

Copy—Letter to Major-General DAVID STEWART of Garth, &c.
Edinburgh.

(Dated) MORVICH, 27 GOLSTIE, 9th Jan. 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 to have addressed 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 shew where the truth lies. I have done this, I hope, with every delicacy. At same time I am prepared to support the truth. I am,

SIR,

Your humble Servant,

PAT. SELLAR.

Major-General DAVID STEWART, }
of Garth. }

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, and 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 might 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, *characterized by the*

* *Vide* Appendix, No. 1.

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 the 23d April 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 honor 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 stripes 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.*

The first district where I was desired to carry the new 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

* Vide Appendix, No. 2.

† Appendix, No. 3.

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 arrangement 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 the 26th of May 1814, the day from which my rent began to run, and on which the tenantry ought to have been removed); I waited patiently until the 13th day of June; and when it was then found necessary to cause the Sheriff's Officers 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 ejectment, to be valued. I paid him 6s. which I think was double the value of it, and then caused the party 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

* *Vide* Appendix, No. 4.

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 organizing 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 Gen. 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, *2dly*, 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 *viva voce* verdict, unanimously finding Mr Sellar—Not Guilty.'

'Lord Pitmilley 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 Gen. 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* 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 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,

* He had taken it by himself, without the Fiscal and without the Sheriff-Clerk.

'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 connexion with the unfortunate affair has induced me to resign the office of Sheriff-substitute of Sutherland.*'

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 Gen. 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 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. 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.

MORVICH IN SUTHERLAND, }
DECEMBER, 1825. }

* A full copy of the letter is annexed. It is recorded in the Books of Council and Session, and the original is in the Sheriff-Court Books of Sutherland, where it was registered as a Probative Writ the 13th Nov. 1817.

APPENDIX.

No. I.

Comparative View of the Earldom of Sutherland, before and after what has been done partially to improve it.

YEARS.	ANNUAL EXPORT.	RENTS.	OFFICIAL REPORT OF POPULATION.
1810.	The Salmon of four small Rivers, a little Kelp, a few hundred barrels of fish from Assynt, and a few droves of lean Kyloes;—per Contra, heavy importations of Oatmeal to support the people in the mildewed Country.	L. 11,650	23,629
1825.	<ol style="list-style-type: none"> 1. The same Salmon Fishings and Kelp. 2. A few droves of better fed Kyloes, without importations of Meal. 3. Several Thousand Bolls of Barley exported in pure Highland Whisky. 4. Better than 73,000 fleeces of Wool. 5. Better than 16,000 Cheviot Sheep. 6. Better than 30,000 Barrels of Herrings. 	26,000*	23,840†

No. 2.

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 were seven poachers

* Against this sum is to be placed the interest of betwixt two and three hundred thousand pounds, chiefly divided by the noble proprietors among removed tenantry and other workmen in exchange for labour. Whether a landlord, less generous, might with propriety have saved part of the above sum, is questionable. The fishing could not have been realized without retaining the people; and little could have been saved without deducting from their comfort.

† This is the census of 1821,—That of 1825 must shew a greater number of people.

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.

No. 3.

At the date before mentioned, except the Salmon Cobles, there was not a single fishing-boat in Helmsdale, nor a single herring caught on that shore. The first essay was made in 1814, and I here annex an *official* account of the result from the year 1813 to 23d Dec. 1825.

State of the quantity of Herrings Caught and Cured at Helmsdale in Sutherland, AND EXPORTED from that Creek, from the year 1813 to the year 1825, both inclusive.

YEAR.	QUANTITY.	REMARKS.	HOW EXPORTED.
	<i>Barrels.</i>		<i>Barrels.</i>
1813	None.	People were employed building Houses, Sheds, &c. preparatory to the Herring Fishery.	For the Home Market, 117,928 West India do. 30,593 Irish, 28,098 Foreign, 3,560
1814	2,400		
1815	4,000		
1816	7,300		
1817	9,350		
1818	14,390		
1819	17,449		
1820	18,835		
1821	18,784		
1822	19,314		
1823	21,215		
1824	23,692		
1825	23,450		
	180,179		
Supd. still in store,	1,550		
	B. 181,729†		B. 181,729

Certified by JOHN SHAW, C.—*Uppat House*, 23d Dec. 1825.

† Besides whatever quantity the population of Sutherland can annually consume.—Herrings are worth at present from 25s. to 30s. per Barrel.

EXTRACT FROM THE DEPOSITION OF

WILLIAM YOUNG, Esq. witness for the Crown.—Identified the notice to the tenants in Strathnaver, which was explained to the people, at the set in Dec. 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 the 20th of April, 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 the 20th of May he did return, and went to Strathnaver. He was employed till the 31st of May in laying off the allotments. By the 4th of June every thing was ready for the reception of the people, and between the 31st of May 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 27 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.

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 Culmally, 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.

* This large number waited 27 tenants, owing to the change of arrangement explained in the Statement, Page 4.

From Mr M'K**,† late Sheriff-substitute of the Shire of Sutherland, to Mr SELLAR.

Drummuie, 22d September 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 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 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 connexion 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 objecting to. I am, Sir,

Your most obedient Servant,

ROBERT M'K**.

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

From Mr SELLAR to JOSEPH GORDON, Esq. of Carrol, W. S.
Agent for Mr M'K**.

Culmally, 22d Sept. 1817.

DEAR SIR,—I have instantly received through your hands Mr Mack**'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

† As this man has an "innocent family," I do not feel myself called upon to print his name.—The records are referred to.

liberty, or otherwise to oppress him under the form of law) induce me, from compassion to Mr Mack**'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 Mack**'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 Mack** and her family, and her connexions, 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 Carrol, W. S. }

From JOSEPH GORDON, Esq. of Carrol, W. S. to Mr SELLAR.

Culmally, 22d Sept. 1817.

DEAR SIR,—Having just now received from you a letter authorizing the dismissal of your suit, presently depending before the Court of Session, against Mr Robert Mack**, 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 Mack** may not have in his power to raise funds for 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, Culmally. }

Extracted from the Register of Deeds and Probative Writs of the Shire of Sutherland, upon this and the four preceding pages,
by (Signed) WILLIAM TAYLOR,

Sh.-Clerk, and Keeper of the said Register.