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29 Elvaston Place
June 30 1884

Dear Sir,

I thank you very much
for your kindness in
writing to me regarding
the MSS. you have found.
I am aware that in a
book published so on-
ly 70 years ago or more
the Singular Story you
refer to, is related -
but I have not in
the least relied upon it,

Believe me Yours faithfully
Forster

in either of any Actions in
the Court of Session or
House of Lords - but only
as Captain Drummond
was never Served Heir
either to the Chancellor
of Perth - or to James Drum
of Lundie, who was duly
Served Heir Male to the
Chancellor in 1766, when
took up the title of Earl
of Perth - he resided at
Stobhall and died in
1781 - and it was only
in 1785 that Captain

Drummond appeared
with a learned advocate
by two briefs - that he
was James Drummond
of Scudrie's son, and as
James Drummond of
Scudrie had been
seized Heir male to the
Earl of Perth the Chancellor
that he was the person
entitled to the estates which
were bestowed in 1784 - to
the Heir male who would
have succeeded had there
been no Forfeiture in 1746 -

Believe me Yours faithfully
For the help of

4) 1866 at Perth

in 1866 - I was served ^VHeir's
male General of James 3 Duke
of Perth - the first son of the
Chancellor who was duly legit
of the estate in 1731 - and in
1874 - I was served Heir's male
General of the Chancellor &
Earl of Perth - as well as
Heir's male General of James
Drummond of Sutherland who
had been served Heir in
1766 - and opened the
title of Earl of Perth and
Lord of Slobhall in 1781 -
but now the whole case
turns upon how much was
forfeited in 1746, whether the
Fee Simple - or life rent - they do for
have held that for want of Registration
in the case of Entail of 1845 -
the entail which would have
clearly saved the estate for me

5/
as present their male parents
of the family duly seen and
Retained - The Question now
to be decided by the Courts
of Session is whether an
Entail made by the Vassal
giving a territorial hold
duly recorded by a Royal
Signature - Registered in the
Privy & put under seal in 1679 - and
Ratified and Confirmed by
a Public Act of the Scottish
Parliament - could possibly be
also Recorded, in the books
of Entail of 1685 - enabling
Mr. Subpots who held fee
Simple Estates - to Entail them
and Register them in the
new books of 1685 - for the
protection against Creditors

Believe me Yours faithfully
For the benefit

for the debt of the Scurper
in the Lands

The whole of my case turns
upon these points, which
are legal points and as
pursued by the Court of Session
(See Reports of Court of Session)
(March 9 1875. Vol. IV. P. 538.)

You will find "Not Competent and
"and Amitted case never be held
"against a pursuer,"

"he can raise his action upon
"any ground he pleases"

"and if he fails he can resort to
"another"

"until he has exhausted the whole
"he can address"

"because a judgment in favour of
"a defender, is not an absolute

"affirmation of his rights" but is merely
"a repudiation of the process put forward
"by the pursuer"

"a Pursuer may thus maintain his right
"on different grounds, once after another
"until he has exhausted the whole he
"can address".

7/
I find I have gone into
the curious point of the
Law of Scotland - to
explain my case - which
should have come on
again before this - had
I not been nearly blinded
for 3 years - and since
I have recovered my sight
Lady Perth has been
severely ill, and I
could not go to Scotland
to proceed with my
own Actions - on certain
grounds to the preceding
me - my excuse this last
time and with my thanks
believe me
Yours faithfully
J. M. Melfort

41 1866

Sat Perth.

See the debt of Am. Sec. Co.

THE
Detection of Infamy :

EARNESTLY RECOMMENDED TO THE
CONSIDERATION AND JUSTICE

OF THE
IMPERIAL PARLIAMENT.

THE HISTORY OF THE

REIGN OF
HIS MAJESTY KING GEORGE THE THIRD

BY
JAMES OBERLIN, ESQ.

THE

DETECTION of INFAMY:

EARNESTLY RECOMMENDED

TO THE

JUSTICE AND DELIBERATION

OF THE

IMPERIAL PARLIAMENT

OF

Great Britain.

BY AN

UNFORTUNATE NOBLEMAN.

Thomson (Charles E) calling himself

Duke of Wellington



Printed and Published for the Author, by
H. K. CAUSTON, BIRCHIN-LANE, CORNHILL;

MAY BE HAD OF
SHERWOOD, NEELY, & JONES, PATERNOSTER-ROW;
AND ALL OTHER BOOKSELLERS.

1816.

THE THIRD EDITION.

~~~~~  
This Day was Published,

AND MAY BE HAD OF ALL BOOKSELLERS ;

THE

*Mysterious Heir ;*

or, WHO is

**Mr. WALTER HOWARD?**

WITH

The Copy of his Petition to the King,

TOUCHING THE

SUCCESSION OF THE DUKEDOM OF NORFOLK:

WITH A

**Genealogical Table,**

SHEWING

THE VERY DISTANT AND INTRICATE DESCENT OF

**MR. BERNARD HOWARD,**

WHO HAS ASSUMED THAT TITLE.

AND, DISCLOSING

**CURIOUS AND IMPORTANT FACTS**

WHICH APPEAR STRONGLY TO CALL FOR

**Investigation and Explanation.**

—◆—  
The Public will, no doubt, be much surprised to hear, that after the various persecutions and insults which Mr. WALTER HOWARD endured, he has at length found an Advocate, who by the publication of this interesting little Work makes known to the World, that whatever may have been the prejudices of the many against Mr. WALTER HOWARD, *there nevertheless are pretensions* vested in him which want more the *means* than the *right* to be brought before the proper Tribunal of Justice. — Could the British Public feel for one of the *Sons of Sorrow* of their own Country as they have for Foreigners of all Nations, a Subscription of ever so small a nature, under proper management, would accelerate the developement of this mysterious Case,

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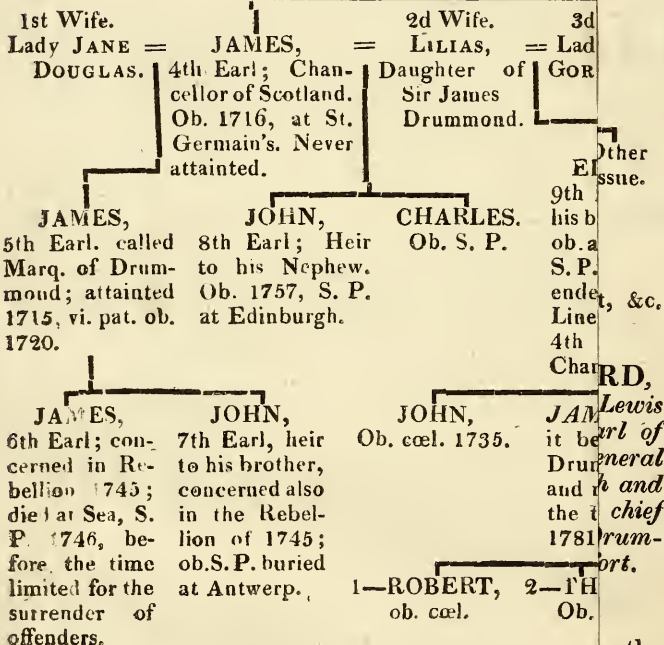
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# TABLE OF DESCENT of the Hought of the present Duke, and the Institution obtained the Estates.

## JAMES DRUMMOND



# THE APPEAL

OF

CHARLES EDWARD, Duke of Melfort, &c.

HEIR-MALE, AND CHIEF REPRESENTATIVE

OF THE

House of Drummond of Perth,

SUBMITTED TO THE CONSIDERATION OF

*The Two Houses of Parliament of the United  
Kingdom of Great Britain.*



MY LORDS and GENTLEMEN,

**I**N soliciting your attention to this Appeal, the great object is to induce you to render so much justice to an unfortunate Individual, as to cause an Investigation to be made into the nature of his case, wherefrom it may be collected whether he has not been deprived of his legal inheritance by *the substitution of a spurious person* to wrest it from him; and whether *Parliament itself has not been imposed upon, and thereby made the unintentional instrument* to inflict upon him so severe a stroke of injustice?

The circumstances in which this case stands involved are certainly of rather an intricate nature; but not so intricate as to require any thing more than a serious inquiry, to ascertain the truth.

The degree of criminality which may attach to the conduct of a distinguished Nobleman, now no more, may appear of a deep and flagitious dye; but when it shall be considered, that in his life-time he was impeached for certain High Crimes and Misdemeanors, and that on



the occasion of his trial his very judges were divided in their opinions as to his guilt, there seems no reason to believe that he might not be prone to the perpetration of the flagrant act, which the subsequent statement presents a suspicion that he contrived and effectuated.—Indeed, on an occasion like the present, delicacy ceases, and respect to individual persons becomes neutralised, for it is the voice of justice which calls aloud for retribution.

The extraordinary particulars which were developed upon the famous Anglesey Cause, were of so nefarious a nature, that till the result of the trial upon that memorable claim, it was supposed that human nature could hardly have been so atrociously wicked; but the stubborn proofs adduced to support the charge, were so clear, so strong, and so positive, that reluctant minds, biassed by the hand of power and disposed to look upon high rank as the depository of high virtues, were at length compelled to receive the voice of truth, and give credit to the fact, as established by legal testimony in open court.

But as the detail of matter ready to be adduced in evidence is better than argument to be drawn from presumption, it may be as well to enter at once upon the case in question, merely observing by the way, that whatever may have been the cause of the Duke of Melfort's misfortunes, his family and himself have been *through their loyalty*, victims to two great revolutions, the first in *England*, the last in *France*; and even the moderate allowance granted by the British Government to *Strangers*, has been *withholden from him* whose Ancestors, in the character of *British Subjects*, once possessed the most considerable estates, and who himself (from a principle of inflexible integrity) is now in the situation of a forlorn and destitute exile in the kingdom of Great Britain, *the boasted land of liberality and philanthropy*—that land which has given bread to foreigners of all descriptions, but which has denied to him the very means of existence, and shut upon him almost every avenue to the chamber of Justice.

# THE CASE.



**P**RIOR to entering into general particulars, it will be proper to give a short history of the Pedigree of the Family, which entitles the **DUKE OF MELFORT** to the right of claiming the dignity of **EARL OF PERTH**.

**JAMES**, the third Earl of Perth, who died in 1675, left two sons, viz.

1. **JAMES**, who succeeded him, and was the fourth Earl of Perth, and Lord High Chancellor of Scotland ; and,

2. **JOHN**, who was created Viscount, and afterwards Earl of Melfort, in the years 1685 and 1686, as appears by the patents, registered in the records of the Scotch Parliament, in public prints, and in the archives of the family.

**JAMES**, fourth Earl of Perth, elder brother of the said **JOHN** Earl of Melfort, having been attached to his unfortunate master and relative, **King James II.** of England, was confined in the castle of Stirling, where he remained prisoner, from the end of 1689 until 1693, when, being liberated, he was ordered to quit Britain, never to return without the permission of **King William** and **Queen Mary**, and their Privy Council : but he was *not outlawed*. He resided for some time in Italy, and from thence removed to **St. Germain's**, where the exiled Monarch, who had created his brother **JOHN** Duke of Melfort three years before, namely in 1692, also created him Duke of Perth, by royal letters patent ; both which patents are under the great seal of Scotland, and as such made both dukedoms Scotch honours.

The said JAMES, fourth Earl of Perth, and the first Duke of that name, had a son by his first marriage with Lady Jane, daughter of the Marquis of Douglas, who, in consequence of his father being called Duke of Perth, was himself commonly called Marquis of Drummond.

This Marquis of Drummond having joined the Chevalier St. George in 1715, was attainted of high treason, under the name of JAMES Lord Drummond, eldest son of the Earl of Perth. But his father being alive at that time, the attainder did not affect the title of Earl of Perth, which continued in the person of the Lord Chancellor until his death, which happened in April, 1716; on which event, the title of Earl of Perth, though not forfeited, became dormant, in consequence (as before noticed) of the attainder of his eldest son, JAMES Lord Drummond (or the Marquis of Drummond) in 1715, who could neither enjoy the title himself, after the death of his father, nor transmit it to his sons.

This JAMES Lord Drummond (otherwise stiled Marquis of Drummond) had two sons, viz. JAMES, denominated Duke of Perth, and JOHN, commonly called Lord John Drummond.

This JAMES Duke of Perth, and his brother Lord JOHN DRUMMOND, were both concerned in the rebellion of 1745. The former died in his passage to France; in which country the latter died six months after his arrival.

The estate of Perth was not liable to forfeiture in the person of the Duke of Perth, he having been (by the act of God) prevented from surrendering in the limited time; but was confiscated in the person of Lord JOHN DRUMMOND, who, by the proper terms of the Act of Parliament, was attainted before the 18th of April, 1746, to all intents and purposes: though his elder brother, who died after that period, viz. on the 11th of May following, was not attainted.



But Lord JOHN DRUMMOND was by his attainder, on or before the 18th of April, 1746, excluded from succeeding; and much more so, because having never been seised of the estate by charter and seisin, according to the law of Scotland, he had, even supposing him able to succeed on the death of his brother, only a personal right for his life, and could not destroy by his attainder the right of the other heirs of investiture, which investiture was a strict entail in favor of the heirs male of the Perth family. The estate, however, was confiscated and annexed to the Crown until 1785, when the forfeited estates in Scotland were ordered to be restored to the heirs of the former owners.

The male line of JAMES fourth Earl of Perth having failed in 1760, the right of succession devolved upon the family of MELFORT—of which

JOHN Earl of Melfort, and the first Duke of that name, was twice married, viz.

1. To Sophia, heiress of Lundin; when, by peculiar stipulations in the contract of their marriage, this JOHN, then called only JOHN DRUMMOND, was bound to assume and bear the name and arms of the Lundin family; which were borne accordingly till the year 1766.

2. He was married secondly to Euphemia Wallace, and the children of this second marriage were entitled by charter and royal patents, as well as by the dispositions of the Earl of Melfort to all his estates and honors. The eldest son, who was called JOHN, was in the lifetime of his Father created Lord Forth, and the royal charter which mentions that title is entered in the register of the Scotch Parliament.

This Lord Forth never was attainted, and as such there seems no ground for the adverse party of the Duke of Melfort to hold up the attainder of the Earl of Melfort, pronounced by the Scots parliament in 1695, and to insist

upon an exception made in favour of the children of his first marriage with Sophia, heiress of Lundin : if these children would have been the heirs of the Earl of Melfort, such an exception would have prevented the forfeiture of the estate. But the estate of Melfort was not vested in the person of the Earl at the time of his attainder, having been long conveyed to Lady Euphemia Wallace, Countess of Melfort, his second wife, for her life-rent, and after her death to their eldest son and heir, JOHN Lord Forth, and his heirs. This is proved by a royal charter of confirmation and novodamus, granted by the King upon the resignation which the Earl made of his estate into his royal hands, before the Revolution of 1688, and duly registered in the Scotch records of charters, Book 71, No. 107, dated 9th October, 1688. Therefore no corruption of blood can affect that branch of the Melfort family, which is derived from the said John Lord Forth, who having been born in Scotland, entitles his grandson and heir, the present Duke, to the right of a British subject; consequently the title of Earl of Perth belongs to him by birth-right.

The said title, however, was claimed, in 1766, by JAMES DRUMMOND, of Lundin, as grandson to the Earl of Melfort, by his first Marriage with Sophia Lundin. But his claim, though laid before the Court of Sessions in Scotland, was never made good before the House of Peers: and indeed for the reasons above mentioned, he was not entitled to the honor; for all the diplomas granted by King James, either to the Earl of Perth, or to the Earl of Melfort, bear the disposition of the title to the children of the Earl of Melfort's *second marriage, in preference to the children of the first marriage.* *The late Lord Perth himself did not make good his claim to the same dignity of Earl of Perth, in 1794, and was advised (as it is said) to drop it, and wait the opportunity of being, through the influence of his friends, created a British Peer, under the Title of Baron Perth; but he never was a Scotch Peer; which circumstance among others has led to a further suspicion that he was not the*

person he described himself to be; or that the family of Lundin was equally excluded by the investitures of the family of Perth, as they were by those of Melfort; or at least that the children of the Earl of Melfort's second marriage were preferred. The consequence then is, that the Act of Parliament pointing out the heir male, who would have been entitled to succeed by the investitures of the estate of Perth, had it not been forfeited seems *inconsistent*; the restoration of the estate not having been made, *in tail male* to that heir of investiture, who, as the title and estates were inseparable before the forfeiture, became, according to the presumed interpretation of the Act of restoration, as much entitled to the *Honor* as the Territorial Inheritance.

But before any further developement of this person, the late lord Perth, shall be made, a few remarks with regard to the House of Melfort become necessary.

It is known that the title of Duke of Melfort, altho' a Scotch honor confirmed by Louis XIV. was given at St. Germain's, and is not acknowledged by the English Parliament. But that the Earl of Perth, on the contrary, is an ancient title belonging to the head of the house of Drummond.—This title was never forfeited, and therefore belongs as it is considered by right to the Duke of Melfort.

Of the name of Melfort, there are two branches: the eldest, called the Ducal Branch, are British subjects; for JOHN Lord Forth, grandfather of the present Duke, was born in Scotland in the year 1682, and consequently before the Revolution of 1688.

The second branch of the family of Melfort, called Counts De Melfort, are aliens; for LORD ANDREW DRUMMOND, the fourth son of the Earl of Melfort, was born at Rome, when his father, the Earl, was Ambassador of King James at that Court; this LORD ANDREW could not therefore transmit to his children the Privilege of the sons of

the other Ambassadors of his Britannic Majesty, for reasons which are well known.

This second branch, who were favored at the Court of France, took advantage of the retirement of the Duke of Melfort, the present Duke's father, while residing at his Castle of Lussan in Languedoc, in a remote seclusion from the Court, to assume the character of the first representative of the family of Perth; and one Viscount Melfort, son of the Count, being protected by the said Court, came to Britain with full powers granted to him by the late Duke of Melfort, the Claimant's elder brother (in the year 1787) and having obtained possession of the family papers which had been deposited in Scotland, and were delivered to him in virtue of a power of attorney granted by the Duke, took upon him to challenge the possessions of the late JAMES DRUMMOND Earl of Perth, and claimed the estate as having better right, not in the name of his constituent, but in his own name. He brought letters of recommendation from the Queen of France, and orders were sent to Count D'Adhemar, then Ambassador from the French Court, to introduce and support him; he was also assisted by some branches of the Drummond family.—But after due investigation, and the expenditure of a great deal of money, it was found that his grandfather, Lord Andrew, having been born at Rome, as aforesaid, he was an alien.—The Viscount (afterwards Count De Melfort) dropped his claim, made private arrangements, obtained money, and returned to France, after having betrayed the Duke, *who was in fact the true and undoubted heir of the family of Perth, and most likely would have acquired the estate preferably to the late Lord Perth, had he not listened to false insinuations, which prevented his coming to England in order to assert his right at the time when the estate was on the eve of being restored.*

The qualification of alien was from that period given indiscriminately to all persons of the name of Melfort; which is the chief reason alleged by the adverse party for supporting the preference given to the late Lord

Perth, in prejudice of the late Duke of Melfort, who had better right.

The extravagant actions of Count de Melfort having given rise to many slanderous reflections on the present Duke (whose character, notwithstanding his misfortunes, is unimpeachable in point of honour and integrity) he deemed it better some time since to assume the title of Earl of Perth instead of that of Melfort, which he had previously (as the higher dignity) been accustomed to use ; and indeed, when all circumstances are duly considered, the propriety of this assumption is well warranted, both by reason that the same appears to attach to him in a strict course of legal inheritance, and that it distinguishes him the more conspicuously from those of the other branches of the Melfort line, who have so disgraced the fair reputation of their family.

Now for the better explanation of what has before been intimated with regard to the late Lord Perth, the person who, *under the name* of Capt. JOHN or JAMES DRUMMOND, acquired the Perth inheritance, it is to be observed :

The Earl of Melfort (from whom the Captain pretended to derive his descent) had issue by his first wife Sophia, heiress of Lundin before-mentioned, two sons, viz. James and Robert ; of these, James died without issue, and ROBERT became his heir. This ROBERT, called of Lundin, had two sons, John and James : the first died issueless, and the last was heir to his brother. This JAMES in 1760, upon the failure of issue male from the body of James, fourth Earl of Perth (the Chancellor) took upon himself the title of Earl of Perth. He married Lady Rachael Bruce, and had issue three sons, viz.

1. Robert, who died in his infancy.
2. Thomas, who when his father took the title of Earl of Perth, assumed that of Lord Drummond, and was



virtually known under that designation till his death without issue.

3. James the third son was called the Honourable James Drummond. He was an Ensign in the 66th Regiment of Foot, in 1771—promoted a Lieutenant in 1775—and in 1780 was appointed a Captain in the second battalion, which was then about being formed, of the 42nd Highlanders.

This Honourable James Drummond, when he was made a Captain, was, (as almost every honest person in Scotland knew) in the last stage of a consumption, owing to wounds which he received some years before at Edinburgh, when he was attempted to be assassinated by some ruffians,\* who stabbed him with a knife, of which the point broke in, and was afterwards extracted from his breast.

From this circumstance it was judged impossible for him to live long : but, as the second battalion of the 42nd Highlanders was destined for the East Indies, it was sedulously reported, that he *was gone thither*, notwithstanding the opinion of the physicians who attended him, was, that *he could not overpass the line*.

This prognostication of the faculty seems to have been confirmed ; for, instead of going to the East Indies, he was debarked at Lisbon, and *there died*, as the following copy from the register of burials of the British Factory at Lisbon will testify :

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\* In the case of the unfortunate Mr. ANNESLEY, it appeared, that he had been kidnapped and transported by his Uncle, who thereby got into possession of the Anglesey Honours and Estates. Might not then this attempt at assassination have been contrived by an equally wicked party for an equally sinister purpose ?

**CERTIFICATE OF BURIAL.**

“ Lord James Drummond, aged 35 years, was  
 “ buried on the 13th of August, in the  
 “ year 1780.”

“ I certify that the above is a faithful Extract from  
 the said Register. Taken at Lisbon, this 14th of October,  
 1807, by me,

**HERBERT HILL, M. A.**

*His Britannic Majesty's Chaplain to  
 the Factory at Lisbon.”*

“ I, WILLIAM WILLIAMSON, Vice-Consul to the Bri-  
 “ tish Nation in the City of Lisbon, do hereby  
 “ certify unto all whom it doth or may concern,  
 “ that the above signature is of the proper hand-  
 “ writing of Herbert Hill, M. A. his Britannic  
 “ Majesty's Chaplain for the British Factory at  
 “ Lisbon, and that full and entire faith and credit  
 “ are and should always be had and given in Court  
 “ of Judicature or thereout.

“ Given under my Hand and Seal  
 “ of Office at Lisbon, the 14th of  
 “ October, 1807.



“ WM. WILLIAMSON,  
*Vice Consul.”*

These Certificates from Lisbon are further corroborated by the following extract from a book, No. I. containing (among other things) the register of burials of persons belonging to the British Factory at Lisbon, from the 20th of August, 1721, to the 30th of December, 1793, and now remaining in the principal registry of the Archbishopial See of Canterbury, kept at the Vicar-General's Office, Doctors' Commons.

“ 1780. BURIALS.

“ August the thirteenth, Lord James Drummond,  
“ aged thirty-five years.”

“ Examined with the original, by me,

THO. CHARLTON,  
*Clerk in the Vicar General's Office.*”

By these documents it appears certain, that JAMES, one of the sons of the Earl of Perth, went to Lisbon, died there, and was there buried on the 13th August, 1780, being of the age of thirty-five years; it is also certain that his disorder was a deep decline, and that he was the last son of the person called the Earl of Perth.

But notwithstanding this plain proof of the real fact, there is some reason to suspect that other documents have been fabricated, or altered at Lisbon, with a view to defeat the decisive point, which the evidence of the death of the Honourable James Drummond\* would establish, namely, that the late Lord Perth was a person *alieni generis*. For this purpose, the documents in question affect to call the said Honorable James Drummond, *Lord Drummond*, without any christian name. It is pretended, that he made some testamentary dispositions, which he could not sign by reason of his weakness, but were sworn to by his physician, Dr. Hare (*who is dead*), and other witnesses, (*who are also dead*); that these dispositions were inserted in the books of the Vice Consulate at Lisbon, *but these books are missing*. So that no information can be had from them of the christian name of the pretended Lord Drummond.

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\* It is to be considered, that whether stiled the *Honourable James Drummond*, or *Lord James Drummond*, the description of *James Drummond* relates to one and the same person, the difference merely being whether his Father was designated *Earl* or *Duke* of Perth.



But whether the person who really died at Lisbon in August, 1780, be denominated the Lord James Drummond, or Lord Drummond, the *distinction* becomes *immaterial*, as by the death of the said person, however described, it is *certain that with him terminated the male line* of the issue of the Earl of Melfort by his first wife Sophia Landin.

On this important occurrence the scene begins to open. It is almost in the remembrance of every one that some time about 1783, the forfeited estates in Scotland were talked of, as being about to be restored to the families of their former owners; at that period, the only heirs remaining of the Family of Perth, were the Drummonds of the line of Melfort, then residing in France; but the death of the Honourable James Drummond (or Lord James Drummond) was not then made known, or the place of his burial, and though it began to be propagated, yet being unauthenticated, it was affected to be given out, "*that he was gone to the East Indies with the 42nd Regiment, and was waiting his return with it.*"

Thus the British Parliament, *uncertain to what person the Perth Estate should be restored*, under that degree of doubt, passed the Act of 24 Geo. III. hereinafter more particularly referred to.

Now in the year 1783, there was in the East Indies an officer named John or James Drummond, an *Ensign*, in the first battalion of the 73rd Regiment of Highlanders; of this regiment, it is well known that the second battalion, which was at Gibraltar, was reduced or disbanded about the said year 1783, in order to be incorporated into the second battalion of the 42nd Highlanders, and that the officers of the said second battalion of the 73d were put on half-pay, as appears from the Army List of the years 1785 and 1786.

In 1786 the said John or James Drummond was removed from the first battalion of the 73rd Regiment before mentioned, and was placed on the half-pay of the second battalion of the same regiment, which second battalion, as before observed, became incorporated in the second battalion of the 42nd Highlanders ; but the said James was not put on half pay as an Ensign.

About two years after, the name of James Drummond appears on the half-pay of the 71st Regiment as having been a Captain in the 42nd, in which last named regiment, the *Honourable James Drummond*, according to the printed army list, had his name *continued from* 1780 to 1784. It, *however*, seems an irreconcilable point to consider this Capt. *James Drummond* and the *Honourable James Drummond*, as one and the same person, for if no other circumstance was in the way, the Duke of Melfort has obtained a note from the War Office, which states, viz. :

“ The *Honourable James Drummond*, Captain in  
“ the 42nd Foot, was put on half-pay in the year  
“ 1786.

“ In 1807 he was struck out of the half-pay list, as  
“ having not received the pay as such.”

From these particulars the conclusion which obtrudes itself is, that every artful endeavour was resorted to for the purpose of concealing, or involving in uncertainty, the death of the Honourable James Drummond at Lisbon, as before mentioned, in 1780, and for bringing forward *the person of substitution*, who was to claim the great and noble inheritance of the Perth Family.

*The friends* of the late Lord Perth of course must know *who was his legal Father*, and, whether instead of *James* the son of James Drummond of Lundin, he was

not rather John the son of Colin Drummond of Megginch,\* and nephew to Adam Drummond, M.P.: excepting however for the infamy and injustice of the *false personification*, if such there was, the case at the present day is not changed, so far as relates to the Duke of Melfort's right of succession to the Honours and Estates of his Family: for even supposing that the late Lord Perth *was truly the person he described himself, or was represented to be*; that he was the only surviving son of James Drummond of Lundin, and not the son of Colin Drummond of Megginch; that *he was really the same Honourable James Drummond who in 1780 was in so deplorable a state of health, as for his physicians to despair of his recovery, and who got the better of his deep decline in spite of their prognostications; and that he was not a red-haired man, but dark as the Honourable James Drummond was known to be*,—the right of the Duke of Melfort to the patrimony in question has not become altered.

First, because the late Lord (whoever he was) died without issue male.

Secondly, because the title and estates were strictly entailed to the heirs male, with remainder in tail male to the Melfort Family; failing, the heirs male of the immediate line of Perth.

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\* This Colin Drummond, of Megginch, had been Collector of the *Cess* (Excise) in Perthshire; was afterwards Deputy Paymaster at Quebec, and one of the Commissariat General in Canada. His elder brother Adam Drummond, of Megginch, was a Member of Parliament, and had the use of *Drummond Castle*, where he resided from 1746, until the Restoration of the Estate by the Act of Parliament. By this circumstance, he had the opportunity of possessing himself of the most material Papers, Deeds, Settlements, and Documents relating to the Perth Title and Estates, and consequently of rendering them eminently useful to the aggrandisement of his family; while his parliamentary importance made him a fit person to be courted and accommodated by those who at the same time could thereby serve their own public and private interest.

Thirdly, because the Parliament, when it authorised His Majesty to restore the estates, conferred the power to grant the same *to such heirs male as would have been entitled to succeed by the Investitures made prior to the forfeiture, in the same way as if there had been no forfeiture.*

On this ground the Duke of Melfort, according to the opinions of the most eminent Counsel both English and Scotch, namely, Sir Samuel Romilly, Mr. Serjeant Best, Mr. Nolan, Mr. Henry Erskine, Mr. Dale, Messrs. Matthew, Ross, Fletcher, Thompson, and others, is advised that his claim is good, if attended to, and pursued in the proper manner, and with adequate means.

In support of the statement, that the entail and investiture of the Perth Estates were to heirs male, the proofs are to be collected from divers charters among the Public Archives of Scotland, at all times ready to be adduced, from one of which the following extract may at present suffice to point out the fact of assertion.

“ Upon the 11th day of October, 1687, JAMES the  
 “ fourth Earl of Perth, and Chancellor of Scotland,  
 “ executed a settlement and strict entail of his estate, and  
 “ soon after, viz. on the 17th of November, 1687, a  
 “ charter of *novo damus* was granted to his son James  
 “ Lord Drummond by King James II.\* in terms of the  
 “ entail, whereby the estate was settled upon the same  
 “ series of heirs to whom the title was soon after limited.  
 “ The Earl likewise resigned his honours into the king’s  
 “ hands, and of the same date received a new patent to  
 “ himself and his eldest lawful son and his heirs male,  
 “ whom failing, to the Earl’s other issue male, pro-

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\* It is to be observed that this Charter, and all the Charters affecting the Perth Honours and Estates, were before the Revolution, and consequently while King James was reigning in full power.

“ created or to be procreated ; whom failing, to the  
 “ *Earl's brother-german John Earl of Melfort, and*  
 “ *his heirs male* ; who n failing, to the heirs male of  
 “ JOHN the second Earl of Perth.”

After this, another charter of *novo damus* was granted to JAMES, fourth Earl of Perth, the Chancellor before mentioned : this charter is dated July 13, 1688, and was upon record prior to the revolution in 1688, and now remains, unless *some particular persons, for sinister purposes, have caused the same to be erased or withdrawn.* The conditions and covenants contained in this charter, were :

1. In case of the failure of *heirs male*, the eldest heir female shall succeed without division, and she shall be bounden to marry a person of the name of Drummond, who, and the children of the said marriage, shall bear that surname and the arms of Perth ; and, in case of failure, shall forfeit the estate for herself, and her descendants, and the same shall devolve upon the next heir.

2. That although Lord Drummond (the Earl of Perth's then heir apparent), is not restricted from contracting debts, yet none of the heirs of his Lady, or the other heirs of *Tailzie* (i. e. of entail) shall alter the course of succession, nor sell, alienate, or dispose irredeemably, or under reversion, nor grant wadsets or infeoffments of annual rent, or life-rent, or burthen the lands ; nor grant talks, for a longer space than the lifetime of the grantor, or receivers, the same not being in diminution of the rent.

3. A Prohibition to commit treason, with an irritant, and resolutative clause.

4. A Prohibition against Lord Drummond from contracting debt, or doing any other act or deed by which the estate might be appraised, adjudged, or evicted.



5. A Declaration, that if those heirs shall do any thing contrary to the provisions before mentioned, by disposing or contracting debts, or doing any deed contrary to the beforementioned restrictions, or any of them; such acts or deeds, shall not only be null and void, but the contravener, for himself and descendants, shall forfeit the right to the estate and the same shall belong to the next heir.

6. An obligation on the heirs to pay the public burthens and casualties of superiority, and obtain themselves timously entered and enfeoffed.

7. The debts of heirs are declared, not to affect the estate, and they are bound to prove abjudications within two years.

Lastly, the heirs are empowered to provide their wives, husbands, and children, in competent jointures and provisions.

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From the enactments and conditions of these charters, it is evident that the intention of the settlor the Earl of Perth was, that his estates should never become inheritable by *the female line*, so long as *male-heirs were in existence*; and it is equally evident, that by reason of this strict entail, and that no subsequent acts of alteration were made or occurred, otherwise than by the assumption of the estate on the part of the Crown (the legality of which assumption is not hereby meant to be discussed) the said estates were according to the course of the laws of Scotland (governing Scotch Inheritances) absolutely vested in the Melfort Family, with a right of succession thereto, upon the failure of issue male of the body of the Chancellor Perth, anno 1760.

Now the benevolent Act of Parliament for the restoration of the Perth Estates, passed the 24th George III. thus recites, viz.

Chap. LVII. Sect. 10.

“ And whereas the Estate of Perth, which became  
 “ forfeited by the attainder of John Drummond taking  
 “ upon himself the stile or title of Lord John Drum-  
 “ mond, brother to James, taking upon himself the stile  
 “ or title of Duke of Perth *stood devised before the for-*  
 “ *feiture to heirs male.* And whereas, the said John  
 “ Drummond died without issue lawful of his body, and  
 “ *it is not yet ascertained who is his nearest collateral*  
 “ *heir male*; be it enacted, by the authority aforesaid,  
 “ that it shall and may be lawful to His Majesty, his  
 “ heirs and successors, to give, grant, and dispose to  
 “ *the heirs male* of the said John Drummond, *who would*  
 “ *have been entitled to succeed by the investitures of*  
 “ *the said estate* had it not been forfeited; and to the  
 “ *heirs and assigns of such heir male*, all and every the  
 “ Lands, Lordships, Baronies, Fisheries, Tithes, Patron-  
 “ ages, and other Heritages and Estates, which became  
 “ forfeited to his said late Majesty, by the attainder of the  
 “ said John Drummond, and which were annexed to the  
 “ Crown as aforesaid, subject always to, and chargeable  
 “ with, the sum of £52,547 ls. 6d. and three-twelfth  
 “ parts of a penny sterling, of principal money, to be  
 “ paid unto the said Court of Exchequer, as after di-  
 “ rected.”

GENERAL SAVING.

XXXIV. Act 25, Geo. II. Cap. 41, repealed.

“ And be it enacted,” &c.\* “ that the said Act,” &c.  
 “ whereby the several Estates already mentioned were

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\* Page 942, in the Printed Act, 1784.

“annexed to the Crown, shall be, and the same *is hereby repealed*,” &c. “the same as if the said Act had never been made.”

XXXV.\* “All such Estates, Rights, &c. to be granted *as they* or any of them (Persons) had before the passing this act, or should or might have held, or enjoyed in case this act had never been made.”

Under this recitement of the Act of Parliament made for the restitution of the Perth Estates, the Duke of Melfort cannot but feel a conviction of his legal right thereto ; and that it was in the principle of Justice by which the British Parliament was induced to the said restoration, the undoubted intention of the legislature to leave the inheritance of the said Estates to descend unto those heirs who by the charters of entail were nominated to succeed thereto.

The grant therefore which was made to the late James Drummond (afterwards Lord Perth) of the Estates *in fee* instead of in *tail male*, impresses the Duke of Melfort (as he is prone to believe it must every honest man) with a thorough sentiment, that Parliament would never have sanctioned a grant so contrary to the apparent meaning of the preamble of the benevolent Act of the 24th Geo. III. before cited, had there not been a misrepresentation made (and facts with-holden) with regard to the situation of the parties who were in truth those to whom the restoration ought to have been made ; and so made, as to have fulfilled the intentions and directions of the original settlers of the said estates, the nature of whose investitures were *indeed pointed out by the preamble* of the benevolent act, but were entirely *negatived* by the subsequent clause in favour of the *heirs and assigns of such heir male*, which amounted to a *grant in fee*.

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\* Page 942, in the Printed Act, 1784.



It is to be observed, that in pursuance of the said Act of 24th Geo. III. the right of succession opened to JAMES LEWIS DRUMMOND, late Duke of Melfort, elder brother to Charles-Edward, the present claimant ; but a person calling himself Captain James Drummond, and representing himself to be the *Honourable* James Drummond, only surviving son of James Drummond of Lunding, came forward as *that heir male* who, according to the act of restoration, was entitled to the inheritance of the Perth Estates.

The seclusion of the Duke of Melfort in France, and his utter ignorance that he had become the chief heir male of the Perth line, contributed much to the success of this Mr. Drummond's substitution, who being supported by a very powerful patron, had no opponent capable to contend with him, or rebut his pretensions.

Here it is peculiarly worthy remark, that as the Perth Title and Estates were under a strict entail to heirs male, with remainder over in default thereof to the Melfort line, and as no attainder had ever passed against James the fourth Earl of Perth, the said title and estates were never *in fact or law forfeited to the Crown* by the attainder of his son and heir apparent Lord Drummond in his life time, and as such the right of inheritance to them only became suspended in the Crown by reason of the incapacity of the heirs male of his body to claim the same through him.

The failure of his heirs male at length vested the right of succession in the Melfort line, and by virtue of the remainder limited to them by James the fourth Earl, as already mentioned, they became qualified to pray from the Crown, the resumption of the suspended title and estates. The Act of Parliament therefore was not in the nature of a restoration to the Melfort line ; though it would have been so *to that of Perth*, had it then been *extant*.

Under this state of the case it is evident that the wording of the Act of Parliament of the 24th Geo. III. so far as relates to the Perth estates, viz. to *heirs and assigns*, was surreptitiously introduced, and wilfully intended to operate against the true heir entitled to the succession, with a view to render the possession meant to be given to the person who afterwards obtained the same, so perfect, as to enable him to dispose of any part thereof for the remuneration of those who promoted, patronised, and assisted him in the acquisition thereof—a purpose which *could not have been effected*, had the said estates been given back by Parliament to have been enjoyed according to the family entails by *heirs male only*.

## CONCLUSION:

### MY LORDS AND GENTLEMEN,

The preceding Statement is, with all due respect, submitted to your candour: nothing more is requested than that you should take the subject into your serious consideration, and do on the occasion as to your wisdom may seem meet, and to your ideas of equal justice may appear the most comfortable.

Under all the particulars of the case, an investigation seems necessary to be had, in order that it may be ascertained, whether the late Mr. John or James Drummond, alias Lord Perth, was not spuriously substituted for the Honourable James Drummond—whether the British Senate was not imposed upon by a misrepresentation of facts relating to the investitures and entail of the Perth Estates, and by the suppression of information which might have been and ought to have been adduced on that head—whether a deceased noble Statesman was not accessory to the impostorship of person, and all the concomitant malversations which are suspected to have taken place on the behalf of Mr. John or James Drummond as aforesaid—and whether the said noble Statesman did not, in reward for his eminent services on the

occasion, obtain the Perth estate of Duneira, near Drummond Castle?

It certainly has been reported that the noble Lord *bought* the estate, as also that he *otherwise obtained* it: but the one report is imagined to have been propagated for the purpose of misleading the minds of indifferent persons, while the other is believed to have originated in the genuine disposition of unbiassed people, inclined to speak the *real sentiments* of their minds' conviction.

The purchase story seems to be founded upon the circumstance that when certain parts of the Perth estate were offered for sale in order to raise the sum of £52,547 1s. 6d. charged on them by Government, there was a great demur on the side of those who were disposed to become purchasers, by reason that the estates were considered under a *strict entail*, and as such, the power to sell was viewed in an equivocal light.

To remove this obstacle, it is stated that the noble Lord put himself at the head of the *list of purchasers*, and thereby set an example for others to follow.

But this specious countenance has not taken away the suspicion that the whole *was a trick*; that the same was a *nominality of purchase*, without any *real consideration paid*, though the *consideration* might have been *previously performed*.—Indeed, could it for one moment be deemed that the estate was acquired for an absolute *money consideration after a fair rate of value*, an awkward surmise might arise,—as to the quarter from whence the said purchase money was obtained;—the public mind has already had its suspicions, and the *purchase* of this estate would not render them the more unfounded.

The Duke of Melfort is by no means disposed to make false insinuations against any man; he scorns calumny, though he has suffered much under its effects from the spleen of his enemies; but he feels it a duty he owes

to himself, and to the honor of the very ancient and noble family of which he is the *heir male representative*, to assert in the face of the world those causes which he in strictness of truth believes to have been surreptitiously and unjustly exercised against him to the depriving him of his birth-right, to the slander of his reputation, and to the discredit of that Government under which he looks upon himself entitled to the rights of a British subject.

The Duke of Melfort does not call upon the Parliament of Great Britain to take upon itself the decision of his claim to the honours and estates of Perth, he only applies to them to make a revision of that act, which he considers to have been passed to his injury, under a most wicked attempt by his spoliators to pervert the pure course of parliamentary justice.

The Duke, notwithstanding his sufferings, the distress his adversaries have occasioned him, and the ignominies they have cast upon him, yet looks up to the British Senate not to suffer the act in question to remain unreviewed. He then pins his faith in the national honour of that assembly to render him justice upon that point, without making any interference upon the nature of what other proceedings may be requisite for him to adopt, in order to establish his claim to the dignities and estates of Perth, but leaving the same open for him to pursue in such of the courts of Judicature as may be the most proper to make a legal decision thereon.











