

THE  
**SCOTS MAGAZINE**  
CONTAINING,  
A GENERAL VIEW  
OF THE  
Religion, Politicks, Entertainment, &c.

IN  
*GREAT BRITAIN:*

And a succinct ACCOUNT of  
**PUBLICK AFFAIRS**  
FOREIGN and DOMESTICK.

For the Year MDCCXLV.

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VOLUME VII.

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*Ne quid falsi dicere audeat, ne quid veri non audeat.*

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*EDINBURGH:*  
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*Captures, &c. by British men of war.**Taken from the London Gazette.*

A French privateer snow of Dunkirk, with 70 men, brought into Deal, Nov. 4. and another privateer of Dunkirk, with 110 men.

The *Esperance*, formerly called *Soliel*, a French privateer, from Dunkirk for Montrose, brought into Deal, Nov. 25. by the *Sheerness*, Capt. Bully.—She had on board the following persons, viz. Of Dillon's regiment, Mr Radcliffe, called Earl of Derwentwater, Mr Radcliffe, said to be son of the former, and Murdoch Gennis, Captains; and Edmund Riley, lieutenant.—Of Rooth's, Robert Cameron, Captain reformed; Lewis Shee, and James Seton, Captains; and Edward Dun, Lieutenant.—Of Lord John Drummond's, Alexander Baillie, and Alexander Macdonald, Captains; Thomas Nairn, son to Lord Nairn, First Lieutenant; Samuel Cameron, Second Lieutenant; and Adam Urquhart, Lieutenant.—Of Bulkeley's, Patrick Fitzgerald, Captain; John Riley, lieutenant; William Fitzgerald, Second Lieutenant; and Corn. Maccarty, Ensign.—Of Berwick's, James Ohanlow, Captain.—Of Lawley's, Robert Grace, Captain reformed; and Thomas Renally, Lieutenant.—Of Saintouge's, Merseiel Devant, Lieutenant.—Clement Macdermet, Equerry to the person called Lord Derwentwater.—Besides 60 other men.

The *Lewis XV.* one of the French transports, from Dunkirk, taken off Montrose, Nov. 28. by the *Milford*, Capt. Hanway.—She had on board the following persons, viz. Of Bulkeley's regiment, Nicholas Morris and Richard Nagle, Captains; Patrick Meagher, First Lieutenant; John Ryan, Dennis and Derby Mahonys, Second Lieutenants; George and Francis Matthews, Cadets; 2 Serjeants, 3 Corporals, 1 Drum, and 46 private men.—Of Clare's, James Conway and Val. Mernyne, Captains; Bernard O'Brien, First Lieutenant; and John Eager Second Lieutenant; 2 Serjeants, 3 Corporals, 1 Drum, and 46 private men.—Of Berwick's, James Macraith and Stephen Cullen, Captains; Christopher Plunket, First lieutenant; and George Barnavall, Second

Lieutenant; 3 Serjeants, 3 Corporals, 1 Drum, and 47 private men.—John Divier and Thomas Hogan, Surgeons; and 4 servants—There were likewise on board, 330 stand of arms, with bayonets and cartouch-boxes, 330 broad swords, a number of bridles and saddles, harnesses and collars for horses. P.S. The persons taken on board the *Lewis* were committed prisoners to the castle of Edinburgh Dec. 6.

*The case of Charles Ratcliffe, Esq;*

THIS Gentleman, brother to the late Earl of Derwentwater, was convicted of high treason for the rebellion in 1715, but escaped out of Newgate. He was re-taken last winter on board the *Esperance*, [*Mag.* 1745, [p. 541.](#)], with several other French officers, coming to Scotland; and has lain in the tower of London ever since. On the 21st of November he was brought to the King's bench bar, and his former judgment was lead to him. He said he was quite unprepared; and at his request the court assigned him council, Mess. Joddrell and Ford.—On the 24th he was again brought to the bar. But he refused to hold up his hand, or acknowledge any jurisdiction, but that of the King of France, in whose dominions he had lived about thirty years, and whose commission he had in his pocket; for the authentickness of which he appealed to the Sicilian Ambassador, in court. On hearing his former indictment and conviction read, he said he was not *Charles Ratcliffe*, but *the Earl of Derwentwater*; and his council informed the court, that this was the plea he relied on. Mr Attorney-General replied with an averment of his being the Charles Ratcliffe named in the former indictment, &c.; and thereupon issue was joined, Then the council for the prisoner moved to put off his trial, upon his own affidavit (to which he had subscribed himself *The Count de Derwentwater*) that two of his material witnesses were abroad. To which affidavit the council for the crown objected, as not being intitled in the cause before the court nor the two witnesses sworn to be material in the issue then joined; and also because the prisoner had not undertaken to swear that he was not the person, which, as it was a fact entirely in his own knowledge, ought to be required of him, if would intitle himself to this favour from the court; this being a proceeding very different from the trial upon a Not guilty in an original prosecution, the identity of the person being the single fact to be inquired of, and a case in which the crown had a right by law to proceed in *instanter*. Upon this, the prisoner amended his affidavit

as to the witnesses, but refused to swear that he was not the same person. And the court said, there was no instance of any application to put off the trial of a question of this sort before; and that this was like an inquest of office, in order to inform the conscience of the court, and what the publick had a right to proceed in *instanter*: and therefore that the prisoner ought to give all reasonable satisfaction to induce them to grant such a favour as he desired; for that they could not in conscience, and justice to the publick, indulge him, without a reasonable satisfaction that his plea was true. But the prisoner still refusing to swear to the truth of his plea, the jury were called; and after two or three of the pannel were sworn, Mr Ratcliffe challenged the rest that was called, as of right, without assigning any reason. But upon debate of the question, How far he had right to challenge! the court said, it had been determined before in all the later cases, and particularly in the case of one Jordan, that the prisoner in such a case as this had no peremptory challenge. Upon the rest of the jury were sworn. Several witnesses were called to prove the prisoner the identical person, Charles Ratcliffe, who received sentence in 1716. But none of them could come up to the point, till a great officer was sworn, who deposed, that Mr Ratcliffe, since his confinement in the tower, had acknowledged to him, when they had been drinking a glass of wine together, that he was the same person. But Ratcliffe objected to this Gentleman's testimony; because he had confessed that believed there was neither God nor devil and it would be an absurdity, to swear a man upon the Bible, who had no belief in any thing it contained. This however was over-ruled; and no other evidence being made, the jury withdrew, in about ten minutes brought in their verdict. That he was the same Charles Ratcliffe that was convicted of treason in 1715. Then the Attorney-General motioned to have execution awarded against the prisoner on his former judgment. To which the prisoner's council objected, tendering a plea of pardon by act of parliament, in bar of execution. But the court

said, as he had already pleaded such a plea he chose to rely on, and as that was found against him, nothing more remained for them to do at present, but to award execution; and if his council had any thing to offer on his behalf, they would have time to do it before the day of execution. Then they ordered a rule to be made for the proper writs for his execution Dec. 8. and remanded the prisoner in the tower.—It is said, that he refused to call the Chief Justice *Lord*, because the title of Earl was not given him; that, upon refusing to hold up his hand at the bar, Attorney-General told him, that as a gentleman he ought to comply, and his council would satisfy him it was only a whim of the court: that he answered, *I know many things that I will not advise with my council upon*; and that, on hearing the day appointed for his execution, he told the court, that he wished they had given him so long time as that he could have wrote to France, that so his brother the Earl of Moreton and he might have set out on their journey together.

*An account of Mr Ratcliffe's execution.*

Charles Ratcliffe, Esq; [[p. 530.](#)], condemned for high treason, was beheaded on Tower hill Dec. 8 G. — About eight o'clock in the morning, two troops of lifeguards, and one troop of horse grenadier-guards marched thro' the city to Little Tower-hill, where they were joined by a battalion of foot guards. The horse lined the way from the scaffold to Iron-gate, and the foot with some of the horse incompassed the scaffold. About ten, the block, covered with black, with a cushion, and two sacks full of saw dust, were brought up, and the block fixed. Soon after, the Coffin was placed on the scaffold. It was covered with black velvet; the inside lead, lined with white sattin; and had eight handles, which with the nails were gilt with gold; but there was no plate or inscription upon it. A little before eleven, the Sheriff., Mess. Aldm<sup>n</sup> Winterbottom and Alsop came to see if the scaffold, &c. was finished, (the carpenters, &c. who had very short notice, having worked all Sunday and the ensuing night), and found it to their satisfaction. The Sheriffs and the Under-Sheriff, had met at the Mitre tavern in Fenchurch street, and from thence proceeded, the Under-Sheriffs in a mourning coach, and the Sheriffs in their chariots, to the lower end of the Minories; where they were met by their officers; who marched before them till they came over-against the Victualling-office. Here they stopt, and the Under-Sheriffs went down to the East gate of the tower, which is next to Iron-gate; where getting out of the coach, they went up to the gate; and seeing the warders thro', the gate, they demanded admittance to the Lieutenant Governor. On this the gate being opened, they went in, and demanded Mr Ratcliffe's body of Gen. Williamson. Upon being surrendered, he was put into a landau, and carried out at the East gate; where the Under-Sheriffs went again into their coach, and the procession was as follows. First, the Sheriffs officers; next, the mourning-coach in which were the two Under-Sheriffs with their wands; then, the

landau with the prisoner, and the officers of the tower who had him in custody; the landau guarded by a party of foot guards with their bayonets fixed. Thus they proceeded up Little Tower hill, till they came over against the Victualling-office, where the Sheriffs waited to receive him. Here the prisoner being taken out of the landau, in order to be put into a mourning-coach, and seeing some Gentlemen he knew, he paid his compliments to them in a very genteel manner, and smiled. He was carried, in the mourning-coach, about a hundred yards further, to a small booth built on purpose, and hung with black, joining to the stairs of the scaffold. Having reposed himself here about half an hour; which he spent in his devotions, speaking but very little to any body, he then came upon the scaffold, preceded by the Sheriffs, the divine, and some Gentlemen friends. He was dressed in scarlet, faced with black velvet, trimmed with gold; gold-laced waistcoat, white silk stockings and a white feather in his hat. On the scaffold he took leave of his friends with great serenity and calmness of mind, and after speaking a few words, and giving a parcel of gold, which he called ten guineas, to the executioner, knelt down at prayers, all the company on the scaffold kneeling with him. When prayers were over, which lasted about seven minutes, he took off his hat and wig, put on a damask cap, pulled off his coat and waistcoat, assisted by the tower-warden, put his head to the block, and rose up again. He then took his leave in a respectful manner of the Sheriffs, had the collar of his shirt tucked down, said a short prayer, crossing himself several times, and laid his head down upon the block. In about two minutes he spread his hands, which was the signal, and the executioner struck off his head at three blows. The first cut all except a bit of skin; which was cut at two chops more. Four undertaker men stood ready with a piece of red bays, and received the head; and the body fell down. He behaved with the greatest fortitude, and coolness of temper. On searching his pockets, the executioners found half a guinea, a silver crucifix, and his beads. Instead of ten guineas, he got eleven and a

half out of Mr Ratcliffe's hand. The corpse, head and body, was put into the coffin, taken away in a hearse and kept till the 11th; when between 11 and 12 at night, it was carried in a hearse attended by two mourning coaches, to Giles's in the Fields, and there interred according to his desire, near the remains of the late Earl of Derwentwater. The following inscription was put upon the coffin: *Carolus Ratcliffe, Comes di Derwentwater, decollatus die 8 Decembris, 1746 Ætatis 53. Requiesceat in pace.*

This unfortunate Gentleman was brother to James Earl of Derwentwater, beheaded on Tower hill Feb. 24. 1715-16, both sons of Sir Francis Ratcliffe by Lady Mary Tudor, natural daughter of King Charles II. by Mrs Mary Davis. Charles having been likewise in

the rebellion of 1715, was arraigned at the Exchequer Bar, Westminster, May 8. 1716, for high treason, found guilty May 18. and condemned. But, after being several times respited, he made his escape out of Newgate on the 11th of December following, and got over to France; where he has spent the greatest part of his time since, tho' he was some part of it with the pretender in Italy. At Paris he married Lady Newburgh, relict of Livingston Lord Newburgh, a Scots Nobleman; by whom he has left a son, who was taken prisoner with him, and was at first thought to be the pretender's second son; but returned afterwards to France, [[p. 148.](#)] upon parole. It is said, that, in 1733 and 1735, Mr Ratcliffe was several months in London, without being taken any notice of, tho' the ministry knew of it.