider that what could only have been an accident on the woman's own part, and which occurred in my father's absence, can be held forth as an act of cruelty done by him or by anyone else.

3. *Donald McKay*.—This man, instead—as is alleged—of being ill of a fever, and being while in this state exposed to the elements, was not ill, but only shamming illness.

4. *Donald McBeath*.—His death was not accelerated—as is implied—by his house being unroofed, and by his being exposed to wind and rain, inasmuch as his dwelling was not unroofed or meddled with.

Next, there are the allegations of a general character of tyranny and oppression. You will find them examined in page seventeen to the end of the enclosed paper.

1st. McLeod states or implies that the usage according to which the tenants were acknowledged to be the owners of the 'bog' timber was disregarded by my father. This statement is shown to be false.

2nd. He states that after the houses were overthrown, 'timber, furniture, and every other article not instantly removed was consumed by fire, or otherwise utterly destroyed,' amidst the 'cries, despair, confusion, and horror of the victims,' and the 'exulting ferocity' of the aggressors, my father actively assisting. The whole of this allegation is an absolute falsehood and deliberate fabrication.

3rd. He alleges—but this allegation is not repeated in 'Land Nationalisation'—that for the purpose of driving the tenants out of their holdings the pasture was set fire to, so as to starve their animals. This is shown to be an entire and malicious perversion of fact.

I must likewise point out to you that you have fallen in the present edition into an error which did not occur in the first edition. The 'clearances' in Kildonan, and parts of three other parishes, to which you refer in page 58, did not occur in the year 1816, but in 1819 and 1820, after the expiry of numerous 'tacks,' or leases, in 1818, and subsequent to the termination of my father's factorship.

The only clearances carried out by him were—

1st. In 1812, in Assynt, when the people quietly removed with little or no opposition on his part.

2nd. In 1813, in part of the parish of Kildonan, and part of Clyne, when much opposition was encountered.

3rd. In 1814, in the parish of Farr, which was the occasion which gave rise to the events—the subject of the trial—and when 27 tenants besides Chisholm were removed.

From the spirit of fairness which you have shown since this matter was first brought under your notice, I feel confident that if the evidence, as I think you will admit, shows conclusively that the allegations of McLeod which I have referred to are untrue, you will be prepared to eliminate them from the next edition of 'Land Nationalisation,' not only as an act of justice to my father, but for the sake of historical truth. The date of the later Kildonan clearances you will doubtless be likewise prepared to correct.

Yours faithfully,

(Signed) THOS. SELLAR.

A. R. Wallace, Esq.

Frith Hill, Godalming: October 29, 1882.

Dear Sir,—Thanks for your letter and enclosure. If I were satisfied of the general incorrectness of McLeod's narrative, of course I would not reprint any part of it; but the evidence that seems so clear to you against it does not have the same weight with me.

In the first place, a report of the trial issued by the defendant's counsel, from his own notes, is only *ex parte* evidence. It would be his *duty* to make it as favourable as possible to his client; and we all know how the force and meaning of evidence may be altered by very slight modifications or suppressions. If you can refer me to any independent and unbiased report, as in an Edinburgh newspaper, for example, I will gladly examine it, and endeavour to arrive at the truth.

Again, I know too much of the blundering of lawyers, and the cowardice of witnesses when, as in this case, to give evidence of the truth might be ruin to them, to consider that the trial necessarily gives a complete and accurate account of what occurred.

However improbable the cruelties to the Highlanders related by McLeod may seem, we have a mass of independent evidence of similar events happening again and again in Scotland and Ireland.

I must also remark that it is altogether the fault of your family that these allegations are now reproduced. They appeared first, not in any obscure way, but in a series of letters in an Edinburgh newspaper extending over several months. If these had been objected to as untrue, or stopped as libels, at the time, no more would have been heard of them. But they were, apparently, allowed to appear without protest, and were afterwards republished in a pamphlet form, under the authority of independent persons at Greenock. It is owing to this re-issue that they have become so widely known, and are so frequently quoted as authority; and certainly this double appearance, notwithstanding the result of the trial, is *primâ facie* evidence of their general truth, or at all events of the *bona fides* of the writer, who, after so many years, could have nothing to gain by telling deliberate falsehoods known to be so by other witnesses.

I cannot therefore but think that, however little blame may attach to Mr. Sellar, yet the main character of the events which happened is fairly given in McLeod's narrative, though, of course, many details may be inaccurate.

I remain, yours faithfully,  
ALFRED R. WALLACE.

Thomas Sellar, Esq.

---

Hall Grove, Bagshot: November 30, 1832.

Sir,—I have deferred replying to your letter of October 27, until I should have it in my power to send to you, as you suggested, some contemporaneous reports of the trial. I have had a diligent search made for such both in Edinburgh and Inverness; and I enclose everything that I have been able to procure, namely, the account of the trial contained in the 'Inverness Journal' of April 26, 1816, that in the 'Edinburgh Evening Courant' of May 2, 1816, and that in the 'Scots' Magazine' of May 1816. These are substantially one and the same report, and appear to have been all derived from the local journal. I know of no other Edinburgh or Inverness newspapers existing at that date.

But I cannot think that these or any other contemporaneous

records, if any such exist, can approach in authenticity the published 'Report of the Trial'—an authenticity surpassed, I venture to say, by the records of few events in history. I am surprised to observe that you distrust it, alleging as the ground of your distrust, that, being published by the junior counsel for my father, it would be his *duty* [underlined] to garble the evidence in my father's favour. I on the contrary, think, and I believe you will find it to be the case, that his duty would be the reverse of this; for to garble or misquote evidence in a report either to the court or to the public is a grave breach of professional honour. But in the preface to the report in question the following statement is made: 'The accuracy of this report may be depended on. It is published by the junior counsel for Mr. Sellar, from notes taken in court, and omits nothing but the arguments of counsel.' That junior counsel was Patrick Robertson, afterwards Lord Robertson.

That Lord Robertson was capable of giving to the world a garbled report of evidence, making at the same time the declaration just quoted, is surely an incredible assumption, whether the question is considered from a professional point of view, or on grounds of common honesty.

Besides, the report was published in 1816, the year of the trial, and was thus open to the immediate scrutiny of that portion of society which took the side of the prosecution; and any unfairness on the part of Lord Robertson would have been at once detected, and would have been a scandal which could only have injured his client and disgraced himself.

But though the evidence contained in Lord Robertson's report is, as I have ventured to say, of an authenticity such as can be claimed for the records of few events in history, you put it aside, and ascribe superior authority to the letters of Donald McLeod, written upwards of five-and-twenty years subsequently, on the ground, as it would appear, of their not having been contradicted when they were first published, and still more on account of their not having been contradicted when subsequently they were republished by four independent residents of Greenock in a collected form.

At the time when this republication took place—in the year 1856, I understand—my father had been dead for some years, and I was his representative, but I never saw or heard of the book (which was not entered at Stationers' Hall, nor does it, I understand, bear on its face the name of any publisher) till almost



simultaneously I found it quoted by yourself and Professor Blackie ; and I then at once proceeded to take the steps of which you are aware, to vindicate my father's memory, attacked as it was by a gentleman of your position. Failure to contradict at an earlier period the republished letters cannot, therefore, be justly alleged as a ground for your believing in them, seeing they were entirely unknown to me until this summer.

I do not know what occurred at the time the letters originally appeared, in or shortly after the year 1840. It might well have been thought that it was unnecessary to take notice of them—emanating, as they did, from an unknown man, and published in an obscure Edinburgh journal, then in its last days (for though it appears in Oliver & Boyd's list of Edinburgh newspapers previously to 1840, it does not, I understand, appear in their list for that year or for subsequent years)—more especially so, as they were contradicted in every important detail by the sworn evidence at the trial as reported by Lord Robertson, were in direct variance with the opinion of the jury and the judge, and exceeded in extravagance, and went beyond the discredited evidence of the witnesses for the prosecution. But my father printed a Statement in his vindication in the year 1826, and he circulated it wherever he thought information respecting the matter was wanted; and he reissued it between 1840 and 1850; but exactly when, I do not know. This was the contradiction he gave to the calumnies with which from time to time Celtic partisans assailed him; and he thought it sufficient contradiction, for, as he says in the Statement referred to, the circumstances were perfectly understood in the small circle of his own acquaintance, and in the north of Scotland generally, at the time. I enclose for your perusal a copy of the Statement in question.

But you further say you distrust the evidence given at the trial, and not merely the report of it, because of your own experience of the blundering of lawyers and the cowardice of witnesses—in other words, you mean, I presume, to say that some lawyers are blunderers and some witnesses are cowards, not, I suppose that lawyers in general, or witnesses as a rule, are one or the other. To me it appears that the prosecuting counsel at the trial of my father conducted his case with persistence and discretion; and as to the witnesses, you cannot surely suppose that the twelve individuals—residents of the locality—who were examined, were all such cowards that (with reference, for instance, to McLeod's allegations of the tenants' timber, furniture, and everything being

destroyed by fire, or of the heath-pasture being illegally and maliciously burnt) none of them had the heart to say that their houses were burnt, if such was the case, or that they had seen the houses of their neighbours consumed by fire, or that their heath-pasture had been burnt without their consent, if it had been so.

Then you say that the consequences to the people of their giving evidence would have been ruin: what evidence have you of this? The people were not deterred by any such apprehension from openly organising the proceedings against my father, as the evidence in court amply shows, or in coming before McKid and giving the exaggerated evidence of which he speaks. Nor should you forget that, if a comparatively small part of what McLeod alleges could have been proved, my father would have been an imprisoned and a ruined man, who could have done harm to no one, and for whom no one would have raised a hand.

I observe that in your letter you make no allusion to the proceedings taken by my father against Sheriff-substitute McKid subsequently to the trial, or to McKid's confession of his conviction and belief that the statements to my father's prejudice contained in the evidence which he took, and on which the indictment was founded, were to such an extent exaggerations as to amount to 'absolute falsehoods.' That, I think, is a remarkable confirmation of the truth of the evidence given in court, and of the verdict being a true and a just one, which was deserving of your notice.

But you say, notwithstanding all this, that you consider McLeod's allegations to be *primâ facie* true, because he could have had nothing to gain by telling deliberate falsehoods, known to be so by other witnesses. At the end of five-and-twenty years not many original witnesses of the events in question (and few of them able to read his allegations) probably remained, and we know from McKid the sort of statements that would be likely to be acceptable to those original witnesses of McLeod's own class. But as to the motives under which McLeod acted, they are to me sufficiently clear. What of a solid nature he was to gain from his sensational tales cannot, of course, be known; but on the face of his narrative he shows himself to have been a violent, unscrupulous partisan, in regard to matters which were the subject of heated party controversy; ruined, he alleged, by the tyranny and oppression of those in authority; a man prone to exaggeration, reckless in his statements, and bent, as he avows, on revenge. Such motives and such influences give rise, I

venture to say, to half the lies that are circulated in the world.

At the close of your letter you appear to be less confident of the accuracy of McLeod, for though you still think that the main character of the events which happened is fairly given, you admit that many of his details may be inaccurate.

I wish you had informed me, with reference to the allegations of McLeod enumerated by me in my last letter, which of his details you still think are true, and which are the many, you say may be inaccurate; and I confess I think I am entitled to ask you kindly to give me this information. But with reference to the main character of the events which happened, I challenge your opinion that it is fairly given. I presume, of course, that the events which you here refer to are events which took place through my father's agency and no others, for, as you are aware, I express no opinion on the general relations of landlord and tenant, or as to the character of the clearances generally—the sole question between you and me being whether the acts of culpability which occurred, you allege during my father's factorship, and which McLeod attributes directly to him, did or did not take place.

In challenging your opinion, that the main character of the events which happened during my father's factorship is correctly given by McLeod, I shall pass over details (confirming only and referring to the examination and contradiction of them which I laid before you in my last, and referring also to the printed Statement which I send to you herewith under a separate cover), and I shall confine myself to the sweeping allegation as to the tenants' timber, furniture, and everything not instantly removed being burnt or otherwise utterly destroyed, amid scenes of horror which, he says, beggared all description.

As to this allegation which I select for examination, both because, if true, it is descriptive of a 'character of events' of a very dreadful nature, and also because it imputes a greater amount of wickedness to my father than any other of McLeod's allegations, let me ask you to consider for a moment how inconceivable—nay, impossible—it is that bands of men in any society emerged from savagery, should have gone about as described by him burning and destroying all before them; above all, that this could have been done with impunity. What, let me ask, if this allegation were true, must have been the result of the trial? The prosecution did their utmost to show that property of the tenants had been destroyed. They tried to prove that 3*l*., which Chisholm

swore he had, were burned; they even endeavoured to show 'injury' by the fact of a few yards of Chisholm's growing corn being accidentally scorched; and they strove hard to obtain a verdict on the ground of certain barns being pulled down. Why should they have resorted to such attempts to obtain a conviction, if it had been the case that timber, furniture, and everything not instantly removed, was consumed by fire or otherwise destroyed? Not a witness was produced who could allege an act of setting fire to any portion of any premises, except in Chisholm's case; not one alleged any injury having been done to his furniture; and it is the fact, that my father narrated to one now living, and he undoubtedly related truly, that during his factorship fire was not set by his orders to any portion of any premises except to the timber appertaining to the house of Chisholm.

How is it possible to believe in the face of those facts that McLeod gives a fair description of the 'main character of the events' which took place during my father's factorship, any more than he correctly relates the details?

I have felt it to be due to the spirit of candour which you evinced in your first letter to Messrs. Trübner and Co., namely, that of July last, to state to you at so great length the evidence and arguments on which I consider your present position to be untenable; and I cannot but believe that, if fairly considered by you apart from extraneous influences, they must bring conviction to your mind, and that you will agree to eliminate from subsequent editions of your book the allegations which I enumerated in my last letter. The erroneous date of the later Kildonan evictions you will, of course, correct.

Under any circumstances, I do not propose to continue this correspondence, though I may in case of need find it necessary to let others have the opportunity of judging between us.

I beg, in conclusion, to thank you for the courtesy which you have shown to me personally, and

I am, Sir,

Your obedient Servant,

THOMAS SELLAR.

A. R. Wallace, Esq.

P.S.—Since writing the foregoing, I have been informed that in the 'Edinburgh Advertiser,' a newspaper of that period, not now existing, the same account of the trial is given as that in the other newspapers, reports from which I have sent you (all of

them apparently being derived from the local newspaper, the 'Inverness Journal' of the 26th of April), except that, instead of its being stated as in other reports that if certain evidence which had been rejected had been received it would have made no difference in the verdict, the following words were used: 'The advocate-depute candidly declared, after the verdict was returned, that it met with his perfect satisfaction.' In the next following number of the 'Edinburgh Advertiser,' that of the 3rd of May, the following note appeared with reference to those words:—

'We are authorised to state that the observation in the account of Mr. Sellar's trial (copied from a provincial journal) that Mr. Drummond expressed himself perfectly satisfied with the verdict, after it was returned, was incorrect, as he expressed no opinion as to the verdict, but merely said that he thought it would be satisfactory to the jury and fair to the prisoner to state, that he was satisfied that even if the witnesses whose testimony had been rejected in consequence of objections taken to their designations, had been examined, it would have made no difference as to the result.'

I have added this that nothing which I have got may be kept back. It would of course have been most irregular and unusual in the prosecuting counsel to express any opinion on the verdict, and he very properly corrected the report. This contradiction, however, shows that erroneous statements with respect to the trial were not passed over without observation.

T. S.

---

Frith Hill, Godalming: December 8, 1882.

Dear Sir,—The mass of papers sent me add nothing to the information already given, and on which I cut out all allusion to your father from my book.

The only matter that could possibly alter my opinion of the general nature of the Sutherland clearances would be a full report of the trial, and this is what you have not sent me. I therefore have no grounds for rejecting the evidence accepted by so many Scotchmen and Highlanders for so many years.

I return all the papers you ask for, and am,

Yours faithfully,

ALFRED R. WALLACE.

Thomas Sellar, Esq.

Hall Grove, Bagshot : December 16, 1882.

Sir,—I beg to acknowledge the receipt of your letter with the enclosed documents.

I am sorry you did not before ask me for the full report of the trial. You asked me only for contemporaneous accounts of it, other than the report. These I took some pains to procure, and I sent you everything of every description that I could discover exactly as I received it. The report itself was always at your service had you asked for it. I thought you had it, or had access to it. A copy is now enclosed, which I will thank you to return when you have made your examination of it. I should be glad if you would test the analysis which I have made of it, so far as it bears on McLeod's allegations, with the report itself. The copy I send you is a reprint, which is intended to be, and I believe is, a verbatim copy of the original report, with the omission only of the publisher's title-page, which was superfluous.

I have only to add with reference to the fresh matter which you introduce in your last letter, that you cannot surely consider that Celtic tradition, fostered by the very tales of McLeod, the truth of which is in question, and by the partisan writers who reproduce them and ignore everything else, affords any evidence whatever of the truth of those tales, in the face of the opinion of the jury and the judge, of the evidence which was given at the trial, and of McKid's confession of the exaggeration, amounting to 'absolute falsehood,' of what in substance were the very allegations which McLeod has reproduced, distorting, exaggerating, and adding to them.

One other observation I feel called upon to make on your letter. The character of the Sutherland clearances is not in question between us. I have never raised that question, and whatever opinion I may have respecting it, I am not required, and do not propose to raise it with you. What I challenge is the allegation by you, on McLeod's authority, of the commission of *specific* acts of culpability. Those allegations, both particular and general, which I have formally enumerated both in my letters to you and in the printed matter which I have sent to you, were, I say, conclusively disproved at the trial; and that being so, I also say that it is unjust to the memory of my father, and injurious to his reputation, as well as inconsistent with truthful narrative, to repeat them.

For the third time I beg to call your attention to your having

erroneously stated in the later edition of your book (an error not committed in your first edition), that the Kildonan clearances to which you refer on page 58 took place in the year 1816. They were carried out in 1819 and 1820, after my father had ceased to be factor, as you may see by examining Mr. Loch's book on the 'Sutherland Improvements,' page 85 of the edition of 1820.

I am, Sir,  
Yours faithfully,  
(Signed) THOS. SELLAR.

A. R. Wallace, Esq.

If you mean to imply that educated opinion in Scotland has ever accepted Donald McLeod's letters as trustworthy, or his allegations as true, I entirely dissent from that statement.

---

Frith Hill, Godalming: December 27, 1882.

Dear Sir,—I return you the report of the trial, which I have carefully read. While admitting fully the legal exculpation of Mr. Sellar by the verdict and the balance of evidence taken, I do not see that that evidence in any way invalidates the general statements of McLeod.

I have written to Messrs. Trübner to correct the date you refer to, both in the stereo plates and the copies unsold.

Yours faithfully,  
ALFRED R. WALLACE.

Thomas Sellar, Esq.

---

55 Cromwell Houses, London, S.W. : January 2, 1883.

Sir,—I have received your letter of the 27th ult., and with the present reply our correspondence is closed, so far as I am concerned.

While you fully admit the legal exculpation of my father, and you have also admitted that many of McLeod's details may be inaccurate, you yet say that you do not see that the evidence at the trial invalidates the general statements of McLeod.

I am not sure that I quite know what you mean by the phrase 'the general statements of McLeod.'

If you mean the only statements which are in question between

us, namely those quoted by you which allege the burning of houses, and the wholesale destruction of tenants' property by fire or otherwise under my father's directions; or if you mean the allegations, also quoted by you, of culpable inhumanity—nay, even of brutality—on his part, I say that they are not true, and I have furnished you with exact and precise evidence of their untruth.

I have challenged you to produce evidence that they are true. You have produced none, and I venture to say can produce none. Nevertheless, and though you fully admit my father's legal exculpation from the very charges contained in those statements, you will not withdraw them.

I desire to abstain in this closing letter, as I trust I have abstained throughout in my correspondence with you, from the use of discourteous or offensive words; but I am, I think, entitled to ask whether between man and man this is fair or candid: nay, whether from another point of view it is even logical or rational?

On every principle of fair dealing, you are required, I submit, to substantiate by exact evidence any calumnious statements which you publish, or to withdraw them. And this, it seems to me, is especially incumbent on you when publishing calumnious statements respecting a dead man, whose representatives have not the legal remedies which living men so calumniated would possess.

Your obedient servant,

THOS. SELLAR.

A. R. Wallace, Esq.

---

Frith Hill, Godalming: January 3, 1883.

Dear Sir,—I think you are unreasonable in expecting me to do more than I have done; but I will endeavour to explain precisely my present standpoint.

The jury and the judge acquitted your father of the offences charged against him on a balance of evidence. This the judge expressly stated. I accept that acquittal. But the acquittal does not disprove the facts alleged, only that Mr. Sellar was not responsible for them. I, however, have additional evidence of these facts—not laid before the jury—in the narrative of McLeod, and taking the whole together, I am of opinion that the facts of injury done to the people are substantially proved. When there is a conflict of evidence I claim a right to form my own judgment



—and I have formed it. I accuse no individual; but I quote a narrative which it appears to me was not invalidated by the conflicting evidence of the trial, and I refuse to conceal what I believe to be important facts of history.

I am sure that no impartial person, looking at the trouble I have taken to take out every possible clue to your father's name (and considering the extreme difficulty of getting a copy of McLeod's pamphlet, the reference to it as an authority is only nominal), will consider that I have published anything 'calumnious.'

I remain

Yours very truly,

ALFRED R. WALLACE.

Thomas Sellar, Esq.

---

55 Cromwell Houses, London, S.W.: January 12, 1883.

Sir,—I beg to acknowledge the receipt of your letter of the 3rd instant, and I should have wished to conclude the correspondence with a bare acknowledgment of it. But it contains statements so strange and unexpected, that I am compelled to take notice of them.

You say that the judge and jury acquitted my father on a balance of the evidence, and that the judge expressly so stated.

What the judge said was in reference to one only of the allegations charged in the indictment, namely, the allegation respecting Chisholm's mother-in-law. He told the jury that, as regards her case, it was their duty to 'balance betwixt' (that is, weigh the evidence of) two conflicting sets of witnesses. There was no conflict of evidence except as regards this allegation.

Do you consider that this indicates a mere balance of evidence in my father's favour on the whole case, for that is what your language implies? As a matter of fact, was the evidence nearly balanced on that one case of Chisholm's mother-in-law? We know on the contrary that the evidence respecting it, the only case left for the consideration of the jury, was overwhelmingly on the side of the defence; and we likewise know that on the other cases of alleged 'injury' there was absolutely no evidence whatever to sustain the allegations against my father.

But you say you have evidence of the facts alleged, not laid before the jury, in McLeod's narrative. The only evidence in McLeod's narrative consists of McLeod's own unsupported assertions.

Am I to understand that you consider that these assertions supersede the evidence given in court, and that you give credence to them, and do not give credence to the evidence given at the trial? You cannot believe both, for the one is directly counter to the other. One or other must be false.

Are you seriously of opinion that the bare and unsupported assertions of a man of whom you can know nothing, and for whose veracity you have no voucher whatever, assertions made long subsequently, not under oath or subject to cross examination, are to weigh for one moment against the mass of evidence delivered under oath in a judicial enquiry?

Then you tell me that the acquittal of my father does not disprove the facts alleged, but only proves that he was not responsible for them. That might be true if we knew only the fact of the acquittal. You forget that we have the evidence given in court, and it, plus the acquittal, does disprove every one of them.

But you are of opinion that the fact of injury being done to the people is substantially proved. Here you raise another question, which I do not propose to discuss with you. The only question between you and me—a question which you have never hitherto faced—is whether specific allegations of inhumanity made by you, are true or not. There is no question between us as to whether or not there was an arbitrary exercise of the landlord's powers, inconsistent with the wider sense of the people's rights now prevailing; or whether, in the enforcement of the landlord's policy and of the law, the tenants necessarily suffered hardships.

I have acknowledged, in opening this correspondence with you, the spirit of good feeling you then showed, and I have also acknowledged your having eliminated all mention of, or direct reference to, my father's name; but do you suppose that your readers, with the aid of other publications that you know of, do not read between the lines of your book, and know perfectly who was the author of the inhuman acts you narrate, if those acts were perpetrated? Besides, the mere elimination of my father's name is not and never has been my primary object. If he was guilty of the offences alleged, brand him by all means, and by name, as a guilty man. As he was not guilty, and the acts you allege were not committed, I shall not rest till I have satisfied every reasonable mind that the allegations you make on McLeod's authority are untrue.

You say you refuse to conceal what you believe to be 'important facts of history.' If the allegations you make in your book

are 'facts,' I have no desire that you should do so. The whole question is whether they are 'facts.'

In the last paragraph of your letter, you complain of my calling your statements 'calumnious.' I do not know what you consider to be calumnious statements; but I think that if I had stated untruly of your father, that he had set fire to a house knowing that there was a decrepit old woman then lying in it, who was only removed when the blankets round her were in flames; that he had unroofed a house over a dying man, and left him to die exposed to wind and rain; that he had gone about with gangs of men burning and destroying all before him, amidst scenes of horror 'which beggared all description,' you would have felt such statements very keenly and painfully, whether you called them calumnious or not. I, for my part, call them calumnious in the highest degree.

I must again express my regret that I have found myself compelled, by the nature of the statements in your letter, to make these observations in reply.

I am, Sir,  
(Signed) THOS. SELLAR.

A. R. Wallace, Esq.

P.S.—You have never informed me that you have perused the examination of McLeod's allegations which I sent you. I beg, therefore, to send you another copy, and I ask you, if not as a right, at least as a personal favour, that you should peruse it. You have seen the report of the trial, and can thus judge whether the examination has been fairly carried out. If you should desire the report of the trial to be returned to you, it shall be sent.

---

Frith Hill, Godalming: January 13, 1883.

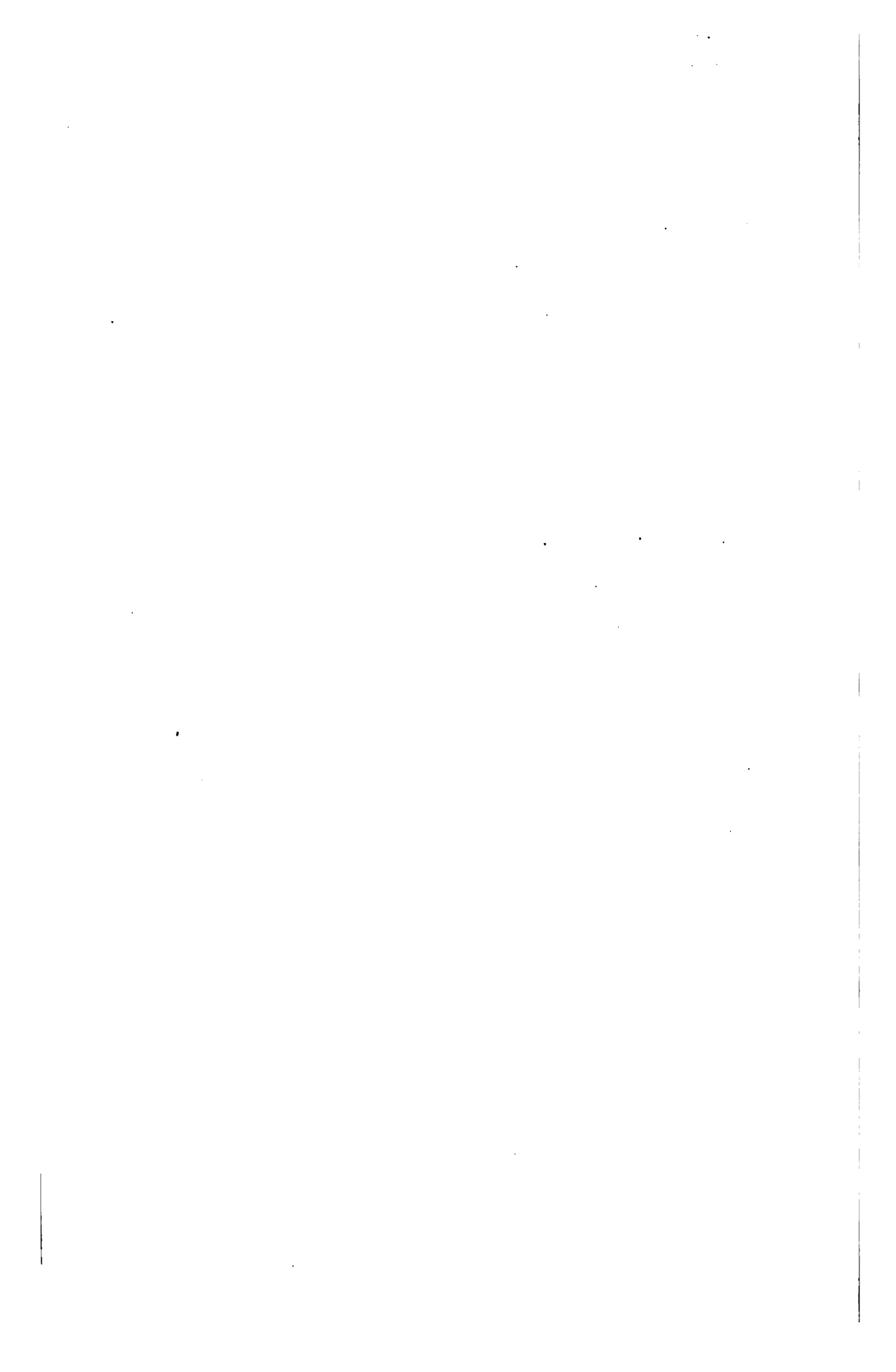
Dear Sir,—I have read all the documents and papers you have sent me, and see no reason to change the view I have already expressed. Our correspondence on the subject must therefore cease.

Yours faithfully,  
ALFRED R. WALLACE.

Thomas Sellar, Esq.

APPENDIX VIII.

*CORRESPONDENCE WITH PROFESSOR BLACKIE.*



## APPENDIX VIII.

### *CORRESPONDENCE WITH PROFESSOR BLACKIE.*

11 Birchin Lane, London, E.C. : December 1, 1882.

Sir,—We have been instructed by our client Mr. Thomas Sellar, of Hall Grove, Bagshot, to address you respecting matters which have given him much pain.

In a recent publication of yours, entitled ‘*Altavona Fact and Fiction*,’ you have discussed at some length the policy of the Sutherland Clearances as they are called, and more especially the manner in which they were carried out, and under the latter head you refer to ‘*facts brought before the public in a court of justice*,’ and largely commented on, you say, in perfectly reliable published documents. In the earlier edition of the book, you referred directly and by name to Mr. Patrick Sellar, the father of Mr. Thomas Sellar, as the person brought before the court, and in a later edition you point to him as ‘*the person charged with the crime*.’

It is not the desire of Mr. Thomas Sellar to discuss with you the question of the policy of those clearances, or the manner generally in which they were carried out. He desires only to bring under your notice the personal question affecting his father, to call your attention to the facts which were actually brought out in court, and to place them in juxtaposition with the allegations contained in ‘*Altavona*’ with reference to the same occurrences.

In the preface to *Altavona* you express your detestation of one-sided views, and your efforts to appreciate your adversary’s point of view ; and with reference to the particular transactions in which Mr. Sellar was concerned, you profess, when entering on your description of them, to judge with perfect impartiality.

But while professing those sentiments, and while calling attention to the circumstance that the facts of those particular transactions were brought out in a court of justice, besides being

largely commented on in published documents, you cite no evidence with reference to them, except the incriminatory allegations of one Donald McLeod, published upwards of five-and-twenty years after the occurrences which they profess to describe. Those allegations of McLeod you cite in your first edition as 'the facts as they took place,' and in the later edition as 'the facts stated by McLeod, of course under excited feelings, caused by the sufferings of his fellow-countrymen.' Your readers can thus only infer that McLeod's allegations are practically identical with the facts as brought out in court.

We should be willing to believe that this may have been the result of inadvertence, and Mr. Thomas Sellar desires that you should have an opportunity of reconsidering, in the spirit of fairness and impartiality which you avow, the allegations which you have reproduced from McLeod.

With that object he has prepared with much care, and we enclose for your perusal, a paper in which he has examined McLeod's allegations (which appear on pages 278 to 281 of your book), and he has set against them the sworn evidence given in the court of justice.

It will be seen as the result of this examination that, so far from McLeod's allegations being a statement of the facts as brought out in 'court,' they are the very reverse of those facts, and are absolutely untrue.

In contradiction of McLeod, the evidence at the trial amply shows to any impartial person accustomed to balance testimony:

(1) That the tenants' right to the bog timber was *not* disregarded by Mr. Sellar.

(2) That *no* portion of any premises was set fire to, except in the case of a tinker of the name of Chisholm.

(3) That *no* furniture or any property of the tenants was consumed by fire, or otherwise destroyed.

(4) That John McKay's wife was *not* taken with premature labour, and exposed while in that state to the open air, and the view of the bystanders.

(5) That Donald Munro was *not* turned out of his house, while lying ill of a fever.

(6) That Donald McBeath while in a dying state did *not* have his house unroofed over him.

(7) That Chisholm's mother-in-law was *not* removed amidst the flames and smoke of his burning cottage, while the blankets in which she was wrapped were in flames.

In thus contradicting every detail of McLeod's incriminatory allegations which are reproduced by you, we have confined ourselves to the bare facts as they were brought out in court; but if from those we proceed to the examination of the spirit and substance of the allegations, they will be found to be equally devoid of truth.

We beg your attention to the account given on pages 278 and 279 of your book, of the general course of proceeding attributed to Mr. Sellar and the officers. They are described, it will be seen, as proceeding with the greatest rapidity and most reckless cruelty, demolishing all before them over a large tract of country, overthrowing the houses, setting fire to the wreck, and burning or otherwise utterly destroying timber, furniture, and everything the property of the tenants not instantly removed, amidst scenes which, it is said, beggared all description.

Now, upon this description let us ask a question. Is it possible, do you think, that in any society which has emerged from savagery, bands of men could have gone about the country openly burning and destroying all before them, as described by McLeod; above all, that they could have done so with impunity? What, if there was any truth in McLeod's description, must have been the result of the trial? The prosecution strove to obtain a conviction by unavailing attempts to prove that 'injury' had been done to the tenants in more ways than one, but they produced no witness (though twelve residents of the locality were examined) who could allege one act of setting fire to anything, except in Chisholm's case; and not one witness alleged that any injury had been done to furniture. If the course of proceeding had been anything like that described by McLeod, how was it that none of those witnesses alleged that their own houses or property had been burnt or destroyed, or that they had seen the houses of their neighbours consumed by fire?

These enquiries which we put to you arise out of the evidence of the witnesses for the prosecution; but if from that we proceed to the evidence for the defence, it will be seen that, apart from the testimony showing that where sick persons were known to be their dwelling-houses were not disturbed, it is stated on oath that Mr. Sellar gave strict instructions to the officers to hurt nothing belonging to the people, and that neither furniture nor anything belonging to them was destroyed or injured.

In the face of such evidence, as well that for the prosecution as for the defence, and in the face of the absolute impossibility,



as it appears to us, of such proceedings as those described by McLeod taking place in a civilised community, and, above all, of their taking place with impunity, we are at a loss to conceive what ground there can be for attributing any authenticity whatever to McLeod's statements as to the general course of proceeding, any more than there is truth in his allegation respecting the details.

It is presumed that you are in possession of the published report of the trial, from the reference you make to it in the first edition of your book; and that thus you can readily verify the correctness of the enclosed examination and the accuracy of our assertions. If you are not, however, possessed of the report, a copy of it shall be sent to you should you wish it.

It will rest with you after scrutinising the evidence given in court, and comparing it with the allegations which you reproduce from McLeod, to say whether or not you are prepared to admit that you have been misled in putting those allegations forward, either 'as the facts which took place,' or as, in any correct sense, a statement of the facts at all. We consider that Mr. Thomas Sellar, as the representative of the man who has been so grievously calumniated, is entitled in all fairness to learn your decision.

We have not referred to the statement contained in the later edition of your book, that in quoting McLeod you intend to inculpate no one in particular; or to the other statement, to the effect that you make no charge 'against the person charged with the crime,' but acquitted of it,—as it must be evident to you that while you reproduce from McLeod, and cite as authentic, allegations imputing the perpetration of various acts of inhumanity and culpability, which, if committed, were of necessity the acts of Mr. Patrick Sellar, those statements cannot be looked upon or treated by any one as serious statements,

Yours obediently,

MURRAY, HUTCHINS, and STIRLING.

J. Stuart Blackie, Esq., 9 Douglas Crescent, Edinburgh.

P.S.—Together with the paper containing the examination of McLeod's allegations, another paper is sent to you dealing with the events of the trial, which you are likewise invited to peruse.

9 Douglas Crescent, Edinburgh : December 5, 1882.

Gentlemen,—I have to thank you for your communication of the 1st inst. with regard to Mr. Sellar's share in the Sutherland clearances; and it gives me great pleasure to think that you have been able to make out so fair a case for him. If you can convince the Highlanders generally that he played a considerate, kindly, and humane part in those transactions, you will do a great public service.

So far as I am concerned, however, I must say that it is not the person or persons who were actors in that business, but the policy of the proceeding which possesses any interest for me. In all my public appearances, whether as a writer or a speaker, I have systematically avoided personalities; and with regard to the Sutherland clearances, from the first time that I visited Strathnaver and wept over the ruins of the deserted cottages there, I studiously avoided introducing the name of Patrick Sellar into my utterances. The same good feeling towards the Sellar family regulated my conduct in my recent work on the Highlands, which unfortunately seems to have given so much pain to that family. It is impossible, of course, for me, as a faithful historian, to give a true account of the Highland evictions without giving prominence to the notorious case of Strathnaver; the only case, besides, with regard to which public documents were available; but, though obliged to allude to the trial of Mr. Sellar, as one of those documents, I did so only as an historian; and so far from bringing any charge against him, I distinctly gave prominence in my text to the emphatic words of the verdict—'honourably acquitted.' Nay, more; I took upon myself the responsibility of deleting Mr. Sellar's name in two places of McLeod's evidence, simply from the desire of not unnecessarily offending the feelings of any members of his family. In these circumstances, I need not say that it gave me no small pain to understand that the members of the family, for whom I had always a particular regard, had expressed themselves greatly dissatisfied with my treatment of the case; this feeling I could easily excuse as natural, but it was certainly not a little unreasonable. I gave the evidence of Mr. Loch and Mr. McLeod—the one as witness for the lord of the soil, the other as witness for the crofters, honestly and fairly, 'valeant quantum valeant.' I did not, and I could not at this distance of time (when the great majority of the ninety witnesses have died out), pretend to guarantee all the details given by either. I

received the rose-coloured statement of the one and the sanguine-hued account of the other, both as *ex parte* statements, which it was my duty to lay before the public; and I left the impartial reader to conclude that, though Mr. Loch's intentions were no doubt good, the manner in which they were carried out by some party or parties acting under his authority was in the main drift and scope of it both harsh and impolitic, and from a human and social point of view worthy of all reprobation.

These are my views. If you wish to open up the general question of the character and conduct of the Sutherland clearances, the press is open to you as it was to me. I should only be too happy to have the whole affair brought before the public and evidence heard on both sides, so far as it may now be attainable. In any event I could only anticipate good from a public exposure of the economical history of the Highlands and the manner in which landlords and factors in those remote districts have performed their duties to the community. I am,

Yours obediently,

JOHN S. BLACKIE.

Messrs. Murray, Hutchins, and Stirling, 11 Birchin Lane, London, E.C.

---

11 Birchin Lane, London, E.C.: December 20, 1882.

Sir,—We are in receipt of your letter of the 5th inst., which we have submitted to our client, Mr. Thomas Sellar.

We regret to find that the question which we put to you in our letter of the 1st inst. is not only not answered by you, but is not even referred to in your answer.

Statements of a grave character have been made by you affecting the reputation of Mr. Sellar's father. In the first edition of 'Altavona' you referred to him by name; in the later edition you refer to him as the person charged with the crime; and in both editions specific acts of inhumanity and culpability, general as well as particular, are alleged to have been perpetrated, which, if committed, were of necessity the acts of Mr. Patrick Sellar.

We submitted to you evidence showing, in our judgment, conclusively that the alleged acts were not committed, and we asked you to say whether you were prepared to admit that you had been misled in giving currency to the statement that they had

been committed. If the allegations in question had been made with reference to a member of a family who were strangers to you, they would be entitled to demand from you that you should justify or withdraw them. Made, as they are, with reference to a member of a family for whom you tell us you have always entertained a particular regard, there was additional reason for expecting from you a full, frank, and direct answer. But, as we have said, you make no answer whatever, but enter on matters of a general nature, or of a character personal to yourself, with reference to which we have alleged nothing, and we have nothing to say, except that the assumption to yourself of credit for the manner in which you mentioned the fact of Mr. Patrick Sellar's acquittal seems to us singularly inappropriate. Equally so, we believe, is the credit you take to yourself for good feeling in deleting, of (as you imply) your own accord, the name of Mr. Sellar in your later edition.

We refrain from commenting on the general tone and character of your letter. You surely cannot suppose that a gentleman of your position could propagate injurious and untrue statements relating to Mr. Sellar's father, and that our client should not resent your doing so. And his resentment cannot be diminished, when, in answer to the full and exact evidence which we sent you showing the untruth of those statements, you simply elude the question.

Nor can the fresh matter which you have brought forward in your letter diminish our client's sense of the gross injustice of your conduct. It is to him and to us perfectly inexplicable how, on the principles of honesty and fairness to which you appeal, you can consider yourself entitled to look upon Mr. Loch's statements, quoted by you, as being in any sense counter evidence to McLeod's allegations respecting the acts of Mr. Patrick Sellar. Those statements of Mr. Loch deal solely and exclusively with the policy of the clearances, and make no reference whatever to the manner in which they were carried out by Mr. Sellar or by anyone else. The counter-evidence to MacLeod's allegations is contained in the evidence given at the trial; but of that you have quoted no portion. You have, in fact, put forward MacLeod's allegations as if they stood uncontradicted, entirely ignoring that counter-evidence which destroys them.

We thought your having so treated your case, to use an expression of yours, might have been the result of inadvertence, and by our client's desire, we gave you the opportunity of receding

from a position which we could hardly conceive your wilfully taking up. But you appear to indicate that there was no inadvertence, and that your course of proceeding was intentional. If such is the case, it is not needful that we should point out to you how grave the considerations are which must necessarily arise.

Our client will take such steps as he may be advised to take to clear his father's memory from the odious charges which you have reproduced from McLeod's letters. But he will not enter or be led into a newspaper controversy with you. Especially will he decline all controversy in newspapers or elsewhere with reference to the general question of the character and conduct of the Sutherland clearances. That question, whatever opinion he may hold respecting it, is irrelevant to the present issue, which is simply whether statements published by you relating to alleged acts of Mr. Patrick Sellar are true or false.

We say they are false, and produce our evidence, and, if you cannot show to the contrary, we ask you to admit that you have been misled and to withdraw them; and, on every principle of fair dealing, we are entitled, we say, to a direct answer.

You cannot shelter yourself behind the plea that you have no means of testing the truth of the details which you publish, even if the admission that you had published calumnious statements without having the means of justifying them would not of itself condemn your course of action; for you have yourself quoted the report of the trial as a voucher for the facts of the case; and the very ground which you alleged for entering on the details in question was that the notorious case, as you call it, of Strathnaver was one the facts of which were brought out in a court of justice, and could thus, it was to be inferred and the fact is, be readily and authentically ascertained.

Yours obediently,

MURRAY, HUTCHINS, and STIRLING.

J. Stuart Blackie, Esq., 9 Douglas Crescent, Edinburgh.

---

9 Douglas Crescent, Edinburgh : December 26, 1882.

Gentlemen,—The most sober-minded and judicious of my friends here, with whose counsel I have acted from the beginning of this unhappy misunderstanding, agree with me in now saying

that I have done all and more than all that could reasonably be expected of me in my historical treatment of the Sutherland clearances, so as to avoid unnecessary offence to any parties concerned. You will therefore consider this correspondence as closed.

Yours, &c.,

JOHN S. BLACKIE.

Messrs. Murray, Hutchins, and Stirling.

---

11 Birchin Lane, London, E.C. : January 10, 1883.

Sir,—We have received your letter of the 26th ult. On our part it only remains for us to record that we have furnished you with full and precise evidence demonstrating the untruth of calumnious statements published by you, which statements you neither justify nor withdraw, and that we have unavailingly pointed out to you as an act of gross injustice done to the memory of Mr. Patrick Sellar, and a grave reflection on your own reputation, that you have presented those statements to your readers as if they were statements of ‘the facts as they were brought before the public in a court of justice,’ whereas they are in direct opposition to those ‘facts.’

Our client will now feel himself at liberty to denounce your conduct in the terms such conduct merits.

Yours, &c.,

MURRAY, HUTCHINS, and STIRLING.

J. S. Blackie, Esq., 9 Douglas Crescent, Edinburgh.