

The Universal Pamphleteer.

THE TRIAL
OF
CAPTAIN MOIR,

At Chelmsford, on Friday, July 30, 1830, before Lord Chief-Justice Tenterden,
FOR THE

Wilful Murder

OF

WILLIAM MALCOLM,

A FISHERMAN ;

WITH

A FULL ACCOUNT OF HIS EXECUTION,

HIS CONDUCT BEFORE AND AFTER CONVICTION, HIS LAST
INTERVIEWS WITH HIS FAMILY, &c. &c.



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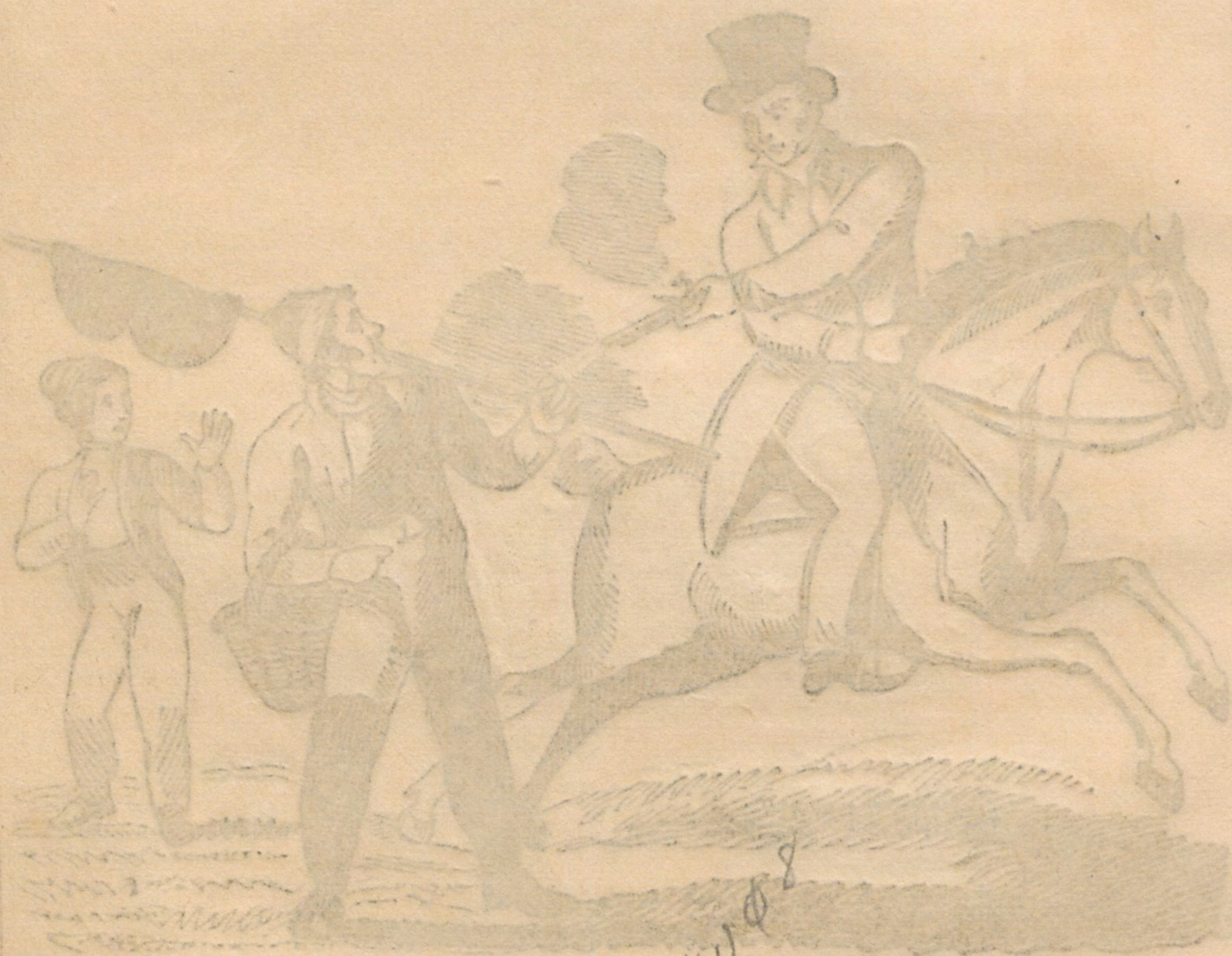
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with superior illustrations from the pen of W. Wood.

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TRIAL AND EXECUTION OF CAPTAIN MOIR.

THE public attention has been much excited by the case of Captain Moir, a gentleman of Essex, who had seen much military service, and who had latterly rented a farm near Stanford-le-Hope. It will be seen from the statement below, that the unfortunate gentleman felt himself much annoyed by the trespasses of fishermen and others on his grounds; and, falling into the popular error of putting a wider construction on the maxim, that "every Englishman's house is his castle," than it was ever intended to bear, he thought himself justified in shooting a man whom he found on his premises, after he had prohibited him from crossing them. Of the wound thus inflicted the man died; and, on Friday, the 30th of July, 1830, Captain Moir was put on his trial for "wilful murder," at Chelmsford, before Lord Chief-Justice Tenterden. The prisoner pleaded "Not Guilty."

Mr. Brodrick and Mr. Round conducted the prosecution; Mr. Gurney, Mr. Clarkson, and Mr. Dowling, the defence.

Mr. Brodrick stated the case.—He said, as counsel for the prosecution, he should confine himself to a concise statement of the facts. The prisoner at the bar, since last Michaelmas, had taken a place called Shelhaven House, in the parish of Little Warley, and had occupied it till the late unfortunate transaction occurred, for which he was now on his trial; to it were attached 400 acres of land, and it lies about eight or nine miles below Tilbury. Below his farm is Holy Haven, where there is a creek called Shelhaven Creek. W. Malcolm was a fisherman,

living in Hammersmith. Early last March he, with a man named Dukes, had gone to fish at Shelhaven Creek, leaving his boat under the care of an apprentice, at a place called Birley House. They proceeded to spread their nets, when the prisoner came up. Below this creek runs a sea-wall. Prisoner asked by what right they were putting their nets there, where it might be proved fishermen had fished for years, threatening to cut the net. The fishermen took up the net, and Moir added that they should go round by the sea-wall back, and not across his marshes, as they had come before. The deceased left him, and went to a cottage of Mrs. Baker, where he exchanged fish for potatoes. Deceased and his companion then returned, the former carrying a basket of potatoes upon one arm, and a pole on the other shoulder: they went, as they supposed, through the beaten track on the marshes. Dukes was a little in advance, when Mr. Moir rode up, and, going a little forward, fired at Malcolm, who immediately exclaimed, "You have broken my arm," upon which prisoner told the other person to be gone, or he would serve him the same. He cried out to deceased that he would send him a surgeon: this he did, and in about an hour Malcolm was visited by Mr. Dodd. Malcolm in the meantime, assisted by Dukes, had returned to Mrs. Baker's, where Mr. Dodd found him sitting by the fire; and the medical man probed the wound on the inside of the arm, above the elbow, but found no shot. He encouraged the man by holding out hopes to him of his recovery, at the same time wishing

him to go to Stanford-le-Hope. Mr. Dodd having done what was necessary, proceeded to prisoner's house, and saw him; when the prisoner said, "You find I have carved out work for you." Mr. Dodd told him what he had found, and requested him to lend a horse and cart to take Malcolm to Stanford. The prisoner said by all means let him have a cart and horse. Prisoner then detailed to Dodd, but in much coarser language than he (Mr. Brodrick) should use, the whole of the affair, and justified it by saying deceased had trespassed upon his ground. This was for the prisoner a very serious mistake. He offered no compensation for the injury he had done, saying, instead, that the deceased had only got what he deserved. Malcolm was taken to Stanford, and did well enough at first; nevertheless Mr. Dodd called in Mr. Robinson, another surgeon, who approved of all that the former had done. He was bled, and was visited too by a Mr. Vidal. On the Thursday following he said he felt much pain, and complained of a pain in his jaw about half-past five. When this was told to Mr. Dodd, he found there were symptoms of locked jaw, which was produced by some communication between the nerves and the brain. The poor man was told that this would have a fatal issue, and accordingly, a few hours afterwards, he died, perfectly aware of his approaching death. A magistrate was previously sent for, and an oath administered, but whether this was evidence or not he should not tender it. That the infliction of the wound which caused the death was murder, there could be no doubt. The question was, did Malcolm die of the wounds he received from the prisoner. The jury would hear from the surgeons that lock jaw was common in much slighter cases, and was always fatal. If in this case the

locked jaw was caused by the wound given by the prisoner, then he must be answerable. He (Mr. Brodrick) did not know whether there had been any publications concerning the matter; if there had been, and any of the gentlemen of the jury had seen them, he would implore them to discard them from their recollections entirely. He had heard that it was intended to rest the defence on the plea of insanity: of this they would have to judge, whether the prisoner knew right from wrong, and no doubt they would do justice to him.

The following witnesses were then called:—

Wm. Dukes is a fisherman, living in Wandsworth, Surrey. Knew Wm. Malcolm for seven years, and was in his employment. One day, in March last, went with deceased to Holy Haven, which is on the Essex side of the river, five miles below Gravesend, in a boat; an apprentice of Malcolm was with them; left him in the boat, and witness and Malcolm went to Shelhaven Creek, which is half a mile from where the boat was left. They crossed the marsh by a footpath; when they had arrived at the creek, they proceeded to put down nets, which they had done when Captain Moir and his servant came up.—The former said, "What do you do here?" Deceased replied, "We have a right to lay a net here."—The captain said, "If you do not take it up, I will cut it all to pieces." Malcolm replied, "Don't cut it, and I will take it up." The captain said, if he was any man, he would give him a d—d good thrashing.—Malcolm pulled off his jacket, and told him to do it if he could. Prisoner called Malcolm a b—y Scotchman; they then parted, the net having been taken up. This was at half-past twelve in the day. The servant was a lad—forgets what

name he was called. Master and witness then went to Mrs. Baker's cottage, where they stayed about an hour and a half; after which they set off for Borley House; they went by the same way they came; Malcolm walked first, having a long pole on his right shoulder, and a basket on his left arm; had gone about 100 yards from Mrs. Baker's cottage, when Captain Moir came up on horseback from the direction of his farm. The latter said, "I thought I told you not to walk across my field?" To which Malcolm said, "I will go." Moir directly fired a pistol—he was about seven yards off when he fired; upon this, Malcolm said, "You have broke my arm—you have broke my arm." Moir said, "I will send a doctor to you;" and said to witness, "If you do not go off my premises, I will serve you the same." On which I went back, assisting Malcolm, to the cottage of Mrs. Baker. Moir rode away. Witness and Mrs. Baker got some flour, and other things, and did their best to stop the blood. In about three quarters of an hour, Mr. Dodd came; after which witness went to the boat, and afterwards went back to the cottage. In the evening, Malcolm was taken to Stanford-le-Hope, in Captain Moir's cart. Has been a fisherman seven years, and had been to this part only once before.

Cross-examined by Mr. Gurney.—There was no aggravating language—had never said there was. Before parting, Moir told Malcolm he should go round by the seawall, which is longer than by the marsh. Was about ten yards off Malcolm when the pistol was fired. Never said he was 40. When master went across the marshes back, he never said that he did not care a d—n for the captain; witness had never said he did. Was sure master never said he took the pole to

defend himself; never said so to Mr. Liddle.

Re-examined.—When Mr. Moir rode round, Malcolm never moved the pole.

Wm. Raven, examined by Mr. Brodrick.—On the 17th of March last was in the employment of prisoner, who occupied Shelhaven Farm. On the 17th of March, in the middle of the day, he called witness to go with him to Shelhaven Creek, which is about six rods from the house; when they got there, they saw a man and a lad placing nets across the creek; prisoner bade them take them up; deceased said he would fish in spite of them; he was told again, and deceased replied, he would be d—d if he would. Prisoner said he would cut it, and he (Malcolm) said, "D—n your eyes, I will take it up," and did so. The captain asked for his name, which Malcolm would not give; Mr. Moir said he should know his face again; the deceased answered, "And so shall I yours." Malcolm added, "I shall think of you another day;" Moir replied, "Give me no more of your sauce, or I shall help you off."—Witness and his master were then going away, when Malcolm called him a "b——y Scotchman and a b——r, or you would have hit me." Moir told him to go by the wall—a deal further way; Malcolm said he would do so; prisoner told him not to set his foot on his ground any more at his peril; Malcolm and the lad went towards the cottage—witness and Captain Moir went home; the latter went into the house, witness into the yard, about his work. After a little he came to witness to get his horse out, which witness did; the captain rode across the marshes to the men, who were walking along the marsh; witness saw his master ride before them, and wave his hand; the man still

went towards him ; he then went a little bit further ; the man rushed to him with the pole on his shoulder ; master then fired a pistol, when the man dropped the pole, and went towards the cottage ; witness was about sixty yards off ; in the evening witness, in his master's cart, went with deceased to Stanford-le-Hope.

Cross-examined by Mr. Gurney. Had seen his master with pistols before in his pocket. The horse had been saddled some time before his master wanted it. He seemed in a hurry, and galloped off directly. The pole the man had came about the height of his master's body. Could not tell the distance between them ; there was a pond behind his master, and the pony's heels were close to the pond. Master seemed in a great passion when he called for the horse.

William Grub is a labourer, and lives in Foulness Isle, and knows Mrs. Baker's cottage ; had some talk with Malcolm, on the 17th of March, at the door of it ; the last had a lad Dukes, with him ; saw them in the marshes on the path. Witness was about thirty rods off when he saw somebody come up on horseback ; saw him come from his house, turn round, and shoot the man, and go back again. Malcolm had a pole ; did not see him move the pole before the pistol was fired ; when it was fired he dropped the pole.

Cross-examined by Mr. Clarkson.—Does not know whether the pole might not have been moved.

Mr. James Barrow Dodd is a surgeon at Stanford-le-Hope ; on Wednesday, the 17th of March, he was called in to see Malcolm at Mrs. Baker's cottage ; Mr. Moir's boy came for him. Examined the deceased, and found he was wounded in the right arm. The arm was swelled much above and below the

elbow-joint ; not much at the joint ; one wound was on the inner side of the arm above the elbow, another on the back of the arm ; it was not bleeding. Witness called for brandy, and gave the man a little, because he was exceedingly faint ; after this went to Captain Moir ; before going he applied a piece of linen, and put a tourniquet loosely on the arm, explaining to the men the use of it. The bone of the arm or elbow was not fractured. Saw Captain Moir, who met him at his gate, and observed, " Well, doctor, I have made, or chalked out, a job for you ;" is not sure which. Witness answered " Yes, I suppose you think I have not had much to do lately," and requested Moir to step aside, as witness wanted to speak to him, which he did, and witness told him the ball had passed through the arm ; but as witness could not detect a fracture, nor any joint laid open, or the main artery wounded, he was in hopes the man would do well, and requested Moir to allow him to take the man to Stanford, where he could give him better attendance, and he would do all in his power for him. Had previously asked Moir for a horse and cart to remove him, the man having consented to be removed. Prisoner said, " By all means," telling a man to put a horse to and wait Mr. Dodd's orders, and saying he would pay witness any thing for his own attendance, provided it was not considered in the light of satisfaction for what he had done, as he would not give the man anything, for he had only got what he deserved ; but added, " Come in, doctor, and I'll tell you all about how it happened." Witness went in, and Captain Moir said, " This fellow was setting a net in my creek, and I went and told him to take it up, as he should not fish there ; the man would not ; and I told him if he did not I would

cut his' net. I had a knife in my hand, and I said, 'Now, will you take it up once, will you take it up twice, if you don't the third time, by God I'll cut it.' The man took up his net, and was dreadfully abusive to me. I said 'Since you have been so abusive, you shall go back a longer way than you came.' I said, 'You came across my marsh;' the man said 'Yes;' and I said, 'Then you must choose to go by the wall back again—put another foot on my land at your peril.' I then came home, but thinking he would go across again, I looked at my pistols and ordered my horse. Some time afterwards they called out from below, 'He is going across now, sir,' and I rode out and met him. I called on him to stop. Witness is not sure that Mr. Moir told him he called repeatedly. The fellow wouldn't stop, but walked on and said, 'You be d——d.' I then fired. The man dropped his pole, and called out I had broken his arm. I said, 'I know that: will you go back now? because, if you don't, you shall have this one in your brains.' Witness does not remember exactly whether Captain Moir said this, or only told witness that if Malcolm had not gone back he should have had it in his brains. I said to the boy, 'Boy, take up that pole and walk off my premises: if you don't, I'll serve you the same way.' The poor boy, frightened enough, took up his pole and went away. As I was riding away, I called out to the man, 'I'll send a doctor to you.' I then came home, and sent my man for you." Captain Moir said, "Besides, my land is my castle, and nobody shall put a foot on it without my leave." Witness said to him, "Captain Moir, you will understand I came here, first, to borrow a horse and cart; secondly, to see whether you were drunk or sober, because, you

know"—here Captain Moir stopped him, and, drawing himself up, said, "Well, what do you think of me?" Witness replied, "You are as sober as I am, and so is the man you shot." Moir replied, "I was not only sober, but as cool as I am at this present moment." "Why, sir," prisoner continued, "it was half an hour between the time I quarrelled with the man and when I rode up to him, and I will do the same to-day, to-morrow, or any time I am trespassed on." Nothing else material passed. Witness the same evening found Malcolm at Stanford-le-Hope, and that he had borne the journey tolerably well, but was still very faint. Witness looked at his arm again, and then put him to bed. He dressed his arm with lint and oil, and two little strips of strapping to keep the lint in the place, and placed the tourniquet in the upper part of the limb, lest it might be wanted; poured cold water constantly upon the arm, and gave him a composing draught; visited him again the same evening, and thought him rather better; saw him the first thing next morning, and continued with him off and on till 12 o'clock; did nothing to the arm that morning, except continuing the cold water; in the evening he saw him at five o'clock, and found him not quite so well; he complained of rather more pain; the swelling had increased, and his pulse was getting fuller. Witness sent for Mr. Robinson, of Avely, a surgeon. He came about seven o'clock, and both he and witness consulted, and bled the man. Gave him some aperient medicines, and applied a poultice instead of the cold water. The bleeding reduced the pulse, which was desired. Mr. Robinson and witness stayed with Malcolm from seven till ten o'clock. Malcolm then appeared better. Mr. Vidal came to witness's house. Wit-

ness had previously heard that Mr. Vidal was coming, and, thinking there might be a disagreement between himself and Mr. Robinson, he thought it best to have a third person. Went together to see Malcolm. Avely is about 10 miles from Stanford. Told Mr. Vidal what had been done. Malcolm, the next morning, was much about the same as the evening before. Witness continued to attend him daily. Mr. Robinson went occasionally. Mr. Vidal thought there was no occasion for him, thinking Malcolm was doing so well, suggesting only the use of leeches, instead of a lancet, should bleeding be again necessary. The man continued to get better till the following Tuesday evening, on the morning of which he was better at 12 o'clock. At the same time, at night, witness saw him again; he had been out, and was detained from home: he then found Malcolm labouring under symptoms of locked jaw. Mr. Robinson saw him next morning; Mr. Vidal had been sent for, and saw him next day. Witness was in attendance the whole of that day. He got worse, and died between two and three on Thursday morning. Witness was with him at the time of his death. The day before, about noon, he had told the man of his danger. A clergyman, named Goodchild, was there. Witness sent for a magistrate, and Dr. Hogarth came. In witness's judgment the locked jaw caused Malcolm's death. The wound caused the locked jaw; of this he had no doubt.

Cross-examined by Mr. Gurney.—The bleeding had stopped; did not give the brandy to see if the artery was injured; the bleeding was a little restored. Had said that he ordered two glasses, to see if the hæmorrhage would return. After Malcolm had been removed to Stanford, he did not order any more.

Ordered him some brandy on his journey, if he was faint, which he understood was given. Was not by to see the quantity. Witness paid for one glass. Ordered some brandy on the Saturday, in the afterpart of his illness. Witness supplied him after Saturday from his own table, by order of Captain Moir. After the locked jaw more brandy was given; he spilt a good deal. He had gruel, in which was a little brandy, just enough to flavour it, for his supper. If he got more than this, it was without witness's orders. Was drinking brandy and water standing, while conversing with Captain Moir.

Re-examined by Mr. Brodrick.—It was not desirable that the hæmorrhage should return, but it was that witness should know if the bleeding had stopped. Had not had a patient wounded by a pistol-ball before in his own practice: had seen several before elsewhere. It is about five miles from the cottages to Stanford-le-Hope. In his judgment the brandy was properly administered, because the man wanted support. He never appeared to be excited by spirits during his illness, as far as witness could discover.

Mr. John Robinson is a surgeon residing about three miles from Stanford-le-Hope. On the 11th March, Mr. Dodd sent for him to see a person at a public-house, the Cock and Pie. Saw him about seven or eight in the evening; looked at his arm only; did not think it prudent to take the bandage off. Mr. Dodd told him what he had done, and the particulars of the case. In witness's opinion, the conduct pursued was perfectly judicious. The result of the consultation was, that a poultice was directed, instead of the cold water. They also bled the man: by this the pulse was reduced, which before was hard and full. This was on Thursday even-

ing. Saw the man next on Saturday, about the middle of the day. Witness did see the wounds then, which looked moist, and appeared to have a disposition to suppurate; he was altogether better than witness would have expected.

By the Judge.—It was desirable the wound should suppurate.

By Mr. Round.—The man's general health was nearly as good as ever; he was going on extremely well. Saw him again on the Sunday, and found him remarkably improved. Went on Wednesday in consequence of Mr. Dodd calling on him, when he found that locked jaw had taken place. Did not consider there was a chance for him. In witness's judgment, that the wound caused the locked jaw there could be no doubt.

Mr. Charles Lewis Vidal, by Mr. Brodrick.—Is a surgeon at Avelly; saw Malcolm on the Friday; did not see the wound then; thinks that the course pursued was perfectly right; found the man better than he could have expected; saw him again on Wednesday, when he had the locked jaw; the whole treatment up to this time was quite judicious; never saw but one case of gun-shot wound before; believed that the wound produced the lock-jaw, and this undoubtedly caused the death.

Dr. George Adams, examined by Mr. Brodrick.—Had been in the practice of medicine and surgery forty years; was in the navy as surgeon; has very little experience in gun-shot wounds; has heard the evidence of the treatment pursued towards Malcolm, and thinks it was quite proper.

Mr. Brodrick said he could prove a right of fishing, if it was thought necessary.

Mr. Gurney, however, said that was not material to the question at issue.

Lord Tenterden concurred in this; it was therefore given up.

James Clark.—Keeps the Cock and Pie at Stanford-le-Hope; remembers Malcolm being brought to his house, and remaining there till his death; Malcolm was supplied according to the orders of Mr. Dodd; and had no brandy but what was ordered, to his knowledge.

Cross-examined by Mr. Clarkson. Deceased had about half a pint of brandy altogether; some gin was ordered, but not drunk.

This was the case for the prosecution.

His Lordship then called upon the prisoner for his defence. He rose, and in a firm and perfectly composed tone of voice, said that he had been in His Majesty's service for years, and that he was not a man to behave cruelly to any one. The last regiment to which he had belonged, the 37th Foot, as well as the previous one to which he had been attached, was unfortunately in India, and he was thus deprived of the benefit which would have resulted to him from the testimony of those who had served with him, as to his general character for humanity and kindness. The conduct of the deceased had brought on their unhappy quarrel. As to the pistols, he always carried them with him; for persons who came into the neighbourhood as William Malcolm had done were of such a lawless description that since he had been there he had been afraid to be without them. The deceased was a perfect stranger to him: he could not, therefore, have borne him any previous malice. Further than this he had nothing to say, but would leave himself in the hands of his Lordship, his counsel, and a British jury.

The following witnesses were then called for the prisoner:—

William Little, examined by Mr. Clarkson.—Had been in the public

line ; did not know Dukes, but knew the man whom he saw when he took the horse and cart.

Dukes was here recalled.

Witness continued.—That is the man I saw ; it was on the 18th of March. He told him he was four paces distant when the pistol was fired. Dukes told witness that Malcolm said he would go across the marshes in spite of the captain's teeth, and be d—d to him.

Mr. Basset is a medical gentleman in London ; has known Captain Moir for about two years ; he has always been well spoken of, as far as witness had heard.

Colonel Lilt has known Captain Moir since 1812 ; served in the 37th, where witness was prisoner's superior officer ; he generally maintained a character for humanity.

Mr. James Moir is related to Mr. Moir ; has known him here and abroad : he had always been considered a kind good-hearted man.

James Taylor was a private in the 37th under Captain Moir's command several years ; he was considered a humane man, never an officer better ; he came down on foot voluntarily all the way, to give evidence ; he only heard of it on Monday.

Mr. M'Cullum had known Mr. Moir for 20 years ; he had always borne the highest character for humanity.

This closed the defence.

Lord Tenterden summed up. The evidence (his lordship said) required on the part of the jury, great care and attention. From the evidence it would appear, and it could not be controverted, that the unfortunate man, William Malcolm, died from the wound inflicted by a pistol fired by the prisoner. For some time certainly he appeared to be improving ; nevertheless a locked jaw ensued, which caused his death. The question more immediately for the con-

sideration of the jury was, whether Captain Moir, at the time of the fatal transaction, had any reason to think that his own life was in danger ; no evidence is given that the deceased offered to do him a mischief. His lordship then read over the evidence, adding, that the mere trespass of which the prisoner had complained was not sufficient to justify an act like this. Some expressions had fallen from the prisoner in the course of the altercation between him and the deceased, which seemed to indicate that the prisoner's opinion had been contrary to this. The only point upon which he could say any thing favourable to Mr. Moir was, whether he considered at the time his own life was in danger. He should now leave it in their hands, exhorting them to remember the solemn occasion which had called them together.

The jury retired, and after being absent about 20 minutes, returned with a verdict of *Guilty*.

His Lordship then addressed the prisoner as follows:—"You have been tried, and upon full and clear evidence found guilty of the crime of murder. You have had the assistance of able counsel in conducting your defence. The jury, after a full consideration, have come to the only conclusion they could conscientiously come to,—that you are guilty. I will not aggravate your feelings, or those with whom you are connected, but merely observe, that you stand a melancholy instance of the want of self-command. I must exhort you to spend the remainder of your time in imploring the mercy of your God. It may be extended to you ; but it must be sought by a sincere and hearty repentance for the crime you are about to suffer for. Let me hope, then, that you will listen to the sound and wholesome advice which will be given you by the reverend divine

who will attend you. Nothing remains to me but to execute my painful duty of passing the sentence of the law upon you." His lordship then sentenced him in the usual form to be hanged on Monday, the 2nd of August, and his body to be delivered for dissection.

Soon after the trial, several gentlemen of high respectability left Chelmsford for London, in order to wait on the secretary of state, with affidavits from certain parties in Scotland, who were furnished, it was said, with unquestionable evidence of the unfortunate man's constitutional insanity. His solicitors, Messrs. Hodson and Burton, procured those affidavits for the purpose of consulting counsel as to the expediency of defending on the ground of *mens insana*, but the prisoner violently, and indeed menacingly protested against such a line, and it was accordingly abandoned. He was constantly attended by the Rev. Mr. Lewis, the chaplain of the gaol, whose religious advice he never neglected. He spoke often

and most earnestly of the innocence of intention by which his case was, he declared, distinguished from all others, but he never for a moment lost his firmness. The hopes entertained that the jury would acquit him continued in the shape of an expectation of mercy from the throne. In his conversations with an intimate friend on Saturday night he solemnly denied all apprehension of death: "If it were necessary that I should die this instant," said he, "I would readily submit, for I feel grateful to God that I never injured a fellow-creature willingly, and I therefore can have no fear of death." He refused to open some religious books in this manner—"When the heart has no accusing monitor, the mercy of God is obtained sooner by the working of a man's own mind, than by any thing he can see in books." The idea of a disgraceful death shook him more particularly on account of his sons. "If I had died in the field," said he, "my boys could now point at my grave, and say they were the sons of a soldier."

The chapel service of the previous Sunday was quite private, by order of the sheriff; but we understood from those in authority that a most excellent discourse was delivered by the Rev. chaplain to whom Captain Moir appeared to be very much attached. After he had dined, his wife, mother, and sister, were admitted to an interview, which lasted until six o'clock, and was most affecting. The time at length arrived when it was intimated that these dear relatives of the unfortunate gentleman must separate for ever. Although these awful moments had been long expected, it produced an electric shock, which appeared to affect their most generous hearts to such a degree that during the pauses of grief the unfortunate female relations hid their and which, and were then removed from the room in a state of insensibility. Early in the evening the unhappy man sought repose by reclining upon his couch.

THE EXECUTION.

On the morning of Monday, August 2, the awful sentence of the law was carried into effect upon Captain Moir. Whatever might have buoyed up the expectation of the relations of the convict, Captain Moir never had seriously considered, since his conviction, that his life would be spared, yet he drew a distinction betwixt his case and that of those where life had been taken in consequence of an old grudge. When he arrived at the gaol, after conviction, he threw aside the new suit in which he was tried, and put on his blue surtout and trousers of the same colour, with a black waistcoat, and those he wore on the morning of execution. He employed the morning in arranging some mundane affairs, and wrote several letters to his friends and acquaintance. During the interval between his conviction and the period to which we allude, he evinced no extraordinary emotion, but, on the contrary, the greatest fortitude.

The chapel service of the previous Sunday was quite private, by order of the sheriff; but we understand from those in authority, that a most excellent discourse was delivered by the rev. chaplain, to whom Captain Moir appeared to be very much attached. After he had dined, his wife, mother, and sister, were admitted to an interview, which lasted until six o'clock, and was most affecting.

The time at length arrived when it was intimated that these dear relatives of the unfortunate gentleman must separate for ever. Although these awful moments had been long expected, it produced an electric shock, which appeared to affect Moir most grievously; he turned aside to weep, and during the paroxysm of grief the unfortunate female relations bid their sad adieu, and were then removed from the room in a state of insensibility. Early in the evening the unhappy man sought repose by reclining upon his couch.

He was attended by Mr. Pearson and some other of the principal turnkeys, and for several hours he slept soundly. The prisoner rose early in the morning, and washed himself and partook of a slight repast. About seven o'clock he was visited by the rev. Mr. Lewis, the chaplain of the gaol, and another clergyman, who entered into religious conversation with him. The prisoner received them with his accustomed politeness, and expressed himself perfectly resigned to his fate. It had been previously arranged that the sacramental service should take place in the day-room instead of the chapel, which being at the top of the governor's house, commands a view of the scaffold. This deviation from regular practice was in consequence of a request from the prisoner. By his particular request, also, no person was allowed to be present on this occasion excepting those who were in some way connected with the prison.

At the early hour of two o'clock in the morning, two officers of the 14th regiment of foot, who had served with Captain Moir in different parts of the world during various campaigns and expeditions, arrived with a letter from Lord Petre, addressed to Mr. Jepp, the under-sheriff, soliciting that the execution might be stayed until the arrival of some gentlemen who were expected from a distant part of the kingdom with a despatch. The application, however, was not acceded to.

About nine o'clock, Captain Moir expressed a wish to see the officers alluded to before he went out for execution; and a gentleman went in quest of them. The object of the desired interview was to solicit them to induce the officers of the regiments in which he had served to notice his children, and moreover to implore them to obtain a certificate of his services and merits as an officer.

The gentlemen did not attend, but

sent their assurance that the request of the captain should be attended to. The captain received their communication with gratitude, and felt satisfied that he should not be forgotten. In consequence of the delay occasioned by the above message, the execution was delayed for a short time, but at a quarter past nine, Captain Moir made his appearance in the court-yard; he looked around, and shook hands with several gentlemen, whose utterance was prevented by sorrow.

Having arrived at the turnkey's lodge, upon the summit of which the fatal scaffold was erected, the prisoner was received by the executioner, who pinioned his arms and bound his wrists, during which awful preliminary the captain flinched not, but continued to maintain a self-possession which was most extraordinary. When he cast his eyes upon the fatal rope, which was so soon to terminate his existence, he heaved a sigh, and looking upwards, ejaculated something which, however, was inarticulate. He was then led into one of the reception cells, when the Rev. Mr. Lewis, the chaplain, read several portions of Scripture, and engaged, for the last time, in other devotional exercises with the unhappy culprit. At half-past nine o'clock, it was announced that the awful moment had arrived when the prisoner must ascend the fatal platform, and he readily obeyed the mandate.

Immediately that he ascended the roof, he took the hand of several persons, indeed of almost every one within his reach, and shook them cordially. When standing at the foot of the steps attached to the platform, he said, "Gentlemen, I declare in the presence of God and you, that, as certain as I am about to mount this scaffold, I had no animosity against the unfortunate man (Malcolm)." He then walked up the ladder with a steady step, and immediately bowed to the populace, and then with composure surveyed the beam to which he was to be suspended. He asked Mr. Neale, the governor, whether he should give any signal? Mr. Neale told him that he might use his own pleasure in that respect. Captain Moir replied, "I am quite satis-

fied—do as you please, but allow the cap not to be drawn down until necessary."

The rope having been put round his neck, he said in a firm tone of voice, "I for the last time declare that I have not the least animosity against any man on earth. I die in peace with all mankind. I hope the Lord will have mercy on my soul, and that he will bless my poor wife and dear children and also my sister, and that they may have strength afforded them to sustain this dreadful shock." Then addressing the few persons who were admitted upon the lodge, he said, "Gentlemen, my dying prayer is, God bless you all;" to which was responded a hearty "Amen."

The executioner having adjusted the rope, the captain took his hand, and said, "God bless you," repaired to the winch which withdrew the bolt upon which the platform rested, and the unfortunate victim to a criminal impetuosity was launched into eternity. Being a stout, heavy man, it appeared that sensation became immediately extinct; he scarcely moved, with the exception of a momentary attempt at respiration; indeed, it may almost be said, that he died without a struggle.

After the body had been suspended an hour, it was cut down and placed in a shell, in order to its delivery to the surgeons for the purpose of dissection, pursuant to the sentence.

It was understood that the body would, after incision, and a sufficient anatomical process to fulfil the sentence, be delivered up to the disconsolate widow for interment.

A report was in circulation that the unhappy gentleman had, upon certain conditions, bequeathed, before trial, the sum of one pound a-week to the widow Malcolm; but although the report was credited by many, we cannot vouch for its veracity.

When the Rev. Mr. Lewis, the chaplain of the gaol, visited Moir in his cell, and spoke to him respecting his religious duties, Moir replied, "Sir, my religion is honour, but I hope that I am not unmindful of my situation."

Captain Moir was a native of Forfarshire, North Britain, and highly respectable by birth and connexions. He was brother-in-law to Sir James Gardner Baird, bart.; a near relative to the veteran Sir David Baird, the predecessor of the Duke of Wellington in the command of the peninsular army; and he was also first cousin to Sir William Rae, the present Lord Advocate for Scotland. He was descended by his grandmother's side from the heroic Bruce, and was also connected with the distinguished families of Blair of Blair, the Stewarts, and the Butes.

Tall and commanding in person, possessing a fine and manly countenance, his inclination led him early in life to enter the army, the hereditary profession of his ancestors. For 17 years he served successively in the 14th, 37th, and 40th regiments of foot, and in the course of such service he visited France, Spain, India, and America. In the latter place he married the daughter of an officer in the Artillery, by whom he had three fine boys. In the year 1813, accompanied by his wife, he repaired with his regiment to Gibraltar, and while there the yellow fever made its destructive appearance. Moir was attacked by it, and suffered so severely that his life was long despaired of. His brain was considerably affected, and he had never been perfectly free from its effects. In one of the paroxysms caused by this malady, during his residence in Canada, he

took an opportunity, when alone, of inflicting several severe wounds with a hatchet upon his forehead, the scars of which were very prominent to the last hour of his life. This fever produced the most disastrous influence upon his character and conduct: his disposition, warm and irascible before, but withal generous and humane, became through it so susceptible, that, if insulted, or excited by liquor, his passions were uncontrollable, and his actions and language appeared to be those of a madman. It is a particular characteristic of this unhappy frame of mind, that in the very highest point of excitement, Captain Moir imagined himself the most calm and collected; and while those who knew him were but too sensible of the difference between his professions and his conduct, he laboured to convince them of the perfect sobriety of his intellect. All this was increased perhaps by suffering in India from a *coup de soleil*, and upon his return to England from an attack of pure inflammation of the brain while at Canterbury. In the year 1828, Captain Moir retired from the army, and his active but unsteady mind turning its attention to agricultural pursuits, he took upon lease the farm at Shelhaven Creek, where he was residing when the unhappy event occurred, which has been the means of terminating his life on a scaffold.

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