

**CRIMINAL TRIALS
IN SCOTLAND,**

FROM A.D. M.CCCC.LXXXVIII TO A.D. M.DC.XXIV,

EMBRACING THE ENTIRE

REIGNS OF JAMES IV. AND V., MARY QUEEN OF SCOTS,
AND JAMES VI.

COMPILED FROM THE ORIGINAL RECORDS AND MSS.

WITH

HISTORICAL NOTES AND ILLUSTRATIONS,

BY

ROBERT PITCAIRN, ESQ.

WRITER TO HIS MAJESTY'S SIGNET, F.S.A. SCOT. AND HON. F.S.A. PERTH, &c.

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TO
THE PRESIDENTS. AND MEMBERS
OF THE
BANNATYNE AND MAITLAND CLUBS,
THIS SECOND VOLUME
OF A
COLLECTION OF ANCIENT SCOTTISH CRIMINAL TRIALS,
ORIGINALLY PROJECTED BY
THEIR MUCH LAMENTED ASSOCIATE, THE LATE
SIR WALTER SCOTT, BART.,
AND COMMENCED UNDER THE PATRONAGE OF THESE DISTINGUISHED
LITERARY INSTITUTIONS
BY ONE OF THEIR NUMBER,
IS GRATEFULLY AND RESPECTFULLY DEDICATED,
BY
THE EDITOR.



CRIMINAL TRIALS

AND OTHER PROCEEDINGS BEFORE THE HIGH COURT OF JUSTICIARY.

[*Mr James Fowles, Justice-Depute.*]

Slaughter.

Dec. 15.—GEORGE DOWGLAS in Glaspen.

Dilatit of airt and pairt of the slauchter of vniq^{le} James Stewart of Newtoun ;
committit the secund of Nouember instant.

PERSEWAR, James Stewart, eldest sone.

PRELOQUITOURIS for the pannell.

Mr Johne Nicolfoune, George Dowglas youngar of Langnudrie,
Mr Robert Lyntoune, William Carmichell of Rowntrie-corse.

The persewar askis instrumentis of the productioun of the Lettres, dewlie execute and indorfat, purchest be thame aganis James Dowglas of Torthorwell, Charles Dowglas in Anderchaw, John Dowglas his stap-sone, Johne Tuedie in Howgait, George Inglis, and James Bannatyne thair, quhair thay ar denunceit rebellis and put to the horne. The said George Dowglas in Glaspen askis instrumentis of his comperance, and that he offeris him reddie, to vnderly the law for the slauchter of James Stewart of Newtoun.—Comperit the Kingis Aduocat and produceit ane Warrant, subscryuit be the King, ordaining the mater to continew. The pannell takis instrumentis of the offer, and desyris that the Justice minister justice in the said mater, nochtwithstanding the Kingis Warrant.

The Justice admittis the Warrant ; and ordanis the partie to fynd caution thairfoir, to the ordour.

Continued to the air of ' Lanark. Plegio Wilelmo Carmichell de Rowintre-corse et Johanne Carmichell in Howgait, conjunctim.'

Witchcraft.

Dec. 16.—JONET GRAWIE.

Dilatit of certane crymis of Wichcraft.

PERSEWARIS, Effie Crummie sponis to Capitan Skrymgeour, Mr Williame Hairt aduocat.
The mater defert, be the laik of ane Affyse, quha wer nocht summond.

Printing a vitiated Act of Parliament.

Feb. 2, 1596-7.—ROBERT WALDEGRAIF, Prentar to his Maiestie.

The quhilk day, Robert Waldgraif, Prentar to his Maiestie, being enterit on pannell, accusit and persewit be Mr Williame Hairt aduocat to our fouerane lord, ffor the treffonabill Imprenting of ane alledgeit Act of his hienes Parliament, as sett furth be his Maiestie and thre estaitis of Parliament, haldin att Edinburgh the penult day of Maij 1592, intitulat, ' ffor þe abolifching of þe Actis concerning the Kirk ;' and treffonablie vitiat, adulterat and alterit fra the originall Act of Parliament, votit and agreit vpoun be his hienes and thre estaitis in tne Parliament foirfaid, contenit in the Register of his hienes Actis of Parliament, dewlie thaireftir publeifchit : ffor the quhilk treffonabill cryme (he) is wardat, to be pwneift be tinsel of lyffe, landis and guidis.

The said Robert Waldgraif declarit, be his ayth, in presens of God in heavin, that the said Act of Parliament quhairvpoun he is challengeit, wes newir formit, vitiat or alterit be him, nor na vther of his knowlege ; and forder declaris, that fa far as his memorie can serue him, quhilk is now waik, in respect of his infirmitie and lang seiknes, that the said Act wes send and delyuerit to him be ane in the Clark of Registeris name, quhome he supponis to haif bene his seruand for the tyme ; as he sal anfuer to God in the latter day : And gif ony wrang be done, in the altering of the said Act, the famin is done be him quha brocht it to the said Robert and without his knowlege : And forder declarit, that he had his Maieftis Warrant, to prent all the Actis of Parliament concerning the Kirk, quhair of he tuik this to be ane : And nochttheles, insafar as his Maiestie is offendit, or fault may be imput to him in the mater, he becumis in his Maieftis will and mercy ; declaring vpoun his faull and conscience, he newir offendit his Maiestie, in thocht, word or deid.

The Justice-depute continewit to tak the said Robert in will, vntill he knew his Maieftis mynd.

PERSEWAR, Mr Williame Haert aduocat.

Feb. 4.—The Aduocat produceit ane Warrant direct to the Justice, Justice Clark or his deputis, to put Robert Waldgrave to the tryell of ane Assyse ; quhair of the tennour followis.¹

The Assyse being sworne, the Aduocat produceit the Act of Parliament prentit be him selff, acknowledgeit be him, confest addit to the buik produceit, att the leift prentit svmtyme eftir the rest : And forder produceis the extract of the rycht Act of Parliament, vnder the subscription of the Clark Register, far different fra the viciat and adulterat Act.

¹ Most unfortunately, this interesting document is not inserted in any part of the Record preserved. This Volume is evidently the scroll-book used in Court, from which the proper Register was afterwards extended.

The said Robert Waldgrave anfuerit, that he had the Kingis Warrant for prenting of the hail Actis concerning the Kirk; and alledgeit that the Clerk of Registeris or sum (ane) brocht the said Act, in his name, to be prentit; bot he can nocht declair the manis name quha brocht it. It is anfuerit be the aduocat, that gif ony Warrant be had of his Maieftie, it wes ane generall Warrant gewin to him, before he prentit the buik; bot had na Warrant to prent this Act, quhilk wes prentit eftir the prenting of the buik. The said Robert produceit ane Gift vnder the Previe feill, geving him Licence to prent the Actis of Parliament.

The Affyse, in ane voce, chuse James Skeddowie (merchand in Edinburgh) chancillar.

VERDICT. The Affyse, in ane voce, fyles the said Robert Waldgrave, for the tressonable Imprenting of ane alledgeit Act of his hienes Parliament, as sett furth be his Maieftie and thre Estaitis, in the Parliament haldin att Ed^r. the penult day of Maij, the yeir of God I^m.V^c. fourfcoir and tuell yeiris, intitulat 'anent the aboleifching of the Actis contrar the libertie of the trew Kirk and aboleifching of the iurisdictione, penultimo Maij 1592,' and tressonable viciat, adulterat and alterit fra the originall Act of Parliament, votit and agreit vpoun be his hienes and thre estatis in the Parliament foirlaid; contenit in the Register of his hienes Actis of Parliament, dewlie thaireftir publeifchit.

[CURIA JUSTICIARIE tenta in Pretorio Ville de Leyth, xj Februarij 1596, per Magistrum Jacobum Foullis, Justiciarium Deputatum. ASSESSOURIS, (Walter Lord Blantyre) Thesaurer,¹ (Andrew Stewart, third) Lord Ochiltre, (Sir John Skene of Curriehill) Justice Clerk,² (Sir John Cockburn of Ormistoun) Clerk of Register,³ Sir Robert Meluill.⁴]

Treason—Convocation of an unlawful Assembly, &c.

Feb. 11.—ROBERT HAMMILTOUNE of Inchmauchan, Williame Kirkaldy of Grange, Sir James Edmestoun of Duntraith, elder, Edmestoun younger of Duntraith,⁵ and [James] Lokart of Leis, eldar.

Dilaitit of certane tressounabill crymes, committit be thame the xvij and xvijij dayis of December (lastwas,) aganis his Maieftie and his Counsalouris.

PERSEWARIS,

Mr Thomas Hammiltoune of Drumcairne, aduocate, Mr Williame Hairt of Levelandis, aduocate.

PRELOCUTOURIS for Robert Hammiltoune,

Mr T. Craig and Mr Johnne Nicolfoune, Mr Johnne Ruffell, Mr Alex. King, Mr Johnne Dempfar.

¹ He was also one of the Extraordinary Lords of Session. Ordinary Lords of Session. ² Lord Curriehill, also one of the Ordinary Lords of Session. ³ Lord Ormistoun, one of the Ordinary Lords of Session. ⁴ Of Murdocairnie, one of the Extraordinary Lords of Session. ⁵ 'Delait, in respect of the Thesauraris declaratioun he was nocht chargeit.'

² Lord Curriehill, also one of the Ordinary Lords of Session. ⁴ Of Murdocairnie, one of the Extraordinary Lords of Session. ⁵ 'Delait, in respect of the Thesauraris declaratioun he was nocht chargeit.'

The saidis Aduocatis (perfewaris) producet the Dittay vnderwrittin, and ficlyke producet ane Warrant, quhair of the tennour followis.¹

Compeirit M^{rs} Thomas Craig, Alex^r King and Johnne Nicolfoun, and producet ane Warrant subscryuit be the Lordis of Sessioun, ordaining thame to compeir for the pannell; and desyrit the famin to be registrat. The said Mr Johnne Dempstar produceit ane vther Warrant, subscryuit be the saidis Lordis of Sessioune; quhilk the Judges admittit, in respect of the Act of Parliament. The said Mr Johnne Russell produceit ane vther Warrant, for James Lokhart of Ley; quhilk the Judges lykwayis admittit. Quhairvpoune the saidis procuratoris tuik instrumentis.—Mr Johnne Russell tuik instrumentis, that the Judge admitis him, for the Lairdis of Duntraith and Ley.

The Lord Ochiltrie declynis him self to be Assessor, in the perfute aganis the Laird of Grange.

The pannell takis instrumentis, that the aduocat declaris he produceis ane cownone Dittay² aganis the hail pannell.

The hail pannell adhairis to the declinatour of my Lord Ochiltrie, in respect the Dittay is cownone.—The Kingis aduocat takis instrumentis, that Mr Thomas Craig declairis, that the grund of the argument quhilk will declyne my Lord Vchiltrie, in perfute of the Laird of Grange, is foundit vpoun inimitie standing betuix the Laird of Pharniherst and the Laird of Grange; quhilk Laird of Pharniherst is guid-brother³ to the said Lord Vchiltrie.—The Laird of Duntraith takis instrumentis, that he propones his declinatour aganis my Lord Vchiltrie, becaus the pannell is cownone. Declairis, gif he him self war vpone the pannell his allane, he wald nocht declyne my Lord Vchiltrie.

It is allegit aganis the hail Assessoris, that thay can nocht be Assessoris nor Judges in this caus, becaus thay haue all gevin counsale in this caus, and hes fund this cryme to be Tressone, without citatioun of partie.—The Laird of Duntraith and Laird of Lies passè fra the alledgeance foirfaid, aganis the Assessoris and the lau⁴.—The aduocat takis instrumentis, that the pannell will nocht declyne the rest of the Assessoris for this cause, nor vse ma⁵ declinatouris.

THE Justice ordanis the Laird of Grange to be removit of pannell this day.

It is allegit be Mr Thomas Craig for the rest of the pannell, feing the Laird of Grange hes bene anes pannellit (and) anes accusit, . . . vpoun ane commoun Dittay, as my Lord aduocat hes declairit, and that my Lord Vchiltrie hes declynit him self as Assessor to the Laird of Grange, becaus of inimitie and affit-

¹ The principal Register for this period is unfortunately lost. The Volume preserved is merely the Court Book or scroll, from which the proper Record was afterwards made up. ² One Dittay only, common to them all, i. e. they were not charged upon separate Indictments. ³ Brother-in-law. ⁴ This and the preceding sentence partially deleted. The plea was retracted. ⁵ More, or farther objections against the Assessors.

ing in deidlie feid with the Laird of Grange, betuix the Lard of Grange and Pharnierft, and as partie to the Laird of Grange, the Lord Vchiltrie can nawayis be Affeffour to the reft of the pannell, *qui priuent consimilem causam*; feing the Dittay is cownoune, fa thair defences is cownoune, and Interlocutour vpone the ane defence fall be Interlocutour vpone the vther: And as he him felf can nocht fit vpoun the Laird of Granges land and heritage, to fit vpone the defences in his awin perfoune, fa he can nocht fit vpone the lyk defence *in consimili causa*, quhilk may prejudge the Laird of Grange; speciallie in respect, the Laird of Grange is als pannell this day, and the defens was proponit for him and the reft coniunctlie, and fund relevant in his perfoune; and to the effect that this defence fould nocht be competent to the reft of the perfonis pannell, he is removit of pannell this day; the quhilk letter part of this alledgeance aucht to be referrit to the Judge and Affeffouris. Quhairvpoune thay tuik instrumentis.

The aduocat alledgit, the former alledgeance aucht to be repellit; becaus thair is na *continentia cause* vpoune this cryme, becaus euerie perfon is vpone pannell *super facto proprio et delicto personali*; lyk as the declinatour proponit aganis my Lord Vchiltrie, is only for ane perfonall caus of evill will betuix the Lard of Pharnierft and the Lard of Grange, quhilk is nawayis competent to the reft of the pannell: As to the circumventioun and defraud of the law, remittis to the Judge and Affeffouris quham it tuiches.—Anfueris, the grund is nocht laid be the saidis accipientis¹ vpone *continentia cause*, quhilk is *tantum in ciuilibus*. bot only vpon this, *qui priuent consimilem causam, et allegantium socij ejusdem criminis*. The Laird of Grange being als pannell, for this sam cryme, this day, *quando ex pacto vnus prejudicabis alteri*, quhilk is nocht lesum of the law directlie, far les in this caus, be removeing of the Laird of Grange of pannell. And quhair it is allegit, that the Judge is nocht bund to gif anfuer, it is anfuerit thairto, that quhair anie declinatour is referrit to judge, he aucht to gif ane anfuer vpone his conscience; lyke as, this pairt of the alledgeance is referrit to the Judge and Affeffouries conscience, quhither the Laird of Grange is removit af pannell purpoiflie?

The Judge, with advyse of his Affeffouris, repellis the alledgeance proponit for the perfonis presentlie vpone pannell.—The Judge ordanis the dittay to be red to the haill pannell.

The pannell takis instrumentis, that my Lord Aduocat the first and fecond heidis of dittay and will perfew the reft heidis;² as also declairis, that he will infist aganis euerie ane of the pannell vpone the saidis heidis.

The aduocat declairis, that he vffis the haill speaches vterit be Mr Walter³ in

¹ Excipients.

² Record mutilated.

³ See the Trial of Walter Balcanquall.

Pulpitt, contenit in the *first* article of the Dittay, as meanis vsit be him to steir vp auditouris to seditioun; quhilk the pannell hard and allowit, be pertineing to the new Kirk, and doing the actionis, and vtering the tressonabill speiches contenit in the first Article of the said Dittay, and being airt and pairt thair of. And forder, the Aduocattis (haldis?) thir woirdis 'conceilling and nocht reveilling of the preiching,' *pro deleto*; quhairvpoun the pannell takis instrumentis.—It is allegit be the pannell, that na proces (lies) aganis the pannell, becaus Mr Walter Balcanquell, quha is alledgit to be author of the Conspiracie and alledgit seditious Conventioun is nocht callit; and alledgit the practik betuix Lyndsfay of Blariefadden and the Laird of Kerfe, the Lady Boydis aduocat.—The aduocat anfuers, the alledgeance aucht to be repellit, in respect of the Dittay.¹

It is alledgit, that the Conventioun in the New Kirk is na cryme, let be² a cryme of Tressoun; becaus it is na cryme, of the Law, convening, except it be in airmes; and the Conventiones of Sinodellis and presbytereis, and generall (Asssemblies?) ar allowit be his hienes Actis of Parliament; as also, of all perticuler sessiounis of Kirkis.—The aduocat anfuers, the alledgeance aucht to be repellit, in respect of the Dittay.

It is forder allegit, that the Convocation is na cryme, becaus it is allowit be speciall Act of Secreit Counsaile maid in anno 1590, demanding all Erles, Lordis, Barronis, gentilmene, frehalderis and inhabitantis of burrowis and vtheris liegis quhatfumeuir, of quhat rank degrie soeuir thay be, to convene thame selfis befor the Ministeris, be thair Miffaue lettres or messingeris, at quhatfumeuir places or dayis thay fall think expedient; and thair to gif thair Confessiounis of thair fayth and subscriptionis thairto, and to the Generall Band maid and subscryuit be his Maiestie and certane of the Estatis, tuching the maintenance and defence of the trew religioun, his hienes person and estait, for withstanding all forrane propagatouris, tending to the trubling thair of, and forces tending to the trubill thair of. And trew it is, that thair, being exhortit be the Ministeres, haveing power be the said Act to convene with thame, to the effect foirsaid, viz. for maintenance of the trew Religioun, and withstanding of the ennemeis thair of, and na vthirwayis; nather the said Ministerie did wrang in convening, nor the pannell in convening at thair command. And forder, thair was speciall Proclamatioun execute at his Maiesteis command, vpone the ix day of December lastbypast, quhairby his hienes, with advyse of the secreit Counsaile, expresse declairit, that his mynd and intentis was nevir to discharge ony lauffull Asssemblies of the Kirk establischt be the lawis, becaus the Sessiounis, bayth of the Kirk, Presbytereis, Sinodell and Generall Asssemblies, and all actis lauffullie maid be the Ecclesiasticall Judge-

¹ (On the margin,) 'Repellis the alledgeance.'

² Not to mention.

mentis, and als the hering of the word, fall stand and be yet as of befoir, ratefeing and approveand the famin; and declairing, that it was nevir his Maieftis mynd nor intentioun to impung or preiudge the famin, in ony foirt; and declairing all vthiris Proclamatiounes and vnlawfull convocatiounes, maid in airmes, to be difchargit. And his will is, that the faid conventioun was onlie maid to the effect foirfaid, without all armour, and in sober maner, and was maift lauchfull in itself, and was difsoluit be the pannall without airmour: And the difcharge of conventionis with airmour, is a permissioun of the conventionis without airmour, tending to the lauchfull effect. *L. cum Prece. ff. de Judicijs.* In respect quhairof, thay did na wrang, and can nocht be put to the tryell of ane Affyse for the faid Convocatioun. And for preifeing the faid alledgance, the saidis excipientis producit the Act of Secreit Counsale, in prent, with the coppie of the Proclamatioun, of the daitt the ix of December last. It is anfuerit be the Advocat, the alledgance aucht to be repellit, becaus the Act of Counsale producit gifis nocht absolute power to all Ministeris to convocat and convene the legis with thame, at thir plesour; bot the particuler Commiffioneris to convocat the legis refident within the boundis of the Commiffioun, for the caufis expreffit in the fummondis; and to wit, for geving Confessioun of thair ffayth, fubfcryving the Band for defence of the Religioun, his Maieftis estait and perfoun, and withstanding of the fforane preparatioun, maid be strangeris, in contrair thairof; quhilk is nawayis aggreabill to the cafe fet down in ditta; becaus the famin beiris, that the legis was convocat be Mr Walter Balcanquell, haueing na power gevin to him be the faid Sessioun to convocat his hienes leigis; and the personis convocat war nocht fubieft to thair iurisdictione, bot fum of thame inhabitantis of the Sherefdom of Fyfe, fum of Angus and Mairnis, vtheris of Tueddell, Cliddisdail and Leuinox; and fua, nawayis fubieft to the Commiffioneris of the sherefdom of Edinburgh. Last, thay war nocht convocat to the effectis contentit in the Act of Counsale; bot be the contrair, to invaid his Maieftis maift nobill perfoune and troubill his estait, as the dittay beiris; nather can the famin Act mak ony fayth, becaus it is nocht authorizit be the fubfcriptione of the Clerk of Counsale, bot imprentit be Robert Waldegraue, quha is convict be ane Affyse of ffalfefeing of his hienes Actis of Parliament. And for the mair cleir verificatioun of the falsat of the faid Act, the advocatis producis his Maieftis authentik beirand na sic Act of Counsale to be; and as to the coppie producit be the defenderis, of the dait the nynt of December, *non fucit fidem*, becaus it is nocht fubfcryuit autentiklie.

To the quhilk it is anfuerit be the pannell, that the foirfaid alledgance standis relevant, nochtwithstanding (the alledgance?) made in the contrair; and speciallie, anent that pairt of the alledgance tuiching the Convocatioun, and that the same

is nocht a treffonabill cryme; to the quhilk there is na anfuer maid be my lord aduocat. And quhair it is alledgit, that the Conventioun is only limitat to the particular boundis quhair the parteis duellis, it is anfuerit, it is na argument to mak the Convocatioun vnlauchful; ffor gif it was lauchfull to convene in thir tua schyres, it is lauchfull to convene in quhatfumeuer vtheris placeis; bot specialle, that pairt of the alledgance aucht to be repellit, in respect of the expres woirdis of the Act, giving power 'to convene quhatfumeuir dayes and placeis.' And quhair it is alledgit, in the secund part of the alledgance, that thair was na power to the said Mr Walter to convene; it is anfuerit, that thare is expres power gevin to Mr Robert Bruce and certane vtheris, quha (were) preffent in the said place, to convene: And the said Mr Walter and the haill Presbiterie, *est vnum corpus*, and quhatfumeuir he did was be the directioun of the rest of the brethren haifing power. And quhair it is alledgeit, that thair haif only power to tak Confessioun of the ffayth and subscripcioun of the Band; it is replyit, that the said Conventioun was only to that effect, and to gif Confessioun of the Religion, and for the maintenance thair of. As to the argument maid anent the Act, that it is only printed, and nocht subscriyuit be the Clerk of Counfall, and that Waldegraue is convict for ffalfe imprenting of the Act of Parliament; it aucht to be repellit, in respect of the Priviledge permittit; the Warrant subscriyuit be the King past the Privie seill and registrat in the buik thair of; lyke as, the famin Act of Secreit Counfall, as it now standis printit, is registrat in the buikis of secreit (Counfall), as falbe verifeit be the Register: And as to Waldegraues convictioun, *est super alio facto*, and nocht for this act; and quhatfumeuir convictioun subsequent deduceit aganis him, it can nocht preiudge this pannell, and that quhilk wes lauchfullie maid of before. Last, as to the argument maid anent the Proclamatioun, it nawyis militatis, accepting alwyis the dait thair of, quhilk wes vpoun the xxiiij day of Nouember lastbypast, and is interpretit be ane posteriour Proclamatioun, maid vpone the ix of December thaireftir; and declairis all Actis maid in fauor of the Kirk to stand effectuell, and dischargeis Convocatiounis maid in armes alluterlie. And the pannell protestis that this argument, maid anent the Conventioun in the New Kirk, may be feuerallie discuffit fra the vther subsequent cryme, anent the taking of armes and affageing of his hienes persoun, feing the Conventioun may be lauchfull and the vther vnlauchfull. In respect of the quhilkis premiffis, absolutour¹ aucht to be gewin to the conventioun in armes.—The Aduocat repetis his former anfuer.

The pannell offeris thame reddie to be put to the tryell of ane Affyis for the SECUND heid, the famin being maid specialle anent the names of his Maieftis feruitouris and his counsalouris.

¹ Acquittal. Lat. *absolvere*.

As to the **THRYD** point of the Dittay, anent the Conventioun in Mr Robert Bruce galrie, and directioun of certane Commiffioneris, with fuitis to his Maieftie: firft, as to the conventioun maid efter none, repetis the anfuer maid of befoir; fpeciallie, that the famin is lauchful, and permittit be expres law, and wes nocht maid in armes: And forder, his Maieftie directit my Lord of Marr and my Lord Vchiltrie, and defyrit to convene with Mr Robert Bruce; as alfo, directit Traquair and Cefurd, that the Articles of thair greiffis¹ fould be presentit to his Maieftie and his Counfall, at efter none; and fwa, did na wrang, nather in thair conventioun nor directioun of the Commiffioun, feing the famin procedit be his Maiefteis allowance, and wes vthirwys lauchfull, for the caus aboue fpecificit.—The Aduocat anfwerit, that the faid alledgeance aucht to be repellit, in refpect of the Dittay and anfueris maid to thair alledgeances, foundit vpoun the alledgeit lauchfulnes of thair Convocatioun; as lykwyis, the faid alledgeance can nocht be reffaut in this place, becaus it is *meri facti*, and is nocht instantlie verifeit, nather is it open to the Judge, but man be remittit to the Affyife; and gif the Judgeis will dip vpoun the tryell of it, the famin man be repellit, nocht only as irrelevant, bot alfo vntrew, as is notourlie knawin to the Judge and Affeffouris: And for thair better refolutioun, maid cleir be his Maiefteis Declaratioun, fubfcryuit with his hand, presentlie produceit.—It is anfuerit be the pannell, acceptand alwyis his Maiefteis Declaratioun produceit, *in quantum*, that nocht only is thair alledgeance fufficientlie verifeit, becaus it is notour to the Judge and his Affeffouris; bot alfo, it is verifeit be the Aduocat, and pingeis² bayth the Conventioun cuming doune.

FINALLIE, as to the laft cryme contenit in the Dittay, it is nather relevant nor contenis ony maner of cryme; ffor fyrft, as to the Conventioun vpoun Fryday att ewin, it is anfuerit *vt supra*. Nixt, as to the procureing of Nobilmen and vtheris to be vpoune thair faction, and pairt-takeris of thair caus, *non releuat*; feing it nather condiscendis quhat Nobillmen, quhat factioun, or quhat caus; or quhat the Noblemen wes defyrit to, nor quhat meffageis wes direct, be quhom, or to quhom, or to quhat effect, and quha wes the beraris of the faid meffage; and fwa, it contenis na treffonabill crym: Bot fpeciallie, it is newir affirmit that thir perfonis on pannell directit, or procureit ony meffageis to be direct, to ony treffonabill effect.—The Aduocat anfuerit, that the alledgeance aucht to be repellit, in refpect of the Dittay berand, that thay convenit to auife how to procure the affiftance of ane factioun, to fortifie and affift thame in thair treffonabill interpryfis, contenit in the preceding Articles of the Dittay. Lyke as, the faid laft Article beris playnlie, that the lettres direct and the Band proponit, tendit to the famin effect. The pannell defyrit the Aduocat to produce the Band.

¹ Grievances.² To *peenge* or *pinge*, to complain.

(Feb. 12.)—INTRAN. Robert Hammiltoun of Inchmauchane, Sir James Edmeftoun of Dunraith, and James Lokart of Ley.

INTERLOCUTOR *on the relevancy of the Dittay, &c.*

(1.) The Judge Repellis the alledgance, anent the fyrst discussing of Mr Walter Balcanquall. (2.) The Justice findis the fyrst part of the Dittay concerning Convocatioune, and the circumstances qualifeit and contenit in the said first Article Relevant; and Ordanis the famin *conjunctiue* to pas to the knowledge of ane Assyse, nochtwithstanding the alledgance maid agais the famin. (3.) Item, the Justice findis it is nocht necessar that the Aduocat condiscend particulerlie vpoun the names of the Kingis Counsalouris or domestik seruitouris; and findis that point of the Dittay releuant, as it is constant, nochtwithstanding of the alledgance maid in the contrar. (4.) The Justice findis the thryd point of the Dittay releuant; and Ordanis the famin to be put to the knowledge of ane Assyse, becaus it is coincident with the circumstances contenit in the fyrst Article. (5.) The Justice Ordanis the Aduocat to condiscend, in special, vpoun the names of the Nobilitie to quhome the Missiues wes direct; and being condiscendit vpoun, findis it releuant.

The famin day, Mr Andro Blakhall maid fayth.

The Pannell askis instrumentis of the hail Interloquitour pronounceit.—The Aduocat declaris that he passis fra that part of the article, concerning the directing of the Missiues, *pro loco et tempore*. Quhairvpoun the hail pannel askit instrumentis.

INTERLOCUTOR. The Justice, estir that my lord Aduocat had deleit certane wordis, anent the directing of Missiues, fand the rest of the latter point of the Dittay releuant; and ordanit the famin to be put to the tryell of ane Assyse.

The aduocat takis instrumentis (that he) repetis the conclusioun of the last heid, in the conclusioun of ewerie ane of the pointis of the Dittay.

ASSISA.

James Foullis elder of Colingtoun, Thomas Kennedie of Ardmillane, Thomas M^cDougall of M^cKair-George Logane of Boningtoun, Johnne Naper, younger of Merstoun,
Patrik Home of Aytoun, chinfoun, . . . Kennedy of Penquhirry,
. . . Stewart of Dunduf, James Ritchertfoun of Smetoun, . . . Mure of Auchindrane.¹
Mr James Foullis y^r of Colingtoun, Walter Dundas of that ilk,

EXCEPTIONS *against the persons summoned to pass upon the Assise.*

Mr Johnne Russell produceit ane exemptioun for *the Laird of Corstorphin*, vnder the Previe seill. The aduocat alledgit the famin aucht nocht to be admittit.—Mr Alex^r King producet ane exemptioun for *the Laird of Bass*, and repeittis the Act of Parliament, in respect he is a Counsalour. The aduocat repeittis his former anfuer thairaganis.—Mr Johnne Nicolfoun produceit ane exemptioun for *the Laird of Cokpen*. The aduocat repeitis the former anfuer thairto.—The pannell allegit that *Johnne Kennedie of Banquherrie* can nocht pas vpone the Assyis, becaus he is nocht a barroune, and sa nocht thair peir.

¹ The infamous John Mure, the Murderer of Sir Thomas Kennedy of Culzean. See the extraordinary Trials of John Mure, Jun. 24, 1602, &c., and of the Lairds of Auchindrain, elder and younger, and James Bannatyne, Jul. 1611.

INTERLOCUTOR. The Justice, with aife of his Assessoris, in respect thair is nocht ane sufficient number of Assyis present this day, continewis the dyet to the xiiij of Februar instant, and the hail number of Assyis present and summond to this (diet), to compeir vpoun the said xiiij day, vnder the pane of twa hundreth markis : And continew Interloquitour, vpoun exemptiones to the said day : And ordanit the pannell to remain in waird, as thay did ofbefoir.

The famine day, William Sinclar of Roisling, Cokburne of Clarkingtoun, Johnne Lewingtoun of Prestoune, Andro Ker of Phairnieherst, Henry Pitcarne of Ramfyis-Forfar (Forthar,) Sir Johnne Carmichael of that Ilk, and Patrick Moscrop, burges of Edinburghe, oft tymes callit to haif compeirit before our fouerane Lordis Justice or his deputis, the saidis day and place, in the hour of caus, to haif past vpoun the Assyis of James Lokert eldar of Ley, Sir James Edmestoune of Duntrait knycht and Robert Hammiltoun of Inchmauchane, dilait of certane Treffonabill crymes, committit be thame, vpoun the xvij and xvij dayes *respectiue* of December lastbypast, as thay wer lauchfullie summond to ; the lauchfull tyme of day biddin and nocht comperand, thay and ilk ane of thame wer thairfore vnlawit, in the pane of ane hundreth markis.

(Feb. 14.) It is allegit be the pannell, that na vther personis of Inqueist aucht to be callit or ressauid this day, vnto the tyme it be proceidit quhair it left, viz. that the tuelf personis of Inqueist quha wes summond be the Kingis Maiesteis Thesaurer, conforme to the roll produceit be the Thesaurer, in judgment, and thairefter war ressauid but objection, with consent of all the parteis, being the first callit ; but that *res non est integra* to accept ony vtheris, except thay be lauchfullie absent : speciallie, it being of veritie that thay ar all heir present, and thairfoir thay being anes buikit, ressauid, be consent of parteis, and now present in this Tolbuith (of Leith), accoirding to the Justice commandment, chargeing thame to be present, vnder the pane of ij^o merkis, na vther personis can be surrogat in thair place.—The Aduocat anfuert, that the nominatioune of the saidis personis and the buiking of thair names can woirk nathing in this caus ; becaus salang as the personis of Assyse is nocht fuoirne and admittit, *omnia sunt integra*, to the Judge, quha may ather call thame of new, fueir and admit thame, or call vtheris and omit the first. As to the allegit consent, it is altogidder denyit.—It is anfuert, that the summonding, buiking, setting down of the Assyse is ane sufficient consent and ressait, speciallie the famin being done in presens of the aduocat, without contradictioun ; and the saidis deidis nocht being privie, bot iudiciall deidis, quhilkis in all caussis, bayth Criminall and Ciuill, bindis bayth the parteis. The aduocat repeitis his former anfuert.

INTERLOCUTOR. The Justice, (with) aife of his Assessoris, Repellis the alledgeance proponit be the pannell ; and ordanis that the Assysouris, summond to this day, to be ressauid ; in respect that the Assyse that wer buikit the xij of Februar, and continewit to this day, wes nocht fuorne.

Quhairupoun the pannell askit instrumentis.

It is allegeit be the pannell, that *Sir Robert Ker* can nocht pas vpon the Assyse, for thre cauffis: first, becaus he hes informit and solifcit aganist the Laird of Grange, quha was pannellit vpon the famin dittay *et habet causam coniunctam*: Nixt, becaus he is domestik seruitour to his Maiestie; and, as in ciuill judgementis betuix his Maiestie and ony of his subjectis, he could nocht be witness, mekil les can he be Assyfour, to cognofce vpon ane cryme allegeit committit aganis his Maieftis persone: Thridlie, nocht only is he serwand to his Maiestie, bot he is partie allegeit to be grevit; infafar as it is expresse fet down in the Dittay, that his Maieftis haill seruandis was commandit 'to be soupit af the gait and to soup the calfay with thame,' quhilk is the maist speciall circumstance of the haill Dittay, and the famin admittit coniunctlie with the haill circumstances: And thairfoir, he being ane of his Maieftis domestik seruandis and ane of his houshald, be the Dittay he is partie, and consequentlie can nocht be ane Assyfour.—The Aduocat anfueris, that the first pairt of the allegeance aganis the said Sir Robert, as haueing gevin partiall counfall aganis Williame Kirkcaldie, is nawayis competent to this pannell, becaufe *delicta sunt personalia*, and thair is nocht sic a thing as *continentia cause* or *causa coniuncta* in this cace, quhair euerie man is challanget for his awin offence, personallie and principallie, and nocht as complecis to the said Williame or ony vther. Nather is the secund pairt proponit aganis the said Sir Robert, as domestik seruand to his Maiestie, onywayis relevant; becaus the deutie of a subiect comprehendis the haill effectioun that can be borne to the Prince be his natiue subiect, and the qualitie of a domestik seruand eikis nathing thairto: And as the Kingis Maiestie mycht fit in persone and judge in his proper cause, or depute his counsalouris or domestikis to be judges or Assfouris, sa may thay be Assfouris: Lyk as, thair is dyuerse practikis past in the Kingis proper cauffis befor the Justice, as laitlie the cauffis aganis Ewfame M^cKalzeane and Barbara Naper, quhair the maist pairt of the Assfouris war domestik seruandis to his Maiestie; this famin alledgeance being than proponit and repellit. As to the last obiectioun, that he is partie grevit, it is alse irrelevant, becaus the pannell hes na partie bot the Kingis Maiestie, and ar only accused for Treffone aganis his Maiestie and estait; and thairfoir the said alledgeance aucht to be repellit.

It is forder allegit aganis *The Laird of Sesfurd*, that he can nocht be vpon this Assyse, in respect of the deidlie feid standing betuix Robert Hammiltoune on the ane pairt, and the kin and freindis of William Home of Coldounknowis, quha is secund and thirdis with the said Laird of Cesfurd, on the vther pairt.—It is anfuerit be the aduocat, that the alledgeance aucht to be repellit, except it war qualifeit, the said Laird of Cesfurd to be partakear of the said deidlie feid;

and forder, it is na relevant obiectioun aganis the vther tua, becaus it may verie weill be, that the ane be clene and the vther tua foull, *aut contra*.—It is anfuert, that the caus is fa conjunct and can nocht be devydit, and thair is litescontestatioune maid in this caus aganis thame all.—The aduocat anfuertes, thair is na litescontestatioune maid, vnto the tyme an Assyfour be fuorne.—Anfuert be the pannell, that the repelling of the defenffis and proceiding to the electioun of the Inqueist and proponing of the objectiounis aganis said perfonis, is nocht litescontestatioune.

It is alledgit aganis *The Laird of Carmichell*, that he can nocht pas vpon this Assyfe, in respect of the objectionis proponit aganis the Laird of Sefurd, and namelie the said deidlie feid, quhilk the pannell repetis, standing betuix the said Robert Hammiltoune and the laird of Waftra, for the slauchter of his father, to quhome the said Laird of Carmichell is thrides of kyn: And forder, allegis that bayth he and the Laird of Sefurd ar of his Maiesteis Counfall, quhais slauchter is allegit to be conspyrit; the samin being speciall circumstance of the Ditta, sua that they are bayth parteis in effect.—The aduocat repetis his former answer, and that thair being counsalouris to his Maieftie, makes thame to be mair qualifeit and les suspect to pas vpon this Assyfe. The pannell repetis the samin alledgeance maid aganis the Laird of Cesfurd, anent the feid betuix Robert Hammiltoun of Inchmauchane, to quhom *the Laird of Pharniherst* is kynisman in the lyk degree.—The aduocat repetis his former answer, maid to the obiectioun aganis the Laird of Sefurd.

It is allegit, that *Sir Thomas Erskene* can nocht pas vpon this Inqueist, in respect of all the alledgeances proponit aganis the Laird of Sefurd, except the deidlie feid, as secund and thirdis of kyn and betuix; and forder, he is nocht ane barroun, thair being tua barronis vpon the pannell.

The pannell proponis aganis *The Sir Robert Meluill Younger*, that he can nocht pas vpon this Assyfe, in respect of the haill alledgeances proponit aganis the Laird of Sefurd, quhilk thair repeat: and forder alleges, that the said Robert is na barroune.—The aduocat anfuert, that he is barroun of Brunteland.—The pannell anfuert, that his Infestment is tane away be Act of Parliament.

It is alledgit, that *The Guidman of Manderstoune* is na barroune.

It is allegit, that *The Laird of Ruthven* can nocht pas vpon this Assyfe, in respect he is nocht xxv 3eiris of aige; and as he may nocht be a juge nor a tuteur, na mair can he pas on ane Assyfe.—It is anfuert be the aduocat, that the samin aucht to be repellit, in respect he is past xxj 3eiris.

THE Justice Repellis *The Laird of Ruthven*, in respect of his awin declaratioune, that he is nocht xxj 3eiris of aige.

As for *The Laird of Robertland*, repetis the haill alledgeances maid aganis

the Laird of Sesfurd : And forder, it is alledgit that he can nocht pas vpon this Affyse, in respect of the deidlie feid standing betuix the Cunninghames and Montgomeries ; the Laird of Duntraith being thridis of kyn with the Erle of Eglintoune that deid in the Cannogait.—The aduocat anfueris, it aucht to be repellit, except he be partaker of the feid, quhair of the contrar is notour.—It is allegit, the Band makis the feid.

ASSISA. Sir Johnne Gordoune of Lochinvar, Thomas Makdougall of M^cKairtoun.

The pannell repeitis the hail allegeances aganis *Sir Hew Carmichell Youngar*, quhilkis war maid aganis the father.—The aduocat repeitis his anfuer.

It is allegit that *Mr Williame Leslie of Cunllie* can nocht pas vpon this Affyse, in respect that he is a Prelat ; and forder repeitis the hail allegeances maid aganis his Maieftis domestikis.—The aduocat anfueris, it aucht to be repellit, in respect of the present estait of the Kirk.

It is allegit aganis *Mr Patrik Mortoun*, that he is nocht landit, and that he is a kirk-man, and can nocht be reffaut. The aduocat repeitis the former anfueris.

[CURIA JUSTICIARIE tenta in Pretorio de Leyth, per M. Jac. Foulis, J. D.]
Forgery of an Act of Parliament, and getting it printed and circulated.

Feb. 21.—Mr JOHNNE HOWIESOUNE, Minister att Cambuslang.

Dilatit of the treffonabill falcifeing, forgeing and feinzeing of an alledgeit Act of Parliament intitulat, ‘ Anent the aboleifching of þe Actis contrar the libertie of þe trew Kirk and aboleifching of þe Jurisdictione, as maid in þe Parliament haldin att Ed^r the penult day of Maij, the 3eir of God I^mV^llxxxij 3eiris ;’ corruptand thairby ane trew Act of Parliament concerning the said mater, maid be the Kingis Maieftie and thre estaits, in the Parliament haldin at Ed^r vpoun the fyft day of Junij, the 3eir of God I^mV^llxxxij 3eiris, intitulat, ‘ ffor aboleifching of þe Actis contrar the trew Religioune ;’ quhilk trew Act being treffounable falcifeit, corruptit, alterit, and in sum pairtis eikit be him, and in vther substanciall articles thairof pairit ; as the famin, conferrit with the said fals Act schawin and produceit, bure, he delyuerit the said fals Act in the moneth of Maij or thairby, in the yeir of God I^mV^llxxxiiij 3eiris, to Robert Waldgrave, prentar, moveit, perfwadit, vrgeit and intyfit the said Robert to imprent the famin and publeis itt, as haifand the Clark of Register autentik Warrant of the famin subscriuit with his hand, and the Kingis Maieftis priueledge for imprenting thairof : And incontinent eftir the said Mr Johnnis causing, command, assistance and ratihabitoune, the said Robert had imprentit the famin, the said Mr Johnne bocht and reffaut fra the said Robert fourtie or fiftie copeis thairof, and treffonable

publeiffit and disperfit the famin amangis our fouerane lordis liegis; in manifest and oppin contempt of his hienes authoritie and lawis, and he wes authour, perfwader, airt and pairt of the falcifeing, imprenting and disperfing thairof, and thairby committit Hie Treffoun, and aucht and fould incur and vnderly the pane thairof.

PERSEWAR, Mr Thomas Hammitoune of Drumcarne, aduocat.

The said Mr Johnne Howiefoune becummis in the Kingis will, according to his Confessioune, maid att Halyruidhous the xv. of Februar instant. The said Mr Johnne takis instrumentis, that he apperis heir vnsummond and vnwardit. The said Mr Johnne Howiefoun alledgeis, that he knew na thing of that Act of Parliament that he gaif in to be prentit to Robert Waldgrave, quhairof he is presentlie accufit, bot that it had been the trew Act according to the Register; and that he gaif it to him as it was gewin to him be Gylbert Tailzeour, safar as he knawis, with vthir Actis of the Generall Assemblie; and that Robert Waldgrave, being delyrit be sum of the bretherene, to print that Act quhilk wes pronuncet att Dundie to the Generall Assemblie thair, the said Mr Johnne, thinking that it had bene trew as he had it in his buik, delyuerit the said buik to the prentar, quhilk contenis mony maer Actis nor the said Act: And als, he gaif him no command to prent the said Act. And as to the Dittay, as it is confaut aganis him, denyis it euerie word, except safar as greis with his Depositioun and Declaratioun fubfcryuit with his hand, and his present declaratioune. For the quhilk he becumis in his Maieftis will.

The aduocat produceis Mr Johnne Howiefounis Depositioun, fubfcryuit with his hand, togidder with Robert Waldgrais Depositioun, togidder with the fals imprentit Act, with the autentik Act fubfcryuit be the Clerk Register, for veri-feing of the Dittay. The Aduocat protestis, infasar as be the Depositioune produceit in proces, fubfcryuit with the said Mr Johnnis awin hand, it is confest, that he delyuerit the said Act quhilk wes prentit be Robert Waldgrave, for the quhilk the said Robert wes wairdit; and that he had na Warrant of the Clark of Register, nor ony vther, to delyuer that Act to be prentit, quhilk wes done be him of ignorance; ffor the quhilk he become in his Maieftis will: As lykewyis, be his Declaratioun dytit be him selff and writtin, in proces, the famin Confessioun and becuming in will is in effect repetit and mair amplie declarit, and of his awin buik produceit out of his awin hand, to be sene be the Assyse, and confestit to haif bene delyuerit be the pannell to Robert Waldgrave, as contenand ane copie of the Act, quhilk sum of the bretherene of the Ministerie blameit the said Robert to haif omittit in the impreffioune of the remanent Actis of the Kirk: And that be conference of the copie thairof contenit in the said buik with the imprentit Act, it is fund to agrie with the said prentit Act word be word,

and the said copie and prentit Act being red to the Affyis and fund altogidder disconforme to the trew and autentik Act extractit and subscryuit be the Clark of Register, lykewyis produceit in sam proces, the said prentit Act omittand mony of the substanciall heiddis of the trew Act, and in vthir partis eikand clauffis and articles nocht contenit in the said trew Act: And that it is confessit lykewyis be the pannell, that he bocht diuerse of the said prentit Actis fra the said Robert Walgrave, as vtheris Ministeris did, and disperfit sum of thame to Ministeris, quhilk man of necessitie infer foirknowledge of the prenting of the said Act, and ratihabitoun eftir it wes imprentit; in cais the Affyis acypte the pannell of airt and pairt of the said cryme, protestis for Wilfull errour.

The said Mr Johnne Howiesoune Protestis, that na thing alledgeit be his Maiesteis aduocat can ony wyis hurt or indamnage the said Mr Johnne, vnles that he had confessit that he had athir forgeit or writtin the Act quhairvpoune he is accusit, quhilk he did nocht; nor zit gaif ony copie thairof to Robert Waldgrave, bot only schew to him the said buik, with the leif thairof laid in, quhair the Act standis yit as it did thane; nather did he gif him ony command to imprent the samin; and thairfore the said Mr Johnne alledgeit he aucht to be acypte of the Dittay according to Justice and guid conscience; quhilk he belewis the Affyis will do, and will nocht tak innocent blude vpoune thair heidis.

VERDICT. The quhilk day, Mr Johnne Howiesoune Minister at Cambuslang being enterit on pannell, dilatit, accusit and persewit be Mr Thomas Hammiltoune of Drumcarne and Williame Haert of Lewielandis aduocattis to our fouerane lord for his hienes interes, for the tressonable falsifeing, &c. (here the Dittay is repeated.) The quhilkis crymes, the said Mr Johnne, eftir reding of his said Dittay and accusatioun, alluterlie¹ denying, eftir diuerse alledgeances and declaratiounis maid be him of his innocencie thairof, and anfuers maid thairto be the Aduocattis, he offerit him to the tryell of ane Affyise for the saidis crymes: And thairfore the Justice-depute patt him to the tryell of ane Affyis of the persounes vnder written, thay ar to say Cornelius Cudbert Merchand burges of Edinburghe,² &c. Quhilkis persounes being chofin, sworne and admittit, and the said Mr Johnne Howiesoune being accusit, be Dittay, of the crymes aboue writtin in thair presens: Lyke as the saidis persewaris produceand the said Mr Johnnis Deposition subscryuit with his hand, maid in presens of the Lordis of Secreit Counfall, att Halyruidhous the xv of this instant, togidder with the Deposition of Robert Waldgrave subscryuit with his hand, maid in the Tolbuith of Edinburgh, quhair he wes wardit, the sewint of Februar instant, togidder with the said fals im-

¹ Entirely, altogether.
and 'burgeffis' of Edinburgh.

² It is not necessary to insert the names. They are all 'merchandis'

prentit Act of Parliament, and the trew Act of Parliament extractit furth of the Register, subscryuit be Mr Johnne Skene Clark of Register, to the saidis persones of Assyis, for verifeing of the Dittay; thay remowit altogidder furth of Court, to the Counsal-hous, quhair thay eftir chefing of the said Archibald Geddes (merchand burges of Edinburgh) chancillar, be pluralitie of votis, thay reasonit vpoun the pointis of the said Dittay, and thaireftir votit thairvpoune; and being throuchlie resoluit thairwith, reenterit agane in Court, quhair thay be the mouth of the said Chancillar, fband, pronunceit and declarit the said Mr John Howiesoun Minister of Cambuflang, to be fylit and conuict of the delyuerie of ane alledgeit Act of Parliament intitulat, 'Anent þe aboleifching of þe Actis contrair þe libertie of þe trew Kirk, and aboleifching of þe jurisdiction as maid in þe Parliament haldin att Edinburgh þe penult day of Maij 1592;' and that in the moneth of Maij or thairþy, the yeir of God I^m.V^c.lxxxxiij yeiris, to Robert Walgrave prentar, to be prentit. Quhilk alledgeit Act is eikit, alterit and pairt¹ fra the trew Act of Parliament maid be the Kingis Maiestie and his thre Estaitis, in the Parliament haldin att Edinburgh, the fyft day of Junij I^m.V^c.lxxxij yeiris, intitulat, 'ffor aboleifching of þe Actis contrair þe trew Religioun:' As the samin, extractit and subscryuit be the Clark of Register beris: And eftir the samin being prentit, for ressauing and bying of ane certain number prentit copeis thairof fra the said Robert,² and distributing and dispersing of the samin amangis our souerane lordis liegis: And fband the said Mr Johnne Howatsoun to be cleane, innocent and acquit of all vthiris pointis, heidis and clauffis, contenit in the Dittay and accusatioun aboue writtin, gevin in aganis him.

[*Curia tenta in pretorio de Leyth, per M. Jac. Fowles, J. D.*]

Forging and Uttering Base Coin.

Mar. 15.—ALEXANDER NEILSOUN (ARNEILL) burges of Glasgw.

Dilatit of the tressonabill fforgeing, counterfuting, prenting and out-putting of ffals and adulterat money, sic as twa penny-plakis, half markis and fourtie penny pecis, to the avail of ffyve hundreth poundis worth, (within his awin hous in the New Wynd of Glasgw); committit in the haill monethis (of the years) 1592-93-94 and 95, and in the monethis of Apryll, Maij, Junij, Julij, August and September last.

VERDICT. The Assise (with the exception of four, who 'ffyle' him of out-putting of fals twa-penny-plakis) Acquit the said Alexander Arneill.

¹ *Pared*, abridged.

² See the case of Robert Waldegrave printer, Feb. 2, 1596-7, &c.

Murder — Hamesucken.

Apr. 11, 1597.—PATRIK CWNINGHAME, feruand to vmq^{le} Dauid Edmestoun of Burnhouffis.

Dilatit of art and part of the crewall murthour and slauchter of vmq^{le} George Prestoun of Haltrie ; committit in September, anno

Declaris, that he past away with the said vmq^{le} Dauid Edmestoun of Burnhouffis, and that he was haldand his horse quhill he come bak.—Mr Johnne Prestoune takis instrumentis vpoune the admissioun and swering of the Assyis.

VERDICT. The Assyis in ane voce convictis and fylis the said Patrik Cwninghame, seruitour for the tyme to vmq^{le} Dauid Edmestoun of Burnhouffis, off art and part of the crewall Murthour and slauchter of vmq^{le} George Prestoune of Haltrie ; committit the vj of December 1588, be way of Murthour and Hamesuckin, vpoun sett purpois and prouifioun.

SENTENCE. ' Convict et decollat.'¹

[*Mr Williame Haert of Leuielandis, Justice-Depute.*]

Paricide.

Jun. 15.—WILLIAME MOW, hatmaker, burges of Edinburgh.

Dilatit of the abhominabill cryme of Paracide, in hurting and wounding of Andro Boirthuik burges of the Cannogait, his guid-fader ;² committit the xiiij day of Februar lastbypast.

PERSEWAR, Mr Robert Lyntoun Aduocat substitute to Mr Thomas Hammiltoun of Drumcarne.

The quhilk day, the said Justice-Depute produceit the Warrant vnderwrittin, quhilk he desyrit to be infert in proces ; quhair of the tennour followis.

Rex,

JUSTICE and Aduocatis, We greit 3ow weill. It is our will and we command 3ow, that vpoun the sicht heirof 3e faille nocht to insit in accusatioun and tryell of þe vnworthie attempt of Williame Mow hatmaker, aganis Andro Boirthuik his guid-fader : And gif he becum in our will for þe same, that 3e accept and put him immediatelie to libertie, vpoun sufficient caution fund be him, to vnderly quhat ewir we fall declair heirestir to be our will, for his said cryme ; vnder þe pane of ane thousand poundis : Kepand þis present for 3our warrand. Subscryuit with our hand, Att Falkland, the xij day of Junij, 1597.

(Sic subscribitur)

JAMES REX.

The quhilk day, William Mow hatmaker, burges of Edinburghe, being enterit on pannell, accusit be Dittay and persewit be Mr Robert Lyntoun, substitute aduocat to Mr Thomas Hammiltoun of Drumcarne aduocat, of the abhominabill cryme of Paricide (and) Brigancie³ vnder nycht ; committit be him vnder nycht, vpoun the xiiij day of Februar lastbypast, of sett purpois, precogitat malice and foirthocht fellony, vnder cullour of freindschip, as eftir followis, to wit.

¹ The sentence and execution are recorded on the margin. ² Father-in-law. ³ O. Fr. *briganderie*.

DITTAY of *Williame Mow*.

FORSAMEKILL as he haifing confaut ane deillie haitrent, rancour and malice aganis Andro Boir-thuik baillie in the Cannogait, his fader-in-law, feiring that the said Andro fould haif difponit his landis, heretage and guidis by¹ him, he haifing na airis maill gottin of his awin body to succeid to him; the said Williame, vponne the said xiiij day of Februar lafbypaft, being the Sabboth day eftir the preiching, tuik in heid to execute his abhominabill fact foirfaid; and trafonablie, vnder cul-lour of freindschip and familiaritie, perfwadit his said fader-in-law to pas with him, in the foir-nycht,² furth of his awin hous in the Cannogait, be Pleafance, to the Schenis,³ quhair he affermit to the said Andro, that his guidbrothir Henry Tait hurt Johnne Fynlafounne feruand to the Laird of Roifling, quhair of he wes lyke to die, and defyrit thair to speik with him; and durft nocht, for feir of his lyffe, to be fene in the day lycht: And that he wald putt the said Williame in poffeffion of his fteiding and guidis; albeit thair wes na fick thing of veritie, bot fallie devyfit be the said Williame be fubieftioun⁴ of the Ewill Spreit; to the effect that vnder fylence of nycht, the said Williame Mow mycht haif the better oportunitie to haif murthourit his fader-in-law foirfaid, feireitlie in the feildis, vnder fylence of nycht as faid is. And he haifing craftelie convoyit the said Andro to the place foirfaid, thair being na fic tryift⁵ and meting as the said Williame affermit to him, the said Andro and the said Williame re-turnit to the Potter-row,⁶ and the port being steikit, becaus of the nycht,⁶ he perfwadit the said Andro to pas in the nerrest throw the Bak-row⁷ be the Toun wall, being ane privie paffage that leidis to Pleafance; and thair, vnder fylence and cloud of nycht, he feireitlie, crewallie and vnmercifullie fet vponne his said fader-in-law, behind his bak, with ane drawin quhingar⁸ in his hand, gripit him be the craig,⁹ and gaif him twa grit ftraikis in the heid; doing thairby that in him lay, thair feireitlie vnder nycht to haif murthourit his ageit father-in-law foirfaid, for greid of geir and land; quhilke he had accomplifchit, gif God had nocht strenthenit the said Andro to mak sum defens for his lyff, be griping of the said Williame in his airmes, and cafting of him vnder the said Andro to the ground, and thrawing of his drawin quhingar furth of his hand; and nochttheles, haifing the said Williame in his will, fpairit his lyffe: Quhairby the said Williame wes giltie of the cryme foirfaid, and aucht to be pwneift thairfoir.

Eftir the quhilke accusatioun, and reding of the Dittay to the said Williame Mow, he maift humblie fubmittit him felff, and become in our fouerane lordis will for the famin, and hail crymes and offences contenit in the said Dittay. In quhais will the said Justice reffaut him, and ordanit the said Williame Mow to find cautioun, for fatisfacioun of the said Will, vnder the pane of ane thowfand poundis; and the famin being fundin to be putt to libertie. Lyke as, Robert Cowdoun in Dalkeith, Williame Veich thair, Thomas Stewinfoun in Bryans and Robert Waddell baxter burges of Edinburgh, become actit and obleift as cautioneris and fouerteis, conjunctlie and feuerallie, for the said Williame Mow, that he fall vnderly quhat ewir our fouerane lord fall declair heirefter to be his Ma-jeifteis will for the saidis crymes, vnder the pane of ane thowfand poundis; Lyke as alfwa, thair become pledges and fourteis for the said Williame Mow, that the

¹ Past. ² The early part of the evening. ³ Districts of Edinburgh, then without the walls of the city. ⁴ Suggestion. ⁵ Appointment. ⁶ The Potter-row-port being shut at that time of night (Sunday). ⁷ The Back-row stood in the line of the city wall, apparently where Drummond street is now built. ⁸ A sort of short sword, cutlas or *hanger*. ⁹ Throat.

faid Andro Boirthuik, his kyn, freindis, tennentis and seruandis falbe harmles and skaythles of the faid Williame Mow, and of all vthir wyis, quhome he may ftop or latt,¹ and that he nor thay falbe nawyis trublit, moleffit or perfewit be him, vthirwyis nor be ordour of law and Justice, vnder the faid pane of ane thowfand poundis : As alfwa the faidis Cautioneris obleift thame and ilkane of thame to vther, to freyth, releif and keip fskaythles vtheris² *pro rato* for the fourt pairt of the faid penaltie, att the handis of our fouerane lord, his hienes Thesaurer and all vtheris quhome it efferis.—Williame Mow also obliged himself, in due form, to relieve his cautioners.

Slaughter.

Jul. 11.—ALEXANDER YOUNG, ane of his Majesteis Ischeris, Thomas French and James Dot, his seruandis.

Dilatit of airt and pairt of the slauchter of vmq^{le} George Mylne in Pittinweme, committit in Apryle lastbypaft.

Mr Thomas Hammiltoun, aduocat, produceit his Maiesteis Warrant ; quhair- of the tennour followis.

Rex,

JUSTICE, Justice Clerk and 3our Deputis ; We greit 3ow wele. Forfamekill as it is vnderstand to ws, that there is tua feuerall dyattis appointit to our seruitour Alex^r 3oung, ane of the Ischeris of our chalmer, the ane the xj day of Julij instant, att pe instance of our aduocat ; and pe vpr^r att pe instance of pe partie, the xxj day of pis instant, ffor calling of pe faid Alex^r to vnderly our lawis before 3ow, for airt and pairt of pe alledgeit slauchter of vmq^{le} . . . Mylne in Pittinweme ; as pe Lettres *respective* beris : Nochtwithstanding, being credible informit that the mater is submittit to freindis, to be takin away in amicable maner, and pe paking vpr^s pairof liklie to be effectuat, feing our information procedis of pe freindis of aper⁴ of thay parteis to quhome the famin is submittit : It is thairfore our will, and we command 3ow, that 3e desert bayth the faidis dyattis and Lettres, and ceis from calling or proceeding aganis apr^r of pe faidis parteis or pair cautioneris pairatt, in defalt of pair comperance or vpr wayes ; that the mater may be better handlit and reconcelit be pe freindis : As 3e will anfuere to ws, vpoun 3our offices and obedience ; keipand pir presentis for 3our warrant, Subfcryuit with our hand, Att Sanct Androus, the day of July 1597.

(Sic subfcritur)

JAMES REX.

Quhilk Warrant being red, the faid Justice depute admittit the famin, and ordenit the lettres rafit to this day, att the instance of the Aduocat, aganis the faid Alex^r Young and his seruand, and the vther Lettres rafit, att the parteis instance, aganis the faid Alex^r and his seruandis, for the slauchter of the faid vmq^{le} George Mylne, to the xxj day of this instant, to be Desert. Quhairvpone, the faid Alex^r Young askit instrumentis.

¹ Let, hinder, control.
compromising.

² To free and relieve each other, &c.
⁴ Each, *either* of these parties.

³ Adjusting, settling.

Slaughter.

Jul. 23.—ANDRO REWLL, Wobster (weaver) in Corstorphin.

Dilatit of airt and pairt of the slauchter of vmq¹⁰ Johnne Rewll his sone, ane barne of xij 3eir auld; committit the (xxj) of Junij lastbypast.

VERDICT. The Assyis chuse Robert Varnour (of Auchindinny) Chancillar; and in ane voce ffylis Andro Rewll, wobster, of the murthour and slauchter of Johnne Rewle, his sone, committit ane moneth syne, betuix Corstorphine and Edinburghe, be the straik of the plwmet¹ of his sword vnder the vayne organe.²

SENTENCE. For the quhilk, the Justice, be the mouth of Williame Gray, dempstar, (ordanis) that the said Andro Rewle falbe tane to the Castel-hill of Edinburghe, and thair his heid strikin fra his body; and all his movabill guidis ordenit to be escheit to our souerane lordis vsé.

Slaughter.

Jul. 27.—ROBERT POOK (POLLOCK) in Nethirplace, James Vrie in Paratais, Alexander Wallace in Pooktoun and George Tod thair.

Dilatit of airt and pairt of the Slauchter of vmq¹⁰ Jonet Biggar, spous to Andro Gilmour in Benwartbank, and ane infant barne in hir wamb; committit the xx day of Maij lastbypast.

PERSEWARIS, Andro Gilmour in Benwartpark, and Robert Gilmour thair,

Continued to the Air of 'Renfrew tertio Itineris, xv dierum. Plagiis, Jacobo Tennent de Lennox (Linhouse), Jacobo Vrie et Alex. Wallace, conjunctum et divisum ad relevand.³

Treason—Assisting Bothwell in taking Leith—Raid of Wowmet or Edmonstone-edge.

Aug. 15.—PATRIK Sleich, sumtyme in Birkinfyde.

Dilatit of breking of waird, he being in Sir George Homes hous in the Cannongait; and for the tressonabill accompaneing of Frances sumtyme Erll Bothwell, James Douglas sumtyme of Spott, quhill thair cuming in to the Abay of Halyrudhous, in the moneth of Julij 1593 3eir.³—ITEM, for the affisting of the Erll Bothwell and Sir James Dowglas, at Leith and the Raid of Wowmet; commit in Apryll lxxxxiiij (1594.)

The Aduocat produceit the Kingis Warrant to put the said Patrik Sleich to ane Assyse.—The aduocat protestis for Willfull errour, in caise thay (the assise) acquit the said Patrik Sleich of the Dittay; in respect of his awin Depositione

¹ So termed, from lead being usually run into the plummet or *pommel* of a sword, to balance its blade. ² The jugular vein. ³ This appears to be partially deleted, perhaps owing to the Dittay being so fully narrated in the Verdict of the Assise.

produceit, subfcryuit be the Justice Clark, the Aduocates selff and the Justice Depute; in the quhilk he confeffis the cryme, albeit he deny the famin now. The aduocat (also) defyris the Warrant produceit be him, subfcryuit be his Maieftie, to be infert in proces; quhair of the tennour followis.

REX,

ADUOCAT, We greit 3ow weill. Forfamekle as We haue commandit our Justice, Justice clark and thair deputis to put Patrik Sleich, presentlie wairdit within our Tolbuith of Edinburghe, to þe knowledge of ane Affyse with all diligence, for his tressonabill being in cumpany and affisting of Frances sumtyme erll of Bothwell att þe confict att Edmeftoun-edge. It is pairfore our will, and we command 3ow, that 3e forme ane speciall dittay vpoun þe saidis crymes, and infist in perfuit of him for þe same with all instance: As 3e will anfuer to ws vpoun 3our office; keþand þir presentis for 3our warrant. Subfcryuit with our hand, Att Falkland, the fyft of August 1597.

(Sic subscribitur) JAMES REX.

VERDICT. The Affyse, be the mouth of James Lokert, elder of Ley, Chancellor, Fand, pronunceit and declarit the said Patrik Sleich to be fylit, culpabill and convict: Forfamekill as he, in the moneth of Apryll, J^m V^c lxxxxiiij yeiris, come tressonablie, in cumpany with Frances sumtyme Erll Bothwell and vtheris his cumpanie, to the number of iiij^c personis, vnder Capitan and cornett, bodin in feir of weir, &c., to the toun of Leith, quhair thay tressounablie tuik the said toun, the Magistrates thairof and Tolbuith of the famin, of purpois to haif forfeit the said toun: And feing his Maieftie come with ane number of his trew subiectis, to besedge thame thairin, thay drew thame selff furth thairof to the landis of Nudrie, quhair his Maieftie, with his cumpany, following, on horse and fut, thay tressonablie fett vpoun thame and chaift thame, tuik ane grit number of his trew liegis, hurt and woundit ane vthir pairt thairof; and swa, he committit oppin and manifest Tressoune.

SENTENCE. For the quhilk cryme, the Justice depute Ordanit the said Patrik to forfeit his lyffe, landis and guidis, and to be tane to ane gibet att the mercat croce of Edinburghe, and thair hangit quhill he wes deid: Pronunceit be William Gray, dempflar.

Bearing and Wearing of Pistolets.

Oct. 18.—WILLIAM HAMMILTOUNE, seruitour to Dauid Dundas of Preistinch, and Alexander Mowbray, brother to vmq^h Johnne Mowbray of Barnbowgall.

The quhilk day, the personis aboue writtin being enterit on pannell, dilatit of airt and pairt of contravening of the Actis of Parliament, in bering and wering pistolettis vpoun thair personis, within the burcht of Edinburghe, in the moneth of August lastbypast: For the quhilk thay wer tane and apprehendit be Henry Nisbet, provest of Edinburghe: And being demandit of the Justice quhidder

they wald cum in his Maieftis will thairfor, or abyde the tryell of ane Affyfe for the famin? Thay declarit, that thay, the tyme of thair challengeing, wer myndit to pafs furth of the bur^t of Edinburghe with thair piftolettis; and nochtwithftanding, thay wald becum in his Maieftis will, for ony offens done be thame to his Maieftie, in bering of the faidis piftolettis, or to the faid Proveft of Edinburghe, or ony vtheris.

NOV. 1.—THE KINGIS WILL about *William Hammiltoun, fervitour to David Dundas of Preiftinch.*

The quhilk day Williame Hammiltoun, being enterit on pannell to heir our fouerane lordis will declarit, for the cryme vnderwrittin; compeirit Mr Thomas Hammiltoun of Drumcarne, aduocat to our fouerane Lord, and produceit the Warrant vnderwrittin, and defyrit the famin to be regiftrat, quhair of the tenour followis.

APUD LINLYTHGW, xx^o Octobris, anno lxxxxvij. FORSAMKILL as Williame Hammiltoun, fervand to David Dundas of Preiftinch, being takin, apprehendit and committit in waird, and pairefter presentit to justice, accufit and perfewit, for bering and wering of piftolettis, and presenting of pe fame to the Proveft of Edinburghe; the faid Williame become in his Maieftis will, for pe faid cryme, being verry haynous and capitall, mereting feueir puneifchment: git his Maieftie, of his speciall grace and mercy, forbering that rigour and extremetie, quhilk worthielie may be vfit aganis pe faid Williame, and mitigating justice with mercy, hes declairit, and be pir presentis declairis, his Maieftis will as followis, to witt: That the faid Williame, within pe space of fourtie dayis eftir pe dait hereof, fall depairt and pas furth of pis realme, remane as exylit and baneift furth pair of during his lyftyme; and on na wyis return agane within the samyn, vnder pe pane of deid: And ordanis his Maieftis Justice and aduocat to cais ane Act of Adiornall to be extendit heirvpoun; and publicatioun heirof to be maid att all places neidfull, quhairwith nane pretend ignorans of pe famin.

(Sic fufcribitur) JAMES R.

SENTENCE of perpetual Banifhment. According to the quhilk Warrant, the Justice Depute pronouneit his Maieftis Will aboue writtin, and ordaneis the faid Williame to be baneift this realme for the cryme aboue (writtin) during his hail lyftyme; and on nawyes to return agane within the famin, vnder the pane of deid.

Sorcery and Witchcraft.

[APUD LINLYTHGW, *Mr Williame Haert of Lewielandis, Justice-Depute.*]

Oct. 19.—CAPITAN PATRIK HERING.

The quhilk day, comperit Sir Williame Menteith eldar of Keufe, kny^t, Williame Menteith, his foun and aperand air, and Mr Thomas Hammiltoun of Drumcarne, aduocat to our fouerane lord, for his hienes interes, as perfewaris, and produceit his Maiefties Lettres, dewlie execute and indorfat, purchest att

thair instans, aganis Capitan Patrik Herring, be vertew of the quhilkis lettres said Capitan Patrik Herring is lauchfullie denuncit his Maieftis rebell and putt to the horne att the mercatt croce of Striuling, vpoune the aughtene day of October instant, for nocht finding of caution, that he fould haif comperit before the Justice or his Deputis this day and place, and vnderlyne the law for certane crymes of Sorcerie and Witchcraft, as att lenth specifit in the saidis Lettres: And protestit for releif of thair caution, fundin for perfuit of the saidis Lettres and forder proces aganis the saidis Capitan Patrik Herring; quhairvpoun thay askit instrumentis.

Comperit Williame Ilwid in Stirling, and producit ane Letter and Precept, directit fra his Maieftie to the Justice, Justice Clark and thair deputis, and desyrit the samin to be obeyit and insert in proces; of the quhilk Precept the tenour followis.

REX.

JUSTICE, Justice clark and your deputis, We greit you weil. Forfamekill as our lout, Capitan Patrik Herring is summond, att pe instance of pe Lairdis of Kerse, eldar and younger, to vnderly pe lawis befor you and your deputis, in pe Tolbuith of Lynlythgw, the nyntene day of October instant, for certane crymes of Wichcraft allegeit aganis him; We, for findrie reafonable cauffis and considerationes moving us, willis and commands you and ilkane of you, to continew pe said day and all proceeding agenis pe said Capitan Patrik Herring in pe said cryme, vntill pe tent day of December nixtocum, to be haldin in pe Tolbuith of Striuling; dischargeing you and ilkane of you and your deputis, be pir presentis, of ony calling or proceeding in pe said mater vntill pe soirsaid day and place: The Cautioneris of baith pe saidis parteis standand in pe same forme and effect as thay ar now, vntill pe said day; but preiudice of ap of pe saidis parteis. Subscryuit with our hand, Att Dunfermling, the xvij day of October instant, 1597.

(Sic subscribitur) JAMES R.

Vpoun the production quhair of the said Williame askit Instrumentis.

It is allegeit be the perfewaris, that nochtwithstanding of the Warrant produceit, that the Justice aucht to proceid and minister justice to the parties, according to the lawis and Actis of Parliament, becaus the Warrant produceit is ane privat Warrant, to the hinderance of justice, quhilk my Lord Justice, be Act of Parliament, is ordenit nocht to respect, but to proceid nochtwithstanding of the samin: As also, the Warrant contenis ane command to continew the dyet, quhilk can nawyis be done, be the ordour and practik obseruit in the countrey; seing in continewatiounis, quhilkis ar actis judiciall, it is necessar that the judgement be estableiffit be the presens of thre personis, the Judge, the perfewar and defender; and the defender being now absent, thair can be no lauchfull continewatioun maid, bot the certificatioun of the Lettres man be grantit aganis him: And gif he be nocht alreddie lauchfullie denunceit, he aucht to be putt to the horne of new; and gif na caution be fund, as thair is nane, his cautioner fould be vnlawit.

The Justice, in respect of my Lord Aduocatis ansuer, and be reafoun of abfens of partie defendar, without quhais personal comperance thair can be na certane comperance to ony certane day, and in respect also of his Maiefteis Letter, difchargeing all proceeding this day, Desertis the dyet, to new wairning to the thryd day of the nixt Justice Air of the Sheref dome quhair the said Capitan Patrik Herring duellis, or foner, vpoun xv dayes wairning. Quhairvpoun the saidis perfewaris askit instrumentis.

Witchcraft—Sorcery—Incantation, &c.

Nov. 12.—JONET STEWART, in the Cannogait; CHRISTIAN LEWINGSTOUN, in Leyth; BESSIE AIKEN, thair; and CHRISTIAN SAIDLER, in Blakhous.

Dilatit of the crymes of Wichcraft vnderwritin.

VERDICT. The quhilk day, the personis of Assyse being chofin, sworne and admittit; and the personis on pannell being accusit, be Dittay, in thair presens, of the crymes vnderwritin, removit furth of court; quhair, eftir chusing of Henry Lummisdane (in Edinburghe) Chancellor of the said Assyse, thay reafsonit and votit vpoun the poyntis of the said Dittay; and being throuchlie auysit thairwith, reenterit agane in Court, quhair thay, be the mouth of the said Chancillar, fand, pronunceit and declarit the said CRISTIANE LEWINGSTOUN to be fylit and convict of the abusing of Thomas Gothray, baxter in Hadingtoun, vnder pretext of Witchcraft, quha addressit him selff to the said Cristian as ane wyse woman, haifing knaulege in the foirlaid airt, and sayd to hir that he was witchit, and that his geir went fra him; quhilk scho affirmit to be trew, and promesit to help him, and fuld lat him sie quhair the Witchcraft was laid: Lyke as, the morne thaireftir, scho tuke him doune his awin stair and hakkit¹ a hoill with ane knyffe, and tuke out a lytill polk of blak plading, quhairin was sum pickellis of quheit, sum threidis of wirset of diuerse cullouris, hairis and naillis of mennis fingeris, and affermit that he was witchit be that meanis; and baid his wyffe keip² thame in hir aprone, and cast thame in the fyre; quhilk was done immediatlie thairefter: And than scho sayd, gif scho had nocht fund out this geir, thay wald haif bene wrakkit bayth in body and geir: Quhilk scho deponit in presens of my Lord Justice, vpoun the tent day of Julij lastbypast, to be of veritie: And forder sayd, that scho laid in this graith her selff, in the nycht, in a hoill vnder the stair; and nochtheless maid Gothray and his wyffe to beleif it was Witchcraft layd in be ane vther: Lykewyis, at the samyn tyme scho affermit that hir dochter was tane away with the Farie-folk, and declarit to Goth-

¹ *Howkit*, dug.

² *Keep*, is perhaps used for *kep*, catch, indicating that the witch directed Thomas to toss them towards his wife, who would receive them in her apron, &c.

rayis wyff, than being with barne, that it was a man chyld scho was with ; as it provit in deid : And that all the knowlege scho had was be hir dochter, wha met with the Fairie.—ITEM, indytit and accusit, that scho and CRISTIAN SAIDLER, being consultit be Robert Baillie, mafoune in Hadingtoun, to cure his wyffe, quha allegeit hirselff to be bewitcheit, scho, at the said Cristian Saidleris desire to gang and cure hir (went;) and than the said Cristian Saidler bad hir tak thre pyntis of sweit wirt,¹ and seith it with a quantitie of fresche butter, to a pynt ; quhilk scho gaif hir to drynk : And siclyke, to gif hir a bath in a pot of wodbind and rofet hett togidder ; quhilk scho did, bot availit not ; doing thairbye, baith scho and the said Cristian Saidler, that in thame lay to abuse the said Robertis wyffe, promessing to cure hir be hir craft, quhilk scho was nocht able to do : And this was done vnder cullour of Witchecraft.—ITEM, indytit and accusit lykewyis, that schortlie befor scho was apprehendit, scho was fend for be the said Cristian Saidler to hir hous, and at hir cuming the said Cristian desyrit hir to gif her selff furth for a wyife wyffe and a woman of skill ; and said to Andro Pennycuke of that Ilk, being than seik in her hous, that scho fend for hir as being a wyife-woman to help him ; and than the said Cristian Saidler bad hir tak weill in hand to haill him, and put him in gude hope : And the said Andro than sayd, that he had bene in the Cannogait with JONET STEWART, and that scho had done him na gude, and beleiffit that scho had witchit him ; and that the sayd Jonet sayd ‘ he suld never haif a day to do weill.’ And than scho, be the said Cristian Saidleris counsale, bad get a reid cok ; quhilk wes done : quhilk scho slew and tuke the blude of it, and scho buke² a bannok thairof with floure, and gaif the said Andro to eit of it ; quhilk he could not preif.³ And thaireftir, scho, at the said Cristian Saidleris desyre, tuke ane of the said Androis farkis, quhilk scho gaif to her, and bad her dip it in the wall⁴ at the bak of the hous ; quhilk scho did, and brocht it in agane ; quhilk Cristian Saidler put vpoun him, wat as it was, being verie evill at eise, and gaif him to vnderstand that he wold get his health be this meanis ; albeit that it wes onlie plane abusione, as the event declarit : And than the said Andro desyrit hir to gang to Jonet Stewart, and craif his health at hir hand for Godis sake.—AND siclyke, fund, pronunceit and declarit the said JONET STEWART to be fylit, culpabill and convict, for cuming to Bessie Inglis in the Kowgait, being deidlie seik, and lycht and tuke aff hir fark that was than vpoun hir and her mutche, and waifchit thame in a South-rynnand water ; quhilk scho did, as scho sayd, at command of vmq¹⁶ Michaell Clark, smyth in Lafwaid ; and put the fark wat vpoune hir at midnycht, and said thryis over, ‘ In þe name of þe ffader, þe Sone and þe Haly Ghaist ;’ and fyrir the water,⁵ and brunt stray at

¹ Worts, the fermented stuff from which ale is brewed.
⁴ Draw-well.

⁵ Put red hot iron into it.

² Baked.

³ Free, taste.

ilk newke of the bed, as the said Michael had leirnit hir; quhilk was done, vnder pretext and cullour of Witchecraft.—ITEM, for hailing of women of the wedonypha,¹ and specialle of Bessie Aitkyn and syndrie vthiris, be taking of ane garland of grene-wodbynd, and causing of the patient to pass thryise throw it; quhilk thairafter scho cuttit in nyne peices and cast in the fyre; quhilk scho affermit scho leirnit, with the rest of hir cures, fra ane Italean strangear callit *Mr Johnne Damiet*, ane notorious knawin Enchanter and Sorcerer; quhilk was lykewyis done vnder the pretext of Witchecraft.—ITEM, fylit for hailing of syndrie perfones diseasit of the falling evill, be hingand of ane stane about thair nek fyve nychtis; quhilk stane scho affermit scho gat fra the Lady Crawford; and swa for abusing of the peple vnder pretext of Witchecraft.—AND siclyke, ffand, pronunceit and declarit the said CRISTIAN SAIDLER to be fylit and convict for abusing of the peple vnder pretext and cullour of Witchecraft; and specialle, that scho and the said *Cristian Levingstoune*, refoirting oft in hir hous, and consultit and devyfit in sik thingis, and nemelie desyrit the said Cristian to tak weill vpoun hand to cure ane Gray in Hadingtoun, quha was alledgeit to be witchit, and come to the said Cristian house to seik remeid thairfoir: Lyke as also, Robert Bailzie come to hir house, craving of her remeid for his wyffe, quha was bewitchit, and scho send the said Cristian Levingstoune to Hadingtoun to her, and bad her tak brwme and cammamyle and seith in quhyte vyne, and gif it to the seik woman to drynk, for the seiknes of her hairt.—ITEM, fforfamekill as Andro Pennycuke being diseasit, be the space of xx oulkis, in hir hous, of the vnderfute,² as scho affermit, and culd nocht haill hir (him), scho send for the said *Cristian Levingstoune*, and baid her tuik weill in hand; and scho said to the said Andro, that scho send for ane wyife-woman, quhilk was the said *Cristian Levingstoun*, quha had skill and wald haill hir (him): And eftir hir cuming, thay tuke a reid cok, flew it, buke a bannok with the blude of it, and gaif the samyn to the said Andro to eit: And thairefter, scho gaif the said Cristian ane of the said Androis farkis, and baid hir dip it in the well behind hir hous, and scho did it, at hir command; and scho put the samyn vpoune him wat; quhairthrow he maist haif fownit³ amang thair handis; thairby abusing the pure gentleman, under cullour of Sorcerie and Witchecraft.—ITEM, that vnder cullour of hir craft and hailing of diseasit perfounes, scho affermit that scho culd haill Leprosie; lyke as, scho tuk in hand to haill the Young Laird of Bargany,

¹ A *weid*, a disease peculiar to women in childbed and to nurses. It occurs among the singular enumeration of diseases in Sir John Roull's Cursing, one of the Poems in the Bannatyne M.S.—'The cruke, the cramp, the colica,—The worm, the wareit wedonypha,—Rimburfin, ripplis and belly-thra.' It is also known by the name of *wyten-on-fa*.

² In Sibbald's Glossary, the word '*underfute*' occurs, as expressive of a 'state of Leprous eruption.'

³ He had almost swooned or fainted away.

quhilk scho affermit scho did, with cure of saw,¹ maid of quick-filuer, and rubbit it on the patient, quhilk scho allegeit scho leirnit at hir fader; albeit scho did the samin be vnlessum meanis, scho haifing na fik knowlege as to cure Leprosie, quhilk the maist expert men in medecine are not abill to do.—ITEM, that vmq¹² Robert Hunter, being diseasit with a flaw in his face, quhilk scho affermit to be Leprosie, scho vfit a cure vpoun him mixt w¹ quick-filuer and gaif him in drynk: God knawis how it wes composit, bot the gentillman deit within xij houris thair-estir, as wes notourlie confest be hir selff, and can nocht be denyit; quhairby scho was giltie of his death, be hir craft, ministring to him vnlessum thingis, quhairof he deit suddenie; and swa scho abusit the said Robert Hunter.—ITEM, ffand, pronunceit and declarit the said BESSIE AITKYN to be fylit, culpabill and eonvict for abusing of the peple, in geving her furth to haill seik perfonis, be putting of thame throw ane girth² of wodbind, thryis thre tymes, and vfit thir wordis, ‘ This in þe name of þe Father, þe Sone and þe Halie Ghaist: ’ Quhilk cure scho practizit vpoun Marioune Wallace in Marlingis-wynde and diuerse vtheris, for a dolour in thair lunze;³ quhilk quhen scho declarit to Jonet Stewart, scho affermit that the said Jonet had hir tak reid nettellis and Alex⁴, and bath hir with, and seith Alex⁵ with fresche butter and rub vpoun hir; and to put the said Marioune Wallace ix times throw the girth of wodbind, at thre feuerall tymes, and xxiiij houris to be betuix ilk tyme; quhilk scho did.—ITEM, for vfiing of the lyke to, a wyffe of Cramond, for curing of hir diseife, quhome scho past throw the girth of wodbind nyne times; and forder, scho tuke Bessie Henderfoune doune the bak-lyde of Nethir Crawmond, and tuke vp nyne sopis⁶ of salt watter and put in a stolp;⁷ and being all in bed or sche come agane, scho waifche⁸ the seik woman, callit Vchiltrie, frome the croune of hir heid to the foill of hir fute, being haldin vp betuix twa sifteris; and syne scho did that in Geillis⁹ name: This was done to Williame Kellis wyffe, and said that his wyffe had twa meidwyffes, and the last had done his wyffe evill; and counsaillat him to send for hir, and ask his wyffes health thryis at hir for Godis saik; and baid him, at hir away-ganging, cast a fyrie coill, and twitch⁹ hir thairwith; and sayd forder, gif the said Bessie had not cum, the said Williamis wyffe had deit: Lyke as also, scho maid a saw¹⁰ of reid nettellis and butter and wodbind, and laid it to the patientis lunzie, as Jonet Stewart had done to hir of before; and pat hir throw the girth: Lyke as, scho caufit to bath hir lunzie with scheippis

¹ Salve or ointment.

² Hoop or circlet.

³ Loins; it ought to have been written ‘lunzeis.’

⁴ An herb, vulgarly called ‘Aleffander,’ ‘*stinkin’ Alschinder*, or ‘loveage,’ with black leaves. *Lat. olus atrum, ligusticum, levisticum.*

⁵ Sowps, sops, or small quantities; probably as much as could be taken up in the palms of the hands joined, at nine times. *Literally*, as much liquid as can conveniently be contained in the mouth.

⁶ Stoup, a wooden vessel for holding water.

⁷ Washed.

⁸ St Giles, the tutelar Saint of Edinburgh.

⁹ Touch.

¹⁰ Salve.

doung.—ITEM, scho confest that scho leirnit of Janet Stewart to tak rawff¹ Spainzie seid, and steip it amang quyte wyne, and gif it to drink, for the fawing-evill.²—ITEM, scho confest alswa, that James Johnstoune, cuming to craif hir counsaile anent his diseis of, scho baid him get a grene gwife,³ with four or fyve kitlingis,⁴ and put the kitlingis in the guise wambe, and roist the samyn; and with the juse and drippingis to rub him; bot put the samyn never in practize vpoune him.—ITEM, forder ffand, pronunceit and declarit the saidis *Cristian Lewingstoune, Jonet Stewart, Cristian Saidler* and *Bessie Aitken* to be fylit, culpable and convict of commoun abufaris of the peple, be geving thame selffis out for Witcheis, and to vnderstand that thai had craft of Sorcerie, abill to haif curit diuerse grit diseiffis and feiknesses; quhilk be na naturall meanis of phifik, or vther lawfull and Godlie wayes, thay war abill to performe.

SENTENCE. For the quhilkis crymes, the said Justice Depute Ordaint the saidis persones.⁵ and ilk ane of thame, to be tane to the Castell-hill of Edinburghe, and thair to be wirreit⁶ at ane staik, quhill thay war deid; and thair bodeis to be brunt in asses, and all thair movable guidis to be escheit: Quhilk was pronunceit be the mouth of [William] Liddell, Dempstar of the said Court.

Sedition — Treason — Besieging the King, &c. in Tolbooth of Edinburgh.

Jan. 20, 1597-8.—EDWARD JOHNNESTOUN, merchand burges of Edinburgh.

Dilatit, accusit and persewit be Mr Thomas Hammiltoune of Drumcaine, aduocat to our souerane lord, of the Dittay vnderwrittin: That is to say,

DITTAY against the Pannell.

EDWARD JOHNNESTOUNE, merchand burges of Edinburgh, ge ar indytit, fforfamekill as, diuers wickit and malicious personis, invying the quyete estait of the Kirk and commoun wealth of this countrey, haifing preiffit be leis, calmneis, fals clamouris and misreportis of his Maiesteis vertewous procedingis, to rais dissentioun betuix his hienes and the ministeris, and diuers vther his subiectis; persewerit swa malicioullie in thair godles practeifis, in the monethis of Septem-

¹ Probably the same as *raff*, denoting plenty or abundance of Spanish seed. ² Epilepsy, falling sickness. ³ A green goose. ⁴ Kittens. ⁵ Bessie Aiken, one of the pannells, pleaded her *venter* (pregnancy); which, as had formerly been decided in the case of Barbara Naipar, was sustained. After childbirth, and sustaining a lang punisshment, be famine and imprisonment, in the Tolbooth of Edinburgh, she was at length banished for life, in compliance with a Warrant from the King. See Aug. 15, 1598: But by what process of reasoning his Majesty came to so enlightened a conclusion, it is difficult to conjecture! Bessie's extreme poverty puts bribery out of the question. ⁶ Strangled, *worried*.

ber, October, Nouember and in the beginning of December, in the yeir of God I^m.V^o.lxxxxvj, to dispose the haertis of the nauchtiefst and warft inclynit peopill to miscontentment and rebelloun, till at last, vpoun the xvij day of the said moneth of December, takand thair avantage, be occasioun of his Maiesteis charging of sum inhabitantis of Edinburgh aff the toune, with quhais extraordinar and suspect behaviour his Maiestie wes than offendit, to abuse the Ministrie, nocht onlie with ane vehement fray¹ of thair awin priuatt perrell, bot also of the extreme danger of the Kirk and Religioune, incussit thairby sic terrour to thame, that thay defyrit the Nobillmen, bartounis, gentilmen and burgeffis, being att the preiching the said day, to repair to the New Kirk; quhair, eftir conference and deliberatioun vpoun the remeidis of the confaut danger, haifing concludit to promeis ayfald² concurrence to vtheris, in the defence of Religioune, and renewing of the Covenant maid to that effect, be thair solemp aithis, and extenssioun of thair rycht handis: Ane number of the saidis seditious leyaris, authouris of the reportis and dissentioun foirsaid, being present, and persaving that to be ane verrie convenient tyme, and sic occasioun, to performe thair preceding proiectis; incontinent, of thair vphaulding of thair handis at the New Kirk, began, in maist confusit and tumultuous maner, to cry, 'To armes!' and to exhort thair associattis to stik³ certane of his Maiesteis nobilitie, counsalouris and domestik seruandis: Quhair ye being present, and airt and pairt of the said tressonabill and rebellious tumult, ischeit⁴ with thame, furth of the said New Kirk to the calfay,⁵ in ane grit number; and disperfing your selfis in diuerse quarteris of the calfay, cryit, 'To armes!' to 'Stryke þe swasch!'⁶ and 'Ryng

¹ Fear. O. Fr. *Effroy, effray, frayeur*. ² q. d. One fold, single, unfeigned, hearty concurrence with each other. ³ Stab, assassinate. ⁴ Issued, rushed forth. ⁵ Causeway, street. ⁶ The alarm-drum. Dr Jamieson, in his valuable Dictionary and Supplement, defines this instrument (but apparently with some hesitation) to be a trumpet. In all the instances the Editor can recollect of having met with the '*swasche*' or '*swesche*,' in the ancient Records and in other MSS., reference is uniformly made to its being *struck*, not sounded or blown. As the instrument is one now entirely forgotten or unknown, some enquiry has been made by the Editor into the subject; and, without offering any farther remarks, the following curious notices are given, being the result of considerable researches. In the Lord Treasurer of Scotland's accounts, anno 1542, the following entries occur.

'In the first, deliverit to be x coittis and x pair of hois to the four playeris on the veolis, four trumpettis of ware, and twa *taburnerris*' (drummers), lxij li. xvj s.
(1544.) 'Item, to tua men that playit vpoun the *swesche*, *quhilkis had thair tabrounis brokin* thair, [at the 'Assage of Glasgw'] be the Irische men,' xliij s.
(1548.) 'Item, viij Aprilis, ane to play throw the toun with the *swesche*, to raise certane men of weir, to pas to Yaister,' iij s.
From the Treasurer's Accounts, as recorded in the Burgh Court Book of Canongate;
(Nov. 15, 1576.) 'Item, gevin to Carfane the *Swasche*, that day we mousterit, xxx s.
'Item, the samin day, gevin to the Pyper, at the Baillies command, viij s.
'Item, the samin day, gevin to ane Bonet-maker fallow, to play on my Lordis *swasche*, vj s. viij d.
'Item, upoun the tent of October, gevin for ane *swasche* to our mousteris, iij li.
'Item, for TWA STICKIS TO THE SWASCHE,' vj d.
Besides these, numerous other entries occur in the Lord Treasurer's Books, at different dates, of

þe commoun bell ! affirming the Religioune to be in danger, and his Maieftie to be accompaneit with ane number of nobilitie and counfalouris, Papiftis, and ini-meis to the Kirk : And be that policie, haifing convocatt and steirit vp your affociattis, to the number of ffour or ffyve hundreth men, with jakis, knapfkais, corflattis, hagbuttis, piftolettis, pikis, halbertis, fwerdis, gantillettis and vtheris wappinnis invafive, ye and your faidis affociattis, treffonable and feditiouffie inclofit his Maieftie within the Tolbuith of the faid burcht, quhair his hienes wes for the tyme with his Counfall, in his gown,¹ in maift peceabill maner, for adminiftratioun of juftice, and difcharge of that poynt of his princlie dewtie to his peopill : And the faidis feditious raskallis and ye inclofit the Kirk-ftyle, and haille paffageis of the faid Tolbuith, and acces to the famin, gairdit thame with forceis of armit men, debarrit be force and violence fic of his Maiefteis faithfull fubiectis and familiar feruitouris, as preiffit to haif enterit within the faid Tolbuith, to haif bene ather releifaris of his perrell, or pairt-takaris thairof ; boifit and dang² gentilmen, and vtheris his Maiefteis feruandis, aff the calfay ; flayit fic as wes with his Maieftie to ifch furth of the Tolbuith, except fic particuleris as focht and obtenit your licence ; minaffit fic as wes within the Tolbuith for his Maiefteis defens, bidding caft furth certane of his counfalouris and feruandes att the windois, and boifit that ye fould fift thame ; and vterit infneit fic trefonabill and feditious fpeichis, and continewing thairin be the fpace of twa houris ; treasonable befegeit his Maieftie, in fwa barbarous, contemptuous and rebellious maner, as wes newir vfit of before, ather³ fene in this countrey, or hard of in ony vther ; till att laft, the weill affectit magistratis, and certane dewtiefull inhabitantis of the faid burcht, with diueris gentilmen, being thairin for the tyme, haifing affemblit thame felffis in fic number and preparatioun, as ye could nocht gudlie haif refiftit perfewering in your will ; bot, laiking power to performe your maift trefonabill interpryis foirfaid, wer forceit to reter⁴ your felffis, and fuffer his Maieftie to be relewit, in difpyte of your malice and trefonabill rebellioune. Quhilkis crymes, particulerlie aboue fpecifeit, wer committit att the tyme, and in maner foirfaid, of your counfaling, dewyfyng, interpryfyng, caufing, fteirring vp, command, affiftance and ratihabitoun ; and ye wer airt and pairt thairof. Quhilk ye can nocht deny.

payments to *fivefcheouris* and *tabrounaris*. The present quotations shall be closed by another singular extract.

(Oct. 14, 1596.) ' Johne Sandis becam actit to *stryk the fuyfe* throw this burgh, at four houris in the mornyng, and at aucht houris at evin ; and for his diligence thairintill, Robert Bennat is becam actit cautioner to the Beilleis and Counfall of this burgh, under the penaltie of ten pundis.

(*Eodem die.*) ' Andro Angle becam actit to ring the bell daylie, at four houris in the mornyng, and at aucht houris at evin, &c — *Actis, Ordinancis and Statutis of the Burgh of Culros.*'

¹ Sitting in council in his robes of state, and therefore unarmed. ² Threatened, brow-beat, and drove. ³ Either, or. ⁴ Retire, withdraw. Fr. *retirer*.

Quhilk Dittay, being red in the said Edwardis prefens; and being inquiryt, gif he wald abyde ane Affyis thairfore, or cum in his Maiesteis will for the famin? Anfuerit, that he wald nocht cum in will of the Dittay, as it is confaut; and he produceit ane Supplicatioun efter specifcit.

*EDWARD JOHNNESTOUNIS SUPPLICATIOUN to the Lords of Secreit Counfall,
and thair Deliuerance.*

SOUERANE lord, vnto your Maieftie and Lordis of your hienes Secreit Counfall, huimlie meinis and fchawis your graceis feruitour, Edward Johnnestoune: That quhair, vpoune occasioun of sum speichis vnhappellie vterit be me in your Maiesteis prefens, vpoun þe xiiij day of þis instant, tending to my purgation of þe tumult and vproir, quhilk fell furth in þe toun of Edinburgh, vpoun þe xvij day of December, 1596 zeiris, it pleasit your hienes to committ me to waird within þe Tolbuith of Edinburgh, thair to remane quhill I wes tryit be ane Affyis of þe famin. Quhilkis speichis wer maift vnauisfitlie spokin, and with my haert I repent þe vtering þair of; maift huimblie craving your Maiesteis pardoun þairfore, and for that suddane and vnhappie commotioun, quhilk fell furth the said xvij day of December 1596, quhairatt I wes present, althocht vpoun na ewill intentioun nor purpois aganis your Maieftie, or ony of your counfall: git, feing your hienes wes sa heichlie offendit þairat, nocht only condemn I þe famin as rasch and vnaduisitlie done, bot also fra my haert I repent I wes present that day. Maift huimblie beseiking your Maieftie, according to your wountit grit (mercy) and clemencie, to pardoun me for þe famin, protesting solempnelie, be Godis grace, I salbe mair war¹ and circumspect in all tyme cuming, in þe faythfull and loyall discharge of my dewtie to your Maieftie; ffor quhais lang leif and prosperous estait I fall continewallie pray: And for my escheit, quhilk your Maieftie disponit, I am content to, being relewit out of waird, quhilk I huimblie craif, to satisfie þe donatours þair of att your Maiesteis fycht, according as vthiris neychbouris² hes done: And swa, your Maiesteis gracious anfuer maift huimblie I beseik.

(Sic deliberatur) APUD EDINBURGH, xix Januarij 1597. -

The Lords of Secreit Counfall Remittis þe anfuer of þe complent within writtin to the Kingis Maieftie.

(Sic subscribitur) FVVI.

According to the quhilkis, he becummis in his Maiesteis will: And as to the Dittay produceit, denyis the haill pointis thair of, except sa far as is contenit in the Supplicatioun aboue writtin.

And thaireftir, the said Edward Johnnestoun, eftir the reding of the Dittay aboue writtin, produceit be the said Aduocat, declarit, that safar as his Maieftie thinkis of his honour and conscience that he is giltie of ony poynt of the said Dittay, he beand in his Maiesteis will thairfore; for satisfacioun of the quhilk will, Archibald Johnnestoun merchand burges of Edinburghe, become pledge and fouirtie; and the said Edward Johnnestoun obleist him to releif the said Archibald of the caution aboue writtin, and of all danger that may follow thair-vpoune.

¹ Wary, cautious.

² Fellow-citizens, townsmen.

(Jan. 21.)—THE quhilk day Eduarde Johnneftoun burges of Edinburgh, being enterit on pannell, to heir and fie our fouerane lordis Will declarit, anent the crymes quhairfoir he become in his hienes will, in ane Court of Justiciarie haldin be the said Justice-depute, in the Tolbuith of Edinburghe, the twenty day of Januarie instant: For satisfioun of the quhilk will, Archibald Johnneftoun merchand burges of Edinburghe become actit and oblist cautioner and fourtie in the buikis of Adiornale; as ane act maid in the said Court, the said twenty day of Januare, at mair lenth proportis.

Comperit Mr Thomas Hammiltoun of Drumcairne aduocat to our fouerane Lord, and producet in judgement to the said Justice-Depute, twa Warrantis subfcriuit be his Maieftis hand: Of the quhilk tua warrantis the tennour followis.

The tennour of the first Warrant.

FORSAMEKLE as Eduarde Johnneftoun, merchand burges of Edinburghe, being pannellit and accusit for airt and pairt of the treaffonnabill cryme of Treaffoun and Liesmaieftie, committed be him and his complices vpoun the sevintein day of December lxxx fextein (1596) yeiris, aganis our royale persons, and certane of our nobilitie and counfalouris, being within our Tolbuith of Edinburghe for admistratioun of Justice to our liegis, in quiet and peciabil maner; is cum in our will for the said cryme: Thairfoir We, for declaratioun of ane parte of oure will anent the said Eduarde, nochtwithstanding of his merite of death and confiscatioun of all his movabill guidis and geir and fforfaltour of his landis for the said cryme, haue neurtheles, of our grace, clemency and mercy, pardonit and remittit to him his lyif, We decerne and ordaine pe said Eduarde, for him self and takand the burding on him for his wyif and bairnis, and all vtheris having rycht of thame to the obligatioun vnder writtin, to superceid all executioun compitent to him and his bairnis or ony of paim vpoun ane Obligatioun maid and subfcriuit be Thomas Foulis goldfmyth, burges of Edinburghe, and his cautioneris, to the said Eduarde and his foirfaisdis, quhairby the said Thomas and his saidis cautioneris, for pe soume of Aucht thousand markis ressaueit be pe said Thomas fra pe said Eduarde at pe making pairof, become bund and oblist to pay the said soume to pe said Eduarde or his foirfaisdis, or vpirwyis to content and pay to thame ane grite quantatie of victuell theirfoir, or to grant quhatfumeuir securitie of infestment of landis for pe samin, in maner specifit in pe said Obligatioun, of quhatfumeuir dait or daittis pe samin be of; and that ay and quhill the said Thomas and his foirfaisdis ressaue payment of the said soum fra ws and our Comptroller, according to ane Act and ordinance maid anent the satisfioun and pament of pe saidis Thomas debtis restand be ws to him; sua that the said Eduarde or his foirfaisdis sal haue na actioun nor executioun vpoun the said Obligatioun, ather principall soume, proffeit pairof, or victuell pairin contenit aganis the said Thomas and his cautioneris, quhill thay ressaue pament and satisfioun of pe said soum of Aucht thousand markis fra our said comptroller; and ordanis the said Obligatioun, haill strenth, force and effect pairof to ceis and be suspendit in the mentyme, quhill the tyme aboue specifit; at the quhilk tyme, pe said Thomas and his cautioneris salbe onlie oblist to pay the said principall soume of Aucht thousand markis, togidder with the annuelrent of ten markis for ilk hundreth¹ pairof, for all zeiris and termes that the said Eduarde fall happin to want the said principall soume, and fall nocht be astrictit to pament of ony griter proffeit for the said soume, nochtwithstanding of quhatfumeuir claus or condition in pe said Obligatioun: And for the mair securitie, we ordane pis oure

¹ Interest at the rate of 10 per cent.

declaratoun of ane parte of oure will to be insert and regiftrat in þe buikis of Adiornall, with lettres to pas þairupoun, in form as effeiris. Subscryuit with oure hand, At Haliruidhous, the xxi day of Januare, 1597.

(Sic subscribitur)

JAMES REX.

Followis the tennour of the vther Warrant.

REX,

JUSTICE, Justice Clerk and 3 our deputtis, We greit 3ow weill : Forfamekill as in ane Court of Justiciarie baldin be 3ow in our Tolbuith of Edinburghe, the twenty day of Januar instant, Eduarde Johnnestoune, merchand burges of Edinburghe, is becum in our will, for his airt and pairte of the Ir-furrectioun movit aganis ws and oure counsalouris within oure burghe of Edinburghe, vpoun the xvij day of December, 1596 3eiris ; and that Archibald Johnnestoun, merchand burges of Edinburghe, is become oblist and actit in 3our buikis, for fulfilling our will to be pronuncit þairant : Quhairfoir, We movit with clemencie, mixing mercy with iustice, albeit the said Eduarde meritit rigorous pvnisshement, be thir presentis declairis our Will in þat behalf, as followis, to wit : We Decerne and ordanè the said Eduarde Johnnestoune and his cautioner to content and pay to our familier seruitour, Sir George Home of Spott, donatour to þe said Eduarde his escheit, the soun of Thrie thousand and fyve hundreth markis, betuix and the tent day of Februaire next ; and als, to gif ane sufficient discharge to our said donatour for his intromiffioun with quhatsumeur soumes of money perteing to þe said Eduarde, vplifit be þe said Sir George and vpris in his name in ony tyme bygane : Quhilk We declair falbe in full contentatioun for þe said Eduard his escheit, and of all farder pane and cryme we may lay aganis the said Eduarde, for þe caus foirfaid : Ordaining alsua lettres of Poinding and Horning vpoun ane simpill charge of sex dayes to pas and be direct at the said Sir Georgis instance aganis þe said Eduard and his cautioner, for fulfilling heirof and pament to him of þe said soume ; for sua is oure will be þir presentis. Subscryuit with oure hand, At Edinburghe, the twenty ane day of Januare, 1597.

(Sic subscribitur)

JAMES REX.

According to the quhilkis Warrantis, the saidis Justice-Depute pronuncit and declairit our souerane lordis Will aganis the said Eduard Johnnestoun ; and decernit and ordanit him to fulfill the haill pointis, articles, and clauffis contenit thairin ; and that lettres be direct heirvpoun aganis the said Eduard and his cautioner for fulfilling of the premissis, conforme to the tennour of the saidis Warrantis.

Forgery — Counterfitting a Discharge.

Feb. 8.—JOHN HALYDAY, burges of Edinburghe, Thomas Marioribankis, notar thair, James Lowrie, sone to vmq^{te} James Lowrie burges of Edinburghe, Johnne Wynzettis, sumtyme kater to his Maiestie, Alexander Lowrie, baxter in Edinburghe.

Dilatit of the counterfitting, falcifeing and dewyfyng of ane fals and counterfit Discharg, alledgeit maid be Capitan Williame Nisbet to James Lowrie, of the sowne of thre hundreth markis, contenit in ane Obligatioun maid be the said James to the said Capitan Williame ; and of ane Inhibitioun following thairvpoun.

VERDICT and execution of SENTENCE. 'Fylit and hangit.'

Falsely acting as a Notary.

Feb. 8.—JOHNNE MOSCROP, wryter in Edinburghe.

Dilatit of gewing of him self for ane notar, he nocht being (ane); and subferyuing as notar diuers obligatiounis.¹

The Dittays in this and the preceding case are recorded, and contain the particulars of the forgeries; but they are not worthy of being inferted.

VERDICT. The Affyis, 'be the mouth of Johnne Stoddart of Sheilgrene chancellor, fand, pronunceit and declarit the said persounes vpoun pannell to be fylit, culpable and convict of the particuler crymes aboue writtin, quhair of everie ane of thame was accufit.

SENTENCE. The said Justice-depute ordanit thame, be the mouth of Williame Liddell dempstar of the said Court, to be tane to ane gibbet befyde the mercat croce of Edinburgh, and thairon to be hangit quhill thai be deid; and all thair movable guidis to be escheit and inbrocht to our souerane lordis vsé, as convict of the saidis crymes.

Unbesetting the Highway—Namesucken—Shooting of Hagbutts and Pistolets, &c.—Murder.

Feb. 15.—JOHNE MURE of Auchindrane and others.

The famin day Matthow Dunduff of that Ilk alias Stewart, oft tymes callit as cautioner and fouirtie for Johnne Mure of Auchindrane, John Mure sone to Quintene Mure in Carcloy, Daudid Sinclair and Johnne Schaw, seruitour to the said Johnne Mure, and Patrik Daudid sone, seruitour to the said Mathow Dunduff alias Stewart. AND siclyke, the said Johnne Mure of Auchindrane, oft tymes callit as cautionir and fouirtie for ALEXANDER KENNEDIE, sone to Hew Kennedie of Craigneill, Daudid Mure seruitour to the Laird of Bargany, Johnne Dunduff alias Stewart, sone naturall to the said Matthow, to haif enterit and presentit thame before our souerane lordis Justice or his deputis this day and place; ffor cuming vpoun the thryd day of Januar lastbypast, vnder sylence and cloud of nycht, with convocatioun of our souerane lordis lieges, bodin with hagbutis and piftolettis to the toun of Mayboll; and eftir thay had stellit² thair horffis att the Guid-wyffe of Knokdais zettis in Mayboll, thay convoyit thame selfis secreitlie to Thomas Nasmythis zaird in Mayboll, nixt adiacent to Sir Thomas Kennedeis duelling hous in Mayboll, as place meitest for accomplischning of thair crewall, vngodlie and barbarous murthour and slauchter of the said Sir Thomas Kennedie; quhair thay stuid, darnit betuix tua edzis,³ awaiting for

¹ On the margin, 'Convict and hangit.'

² Put up, placed or stabled, *stalled*.

³ Concealed or hidden between two hedges.

his slauchter, and to haif mureist him be way of Brigancie, Hamefuckin and Vmbefetting of his hie gait, and way of foirthocht felony, precogitat malice, conspyrit and dewyfit murthour: And thay, perfaving the said Sir Thomas Kennedie, with Dame Elizabeth M^cGill his spous, Thomas Kennedie thair eldest sone, Mergaret and Helene Kennedeis thair dochteris, cuming furth of the said Thomas Nasmythis duelling hous, and cumand throw his yaird betuix the twa edzis, kepit thame selffis darnit,¹ quhill the said Sir Thomas wes within sax ellis to thame quhair thay lay; quha suddanelie vmbefet the said Sir Thomas, his spous and bairnis, or² he could be war³ of thame, he dredand na harme nor inuirie of ony persoune, and speciallie of the personis aboue writtin, thay standand with him in apperand favour and freindship, att the leift but⁴ ony professioun of feid or vpgewing of kyndnes; and thane schott and delascht⁵ aucht schott of hagbuttis⁶ and pistollettis att the said Sir Thomas; and he, being nocht habill to sustene thair force and malice at that tyme, eftir he had reterit him selff with his wyffe and bairnis, thay persewit thame with diuerse vthiris schottis, and crewallie insifit and invadit thame for thair slauchteris; as the markis of the saidis schottis vpoun the wallis, duris and yettis⁷ of the said Thomas Nasmythis duelling hous and yairdis may cleirlye testifie: As lykewyis, eftir thay had delascht thair haill hagbutis and pistolettis att him, thay maist crewallie and vnmercifullie invadit and persewit the said Sir Thomas Kennedy to the Kirk Yaird of Mayboill, quhair thay wald nocht haif failzeit to haif slayne him, gif be the provisioun of God, and darknes of the nycht, he had nocht bene seperat fra thame, and eschapit thair bludie handis. As at mair lenth is contenit in our fouerane lordis lettres, rasit at the instance of the said Sir Thomas Kennedie of Culzean, and Mr Thomas Hammiltoune of Drumcairn, Aduocat to our fouerane lord for his hienes interes, thairvpoun; lauchfull tyme of day bidden and nöcht enterand thame, the saidis cautioneris, *respectiue*, wes vnlawit for nocht entrie of the saidis personis in the panis contenit in the Actis of Parliament, viz. The said Matho Dunduff alias Stewart, wes vnlawit for nocht entrie of the said Johnne Mure of Auchindrane, in the pane of ffyve hundreth markis; and for nocht entrie of the said Johnne Mure, sone to Quintene Mure in Carcloy, Daud Sinclar and Johnne Schaw and Patrik Daudisoun, for ilk ane of thame, in the pane of ane hundreth markis: And the said Johnne Mure of Auchindrane wes vnlawit for non entrie of the said Alexander Kennedie, sone to Hew Kennedie, in the pane of twa hundreth markis, and for nocht entrie of Daud Mure and Johnne Dunduff, alias Stewart, for ather of thame, in the pane of ane hundreth markis.

¹ Hidden, concealed. ² Before. ³ Aware. ⁴ Without. ⁵ Discharged, old Fr., *deslacher*.
⁶ A sort of large musket, or *harquebus*. ⁷ Yets, gates.

Lyke as, the saidis principall perfounis nocht comperand, wes adiudgeit to be denunceit our souerane lordis rebellis and putt to his hienes horne; and all thair movabill guidis ordanit to be escheit and inbrocht to our souerane lordis vse, as fugitives fra his hienes lawis, for the saidis crymes.

Embsetting the Highway — Hamesucken — Shooting of Hagbutts and Pistolets, &c. — Murder.

Eodem die.—MATHOW STEWART of Dunduff (*alias* DUNDUFF OF THAT ILK.)

Dilatit of cuming be way of Brigancie, vnder scilence and cloude of nycht, to Thomas Nafmythis zaird in Mayboill, and vmbefetting the hie gaitt to Sir Thomas Kennedie of Culzeane, and schuting of pistulettis and hagbuttis at him, be way of Hamesuckin; committit the thrid day of Januar lastbypast.

PERSEWARIS, Sir Thomas Kennedye of Culzeane, Mr Thomas Hammiltoune aduocat.
PRELOQUITOURIS for the pannell, The Laird of Craigiehall, (*viz.* Hary Stewart.)

The said Hary Stewart takis instrumentis of the entrie of Matho Stewart of Dunduff; and protestit, that he as cautioner be relewit.

The said Hary Stewart becom pledge and fouirtie for Mathow Stewart, that he fall compeir before our souerane lordis Justice, &c. the saxtene day of Februar instant, &c.

Feb. 16.—THE quhilk day, Matho Stewart *alias* Dunduff of that Ilk, (vnder protestation that he grantis nocht the lybell to be relewant anent the hamesuckin and foirthocht felony, quhair of nane of thame is qualifeit, bot ar only mentionat be way of narration, to induce the cryme quhairvpoun the Dittay is resoluit, *viz.* the convocatioun, and schuting of pistolettis; and that he grants nocht the schuting, wering or having of hagbutis or pistolettis, vpoun him selff that nycht); he is content to submitt himselff to his Maiesteis will, anent the cryme of Convocatioune, and being presert with the perfounes contenit in the summondis, sum of thame being his seruandis, haifing and schuting of pistolettis att Sir Thomas Kennedie of Culzean that nycht: And cravis my lord Justice to report to his Maieftie and his Counfall, and ressaue ansuer thairvpoun.

The aduocat produceit the Kingis Warrant; quhair of the tennour followis.

Rex,

MR THOMAS HAMMILTOUNE of Drumcairn our aduocat, We greit zow weill. It is our will, and we command zow, that incontinent efter pe fycht heirof ze infist in persuit of Matho Dunduff of pat Ilk, *alias* Stewart, dilatit of certane crymes contenit in our vthiris lettres, rasit att pe instance of Sir Thomas Kennedie of Culzeane, and att zour instance for our interes; quhilk wes continewit to pis day: And that ay and quhill the said Matho ap becom in our will, or be convict of pe saidis crymis be

ane Affyis : And þir presentis fall be to 3ow ane sufficient Warrant. Subscryuit with our hand, At Halyruidhous, the xvj day of Februar, 1597.

(Sic subscribitur)

JAMES R.

In respect quhairof, and of the command gevin be his hienes, in presens of my Lord Justice, craves proces, disaffenting fra all continewatioun ; and offeris infar the relevancie of the lybell in all the pointis thairof, as the famin is confaut, gif ony particular allegance wer maid aganis the famin.

The Justice, with auise of the Nobill-men present, continewis the mater in the same estait quhill the morne. ' Plegio, Domino Craighall, vndir the pane of Thre thousand poundis.'

Feb. 17.—The quhilk day, Matho Stewart of Dunduff being enterit on pannell, persewit be vertew of our fouerane lordis lettres, purchest att the instance of Sir Thomas Kennedie of Cuilzeane and Mr Thomas Hammiltoun of Drumcarne aduocat to our fouerane lord, thay comperand personallie and infittand in his persuit of the crymis eftir spacificit ; that is to fay ;

DITTAY against the Laird of Dunduff.

FORSAMEKILL as he and his complices contenit in the saidis Lettres, vpoune ane lurking malice and deidlie haitrent borne aganis the said Sir Thomas Kennedie, causeles, and but ony accusatioun gewin or offerit vpoun his pairt, eftir mony consultatiounis and wickit dewyfis had be thame for his slauchter, thay laitlie, vpoun the thryd day of Jannar lastbypast, directit Alexander Kennedie, sone to Hew Kennedie of Craigneill, to await vpoun him to lerne his dyett ; lykeas, the said Alexander was familiar with the said Sir Thomas att his hous, and that famin day vpoun the feildis, and att Corfragwell, be taking of his guid nycht, and taking aff his batt, according to his wountit familiaritie with him of before ; and fwa, thay haifing vnderstand be the said Alexander Kennedie, that the said Sir Thomas wes to soup that nycht in Thomas Nafmythis duelling hous in Mayboill, lyand within the Baillerie of Carrik, and Sherefdome of Air, quhair he did remane and repair ; thay, with convocatioun of our fouerane lordis Liegis, to the number of ten persounis or thairby, bodin in feir of weir,¹ all inarmit with hagbutis, pistolettis and vpiris wappinnis *inuafue*, come thane vnder sylence and cloud of nycht to the said Toun of Mayboill ; and efter thay had stellit thair horffis att the Guidwyffe of Knokdais zettis in Mayboill, thay convoyit thame selffis secreitlie within the said compleneris hous, as place meitest for accomplisment of thair maift crewall, vngodlie and barbarous interpryise ; quhair thay fluid darnit² betuix tua ed3is awaiting for his slauchter, and to haif murdreift him be way of Hamesuckin, Brigancie and Umbefetting of his hie gait, and be way of foirthocht felony, precogitat malice, conspyrit and dewysit murthour, &c.³ He being airt and pairt thairof ; demereiting thairby maift hie and worthie pwneischment ; to the grit contempt of our fouerane lordis authoritie and lawes of this realme, and to the maift barbarous example of vthiris to committ the lyke.

And being inquiryt, quhidder he wald abyde the Tryell off ane Affyse, or cum in his Maiesteis will for the saidis crymes ; the said Matho declarit that he had nather hagbut nor pistolett the nycht aboue writtin, contenit in the lybell,

¹ Arrayed in a warlike or hostile maner. ² In concealment. ³ The remainder of the Dittay is the same as is contained in Johnne Mure of Auchindrain's case, (Feb. 15,) q. v.

nather yit schot ony ; nochtwithstanding thairof, he becumis in his Maiesteis will for the saidis crymis contenit in the lettres : Quhairvpoun the said Mr Thomas Hammiltoun of Drumcarne aduocat askit instrumentis. And siclyke, the said Matho Stewart of Dunduff becumis in the Erll of Caffillis, and Sir Thomas Kennedie of Culzeanis will for the crymes aboue writtin, contenit in our souerane Lordis lettres, rasit att the instance of the said Sir Thomas Kennedie and Mr Thomas Hammiltoun ; his lyffe and landis being exceptit : And actit and obleist himself to vnderly thair judgement, quhat ewir thay sould decerne thairanent ; quhairvpoun the said Sir Thomas Kennedie of Culzean askit instrumentis.

‘ Wardit in the Castell of Edinburghe.’

Feb. 28.—The quhilk day, Matho Stewart of Dunduff being presentit on pannell, to heir and se our souerane lordis will declarit, anent the crymes quhairfore he become in will. in ane Court of Justiciarie, haldin in the Tolbuith of Edinburghe, the xvij day of Februar instant ; The said Justice depute produceit his Maiesteis Lettre, directit to him, for the declaratioun of his hienes will, quhilk he defyrit to be red in judgement to the said Matho Stewart of Dunduff, and the famyn being red, to be insert and regiftrat in proces ; quhairof the tenour followis.

DECLARATION of the King's Will.

JAMES, be pe grace of God, King of Scottis, to our Justice generall and your deputeis, greiting. Forfamekill as, in ane Justice Court, haldin in pe Tolbuith of our burcht of Edinburghe vpoun pe sewintene day of Februar, J^m. V^o. fourcoir and sewintene zeiris, be our lowit Mr Williame Haert of Lewielandis Justice depute, to our rycht traift counsing and counsalour, Ar^d. Erll of Ergyll Lord Campbell and Lorn our Justice generall, Matho Stewart of Dunduff being accusit be Sir Thomas Kennedy of Culzeane, kny^t, and Mr Thomas Hammiltoun of Drumcarne, our aduocatt ; that the said Matho and his complices, contenit in our lettres direct pairvpoun, vpoun ane lurking malice, &c. [Follows the Dittay.] The said Matho Stewart become in our will for pe crymes contenit in our said vpiris lettres ; and als become in pe will of our rycht traift counsing and counsalour, Johnne Erll of Caffillis, Lord Kennedy, &c., and of pe said Sir Thomas Kennedy of Culzeane, kny^t, for pe crymes foirsaidis ; his lyffe and landis being exceptit ; and actit and obleist him self to vnderly our judgement, our said rycht traift counsingis and the said Sir Thomas' judgement, quhat ewir we or thay sould decerne pairanent ; as ane Act of our buikis of Adiornall maid pairvpoun att mair lenth proportis. We, be pir our Lettres, publeisch and declairis our will toward the said Matho Stewart of Dunduff in manner following: That is to say :—fforfamekill as We haif sene and confidderit the declaratioun of pe will of our said rycht traift counsing Johnne Erll of Caffillis, and of pe said Sir Thomas Kennedy, aganis quhome, the said wickit interpris wes dewyfit, berand in effect, that thair will is that the said Matho Stewart of Dunduff salbe baneist this our realme of Scotland, and als the realmes of Ireland and Ingland, and all Iles, landis and dominiones perteing to ony of pe saidis realmes, and that induring pe willis of our said rycht traift counsing and counsalour and of pe said Sir Thomas Kennedie, and ay and quhill thay bayth coniunctlie and in ane voce declair the contrairie, will be writt ; and that he fall depairt to quhat realme or cuntry he pleasis (except as befoir exceptit) betuix pe dait hereof and pe fyftene day of Maij nixtocum, and fall remane furth of pe saidis realmis of Scotland, Ireland and Ingland, and all Iles,

landis and dominionis appertening to ony of þe saidis realmis ; and fall nocht returne withine our realme without Licence of our said rycht traift coufing Johnne Erll of Caffillis and the said Sir Thomas Kennedie, coniunctlie, had and obtenit pairto in writt : And als, vnto þe tyme of his departing furth of our realme to þe places quhair he is baneift, he fall na wyis repair within þe toun of Mayboill, nor ane myle about, nor na vþ^r pairt quhair our said rycht traift coufing and the said Sir Thomas sal happin to be, vndir þe pane of Fyve Thowfand merkis money of our realme, to be payit to þe said Sir Thomas, his airis and assignais, in cais of contraventioun of ony point of þe premiffis : And þe said payne to be applyit to þe vse, vtilitie and proffeit of þe said Sir Thomas, his airis, executouris and assignais allanerlie : QUHILK Declaratioune of pair will we ratifie, approve and affirme in all pointis, heidis and circumstances, and be þir presentis decernis and ordanis þe same as ane pairt of our will, to be reallie and with effect fulfillit and obeyit : And that it fall nocht be lesfum to þe said Matho Stewart of Dunduff to contravene the famin directlie or indirectlie, for quhatfumewir caus or occasioun, be our outter declaratioune to be maid be ws heireftir, or ony licence or dispensatioun to be grantit in hurt or preiudice of þir presentis. And ffordir, We will and declair, that the said Matho Stewart of Dunduff fall consent and pay to our Thesaurar, in our name, the soume of Ane thowfand merkis money of þis realme, togidder with þe vnlaw and amerciamentis in þe quhilkis he standis cautioner for certane his complices, pairtakeris of þe said cryme. THAIRFORE it is our will, and We requyre 3ow, that incontinent estir þe fycht heirof, 3e caus the said Matho Stewart of Dunduff to be presentit in ane Justice Court befoir 3ow, and to mak publicatioun of our will, as said is, and to caus dome to be pronunceit aganis him, conforme pairto ; and that sufficient cautioneris and fouerteis be fundin be þe said Matho Stewart, for fulfilling and obeying pairto : And that he be reenterit in waird, within our Castell of Edinburghe, and that he remane in fuir firmance pairtill, ay and quhill the said Caution and fouirtie be fund, to þe effect foirsaid : As 3e will anfuer to ws pairvpoun. The quhilk to do, We commit to 3ow our full power, be þir our present Lettres. Gewin under our Signet, and subfcryit with our hand, Att Halyruidhous, the last day of Februar, and of our regne the xxxj 3eir, 1597.

(Sic subscribitur) JAMES R. A. ELPHINSTOUNE.

According to the quhilk Letter, and his Maiesteis Will declarit thairin, the said Justice depute, be the mouthe of Williame Liddell, dempstar of the said Court, pronunceit dome agane the said Mathow Stewart of Dunduff, and publeischit the haill premiffis to him ; and decernit and ordanit the said Matho to fulfill, obtemper,¹ and obey the famin in all poyntis, and to ffind sufficient cautione and fouirtie for obedience thairof ; and delyuerit him to James Nisbet, ane of the Bailleis of Edinburghe, to be reenterit agane in waird within the Castell of Edinburghe, to remane in fuir firmance thairintill, ay and quhill he find sufficient caution and fouertie to the effect foirsaid, conforme to his Maiesteis will aboue reherfit. Quhairvpoun the said Sir Thomas Kennedie of Culzean askit actis and instrumentis.

Mar. 1.—At a Court held this day, a document, declaring the Will of the Earl of Caffillis and Sir Thomas Kennedie, was produced, dated at Edinburgh the penult day of February 1597, and ordained to be registered in the books of adjournal. It is precisely in the terms rehearfed in the Declaratioun of the King's

¹ Comply with, *obtemperare*.

Will. Vpoun the publeifching and declaration of the quhilk will, Mr Alex^r King, aduocat, in name of the said Erll of Cassillis, Lord Kennedy, &c., and the said Sir Thomas Kennedie of Culzean for him selff, askit actis and instrumentis.

Willful Fire-raising—Burning of Corns.

Mar. 8.—JOHNNE KEITH, fear of Troup; Williame Roife, his seruand; Williame Keir and Williame Dalgarno, feruitouris to George Erll of Marschell.

Comperit James Chene of Straloch, and produceit our fouerane lordis Lettres, dewlie execute and indorsat, as the famin beris; togidder with ane Precept, direct fra his Maiestie, ordaining the Lettres vnderwritten to be desert; quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and your deputis, We greit you well. Forfamekill as it is vnderstand to us, that our louitt, James Chene of Straloch, haifing fund caution to you, according to the ordour, for agane bringing of our Lettres, rasit att his and our aduocattis instance, for our interes, for calling of Johnne Keith, fear of Troup, Williame Roife, his seruand, Williame Keir and Williame Dalgarno, feruitouris to our rycht traift coufing, George Erll of Marschell, to vnderly our lawis before you, in our Tolbuith of Edinburghe, vpoun the aucht day of March instant, for the tresounabill Raifing of fyre and birning of his coirnis of Crwvy, in the moneth of Nouember last, vnder the panis contenit in our Actis of Parliament: The said James Chene of Straloch directit ane boy with our saidis vpiris lettres, to haif caufit the famin be execute aganis the saidis perfonis; quhilk boy, in his returne pair-with hither, wes vmbesett in the way beyde Sanct Laurence Kirk, be ane young man vnknawin to him, and nocht only bereft of our saidis vpiris lettres and vpiris summondis, quhilkis he had vpoun him for the tyme, bot als him selff wes strikin xiiij or xv straikis in the heid, and left him lyand for deid; quhairby the reporting of our saidis vpiris lettres, dewlie execute and indorsat att the said day, is impedit, and the said Laird of Straloch forceit to raise new lettres, quhilk requyres ane langer and ane new day: In respect quhairof, it is our will, and we command you, that vpoun the sycht heirof, ye desist aganis the said James Chene of Straloch, or Johnne Cuming, fear of Ernsyde, his cautioner, for nocht reporting of our saidis criminall lettres, dewlie execute and indorsat vpoun the said aucht day of March instant, conform to the Act maid pairant. As ye will ansuer to us vpoun your office and obedience, kepan thir presentis for your Warrant, Subscryuit with our hand, Att Halyrudhous, the fourt day of March, 1591.

(Sic subscribitur)

JAMES R.

Quhilk Precept the Justice admittit.

[*Mr Williame Boirthuik, Justice-Depute.*]

Slaughter—Mutilation.

Maij 15.—JOHNNE INNES, alias M^cCARIE, burges of Elgyne, Johnne Innes, younger, his sone.

Dilatit of airt and pairt of the slauchter of v^mq^r Williame Hay, faderis broder to Williame Hay of Mayne; and of v^mq^r Agnes Leslie, the relict of v^mq^r

Mr Alex^r Dowglas, sumtyme proveft of Elgyne, (and for airt and pairt of the mutilatioun of the said Williame Hay of Mayne of his left hand); committit (vpoun the xxj day of March lastbypast, vpoun fett purpois, provisioune and foirthocht felony, within the burcht of Elgyne.)

PERSEWARIS.

Mr Alex^r Hay, one of the Clarkis of our souerane lordis sessioun, (for Williame Hay's slaughter;)

Mr Thomas Hammiltoune, advocat, (for Agnes Leslie's slaughter.)

PRELOQUUTOUR (for the pannell).

Mr Johnne Ruffell.

The aduocat produceit his Maiesteis Warrant, for perfuit of the Lettres, purchest att the instance of the kyn and freindis of vmq^{re} Williame Hay and vmq^{re} Agnes Leslie.

Comperit Mr Johnne Ruffell, prolocutour *et excusatorio nomine* for Johnne Innes, eldar, burges of Elgyne, and produceit ane Testimoniall, subscryuit be the Bailles of Goruiok, testefeing that the said Johnne Innes eldar, schipit thair, to haif bene transportit fouth to this burcht, to vnderly the law, for the slauchter contenit in the Lettres quhairwith he is summond; and be aduersar wynd being continewallie senfyne, could nocht compeir personallie: And in lyke manner produceit ane vthir Testimoniall, subscryuit be Alex^r Hay, minister att Dippill, testifeing the inhabilitie of the said Johnne Innes; and rycht fwa, produceit ane vther Testimoniall, subscryuit be Mr Thomas Gordoune, notar publict, testifeing this famin inhabilitie: And in respect thairof, protestis that na proces can be led aganis the said Johnne nor his cautioneris. The aduocat anfueris, that the Testimoniall aucht nocht to be ressauit, in respect of the Act of Parliament and practik of this judgement, admitting na affoinzeis¹ for the non comperance of parteis summond to vnderly the law, bot sic as ar verifeit be the ayth of ane Minister and twa witneffis, deponand vpoun thair awin certain knowledge.

The Justice ordainis proces, in respect of the Act of Parliament.

The persons summond on the Assyse, protested their compearance, and that they be not summond in time coming.

The Justice ordained James Petrie, burges of Elgyne, cautioner for the said Johnne Innes, elder, 'to be vnlawit in the pane of Twa hundreth markis; also ordanit the said Johnne Innes, elder, to be denunceit our souerane lordis rebell, and putt to the horne; and all his movabill guidis to be escheit and inbrocht to his Maiesteis vse, as fugitive fra his hienes lawis for the saidis crymis.—Continued to the Air of Elgyne, tertio Itineris.'²

¹ *Essoyne*, Old Fr., excuse for non-appearance in Court, &c., by oath that party is sick, &c. ² On Jul. 25, Williame Gordoune of Geicht, as cautioner for Johnne Innes, elder, is fined 400 marks, being 'double of the panis contenit in the Act of Parliament, becaus he wes at the horne.' Innes is of new denounced rebell, and his goodis ordained to be escheit.

[*Mr Williame Hairt, Justice-Depute.*]

Taking Captive and Prisoner — Bailles' Jurisdiction — False Imprisonment.

Jun. 2.—MR JAMES HAY of Rannes.

Dilatit for taking of Alexander Rychardfoune, in Fynnauchtie, captiue and prafoner.

PERSEWARIS.

Alexander Rychardfoun in Fynnachtie,
Mr Thomas Hammiltoune.

PRELOQUUTOURIS for the pannell.

Mr Johnne Scharpe, aduocat, Mr Johnne Dempfar,
Mr Robert Cokburne.

It is allegeit, that the taking of the perfewer is na cryme, in respect that Mr James Hay had sufficient power, be reafoun of his Infestment and Lettres of Baillierie, quhilk gaif him power, as it proportis. The hail clauffis quhair of being presentlie produceit, he repeatit ane speciallie, that claus thairof, that he hes power to pwneis transgressouris *secundum juris ordinem*; and this perfewar being dilatit for ane recent thift of twa scheip, quhilk wes stollin fra Gilbert Paterfoun, the ane quhair of he fauld to Leonard Coull, the vther to Elifabeth Alexander, bayth duelland within the said barony; and this perfewar being brocht before (an Affise?) and the skynnis being schawin to thame, he confest that he fauld the scheip; and swa he (the pannell) committit na cryme, nor did na wrang, gif he had detenit him, quhill he (the purfuer) fand cautioun, as law will; and he finding cautioun, he lait him to libertie: Quhilk cautioun he fand in the Court-buik, as the act produceit in the Court-buik beris.—The Aduocat allegeis, that the alledgance aucht to be repellit, for twa cauffis; ffyrst, becaus the Infestment of the Baillierie produceit, gewis na power to the pannell of jurisdiction criminall, or of ony thing that may import *potestatem vite et necis*, or to tak or imprefoun the Kingis frie liegis; secundlie, in caise ony sic power could be pretendit, be vertew of the said Infestment, the samin could newir be extendit farder nor ane power of ane Barroun baillierie, quhilk can na wyis gif authoritie to the partie infest to deteine the Kingis frie liegis, alledgeit tane vpoun the suspicion of ane cryme, attoure¹ the space of xxiiij houris; nather makis this Infestment ony mentioun of *pitt and gallous*, quhilk ar the only terms quhairby Jurisdiction is gewin to Barrounis, of thair Bailleries of materis criminall: Attowre, it is to be markit, that the Act of Court verifeis the detentioun of the perfewar fyve dayes eftir his taking.—Anfueris the defender, that, in this caise, it is altogidder impertinent to disput *de vita et nece, pit et galluse*; *quia de hoc non agitur*; and the Baillierie gewis sufficient authoritie of the apprehensioun of ony suspect of Pykerie,² and to keip him quhill he found sufficient

¹ Above, further than, beyond. ² Petty theft.

cautioun, as law will; according to the custum of all barrounis and baillereis, quhilk wes newir callit in questioun of before.—The Aduocat anfuers, he that hes nocht power to cognos and desyde in ane caüs criminall, hes nocht power to tak, and impresoun, and detein ane frie liege.

The Justice continewis Interloquoutour to Tyifday; and ordanit the said Mr James Hay to find cautioun, and remit the partie *apud acta*.

(Jun. 6.)—The Justice continewis Interloquoutour in the said mater, to the morne, &c.

(Jun. 7.)—The Aduocat produceit ane Warrant, subscryuit be his Maiestie, direct to the Justice, &c.; quhair of the tennour followis.

Rex,

JUSTICE, Justice-Clark and your deputis, We greit you weill. It is our will, and We command you, that, vponne the sycht heirof, you navyise proceed in the criminall caus perfewit before you this day, at the instance of Alexander Rychardfoun, and our aduocat for our interes, aganis Mr James Hay of Rannes, for the violent taking, detening and withhaudding of the said Alexander in captiuitie and presoun, vsurping pairby our authoritie, conforme to the lawis of our realme: And that you continew your Interloquoutour to be pronouneit pairin vnto the tyme that forder tryell may be taken pairnent: Quhairfore, it is our will, and We command you, that you navyis proceed heirintill, bot that the said mater be continewit the said Interloquoutour quhill the thryd day of the aire, or vperwayis vpon fyftene dayes wairning; as you will anfuere to us vpon your office and obedience: Quhairnent this presentis falbe your warrant. Subscryuit with our hand, At Edinburgh, the fewint day of Junij, 1598.

(Sic subscribitur) JAMES R.

It is anfuereit, that the said Letter aucht nocht to be admittit, in respect it is ane priue Letter aganis Justice and the Act of Parliament; and als, his Maiestie directit ane command in the contrar, to do justice.

The Justice continewis the mater, to the morne, &c.

(Jun. 8.)—INTERLOCUTOR. The Justice findis, that the mater fall nocht pass to ane Inqueist, in respect of the allegeance proponit, sufficientlie verifeit.

Quhairvpon Mr James Hay of Rannes and his proloquoutour askit actis and instrumentis,

Oppression — Inflicting Torture for Discovery of supposed Theft.

Jul. 13.—JAMES CRAWFURD, goldsmyth, burges of Edinburgh; Magnus Anderfoune thair; and Johne Anderfoune, fenfar (tailzeour burges) thair.¹

Dilatit for taking and apprehending of Margret Gairdner, dochter of vmq^{le} Williame Gairdner in Sammelstoune, and stryking of ² hir fingar in ane har-

¹ The case was continued from Jul. 10 and 11 to this day. The barbarities inflicted by these wretches, in attempting to discover if this poor girl knew of Crawford's purse, supposed by them to have been stolen by her, have seldom been equalled. ² Off.

row boir,¹ byrning hir with hett tayngis,² vpoun the schoulderis, and vnder the oxsteris,³ &c. ; committit in the moneth of Februar lastwas.

PERSEWARIS, Margret Gairner, Mr Thomas Hammiltoune of Drumcarne.

Comperit Margaret Gairner, and past fra the perfuit of the saidis perfounes *simpliciter*, for the saidis crymes.

The advocat substitute⁴ Mr Thomas Wilfoun aduocat, his depute.

The pannell denyis the Dittay, and produceis ane Declaratioune, subscryuit be Margaret Gairner, quhairby sche hes declarit the pannell to be innocent.—The said Mr Thomas Wilfoun protestit for Wilfull Errour, in caise the Assyis acquit, nochtstanding of the Declaratioune, quhilk is priuatlie purchest, sen sche verifeit the contrair aganis James Crawford, in presens of the King and Counsal.—The Assyse protestit in the contrair, seing that (there is) na thing produceit for instructioun of the Dittay, nor na partie comperit to sweir the Dittay ; bot, before thair chesing, sche past *simpliciter* fra the accusatioune.

The Assyis chesis Phillop Mowbray⁵ chancellor.

SPECIAL VERDICT. The perfounes of Assyise being chofin, sworne and admittit, eftir accusatioun of the saidis James Crawford, Magnus Anderfoun and Johne Anderfoun, be Dittay, of the crymes eftir specifeit, they remowit alto-gidder furth of Court to the Counsalhous, quhair thay reasonit vpoun the pointis of the Dittay ; being resoluit thairwith, thay re-enterit agane in Court, quhair the said perfounis of Assyis, all in ane voce, Acquitt the said perfounes of the DITTAY vnderwrittin, to witt : That thay, in the moneth of Februar lastbypast, come to Margaret Gairner, dochter to vmq⁶ Williame Gairner in Sammelstoune, sche being in peciabil maner, in seruice with Jhone Hewie, burges of Edinburgh, without ony kynd of offence committit be hir to thame ; and thair, maist violentlie patt handis on hir persoune, tuik hir captiue and presoner furth of hir said maisteris duelling-hous, and convoyit hir to the said Magnus Anderfounis duelling-hous, within the said burcht ; quhair thay, with all kynd of regour and threatningis, chargeit hir to confes that sche had ane purs with money thairin, perteing to the said James Crawford, alledgeit tynt⁶ be him in the said Johne Howeis hous ; and becaus sche wald nocht confes the haifing thairof, being maist innocent and cleane of the away-taking of the famin, thay immediatlie the famin nycht, careit hir captiue to ane hous besyde the said burcht, sche being ignorant of the maister of the said hous ; and thair, compellit hir to put hir

¹ One of the *bores* or perforations through which the teeth of the harrows are thrust. ² It may be inferred from the Dittay, that the instrument made use of by these monsters, was common kitchen tongs, heated ' quhill pe blaidis pairof wes reid-hett,' which were first applied to the shoulders and back, until ' the famin grew cauld ;' and, after being a second time made red hot, thrust under the arm-pits of their unhappy victim. ³ Arm-pits. ⁴ Substituted. ⁵ Of Cassilhill. ⁶ Lost.

finger in the boir¹ of ane harrow, dang wadgeis² in the said boir about hir said fingeris, quhairby thay raif³ the flesch thair of, and cuttit the fennounis,⁴ and brak the banis of the famin, and forseit the blude to burst out at the endis of hir saidis fingeris;⁵ manaffing and terryfeing hir, with the said crewaltie, to confes the haifing of the said purs, quhilk scho had nocht : And thaireftir, becaus of hir denyall, thay hett ane pair of taingis of irne in the fyre, quhill the blaidis thair of wes reid-hett, and fyne patt thame betuix hir schoulderis, and vpoun hir bak, quhill⁶ the famin grew cauld ; and thaireftir hett the saidis taingis of new agane, and laid the blaidis thair of vndir hir bair oxsteris,⁷ threatning hir to confes the haifing of the said purse : And thaireftir convoyit hir captiue to ane hous in Libbertoune, quhair thay detenit hir bound, be the space of fourtie-aucht houris, with the mair ;⁸ during the quhilk space, sche gatt nather meit nor drink, and lay in point of death.⁹

Quhairvpoun the saidis persounis askit instrumentis.

[*Messrs Williame Boirthuik and Williame Haert, Justices-Deputes.*]

Adultery.

Jul. 31.—ALEXANDER HAY of Delgattie.¹⁰

Dilatit of the cryme of Adulterie, committit with Elizabeth Clark, dochter to vmq¹¹ Williame Clark in Deir, and with Katherene Anderfoun and Elizabeth Perie, feruandis to the said Alexander Hay ; committit in the hail monethis of the 3eiris of God, I^m.V^c.lxxxvj, lxxxvij, lxxxix, and lxxxx 3eiris.

PRELOQUUTOIRIS for the pannell, Mr Williame Oliphant, Mr Johne Ruffell, Mr Johne Chene.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat.

The pannell askis instrumentis, that the aduocat infistis vpoun the hail Actis of Parliament, and speciallie in the Act ane hundreth and fyve of King James the Sext, haldin in the Parliament 1581 yeiris.

It is alledgeit for the pannell, that the mater can nocht be putt to the knowledge of ane Inqueist, becaus the fundament of this perfuit is foundit vpoun the Actis of Parliament ; and trew it is, be Act of the Quene, our fouerane lordis moder, quhilk is the fyirst, it is statute, that notorious Adulteraris, eftir admonitioune preceeding, fall die the death : Trew it is, that, in the hail summondis,

¹ Hole or perforation. ² Drove wedges. ³ Tore, lacerated. ⁴ Sinews. ⁵ A process infinitely more cruel than the thumb-screw, or the ' pilnie-winkis.' ⁶ Until. ⁷ Arm-pits. ⁸ And upwards. ⁹ It is obvious that this unlucky creature had been bribed by Crawford to withdraw her prosecution ; and on this account, the Dittay not having been sworn, and no evidence adduced, the Assise had no course left, but to return a verdict in the terms above written ; for the verdict of ' Not Proven' is of comparatively modern invention, after Juries were freed from the degrading trammels under which they had previously laboured. At this period they were bound to return a verdict of ' Fylit' or ' Acquit,' Guilty or Innocent. ¹⁰ See another Trial against him ' for Adulterie with Barbara Forbes, his allegeit spous,' Nov. 25, 1598, &c.

it is nocht alledgeit, that the defendar is ane notorious Adulterar, or wes admonisheit, or committit ony cryme of Adulterie eftir admonitioun; and of the law, statutis quhilk ar penall ar maist straitlie to be interpret, and suffer na executioun. Forder, as to the secund Act maid be our souerane lord in the Parliament, in anno 1581, it is only ane explanatioun of the former Act, in that pairt tuiching the qualitie of ane Notorious Adulterar; and thairfore, the haill circumstances sett doun in the former Act ar vnderstand, of the law, to be repeittit in the posteriour; and speciallie, tuicheing the said admonitioun, namelie in consideratioun of baith the saidis Actis, all Adulteraris ar nocht appointit to be pwneift, bot Notorious Adulteraris, eftir admonitioune: And forder, the saidis Actis of Parliament hes newir bene *in viridi observantia*, nor zit ony perfoun putt to ony tryell, nather man nor woman, and swa of the Law *contraria dissuetudine tollitur*; according to the Commoune Law, *quia et multis peccatum manet impunitum*.—It is anfuert be the aduocat, that the alledgeance aucht to be repellit, in respect of the summondis, quhilk is altogidder conforme to the Act of Parliament of ane hundreth and fyve in number, in the Actis of Parliament 1581 yeiris, feing the famin contenis ane expres qualificatioun of expres, notour, and manifest Adulterie, be procreatioun of childrene in that vnlauchfull communicatioune; quhilk is sa publict and manifest, that it neidis na admonitioune, nather can it be amendit be abstinence eftir admonitioune: And be the said Act, admonitioune is only ordanit to be vfit quhen parteis ar suspect, quhais eontumacie eftir admonitioune, in that caise, makis thair cryme notour and equall to the vtheris twa qualiteis of Notour Adulterie, contenit in the said Act. And quhair it is affermit be the defender, that the regour of this Act hes nocht bene putt to executioun, the contrar thairof is manifest, be infinit examples extant in the Adjornall buikis.

It is forder alledgeit *peremptorie, contra istam instantiam*, that this mater can nocht be putt to ane Inqueist, becaus the ground thairof is the cryme of Adulterie lybellit, and the Commissaris sentence gewin thairvpoun; quhilk sentence proceding vpoun the depositiounis of twa or thre subornit witnesses. Thair is ane summondis of Reprobatur¹ intentit for imprewing of thair Depositounis, quhilk being reprovyn, consequentlie the sentence will fall; and gif the said Reprobatur wer pronunceit in the exceptentis fawour, it wald furneis him ane infallabill defence in this Judgement;² at the leift, wald elide the haill probatioun that wald be vfit be vertew of the said sentence; quhair of it followis, that the dependance of the said ciuile judgement man furneis ane exceptioun in this criminall, that na proces salbe deduceit in this meane tyme: And becaus the said

¹ An action for leading a new proof, or to re-prove the facts libelled.

² Before this Tribunal.

Commiffaris decreit is nocht as yit produceit, bot purposlie is heireftir to be vfit *in modum probationis*, to the Affyse, the excipient is content presentlie, the said decreit nocht being vfit for ony kynd of probatioun, feing the famin is reprovit be the said Reprobatur, and the effect thair of is *in pendente*, he is content presentlie to renunce all exceptioun, dilatour or peremptour, and that the lybell *in facto*, falbe putt to the knowledge of ane Affyse: And forder, in caise my Lord advocat wald produce the Decreit instantlie, he is content to anfuer thairto.— It is anfuerit be the aduocat, that the alledgeance aucht to be repellit, in respect of the summondis contenand ane cryme verry releuantlie sett down, and nawyis relatiue to ony precedand ciuile decreit; nather can thair ony thing done heir-anent, ciuilie, before the Commiffaris, or to be done heireftir, stay the present tryell of this cryme in this Judgement: And as to the productione of the alledgeit decreit, or disputatioun thairvpoune, it is altogidder impertinent; becausa the persewar has nather vfit it, nor alledgeit ony sic decreit, nather in his summondis nor in his anfueris.

Aug. 1.—[A very long preliminary discussion took place, as to the relevancy of the Libel, &c. which it is not thought necessary to insert; as it would be uninteresting to the general reader, and does not bear on any point which can be of use to the Criminal Lawyer, in modern practice.

The following Judgement was pronounced.]

THE Justice repellis the hail alledgeancis proponit aganis their relewancie of the fyrst member of the summondis, alsweill dilatorie as peremptorie; and affoilzeis fra the last pairt, *vt libellatur*: And as to the last defence, foundit vpoun the Remiffioun,¹ the Justice supercedis to gif anfuer thairto, quhill he speik with his Maiestie vpoun Furisday.²

The Aduocat, thaireftir produceit ane Warrant, direct be his Maiestie to my lord Justice, &c.; quhair of the tennour follow's.

REX,

JUSTICE, Justice Clark and your deputis, We greit you well. Forsamekill as ye fyrst day of August is appointit to Alexander Hay of Dalgattie, for his comperance before you, to vnderly our lawis, for ye filthie cryme of Adulterie, committit be him with Elizabeth Clark. It is our will pairfore, and we command you to proceed and minister justice in ye said mater, conforme to ye lawis of our realme, nochtwithstanding quhatsumeuer warrant or command gewin, or to be gewin to you in ye contrar. As ye will anfuer to us pairvpoune: Quhairanent, thir presentis falbe vnto you ane warrant. Subscryuit with our hand, Att Falkland, the fyrst day of August, 1598.

(Sic subscribitur)

JAMES R.

¹ Letters of Remission were granted to Hay of Dalgattie, 'for his being at the Feild of Gleneviot, in company with the Erlis of Erroll and Huntlie, and for his airt and pairt thair of.' The Lettess likewise Remit him 'of all vthir crymes and offences quhatsumeuer, preceding the said Field of Gleneviot,' 'quhilk wes in the moneth of September, 1594—exceptand onlie Wichcraft, Thift and Murthour.'
² Thursday.

Aug. 3.—The Justice Repellis the alledgances, foundit vpoun the Remiffioun; becaus thair is nathing produceit, to verifie. Quhairvpoun the aduocat askit instrumentis.

ASSISA.

Patrik Ogilvy of Inchmartene,	Tho ^r . Abircrumbie of Murthlie,	Magnus Mowat of Boquhollie,
Sir James Scott of Balwerie,	Sir Patrick Dowglas of Kilspindie,	Andro Meldrum of Drumbrek,
Sir Thomas Kennedy of Culzeane,	Williame Blair of Bagillo,	Johnne Creychtounne of Innernytie,
Sir James Halyburtounne of Pitcur,	Gilbert Pennycuke of that Ilk,	Andro Murray of Balwaird,
Alex. Blair apperand of Balthaok,	James Lökkart of Ley,	W ^m Murray, apperand of Talliebairdyn.

Exceptions were taken against Ogilvy of Inchmartin, on the ground of partial counfel, &c.; and that he, in consequence of a 'special letter, before he wes fummond, at the speciall desyre and requeist of the Erll of Erroll, cum to this toune.'

It is forder alledgeit, that the lettres criminall wer raftit be the Erll of Erroll¹ him self, and his seruandis att his command; the expensfis thair of payit be him; the Assyise fummond att his command and directioun; he hes informit my Lord aduocat in this per suit as partie; he hes causit the Assyis to be fummond, vpoun his expensfis; he hes writtin particuler Missiues to the Gentlemen of the Inqueist to cum heir, before thay wer fummond: Quhilkis factis, and ewerie ane of thame, gewis ane sufficient testimony that he is partie; and zit of superabundance, it is forder eikit, that he hes soliscit my Lord Justice him self, as partie, sen the intentioun² of this caus; and lykewyis, vpoun the secund day of August instant, past to his Maieftie in Falkland, infisit³ with his hienes that this mater sould be putt to the knowledge of ane Inqueist, in preiudice of the excipient:⁴ Quhilk lykewyis is referrit to my lord Justice declaratioun.—It is ansuerit be the aduocat, that the alledgeance aucht to be repellit; yit as of befoir, in respect of his Maiefties Warrand preceding the raising of the lettres, the lettres thame selfis proceding vpoun ane delyuerance of the Lordis, grantit vpoun the persewaris Supplicatioun subscribed with his hand, and of the Roll of the Assyis, lykewyis subscribed be the persewar; and albeit the alledgeance mycht appear to contene ane relevant caus quhairfore my Lord of Errollis self could nocht pass vpoun this Assyis, as alledgeit to haif gewin partiall counfall, in maner qualifeit in the said exceptioun; yit the samin can nawyis exclud his kynnismen and freindis fra passing vpoun the said Assyis: For partial counfall is ane personall impediment, to stay the gewar thair of to pas vpoun the Assyise of that persoun aganis quhom he hes gewin partiall counfall; bot is nocht extendit to his kynnismen and freindis.

¹ In another place it is stated, that the Earl of Erroll, 'has soliscit and travellit with his Maieftie, in his cause, as partie.' ² Since the cause was *intentit*, or raised. ³ Urged. ⁴ The pannel.

And quhair it is alledgeit, that my Lord of Erroll is partie, it is verry absurd; ffor possiblie my Lord of Erroll could nocht qualifie ane entres that mycht mak him ane partie, nather can he tyne or wyn¹ in this cause; and gif he wald compeir att the bar, and feik to be admitted as partie to persew, albeit the defender kepit sylence and maid na alledgance in the contrar, my Lord Justice wald nocht, nor could nocht of his office admitt him.—It is anfuert be the Laird of Dalgat- tie, that that exceptioun quilk wald declyne the Erll of Erroll, wald declyne his hail kyn and freindis: And in effect, it is granted be my Lord aduocat that the Erll of Erroll can nocht pass vpoun this Assyse; *ergo*, nane of his kyn and freindis can. It is nocht affermit in this cause that the Erll of Erroll hes gewin partiall counfall, bot expresse that he is partie; to witt, in fortificatioun of the former alledgances, nocht only the saidis Lettres Criminall, quhairvpoune this persuit is foundit, wes rasit to him and att his command, bot the messingeris executouris thairof, bayth vpoun the partie and vpoun the Assyse, execute the samin att his speciall directioun: In lyke maner, beydes the hail particuler circumstances numerit ofbefoir, he hes solisicited the hail persounis of Inqueist quawer summond to Monunday last, to remane in this toun, quhilk Assyis sould be chofin, as thay wald do him singuler pleasour: And this, with the former argumentis, being tane coniunctlie, man infer *simpliciter* the Erll of Erroll to be partie.—The Aduocat anfuert, that thair can be na partie bot ane persewar or defendar, or ane partie admittit for his interes; and nane of the saidis qualiteis is alledgeit aganis the Erle of Erroll, nor can be provin be this proces; nather can ony extrajudiciall probatioun, by the proces, be admittit in this persuit, for his Maiesteis interes, without concurrence of ony priuate partie.

The Justice, be Interloquitour, findis my Lord aduocat only partie in this persuit; and the alledgances maid be the pannell aganis the Erll of Erroll sufficient and releuant, being provin to seclud him to pass vpoun this Assyis; bot na argument to seclud the Laird of Inchmartene. Quhairvpoune the persewar and defender askit instrumentis: And repellis the fyrst argument maid about the four-half-about.²

The Assyse being sworne, and the partie being accusit be Dittay of the filthie cryme of Adulterie, committit with Eliz. Clark, the Aduocat produceit ane Decreit of the Commiffaris of Edinburghe, of the dait the penult day of November, 1596 zeiris, berand the cryme lybellit, in the selff same termes as the Dittay beris, to haif bene sufficientlie verifeit and provin aganis this defender. In respect quhairrof, in cause the Assyse clange, the persewar protestis for wilfull errour.

¹ Lose or gain. ² It had been objected that Inchmartin ought not to pass on the Assise, because, be the Act of Parliament and commoun practik of this realme, he is nocht of the four-half-about. The aduocat refusis to answer, because his mater is nocht ane Perambulatione.

[There follows a very long argument, on the relevancy of the Decreet of the Commissaries, which it was contended ought not to be received as proof in such a case, especially seeing that an Action of Reprobator was then in dependance, &c. Although this argument is very ingeniously conducted by the counsel for both parties, it would occupy a much greater space in this Collection than its importance seems to demand.]

VERDICT of the Assise, including the Dittay.

THE famin day, Alexander Hay of Delgatie being enterit on pannell, dilatit, accufit and perfewit be vertew of our fouerane lordis Lettres, purchest at the instance of Mr Thomas Hammiltoune, advocat to his hienes for his interes : That quhair, it is expresse prouydit, statute and ordainit be diuerse his hienes Actis of Parliament, that na maner of perfoune or perfounes within this realme commit the fylthie and abhominabill cryme of Adulterie, vnder the pane of deid and confiscatioune of all thair movabill guidis ; as the said Actis at mair lenth beiris. And trew it is and of veritie, that the said Alexander Hay of Delgatie being in the moneth of Januar, 3eir of God I^m.V^c. fourfcoir foure 3eiris, mareit in face of Haly-Kirk, with Elizabeth, dochter lauchfull to Robert Lord Altrie ; and efter the said marriage, the said Alexander and his said spous, haifing duelt, remanit and cohabit at togidder, and continewit in mutuall focietie and mutuall intertenement to vtheris, at bed and buird, as become man and wyffe lawfullie joynit in mariage, be the space of diuerse 3eiris and monethis immediatlie following the said mariage ; nochtwithstanding quhair of, the said Alexander, vnmynndfull of his dewtie towardis God and the said Eliz^t, his spous for the tyme, and of the faythfull promeis maid be him to hir the tyme of the solempnizatioune of the said mariage maid betuix thame, quhilk was the tyme foirfaid : He in the monethis of Marche, efter the xxv day thairof, Apryle, Maij, Junij, Julij, August, September, October, Nouember, December, Januar and Februar, and Marche before the xxv day thairof, the 3eir of God I^m.V^c.lxxxvj and lxxxvij 3eiris ; at the leift in ane or vther of the saidis monethis and yeiris of God *respectiue* foirfaid, maift schamefullie frequentit, secretlie, the cumpany and focietie of Elizabeth Clark, dochter to vmq^r William Clark at the Kirk of Deir, and gaif the vse of his bodie to hir in the said fylthie and abhominable cryme of Adulterie : AND alsö, in the saidis monethis *respectiue* about writtin, the 3eir of God I^m.V^c.lxxxix and lxxxx yeiris *respectiue*, at the leift in ane or vther of the samyn, the said Alexander Hay of Delgatie gaif the vse of his bodie in the fylthie cryme of Adulterie and carnall copulatioune, as said is, with the said Elizabeth Clark : And that within the places of Delgatie and Sanden, in the hallis, chalmeris, voltis, felleris, loftis, wardropis, orcheardis, parkis and feildis thair of ; and speciallie in quyet cavernis of Sanden and heicthis thairof : In the quhilk fylthie cryme of Adulterie the said Elizabeth Clark bure, and thair was procreat betuix thame, ane barne ; and the said Alexander caufit Alexander Watt, his steward, tak vpoune him to be the fader thairto ; albeit the said barne was gottin of the said Alexanderis awin bodie, in the fylthie cryme of Adulterie with the said Elizabeth Clark, as said is : And thairthrow, hes contravenit the tennour of the saidis Actis of Parliament, and hes incurrit the panis thairin contenit.—For the quhilk crymes, the said Justice Depute put the said Alexander to the knowlege of ane Assyise of the perfounis vnderwrittin ; thay ar to say, Patrik Ogilvie of Inchemertene, &c. : Quhilkis perfounes of Assyis being chosyn, sworne and admittit, efter accusatioune of the said Alexander, of the crymes about writtin, be Dittay, and production of ane decreit of the Commissaris of Edinburghe, of the dait at Edinburghe, the penult day of November, the 3eir of God I^m.V^c.lxxxvj yeiris, be our fouerane lordis Adnocat, for verefeing of the Dittay ; thay removit all furth of Court to the Counsale hous, quhair thay chufit the said Sir Thomas Kennedye of Culzeane, chancellor of the said Assyis, and ressonit and votit vpoun the poyntis of the Dittay ; and being throuchlie resolut thair with, reenterit agane in Court, in presens of the saidis

Justice-deputis, quhair thay, be the mouth of the said Sir Thomas Kennedy chancellor, ffand, pronunceit and declarit, for the maist part of the said Affyis, the said Alexander Hay of Delgatie to be Cleane, innocent and acquit of the cryme of Adulterie aboue writtin, alledgeit committit with Elizabeth Clark, in the quhilk cryme scho bure, and thair was procreat betuix thame, ane bairne; committit in the monethis, yeiris and placeis respectiue aboue specifeit, at the leif in ane or vther of thame; and of the haill accusatiounes and Dittay aboue writtin.¹

Quhairvpoun the said Alexander askit actis and instrumentis.²

Slaughter.

Aug. 1.—GEORGE WAUCHOP, broder to vmq^{le} Archibald Wauchop, apperand of Nudrie Marschell.

Dilatit of airt and part of the slaucher of vmq^{le} Dauid Edmestoun of Wowmet; committit in Januar 1596.³

PERSEWAR, Alesoun Home, the relict.

PROLOQUOUTOUR, Patrik Home of Polwart.

Robert Hepburn (in Haillis, cautioner for the pannell) tuik instrumentis of the entrie of George Wauchop, and protestit that he as cautioner be releuit.—The pannell askis instrumentis, that Alesoune Home passis fra the perfuit of him this day.

Continued to the Aire of 'Edinburghe, tertio Itineris, xv dierum. Plegio Roberto Hepburne in Haillis.'

[*Mr Williame Haert of Leivlandis, Justice-Depute.*]

Witchcraft — Sorcery — Incantation, &c.

Aug. 15.—BESSIE AIKIN

Being presentit on pannell, the said Justice-depute caused intimat and reid to hir his Maiesteis Precept direct to him, quhair of the tennour ffollowis.

REX,

MR WILLIAME HAERT, our Justice, We greit 3ow weill. Forfamekle as, Bessie Aikene, being convict before 3ow be ane Affyse,⁴ wes committit to waird in our Tolbuith of Edinburghe, in respect sche wes pan with bairne, quhairby the sentence pronunceit aganis hir could nocht be putt in executioun; quhair sche hes remanit this 3eir bygane, and delyuerit of ane infant, and hes sustenit lang pwneischment be famine and impreifment: Thairfoir, tempering justice with mercy, we haif pardonit and pardonis hir lyffe; and willis and commandis 3ow, that 3e caus present hir befoir 3ow, and decerne hir to be baneist our realme, and to depart within xx dayes; with certificatioun, gif sche be apprehendit heireftir, sche salbe execute to pe deid: And to pat effect, that 3e putt hir to libertie

¹ There is a memorandum irregularly entered before the Verdict, which shows what was the state of the vote. It stood as follows:—'The Lairds of Boquhallie, Pennycuik, Tillybairdin, Balvaird, Innernytie, Culzeane, FYLIT the said Alexander Hay of Delgatie of pe dittay vnderwrittin: And pe Lairdis of Drumbrek, Kilspyndie, Inchmartene, Balgillo, Murthlie, Pitcur, Balwerie, Balthyok, and Ley, ACQUITT him.'

² See Nov. 25, 1598, where another Trial, 'for Adulterie with Barbara Forbes, his alleget spous,' occurs. ³ Robert Birrel thus records this murder. 'David Edmonston of the Wowmit flaine be Thomas Christifon, be the shott of ane gun.' ⁴ For Witchcraft, &c. See Nov. 12, 1597.

furth of our said tolbuith : For þe quhilk this falbe to 3ow ane sufficient warrand. Subſcryuit with our hand, Att Dalkeyth, the xv day of Auguſt, 1598.

(Sic ſubſcribitur)

JAMES R.

According to the quhilk precept, the Juſtice, be the mouth of Williame Blak, decernit and ordanit the ſaid Beſſie Aiken to be Baneift this realme, and newir to returne within the ſamin, vnder the pane of deid ; with certificatioun, gif ſche be apprehendit thairin, ſche falbe pwneift to the death : And ordanit hir to depart within xx dayes eftir the dait heirof ; and to that effect, to be putt to libertie furth of the Towne of Edinburghe.

Slaughter — Shooting of Pistolets, &c.

Oct. 31.—JOHNNE ARNOT 3ounger of Wodmylne.¹

Dilatit of the ſlauchter of vmq^{le} Johnne Murray, ſone to Murray of Aiket, and ſeruitour for the tyme to Patrik, Commendatour of Lundoris : And for beiring and weiring, and ſchuiting of piſtolettis ; committit in September laſtwas.

Comperit Charlis Murray of Haykit, and produceit our ſouerane lordis Lettres, dewlie execute and indorſat, purcheft at his inſtance, aganis Johne Arnot, to vnderlye the law, for the ſlauchter of vmq^{le} Johnne Murray : As alſo, produceit ane vther Lettre, for chargeing of Andro Aytoun of Dinmure, and Henrie Pitkarne of that Ilk, as cautioneris for the ſaid Johne Arnot, to enter him this day ; (quha) proteſtit for releif of thair cawtionis.

Comperit Mr Dauid Wardlaw, and produceit ane Warrand, for continewatioune of the perſuit of Johne Arnot, to the third day of November nixt to cum ; off the quhilk, the tennour followis.

REX,

JUSTICE, Juſtice Clark and 3our deputis ; We greit 3ow weil. Forſamekle as We haif borne ane ernest intentioun to ſie juſtice miniſtrat with all regour in this accident that interuenit in þe ſlauchter of vmq^{le} Johnne Murray, ſeruitour to Patrik, Commendater of Lundoris, be Johnne Arnot, 3ounger of Wodmylne ; and heirtofoir, in our awin perſoun, hes tane panes in that mater : And now, be reſſoune of our vther grit adois,² We ar forcit for ſum dayis to be abſent ; and We nawayis being willing that ony proceeding be pairintill quhill our returne : Thairfoir, We haif thoct meit and expedient that 3e fall continew and prorogat the perſuit and dyet, quhill þe thrid of November nixt ; and nawyis proceid pairin, quhill þe ſaid day ; alwayis retening that ſame cawtioune for the ſaid Johnne Arnot, quha was reſſaut for him ofbefoir ; or vpirwayes, that 3e cauſe him to be wairdit within our tolbuith of Edinburgh, thair to remane quhill the ſaid thrid day : Quhilk nawayes 3e fall fail to do. And 3e will anſuer to wa, vpoune þe diſcharge of 3our offices and 3our dewtifull obedience ; Quhairanent þir preſentis fall remane to 3ow for warrand. Subſcryuit with our hand, Att Halyrudehouſ, the laſt day of October, 1598.

(Sic ſubſcribitur)

JAMES R.

¹ The objections to, and arguments on the relevancy of the Libel, in this Case, are so important, and the Counsell, on both sides, being men of such eminence in their profession, the Editor has thought it necessary to give the whole at length, as preserved in the Record. ² Business, affairs.

Andro Aytoune of Dinmure and Henrie Pitcarne of that Ilk become plegeis and fourteis, coniunctlie and feuerallie, for Johne Arnot 3ounger of Wodmylne, that he fall compeir befor our fouerane lordis Justice or his deputis in the Tolbuith of Edinburghe, the thryd day of November nixt to cum, to vnderlye the law for airt and pairt of the slauchter of vmq^{le} Johne Murray, feruitour to Patrik, Commendator of Lundoris ; vnder the pane of Ten thousand pundis.

PERSEWAR, Charles Murray of Ayret, as father.

PRELOQUUTOURIS.

My Lord of Lundoris, Tyllybairdin 3ounger,
My Lord aduocat, The Laird of Balvaird,
The Laird of Polmais.

PRELOQUUTOURIS for the pannell,

Mr Johne Scherp, Mr Thomas Craig, Mr Jo. Ruffell,
Mr Will. Oliphant, Andro Arnote minifter of Scotland weill, Alexander Drummond of Medope.

Nov. 3.—The pannell askit instruments, that nane of the kyn and frendis of vmq^{le} John Murray compeiris to persew, except the father, with the preloquutouris nominat.—The aduocat declairis, that he infiftis only vpoune the lybell, insofar as it is foundit vpoun the Actis of Parliament only. Quhairvpoun the perseweris askit instrumentis.—The persewaris declaris that thay adhair to my Lord Aduocatis declaratioun.

It is allegit for the pannell, that the publicatioune of the Actis of Parliament quhairvpoun the persute is foundit allanerlie, now aucht to be schawn and produceit, befor ony forder proces ; becaus the publicatioun thair of is expresse lybellit, and the lybell makis relatioun thairto ; and the leigis can nocht be constitute *in mala fide*, befor the samin Actis be lauchfullie publeifchit ; and speciallie, the Actis quhairvpoun the summondis is foundit, quhilkis imponatis¹ a heich and grit pane aganis the hail inhabitantis of the realme, to witt, amputatioun of the richt hand, and escheit of thair hail guidis moveabill.—The aduocat declairis the alledgeance meritis na ansuer.—The persewer acceptis the aduocatis ansuer ; and allegit, that the pannell, adherand to the former alledgeance, can nocht be compellit to enter in disputation vpoun the Summondis or Dittay proponit aganis him, quhilk is foundit expresse vpoune that publicatioun of the Actis of Parliament, befor the samin publicatioun be ather proponit or replyit, and the manner of publicatioun ather is knawin to the Judge, after the production or allegatioun, quhilk the Judge, be the lawis of this realme, may find to be ane sufficient publicatioun : For it is certane, be the lawis of this realme, that ane Act of Parliament vnpubliciffit can never constitute the legis *in mala fide*, nor be na sufficient ground, quhairby they may be persewit, accusit criminalle nor ciuillie ; speciallie, in respect of dyuerse Actis maid anent the publicatioun of the Lawis of this realme, and speciallie, anent the Act maid in the 3eir

¹ Imposes. Lat. *imponere*.

of God I^m.V^c.lxxix, that the Actis of Parliament could nawayis constitute the legis *in mala fide*, befoir the samin was publesit. It is forder allegit, that quhanfoeuir the publicatioun of Lawis and Statutis is of necessitie, the samin aucht to be first verifeit. And trew it is, that the publicatioun of the Actis of Parliament is speciallie appointit be expres Act of Parliament; nather can the samin vnpublicifchit bind the leigis, or induce ony knowlege to tham.—The aduocat anfueris, the former alledgeance, aucht to be repellit, in respect of the Summondis.

The pannell declaris that thai will cum and propone the rest of thair alledgeances in ordour, att command of my Lord Justice, quhilk the pannell is willing to obey; vnder protestatioun alwayis, that my Lord Justice, the tyme of the diffuffing of the allegeance alreddie proponit, and of the rest to be proponit, geve ane direct anfuer to the first allegeance, anent the publication of the Actis of Parliament, quhairupon the lybell is foundit; speciallie, in respect that the first Act of Parliament, maid in the zeir of God lxvij, quhilk is the special Act quhairvpon the lybell is foundit, is of sic importance and antiquitie, and in effect is tane away be the contrair consuetude, that the haill legis of this realme sal be in danger in the panis thairin contenit, gif the samin fall be reput as ane Law quhairvpon thay may be accusit criminallie. And for verificatioun of this allegeance, that the publicatioun of the Actis of Parliament is requisit, it is allegit be the pannell, that the samin, be ane special Act, in the zeir of God I^m.V^c.lxxix, is expreslie statute.—The aduocat allegis that this allegeance is thryse repetit, and thairfoir meritis na forder anfuer.

SECUNDLIE, the partie, to wit Charles Murray, with the remanent kyn and freindis, has na actioun competent to thame to persue the first tua memberis of the summondis, becaus the partie hes qualifeit na dammage nor intreis sustenit be thame thairthrow.—The aduocat anfueris, the secund member is verrie competent to the partie informer, becaus it contenis ane hosteill invasioun of the said vmq^{le} Johne Murray with pistolets, prohibeit be the Actis of Parliament, in persute quhair of his parentis hes verrie guid entreis to informe ane Affise.—It is anfuerit, becaus the allegeance proponit for the pannell is proponit aganis tua seuerall memberis of the summondis, and the anfuer maid be my Lord aduocat is only maid for sustening of the entres of the partie aganis the secund member, contening the invasioun of the said vmq^{le} Johne Murray, as is allegit, that my Lord Justice, befoir all forder proces, aucht to geve ane anfuer to the allegeance proponit aganis the entres of the partie for the first member.—My Lord (advocate) declairis that he infistis only vpon the first member of the summondis, for the Kingis intreis; quhairvnto the partie adheris. Quhairvpon the pannell askis instrumentis.

It is forder allegit be the pannell, that thair is na cryme qualefeit in the se-

second member that may geve the partie onie entreis to persew the samin ; becaus the samin contenis na cryme quhairupon the pannell may be pwneist, at the desyre of the partie ; and albeit he wer convict of the samin cryme, the partie, be the lawis of this realme, can repourt na assythment nor satisfioun thairby, seing it is never lybellit in the secund member, that ony damage hes followit thairupoun, quhairby the partie was hurt or preiudget.—It is answert be my Lord Aduocat, the partie persewis nocht allanerlie for his awin entreis ; bot haifand entreis as is qualifeit befor, affistis the aduocatis persute.—It is answert be the pannell, that the defender can nawayis be drawin in question for his lyfe, or ony member, be ane partie quha hes na entreis ; and albeit the said aduocat may be fund to haif entreis in our souerane lordis name, to quhom and quhais entreis the pannell fall answert with reuerance, as effeiris ; that is na just caus to compell him to enter in disputation with a partie that hes na entres ; and thairfoir, the Defender desyres my Lord Justice answert directlie, quhither, gif the partie hes entreis, to insist in the persute of the second member of the summonds or nocht ; for gif the partie be fundin to haif na entreis, he aucht nawayis to be respectit in this persute, as ane informer ; and mekill mair, man be excludit as ane persewar ; seing na partie, be the lawis of this realme, can be hard to informe and concur as ane partie, as our souerane lordis aduocat, vnles thair be ane speciall entreis competent to him, and that the samin entres be expreslie qualefeit : And that is nocht only obseruit in caussis criminall, quhilk ar of the grittist importance, bot also in caussis ciuill, quhairintill na person will be admittit to persew, without thair be ane speciall entres qualefeit, as said is.—It is answert be the aduocat, the summondis contenis the parteis intreis, in respect of the Invasiounè maïd aganis him ; and quhair it is allegit, that the parteis frendis can pretend na assythment, thay conclude na assythment, bot puneischement, quhilk is verriè competent to thame, for the iniurie done to the defunct. As to the comparefoun tane fra the intreis of parteis in Ciuill persutis, it is nocht pertinent ; becaus in ciuill actionis, the perseweris intreis man tend to ane conclusioun, foundit ather *super lucro captando vel damno vitando* ; bot in Criminall persutis, the conclusioun tendis only *ad penam*, quhilk is alyk competent to bayth the perseweris, and satisfies alyk baith thair intentionis, in respect of the offence committit aganis thame, as is qualifeit be the summondis.

It is answert be the defender, that the Invasioun qualifeit in the secund member of the summondis, contenis na cryme quhairvpoun ony partie may be persewit to vnderly the law, before the Justice generall and his deputis, at the instance of ony particuler partie, and at ane particular dyet ; seing thair is nathing qualifeit for the partie in the second member of the summondis, bot *effectus sine effectu*, quhilk is puniescheable in the cryme of Tressoun or Laismaiestie ; and

the partie, without concourse of our souerane lordis Aduocat, he him self; or could nevir be hard to persue the secund member of the summondis vpoun the inuasioun thairin qualifeit, att ony particular dyet, befor my Lord Justice or his deputis; quhilk cryme could nocht be put to the knowlege of ane Inqueist, albeit the partie war present, and maid na alledgeance in the contrair; feing the Justice could put nathing to the knowlege of ane Inqueist, bot that cryme, quhairvpoun punisment might follow. And as to that pairt of the reply, bearing that the argument, fra the comparisoun of Ciuell cauffis to the Criminall, is nocht pertinent, it is allegit, that in Ciuill cauffis, quhair our souerane Lord and his hienes aduocat hes entreis, the summondis contines tua conclusiounis, quhairupoun tua feuerall effectis follows the punisment of the partie transgressour; to our souerane Lord, and a commoditie to the partie: And the lyk is impoirtit be Criminall persute, quhair the partie hes ony entreis, to wit, the punisment at the instance of our souerane lord and the Assythment to the partie.—It is answert be the Aduocat, that the weiring, bering and vsing of pistolettis, being prohibit be the Actis of Parliament, vnder the panes thairin contenit, the partie persewit or skaithet thairby hes verrè guid entreis to persue the offender *ad penam*: And quhair it is allegeit, that in this caice thair is only *effectus sine effectu*, the lybell is nocht foundit *super mero effectu, sed super conatu qui peruenit ad actum*: And to the rest of the alledgeance, repeatit the former answert.—It is answert, that thair is na skaith qualifeit inferrit to the partie; and thairfoir the answert and lybell, in that pairt, is nawyis competent to the parteis; speciallie, in respect that thair is nathing qualifeit, bot ane naikit inuasioun be allegit presenting, quhairvpoun na deid is qualifeit to haif followit; *et sic est effectus et tantum conatus, qui cum effectu idem est*; quhairupoun na deid hes followit, as said is.

THRIDLIE, it is allegit, that the first member of the summondis is altogidder irrelevant and generall, in that pairt thairof, beiring, that the defender hes borne and worne pistolettis, in findrie vtheris partis of Fyfe, by¹ the landis of Woidmylne and Monymale: nocht condiscending in speciall vpoun the vther pairtis within Fyfe; be the quhilk generalitie the defender is preiudget of his defenffis; for gif the persewer had condiscendit vpoun the vtheris pairtis, thair is sufficient defenffis competent to the defender to haif elydit that part of the lybell; feing he possesses vtheris landis in Fyfe by the landis of Monymale and Woidmylne, sic as the Landis of Pittowie, Pinckerton, &c.: Attour the lybell is altogidder irrelevant and generall, anent the landis of Woidmylne, nocht condiscending vpoun the speciall pairt thairof; feing be the lawis of this realme he is nocht forbidden to beir pistolettis or schute thairwith, within his awin duelling-place, houffis, or

¹ Forbye, besides. See p. 59, where the Lord Advocate restricts the libel.

3airdis, quhilkis ar all of the landis of Woidmylne ; in respect quhairof, the lybell, in the tua former pointis of the first member, is altogidder generall and irrelevant.—It is anfuert, that the summondis is verrie relevant, in sa far as the famin beiris that the defender buir and vfit pistoletis vpoun the landis of Wodmylne (and) Monymale, exprefslie, and vther pairtis of Fyfe, quhilk is relevant aneuch ; for the haifing and weiring thairof being forbidden in the hail realme and in everie pairt thairof, it wes nocht lessum to the defender to haif thame in ony pairt of Fyfe : And quhair it is allegit, that the defender, duelland in Woidmylne, it was lesfum to him to haif pistoletis within his awin hous, clois and yaird, and that in respect thairof, the lybell nocht bearing the speciall pairt of the lands of Woidmylne, vpoun the quhilk the defender buir and had the saidis pistoletis, it is nocht relevant ; it is anfuert, that the summondis standis verrie relevant, beirand that he had and bure the saidis pistoletis vpoune the saidis landis, contrair the Actis of Parliament ; quhairby it is cleirlie signifeit, that he had the pistoletis, quhair, by Act of Parliament, he mycht nocht haif thame : Attour, the haifing of the pistoletis within his hous, yaird or cloife, being ane defense allegit competent to the partie, the persewer was nocht obleift to mak ony mentioun thairof in his summondis ; bot gif thay propone ony allegeance vpoun the generalitie of the summondis, quhairby thay find thameselfis preiudgeit in the particuler defense competent to thame in maner foirlaid, gif my Lord Justice ordane the perseweris to condiscend, thay fall conforme thameselfis to his directioun.

It is anfuert be the defender, that the beiring and weiring of pistoletis ar nocht forbiddin be the Actis of Parliament, within all the pairtis of the realme ; becaus the Act of Parliament maid thairanent contenis certane limitationis and exemptionis, as the actis beiris, repeitit heir *brevitatis causa*. As to the secund member of the anfuert maid for sustening of the relevancie of the lybell, beiring, that the pistoletis war boire, woirne and vset, incontrar the tennour of the Actis of Parliament, quhairby it is signifeit, that the famin wair boire, woirne and vset vpoun the pairtis forbiddin ; that pairt of the anfuert is na wyis relevant, feing it aucht to haif bene speciallie lybellit, in quhat pairt the pistoletis war boire, worne and vset, and the lybell maid relevant and speciall in that point ; to the effect that the partie mycht haif bene hard to haif vset his lauchful defensis, and to haif dispute with the perseweris, quhither the place qualifeit in the lybell was lauchfull or vnlauchfull. Anfuertand to the thrid member of the reply, quhilk contenis ane offer maid be the perseweris to condiscend vpoun the speciall place, gif my Lord Justice thinkis the famin necessar ; it is allegit be the defender, that pairt of the anfuert nawayis to be relevant ; becaus my Lord Justice, of his office, aucht only to judge vpoun the lybell as the famin is set down,

quhairwith the partie was summond lauchfullie, and thairupon had allegeances maid thairaganis to gif ane direct anfuere, relevant or nocht relevant: And the partie is nocht haldin, of reffone, to anfuere to ony declaratioun to be maid at the bar, quhilk confistis *in facto*, quhairupoun the Assyse ar obleift to geve thair determinatioun; and 'the place' being ane speciall point, quhairupoun tryell aucht to be tane be the Assyse, quhilk nocht being relevantlie set down in the lybell, the samin can nawyis be suppleit be ony declaratioun to be maid.—The persewaris, to eschew prolixitie, be thair declaratioun, restrictis the woirdis of the lybell anent the haifing of pistoletis vpoun the landis of Woidmylne, insafar as the samin may appeir to comprehend the hous, clois and yaird, to 'the landis of Woidmylne,' outwith the house, clois and yaird; albeit the said declaratioun be nawyis necessar, becaus the persewer was nocht obleift to lybell the defenderis exceptioun.—It is anfuereit, that the said declaratioun aucht nawyis to be reffauit, the samin consistin *in facto*, tending to sa heich ane cryme to the defender, and nawyis being lybellit, for the resone foirlaid: And quhair it is allegit, that the perseweris ar nocht obleift to lybell the defenderis exception, it is anfuereit, that the perseweris ar obleift of the Law to set down ane relevant lybell, quhairupoun the cryme lybellit may be inferrit; and the Judge aucht to geve ane direct anfuere vpon the relevancie thairof; and the lybell can nawyis be suppleit be ony new declaratioun maid at the bar, in prejudice of the defender.

The persewer anfuereis, that the summond is relevant of the Law; and gif thair war nocht ane perticuler exceptioun proponit *in facto* aganis the allegit generalitie of this woird, ('the landis of Woidmylne,') my Lord Justice wald find the samin relevant of the Law, as conteneand ane speciall tyme, place, with all vther circumstances requisit; and sua the samin being only quarrellit be ane alledgeance *in facto*, the samin may be sustenit be ane reply *in facto*.—It is anfuereit, that the said alledgeance consistis altogidder *in jure et non in facto*, and is proponit aganis the irrelevancie of the summond, in the assumptioun, quhilk is mair large nor the propositioun; and ane irrelevant lybell can nawyis be sustenit be ane reply consistin *in facto*.—The alledgeance is *in facto*, beand *priuatata jura rei*, cannocht be knawin to the persewer; and thairfoir aucht nocht to be lybellit, nather can he be astrictit to lybell *negatiue* for the respect of thair priuat defence *in facto, in facto particulare*. It is anfuereit, that the persewer can nocht be hard to alledge misknowledge, be limitationis, restrictionis and exceptionis contenit in the Actis of Parliament, quhairupoun the lybell is foundit.—It is anfuereit be the aduocat, the hail factis comprehendit in the summond is man be affirmatiue, and referrit to the Assyse; and na negatiue can be lybellit be the persewer.—It is anfuereit be the defender, that the factis lybellit, quhairvpoun the Assyse aucht to tak cognitioun, aucht nocht to be set down mair amplie nor

the law is maid, quhairupoun the samin is foundit; sua that the Assyse, of necessitie, may cognosce vponne ane affirmatiue, limitat and restrict as the Law prescryves.

Nov. 4.—The pannel takis instrumentis, that Charles Murray of Aitkit, with the kyn and freindis of vmq^{le} Johnne Murray, comperit nocht, being oft tymes callit to that effect; and that he offerit him self reddie to anfuere as effeiris.

Comperit Rodger Eschtoun, seruitour to his Maiestie, and producet the Warrant vnderwrittin, quhairof the tennour followis.

REX,

JUSTICE, Justice-Clerk (and your deputis), we greit you weil. It is our will, and for certane cauffis and considderationis moveing us, We command you, that, vponne the siche heirof, you continew the criminall cause persewit befor you, at the instance of Charles Murray of Aickett, and remanent kyn and freindis of vmq^{le} Johnne Murray, and our aduocat for our entres, aganis Johnne Arnote of Woidmylne, ffor the slauchter of the said vmq^{le} Johnne, beiring, weiring and schuiting of pistolettis, aganis the tennour of the Actis of Parliament, and vperis crymes contenit in our vperis letteris direct pairupoun; and that unto the thrid day of the nixt Justice-Air of our sherefdome, quhair the said Johnne Arnote duellis, or soner, vponne fyftene dayis wairning: Takand the samin or vperis new cautionoun for his compeirance, vnder the samyn pane contenit in the former Act; or then enter and deliuer him in waird within our Castell of Edinburgh, to remane in the meane tyme. As you will anfuere to us vponne your office and obedience; keipand the presentis for your warrant. Subscryuit with our hand, Att Halyrudhous, the sferd day of November 1598.

(Sic subscribitur)

JAMES R.

The Justice ordanit the personis vnderwrittin to be ressauit cautioneris, in maner following:

Sir Patrik Hepburne of Lufnes kny^t, Johnne Toures of Innerleyth, James Creichtoun of Ruthvennis, Thomas Abircrumbie of that ilk, Alexander Blair, apperand of Bathayoke, Johnne Traill of Blebo, Henrie Pitcairne of that ilk, Andro Aytoun of Dynmwre, Robert Lummisdene of Airdrie, and David Betoun, fear of Balfour, become pledges and fouerteis coniunctlie, vnder the pane of ten thousand pundis, (viz. to ilk ane of thame, vnder the pane of ane thousand pundis,) for Johnne Arnot of Woidmylne, that he fall compeir befor our souerane lordis Justice and his deputis, the thrid day of the nixt Justice-air of the sherefdome of Fyfe, or soner, vponne fyftene dayis wairning; to vnderly the law, ffor the slauchter of vmq^{le} Johnne Murray, seruitour to Patrik Commendater of Lundoris; and for beiring and weiring of pistolettis.—The samin day, John Arnote, younger of Wodmylne, band and obleift him, his airis, executouris and affignais, to freith, releif and keip skaythles his cautioneris aboue writtin of thair said cautionoun, and of all danger, coist, skayth and expensis, that thay or ony ane of thame may incur thairthrow.

[*Mr William Haert et Mr William Boirthuik Justices-Deputes.*]

Bearing and Wearing of Pistolets.

Nov. 3.—JAMES LOKHART, younger of Lie, Thomas Gairdner elder, and Thomas Gairdner younger.

Delaitit of contravening of the Actis of Parliament, in beiring and weiring of pistoletis.

PERSEWARIS, Adame Somervell, Thomas Somervell, and Mr Thomas Hammiltoun of Drumcarne.

It is allegit be James Lokhart, younger of Lie, that Allane Lokhart and Laurence Broun to be feik; and producet Mr William Birny, minister at Lanerk, quha, being sworne, deponit that Allane Lokhairt had bene feik in the het feiknes¹ tuentie dayis befor Setterday lastwas; bot convaleffit, lyand aboue the claythis: And that Laurence Broun was lyand bedfast, vnhable to travell to this Court.—‘Continewit to the morne.’

Nov. 4.—Continued to the Air of ‘Lanark, tertio Itineris, vel xv dierum.’ Pledge, William Hammiltoun of Dynserf. Lokhart becomes pledge for Allan Lokhart and Laurence Broune.

Lying in Wait, &c.

Nov. 4.—GILBERT LORD SOMERVELL, Thomas Somervell, portioner of Grainge, Adame Somervell, seruitour to the said Gilbert, W^m Somervell in Amphorlay, James Somervell in Grenefeild, Hew Elder in Carnewath-mylne, and Hew Paterfon in Carnewath.

Delaitit for lying await for James Lokhart, younger of Lie; and for cuming to his chalmer, vnder filence of nicht, within the burch of Edinburgh.

PERSEWARIS, James Lokhart, younger of Lie, and Mr Thomas Hammiltoun of Drumcairne.

James Lokhart, younger of Lie, passis fra that pairt of the lybell perfewit at his instance aganis my Lord Somervell and his freindis, sa far as the samin tuiches ony pairt of thift; reserveing always his actioun ciuillie aganis thame thairfoir. Quhairupoune my Lord tuik instrumentis, for him self, and the remanent impannellit.

Compeirit James Lokhart, elder of Lie, and declairit vpoun his faull and conscience, that he nevir knew of the raising of the Lettres, at his sones instance, aganis my Lord Somervell and his complices; bot was reddie to assist and defend the said Lord, in all his honest actiones: And thairupoun cravet instrumentis.—Continued to the Justice-air of ‘Lanark, tertio Itineris, vel xv dierum.’ Pledge, David Somervell of Plane, for sa mony as he was for befor; my Lord for the rest.’

¹ Fever, scarlet fever?

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter.

Nov. 10.—JAMES LYOUNE of Eister Ogill, and Williame Lyoune in Balgillie.

Comperit Mr Thomas Rollok, aduocat, and produceit ane Warrant, subscryuit be his Maieftie and the secretar, quhilk was admittit be the Justice; quhair of the tennour followis.

Rex,

JUSTICE, Justice-Clark and your deputis, We greit you weil. Forfamekle as the . . . day of is appoyntit and affignit to James Lyoune of Eister Ogill, and Williame Lyoune in Balgillie, for pair comperance befor you in our Tolbuth of Edinburghe, to vnderlye our lawis for þe slauchter of vmq^{le} Alexander Cowtis; nochtwithstanding, for certane causis and confiderationis moving us; especiallie, for eschewing of forder troubill and inconvenientis, quhilkis be þe keeping of þe said dyet may fall out: It is oure will, and we command you expresslie, be þir presentis, to desert þe said dyet, and to desist and ceise fra all proceding pairin; dispensing with þe personall comperance, allweill of þe defendaris as of þe persewaris, and with nocht reporting of þe lettres; and that 3e nawayes vnlaw þame nor pair cawtionaris, nochtwithstanding quhatsumever warrant or command gevin or to be gevin and direct to you in the contrair: As 3e will anfuer to us þairvpoune: Quhairnent þir presentis falbe vnto you ane Warrant. Subscryuit with our hand, At Edinburghe, þe vij day of November, 1598.

(Sic subscribitur)

JAMES REX.

[*Mr Williame Hairt, Justice-Depute.*]

Spuilzie, &c. — Liability of Earl of Argyle for the Campbells and MacGregors.

Nov. 14.—ARCHIBALD ERYLL OF ERGYLL,¹ as principall; and James Seytoun of Tillybody and James Schaw of Sauchie, as Cautioners, to enter John Dow Campbell M^cCondochie, &c.

Comperit Alexander (James?²) Maister of Elphinstoune, togidder with Maisteris Alexander King and Johne Halyday, his preloquoutouris; and as procuratouris for Alexander Elphinstoune, brother to Robert Lord Elphinstoune, Andro Sym in Wester Rossie, William Hirdman thair, Ninian Henryfoun,³ &c.; and produceit our souerane lordis Lettres, dewlie execute and indorsat, chargeing Archibald Eryll of Ergyll Lord Campbell, as principall, James Seytoun of Tillybody and James Schaw of Sauchie, (as cautioners,) to enter John Dow Campbell M^cCondochie, tutour of Innerraw; Duncan Campbell, his sone; Patrik Campbell, brother to the said Johne; Lauchlane Campbell, brother-sone to the said Johne; Archebald and Duncan Campbellis; John Dow M^cGregour, brother to the Lord

¹ The Earl of Argyle is here pursued, as the King's Lieutenant of the bounds or district within which these Campbells and MacGregors resided; in which capacity he had found security for the lawless tribes over whom he had command; they in their turn becoming liable to him in relief, under separate bonds. ² He is designed James in the entry, Dec. 1. ³ The other pursuers, being the Master of E.'s tenants, are here enumerated, as having been injured by the Campbells and MacGregors.

of M^cGregour; John Dow, Andro Dow, sonnes to vniq^u Ewine M^cGregour; Gregour M^cGregour and Johne Dow M^cGregour, sonnes to Allester Skorach; Patrik Makgregour, sone to Patrik Dow M^cGregour; and James M^cGregour, sone to Duncan Glene.

PERSEWARIS, Alexander Elphinstone, brother to Robert Lord Elphinston, and others.

PRELOCOUTOURIS, Alexander Maister of Elphinstoun, Mr. Alexander King, Mr. Johnne Halyday. PRELOCOUTOURIS for the defenders, Mr. Williame Oliphant, for Archibald Erle of Argyle; Mr. Thomas Craig, for James Schaw of Sauchie; Mr. Robert Lyntoun, for James Seytounne of Tilliebodie.

The Justice continewis, with consent of partie, to the xxj day of the said moneth of November.

Nov. 21.—The Justice assynis the first of December to the defenderis, to gif in thair defenffis.

Dec. 1.—Comperit Johne Halyday and Mr. Alexander King, prelocoutouris for James Maister of Elphinstoun and his Tennantes, as persewaris, aganis the Erll of Ergyll.—Comperit Mr. Johne Scharp and Williame Oliphant, as prelocoutouris for the Erll of Ergyll and his cautioneris; and produceit the defenffis, quhilk wes delyuerit to Mr. Alexander King.

The Justice affignit the sewint day of December to ansuer.

Dec. 7.—Answers to the Defences were lodged. The Justice continewis the pronouncing Interlocutour in the said mater *literatorie*.¹

Besieging Place of Ashintullie — Taking Prisoner, &c.

Nov. 24.—*SIR JAMES STEWART of Auchmadies,² *Sir James Stewart of Ballicachan, Patrik Butter, fear of Gormok,³ *James Stewart of Bodinschawis, *Robert Stewart of Facastell, *James Stewart of Force, David Donald of the Grange,⁴ *Alexander Robertfoune of Fascalie, *Alexander Stewart of Cullelony, Patrik Blair of Ardblair,⁵ William Chalmer of Drumloch,⁶ James Ramsay of Ardbikie,⁷ George Campbell of Crwnan,⁸ William Wod sumtyme of Latoune,⁹ David Campbell of Eifter Denheid,¹⁰ *John Falow, younger in Balbrogie,¹¹ Robert Alexander in Cowper,¹² Colene Falow in Grange,¹³ Patrik Campbell of Kethik,¹⁴ John Sowter in Cowper-grange, James Blair in Brunstoune, Sir Walter Rollok, tutour of Duicrub, Henrie Durhamè in Falow, Johne Pitcairnis at the Mylne of Kilour, *David Arnot of Incheok, *George Cwneistoun of Ettradour, Laurence Narne of Alliefargie, Archibald Herring of Drimmy, Archibald Campbell of Persar.

¹ No further notices are entered in the Record; so it is likely the matter had been privately compromised. ² Those marked * did not 'compear.' ³ Plegio, Domino Drumloch. ⁴ Plegio, Colene Falow in Grange. ⁵ Plegio, Laur. Mersar of Mekillour. ⁶ Plegio, Pat. Butter of Gormok. ⁷ Plegio, W^m Wod of Banblane. ⁸ Plegio, Byschop of Brechin. ⁹ Plegio, James Ramsay of Ardbikie. ¹⁰ Plegio, Byschop of Brechin. ¹¹ Plegio, eodem. ¹² Plegio, Bischop of Brechin. ¹³ Plegio, eodem. ¹⁴ Plegio, Colene Campbell of Lundy.

Dilatit for Affageing of the Place of Affintullie, and taking of Andro Spalding of Affintullie; committit in the moneth of November, the yeir of God I^m.V^c.lxxxvij yeiris.

PERSEWAR, Mr Thomas Hammiltoun, aduocat.

The aduocat produceit his Maiesteis Warrant, for continewatioun of the dyett to the xv of December nixtocum.—The Laird Arbokie and Williame Wod fumentyme of Latoun, now of Banblane, Daid Campbell of Denheid, Williame Chalmer of Drumlochy, Archibald Herring of Drimmy, offerit thame to Affyse; and disaffentit to the continewatioune; quhairvpoun thay askit instrumentis. Johne Pitcarne, att the Mylne of Inuerkelour, askit instrumentis.—The samin day, Johnne Erll of Atholl, oft tymes callit as cautioner and fouirtie for Sir James Stewart of Auchmadeis, &c. to haif enterit and presented thame, &c. wes vnlawit for nocht entrie of the saidis Sir James, &c. for ilk ane of thame, in the pane of fyve hundreth merkis: Lykeas, the saidis perones principall, wer adjudgeit to be denunceit rebellis, and put to the horne, and all thair movabill guidis escheit, as fugitiues.

Adultery.

Nov. 25.—ALEXANDER HAY of Delgetie.

Mr Thomas Hammiltoun of Drumcairne, aduocat to our souerane lord, produceit his hienes Lettres, purchest at his instance, to tak fouertie of Alexander Hay of Delgetie, that he sould haif compeirit this day and place, and vnderlyne the law for the cryme of Adulterie, committed be him (with Barbara Forbes, his adlegeit spous).

Compeirit Mr Johnne Russell, aduocat, *excusatorio nomine* for the Laird of Delgatie, and allegeit na proces (lay) aganis the said Alexander, becaus he is deidlie feik, nocht abill to travell, and comperis lyand within my Lord Sinclairis place in Ravinsluik; and offeris to verifie the samin lauchfullie.—Comperit Mr Williame Murray, minister of Dyfert, as Minister of the parochin, quhair the Laird of Delgatie lysis, and being solempnie sworne, depones, vpon certane knowlege, that the said Alexander was deidlie feik, and could nocht travell.—Compeirit lykwayis, Alexander Crystie, bailzie of Dyfert, ane of the witnessis vseit, deponet that the Laird of Delgatie is lyand bedfast, hevelie disseisit, and nocht habill to travell.—Compeirit lykwayis, William Craig of Craigistoun, and deponet that the said Alexander was lyand bedfast, and deidlie feik, as appeirit to him.

The aduocat desyrit that this dyet may be continewit to Tyfday, becaus the Minister and the witnesses hes nocht deponit constantlie of his feiknes; quhill that his Maiestie be aduerteist thairof, and direct Mediceneris to tak tryell thairof.

The Justice continewis this matter to the penult day of November instant; and ordanet the Laird of Delgetie to find new caution for his compeirance that day.

The famin day, compeirit Alexander Bonar of Balgirscho, and become pledge and souirtie for Alex^r Hay of Delgetie, that he fall compeir befoir my Lord Justice and his deputis, in the Tolbuthe of Edinburghe, the penult day of November instant, in the hour of cause, in cais he be habill to travell, and vnderly the law for the cryme of Adulterie, committit with Barbara Forbes, his allegeit spous; vnder the panes contenit in the Actis of Parliament.

PRELOQUUTOIRIS for the pannel, Mr Johnne Ruffell, Mr Williame Oliphant.

Nov. 29.—Comperit the Aduocat, and alledgeit that the Laird of Delgattis cautioner aucht to be vnlawit, and him selff aucht to be denunceit to the horne, for his non entrie this day; and the famin aucht nawyis be delayit, in respect of ony affoinzie¹ of seiknes; becaus the mater being continewit to this day, to the effect his Maiestie mycht direct ane Doctor of Medicine to viffieit the defender, and to try his present estait, and to report the famin to my Lord Justice; I offer me to preif, be Mr Thomas Moriesoune, doctour of Medecine, quha, conforme to his Maiesteis command, hes viffieit the Laird of Delgattie, that he mycht haif travellit and keipit this dyet without hasard of his lyffe; quhais declaratioune, being present, I desyre my Lord to ressaue. To the quhilk it is anfuert, *excusatorio nomine*, as ofbefoir, that the Declaratioun of Doctor Moriesoun, in preiudice of the said Laird of Delgattie aucht nocht to be ressaueit, for tua cauffis: ffyrst, becaus it is *dictum unius testis*, quha, of the law, *neque probat ciuilititer neque criminaliter*, speciallie in sic a mater of grit consequens; nixt, becaus of the law *testi non jurato non creditur*: And trew it is, that Doctor Moriesoune wes nather directit in presens of partie to this effect, nor yit sworne in presens of partie; and quhatsumewir prewie directioun hes bene gewin to him extra-judiciallie, the famin can nawyis preiudge the Laird of Delgattie: Nixt, gewand² that his depositioun mycht be ressaueit, quhilk is altogidder denyit, and that the famin mycht mak faith, it is certane that the famen, of law, *quod alleganti impedimentum danda est probatio et non contra*; and trew it is, that the alledgance of the seiknes is proponit be Delgattie, quha, as he verifeit the famin vpoun Satterday last, be the Minister and twa witneffes, conforme to the Act of Parliament and ordour obseruit in this Judgement; yit, as ofbefore, he offeris him to preif presentlie, the continewatioun of the said seiknes in the persoun of Delgattie, and that he is altogidder vnhabill to travell, without perrell of his lyffe; and in respect thairof hes tane medicine, and is presently vnder medicine; and this he offeris him to pruiiff be the depositioun of ane famous Doctor, viz. Doctor Medicine,³ and the Testimoniall of Archibald Mwdie, ypoticar, quha ministrat the said medicine.

¹ *Essoyne, essoigne*, Old Fr. An excuse for non-appearance in Court, &c., on oath that the party is sick, &c. ² *Esto*, allowing, or granting for the sake of argument. ³ An amusing mistake of the Clerk of Justiciary for 'Doctor Schomer.'

To the quhilk it is anfuerit be my Lord aduocat, that the fyrft alledgance is nocht relevant, becaus the Kingis Maieftis directioun in this caife aucht nawyis to be repute the deid of ane priuat partie, bot the command of the maift fouerane Judge: Nixt, the testimony of the faid Mr Thomas can nocht be rejectit, becaus he is allegeit *singularis*; becaus this is nocht ane mater of ordinar probatioun, quhilk mycht fall *sub sensu communi omnium hominum indifferenter*, bot may be only provin be Doctouris of Medicine, *quibus ut periti in sua arte capiendum est*: Laft, the offer of the contrar Declaratioun can nawyis be reſpectit, becaus it is procureit be the defender, to eſchew the tryall of ane haynous cryme; and the taking of medicine imports na feiknes. As to the faid Mr Thomas aith, it could nocht be properlie tane, quhill now, that he is reddie to mak judiciall Report, conforme to his Maieftis directioun; quhilk the perſewar produceis and defyres to be red; craifand my Lord Juſtice anfuer thairto, and that his lordſhip will haif regard that the faid Mr Thomas, in this caife, is *testis omni exceptione major*; being knawin to haif ſpent mony yeiris in the ſtudie of his ordinar courſe of medicine, and to haif paſt the hail degreis thairrof.

The faid Warrant being red, the Aduocat took instrumentis thairupoun.

THE faid MR THOMAS MORIESOUNE, S^r.¹ doctor of medicine, being ſworne, declarit, that on command of his Maieftis Commiſſioun, he paſt vpoun Monunday laſt to Ravinſheuch, and betuix thre and four houris eftir none fand the Laird Delgattie lyand on his bed: He declarit his commiſſioun to him fra his Maieſtie, inquyrit the cauſe of his diſeiſe, quhilk he declarit was ane indigeſtioun and cruditie of his ſtomok, with ſchottis² throw his body, quhilk he ſaid was be exces and travell; to the quhilk the Doctour eikit,³ that intemperance helpit itt: And forder declaris, that he fand him ſeik and defyrit him to tak medicine; and thinkis, he wald haif bene war⁴ of his trauell; and nochtheles, be his opinioun, he mycht haif travellit to Edinburghe to this dyett, without danger of his lyfe.

MR MARTENE SCHOMER, Doctor of Medicine, being ſworne, deponit, that the Lady Delgattie being heir in Edinburghe, erniſtly defyrit the deponer to paſs to hir huſband in Ravenſheuch, quhair ſche affermit he wes deidlie ſeik: He tuik Ar^d Mwdie, ipoticar, with him, with ſic remedeis as he thoct agreabill for the ſeiknes declarit be his wyffe: Thay come vpoun the xxvij day of this inſtant to Ravinſheuch, quhair thay fand the Laird of Delgattie, verry heavelie diſeaſit, tormentit with vehement panis in his ſtomok and in his melt,⁵ with ane grit ſqwalling of his hail belly, that he mycht not ſuffir him to tuich his bellie, ſtomok, nor melt: Thairvpoun, for remedie of his neceſſitie, inſtantlie he gart gif him ane cleiſter, and applyit ſicyke, fomentatiounis to his melt, maid vnctioun of vleis,⁶ and left the poticar with him to miniſter ſic medicines as ar neceſſar for him. And in end, declaris vpoun his conſcience, as for the preſent as he fand him, he mycht nocht travell to Edinburghe, 3e⁷ he mycht not ſet vp in his bed, for dolour, nor mycht nocht cum to the ſure: And declarit, that he cam fra the Laird of Delgattie this laſt nycht, att midnycht.

And forder, the procuratouris for the faid Laird of Delgattie ſend for Ar^d. Mudie, ipoticar to the doctor; quhilk thay defyrit to remane in proceſs.

The Juſtice continewis this mater to Fryday the fyrſt of December.—Alex^r Bonar of Balgirſcho became ſurety for his appearance, ‘ gif he be abill to travell.’

¹ Probably ſenior. ² Now termed ſhooting pains, or ſpasmis. ³ Added, ſubjoined.
⁴ Worse. ⁵ The ſpleen. ⁶ Oils or unguents. ⁷ Yea.

Dec. 1.—The Justice continewis the mater to the third day of the nixt Justice-air of Abirdene, or soner, vpoun xv dayis wairning, eftir he be convalest; in respect of the said Laird of Delgateis diseafe. Alex^r Bonar of Balgirscho became pledge and fouertie.¹

Bearing and Weiring of Pistolets.

Dec. 9.—SIR JAMES DUNDAS of Arnestoun, knycht.

Dilatit for contravening of the Actis of Parliament, in bering and weiring of pistolettis.

PRELOCUTORIS for the pannell, Mr Johne Sharpe, Mr Williame Oliphant, Mr John Monereif.
PERSEWAR, Mr Thomas Hammiltounne.

It is alledgeit be Sir James Dundas, that he can nocht be putt to the knowledge of ane Assyis for the cryme libellit, in respect of the limitatioun and exceptioun contenit in the Act of Parliament; be the quhilk it is promittit, that it fall be lesum to all men, in ganging, remaning and repairing to oiftis, raidis and assembleis, to beir, weir and vse pistolettis: And trew it is, before the tyme lybellit, the said Sir James wes commandit be Williame Erle of Angus, being than Leutenant, as he is yitt, to accompany him, att ane Justice Court, appointit to be hauldin att Peblis, vpoun the nynt and tent dayes of October: ffor obedience of the quhilk command, the said Sir James did na wrang to provyde him selff of armour, vpoun the said aucht day; the said Sir James, att that tyme, being domestik seruitour² and proper dependender vpoun my Lord of Angus, lyke as he wes diuers zeiris ofbefore: And this alledgeance, safar as concernis my Lord of Angus command gewin to him, and the haulding of the said Justice Court, is offerit to be verifeit presentlie, be my Lord of Angus awin declaratioun, quha is personallie present. The Aduocat anfueris, that the alledgeance aucht to be repellit, in respect alfeweill of the place quhair the cryme is lybellit to be committit, to witt, in the hie way passand fra Nudrie to Kirklistounne, as in respect of the qualitie of the pannell nawayis duelland within the boundis of my Lord of Angus Leutenandrie; nathir can my Lord of Angus declaratioun be reffaut in this cause, becaus his lordschip, in presens of my Lord Justice, hes raknit the said Sir James to be within degreis-defendand to his lordschip, baith in affinitie and consanguinitie: And his lordschip declaratioun *ex post facto*, in cais it mycht be reffaut in this place, fra the quhilk the persewar altogidder disaffentis, yit the samin can work nathing; becaus the Act of Parliament allowis allanerlie the

¹ See Feb. 15, 1600. ² This affords a striking illustration of the former definitions given of the word 'seruitour,' which by no means bears the modern interpretation of a menial or 'servant.' In this instance, a knight and baron, of considerable rank and power, is termed 'domestik seruitour;' and besides, the same person is described as being related to the Earl of Angus, 'baith in affinitie and consanguinitie.'

wering of pistolettis, in ganging to Raidis and Proclamatiounis, and to personnes chargeit be his hienes Lettres and authoritie.

Before the Judgeis Interlocutour, the said Sir James Dundas past fra his alledgeance, albeit the samin may be ane sufficient reafoun to exeme him fra all penaltie: And fyrst, that his Maiestie fall nocht tak the said Sir James to be ane contradictour to his hienes lawis; and secundlie, att my Lord of Angus speciall desyre, be quhais command he adrest him selff to Peblis, haifing the saidis pistolettis; and als, speciallie confydand in his Maiesteis benignancie, he referring him in his Maiesteis will for this challenge. Quhairvpoun the Kingis aduocatt tuk instrumentis.

Besieging the Place of Assintullie.

Dec. 15.—PATRIK BUTTER of Gormock, &c.¹

Dilatit of the Assageing of the Place of Assintullie, &c.

This case was continued to 16. 19. 20. and 21 December; on which last diet, the Justice continued it farther to the xxij December.²

Fire-raising—Theft—Woughing and Slaing Horses and Cattle.

Dec. 21.—WILLIAM ROISE of Kilrawick, Hucheoune Roise his sone (and apperand air,) David Roise of Holm, John Rois in Cantray, David Rois in Lyne, Alex^r Roise in Lench, Alex^r Rois alias Roy, Walter Rois in Kilmany and Johne Rois in Rymoir.

Dilatit for the tressonable Byrning of George Dunbaris hous in Alwne (Clwne?) and thifteous steling fra him of his hail infycht, guidis and geir, worth twa thousand markis; of hoching of and slaying of ten horse and threscoir of nolt, pertening to the said George Dunbar.

PERSEWAR.

Johne Dunbar of Meynes.

PRELOQUOTOUR for the pannell.

Mr Williame Oliphant.

Mr Williame Oliphant tuk instrumentis that the Laird of Moynes comperis to persew.—The pannell takis instrumentis of thair entrie, and protestit for releif of thair cautioneris; and tuk instrumentis that na persoun comperit to persew, bot Johnne Dunbar of Moynes.

The samin (day) the said Johne Dunbar in Meynes produceit ane Warrant, subscryuit be his Maiestie, vndaittit, ordaning the Justice and his deputis to desert the Lettres purchest be him selff and George Dunbar in Clwne and William Falconer his guid-sone, aganis ALLANE CAMROUN of Locheldy (Lochiel?) and his complices. Quhilk Warrant, the Justice wald nocht admit; and ordanit the caution for reporting of the Lettres dewlie execute and indorsat vpoun

¹ Vid. Nov. 24.

² No farther procedure appears on Record.

thame, to be vnlawit, for nocht reporting thairof vpoun the said Allane and his complices, samony as the saidis Lettres are nocht execute vpoun.

Thairefter, it wes alledgeit be the pannell, that na proces fould be gewin aganis thame, for ony cryme contenit in the Lettres, committit aganis the said George Dumbar and Williame Falconer; becaus thay compeir nocht, nather hes Johne Dunbar of Moynes ony interes to perfew; bot the cautione fand for perfuit of the saidis lettres, att the instance of the said George Dumbar (and) Williame Falconer, fould be vnlawit, for nocht perfuit thairof.—To the quhilk it wes anfuert be the said Johne Dunbar of Moynes, that he hes sufficient interes to perfew the haill crymis, seing the crymis wes done to him and vpoun his landis, and thay wer his tennentis; and he wes reddie to perfew for the haill crymes, and swa the cautione could nocht be vnlawit.

THE Justice findis that the said John Dunbar could nocht perfew the pannell for ony cryme that wes done aganis George Dunbar and Williame Falconer, bot for the burning allanerlie: And ordanis the cautione to be vnlawit for nocht perfuit of the lettres, safar as the samin concernis the said George Dunbar and William Falconer.

Therefter, before pronunceing of the Dome, Dischargeit to vnlaw the cautione for nocht appeiring and perfute of the lettres, bot the Affyse only, and Ordanit the Warrant vnderwrittin to be infert and registrat in the buikis of Adiornall; quhair of the tenour followis.

REX,

JUSTICE, Justice Clark and your deputis, We greit you weil: Forsamekill as the xxij day of December instant is assignit to Allane Camroune of Bothell (Lochell?) and certane vperis of his clan and complices, for pair comperance befor you, to vnderlye our lawis for the tressonabill Fyre-raising in the duelling hous of George Dunbar in Clwne, and in ane vther coitter hous pertening to the said George; Putting of violent handis on Mariorie Dunbar, his spous, and Isobell Dunbar, spous to Williame Falconer; and for the maisterfull reif of certane guidis pertening to pame; and for diuerse vperis crymes specifeit in the criminall lettres rasit pairvpoun. Nochtwithstanding, for certane cauffis moving us, it is our Will, and We command you to desert the said dyet, and desist fra all proceding pairintill; depending with the personall comperance of the said Allane and his complices, as also with the perfewaris and pair cautioneris for nocht reporting of the criminall lettres dewlie execute and indorsat; And that the deleit furth of the buikis of our Adiornall the Act maid anent the reporting of the saidis Lettres; quhairthrow the samin haif na effect nor executione heirefter: Quhairanent thir presentis falbe vnto you ane Warrant. Subscryuit with our hand, Att Halyrudehous, the xxij day of December 1598.

(Sic subscribitur) JAMES R.

[No Assisers appeared, in consequence of which thirty persons summoned, are 'ilkane of pame pairfoir unlawit, in the pane of I' merkis.']

The quhilk day Williame Rois of Kilrawik, &c. being enterit on pannell, as summond be vertew of our souerane lordis lettres, purchest at the instance of Johne Dunbar of Moynes, George Dunbar in Clune, William Falconer in Leth-

inbar, to compeir this day and place, to haif vnderlyne the law, for cummyng with thair complices, to the nowmer of ij^c (200) men, brokkin men¹ and forneris,² all bodin in feir of weir,³ with bowis, dorlochis,⁴ twa handit swordis, steil-bonnetis, habershounes,⁵ lang hagbuttis⁶ and piftolettis, expresse prohibite to be borne, worne, vsat or schot with, be the actis of Parliament and Secreit Counsale *respectiue*, vnder diuers panis contenit in the samyn; laitlie vpoune the aucht day of October instant, haifing confaut ane deidlie feid, rancour and malice aganis the saidis compleneris, come vnder fylence and cloude of nycht, be way of Brigancie⁷ and Hamefucken,⁸ to the said George Dunbar duelling hous in Clwne, pertening heritable to Johne Dunbar of Moynes; and thair, be thame selfis and thair said complices, of thair speciall causing, hounding, sending, directioun, maintening, quarrelling, airt, pairt-taking, command, assistance and rathabitoune,⁹ treffonable rasit fyre in the said George Dunbaris duelling hous in Clunne, and bigginges thair of: And nocht content thairwith, put violent handis in Mariorie Dunbar, spous to the said George, and in Iffobell Dunbar, spous to the said Williame Falconer, tyrrit¹⁰ thair claithe of thame, and schot¹¹ thame moder-nakit¹² furth of thair said duelling hous, befor the samyn was brynt and distroyt: The said Iffobell Dunbar, spous to the said W^m, being than lyand in grit dolour and distres of the birth of ane man-chyld, quhair of scho was delyuerit bot foure dayis of befor; quhilk man-chyld, they but pitie or compassioune, kaift furth of the said hous to the mydding:¹³ Lyke as thay, at that samyn tyme, thifteouslie stail, concelit, resset and away-tuk fra the said George Dunbar, furth of his said duelling house, his hail infycht-pleneiffing,¹⁴ guidis and geir, extending to the valour and quantitie of twa thousand markis; togidder with ten horfis and threfoir of nolt, and maist schamefullie and vnworthelie hocht¹⁵ and flew auchtene ky and oxin pertening to the said George Dunbar, as his awin propir guidis and geir: And swa, they and ilk ane of thame war airt and pairt of the said crymes: As at mair lenth is contenit in the Lettres direct thairvpoune:—Offerit thame selfis reddie to abyde the tryell of the law and of ane Assyes, for the saidis allegeit crymes, dissaftening fra all continewatioune: And in respect that na partie comperit to persew thame, except the said Johne Dun-

¹ *Broken men*, outlaws, separated from every clan by their crimes, and depending upon plunder for their subsistence. *Scatterlings* is a synonymous word in English, and which Dr Johnson terms 'an elegant word.' ² Men who, without homes, secured free quarters to themselves by violence, and were a dreadful and merciless scourge to the poor and unprotected tenants and labourers of the ground. ³ In warlike array. ⁴ Short swords or daggers. ⁵ Habergeons, (*awbyrchounes*) coats of mail, composed of plate or chain mail, without sleeves. *Grose, Jamieson.* ⁶ A large kind of musket. ⁷ Open and violent robbery. *Fr. briganderie.* ⁸ Assault and violence done to a person in his own house or home. ⁹ Confirmation, ratification. *Law Lat. Ratihabere, pro ratum habere.* ¹⁰ Tare, rent. *Fr. tirer.* ¹¹ Pushed them by force. ¹² Stark-naked. ¹³ *Midden*, dunghill. ¹⁴ Household furniture, &c. *spraichrie.* ¹⁵ Hamstrung.

bar of Moynes; nather yit was thair ane sufficient Affyis of thair rank summond to this day and place, to pas vpoun thair Affyis; bot as appeirit, of meir malice be the partie persewar, thay being maist innocent of the saidis crymes: And thairfoir, first, protestit for releiff of David Brodie of that Ilk, Patrik Dunbar of Couze, Johne Rois, sone to Angus Rois, burges of Narne, and Johne Rois, provest of Narne, cautioneris and fouerteis respectiue, summonit for thair entrie this day and place, to the effect foirsaid, be releiffit; quhilk was admittit: Lyke as also, that thay be nocht astrictit to fynd new cawtioune, for thair entrie gane, to vnderlye the law for the saidis crymes, seing thay haifing obeyit the charge of the saidis Lettres, and haifing cum sevin scoir of myles for tryell of thair innocencie of the saidis crymes; and the caus of delay of thair tryell proceding fra the partie persewaris, quha nather comperit to persew, as said is, nor summond ane sufficient nowmer of Affyis, as said is: Lyke as, thay being presentlie content to abyde the tryell of ane Affyis of quhatsumevir personis at the bar. Quhilk protestatioune the said Justice, for the cauffis foirsaidis, admittit. Off the quhilkis, all and syndrie the premissis, thay askit notis (actis) and instrumentis.

Slaughter.

Dec. 29.—**JOHNE CREYCHTOUNE** of Crawfurdtoune, William Creychtoun, brother to Mr Robert C. of Carco, James Creychtoun, son to John C. of Crawfurdtoune, and Williame M'Gowne in the Maynis of Crawfurdtoune.

Dilatit of airt and pairt of the slauchter of vmq^{le} Patrik Maxwell, callit of Dalquhorne.

PERSEWAR, Mr Alexander Maxwell.

The Justice continewis this mater to the morne.

Dec. 30.—Continued to the Air of 'Drumfreis tertio Itineris, vel super premonitione xv dierum.'

Slaughter—Wearing and Shooting of Pistolets.

Dec. 29.—**JAMES CREYCHTOUNE**, in Tounheid, sone to vmq^{le} Williame Creychtoun, tutour of Sanquhar, and Johne Edzger of Ingliftoune.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Patrik Maxuell of Dalquhorno; and for contravening of the Actis of Parliament, in bering, wering and schuting with pistulettis; committit in the moneth of lastbypast.—Mr Robert Creychtoun of Carco, and Williame Creychtoun in the Tounhead of Sanchar, fined 'ij^c merkis,' and 'fyve hundreth merkis,' for non appearance of James Creychtoun and Johne Edzger, 'to haif vnderlyne the law' for the said

crimes. Creychtounne and Edzer are adjudged to be denounced rebels, and ' all thair movabill guidis to be escheit,' &c.

Slaughter.

Jan. 2. 1598-9.—ROBERT TULLOCH of Tannachie, Thomas Tulloch, his sone, and James Barclay in Mekill Tarrie.

Dilatit of airt and pairt of the Slauchter of vmq^{le} Williame Dowglas, sone to Williame Dowglas of Erlisfmylne.

PERSEWAR, W^m Dowglas of Erlisfmyll. PRELOQUITOUR, Mr Johne Scharp.

The pursuer produces the Letters duely executed. Comperit Mr Johne Scharp, *excusatorio nomine* for Patrik Dumbar of Blarie, as souertie for Robert Tulloch, &c. and alledgis, in respect of the notoriety of the storme, thay being vpoun thair jurnay, thay can nocht compeir.

The Justice continewis to Furisday (Thursday).

Jan. 4.—The pannell takis instrumentis of thair entrie, and protestit for releif of thair cautioneris.

Continued to the aire of ' Elgyne and Forres tertio Itineris, vel super premonitione xv dierum.'¹

Slaughter.

Jan. 4.—WILLIAM WOD of Baublane, (sumtyme of Latoune.)

Dilatit for airt and pairt of the Slauchter of umq^{le} Robert Frazer, (Unicorn Purfuivant; committit in the moneth of October yeiris.)

The said Laird of Latoune produceit ane Warrant, subscryuit be the King and his Counfall, quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputtis, We greit 3ow weil: Forfamekill as our vperis lettres ar purchest att pe instance of Katherene Rynde, the relict, with pe bairnis, kyn and freindis of vmq^{le} Robert Frazer, Vnicorne Purfevant, for calling of W^m Wod of Latoune befoir 3ow in 3our Tolbuith of Ed^r the fourt day of Januar instant, in pe hour of caus, to vnderlye pe law for alledgeit airt and pairt of the Slauchter of the said vmq^{le} Robert; quhilk slauchter, amang mony vperis, wes committit in the feild struckkin betuix our rycht traift counsing George Erle of Huntlie and Archebald Erle of Argyle. And nochtwithstanding, for diuerse considerationis moving ws, We, in our lait Parliament haldin at Ed^r, the nyntene day of December, the 3eir of God I^mV^e fourfcoir sevintene 3eiris, haif Remittit and put in obliuione, all Slauchteris and crymes quhilkes war committit at pe said feild, or at any tyme preceding, sen pe first day of Maij, the 3eir of God I^mV^e four scoir tuelf 3eiris; swa that thay suld nawayis be callit in memorye be ws or ony of our subiectis, in ony tyme heirefter; putting pe samyn, with all actione, accusatione, pane, penaltie and puneifment following pairvpounes, in perpetuall obliuione: Quhairfoir, and in consideration of the premiffes, it is oure wille, and we command 3ow, that incontenent ester pe fycht heirof 3e desert the said dyet; swa that the said Williame

¹ Vide Mar. 3. 1598. and Mar. 8. 1600.

Wod nor his cawtioner be nawyis trublit, vnlawit nor adiudgeit for his nocht entrie, the said fourt day of Januar instant, or ony vther day pairefter, befoir 3ow, for pe caus foirsaid, contenit in pe said act; discharging 3ow and 3our deputtis of all proceding pairintil and of 3our offices in pat pairt, be thir presentis. Subscryuit with our hand, Att Dalkeith, the ferd day of Januar, the 3eir of God I^m.V^e.lxxxvij 3eris.

(Sic subscribitur) JAMES REX. ANGUS. VCHILTRIE. ELPHINSTOUNE. SECRETARIUS.

The famin day, comperit William Dunbar, Minister of Dyke, and produceit the Letter vnderwrittin,¹ testifeing the inhabilitie of Alexander Tulloch, quhy he may nocht compeir this day; and thaireftir being sworne, he deponit, that Alex^r Tulloch wes vnhabill to travell without perrell of his lyffe; quhilk letter was subscryuit be the Moderatour of the Prisbeterie, viz. James Dundas, Minister att Alve, and . . . Balfour, Minister at Narne.

THE Justice admittis the excufe, and ordanit the mater continew for the said Alex^r Tulloch to the thrid day of the air of the Shereffdome of Elgyne and Forres, or soner vpoune fyftene dayis wairning. The said Robert Tulloch askit instrumentis, that the Guidman of Erlismyll perfew him for airt and pairt of the Slauchter of the said vmq^{le} Williame, for the resfatt, and nocht for the actual committing thair of.

Jan. 5.—The Justice nocht being throughlie avyfit, continewit it, to gif ansuer quhill this day; and ordanit the pannell to fynd cautione for his entrie to the day and place, in the hour of caus, to vnderlye the law for the said cryme; quha fund . . . Wod of Balbegen, cawtioner and souertie to the effect foirsaid, be vertew of our soverane lordis lettres, purchest at the instance of Katherine Rynd, the relict, Joⁿ Frazer, eldest sone, with the remanent faderles bairnis, kyn and freindis of the said vmq^{le} Robert: The quhilk day, the said Joⁿ Frazer comperand as perfewar, and the said Williame Wod as defendar, quha protestit for releif of his cawtioner; the said Justice depute admittit his Majesteis Precept, and Ordanit the dyet to desert. Quhairvpoune the said W^m Wod askit actis and instrumentis.

Wearing and Shooting of Pistolets — Slaughter, &c.

Jan. 26.—JOHNE ARNOT of Wodmylne.

Dilatit for contravening of the Actis of Parliament, in bering, wering and schuting with pistulettis vpoune the fleildis and landis of Wodmylne, at vmq^{le} Johne Murray, seruitour to Patrik Commendator of Lundores.²

The famin day, the said Johnne Arnot being enterit on pannell, declairit with ane sorrowful hairt for his offence committit aganis his Maiestie, and offence done to my Lord of Lundoris, nocht to contend aganis thame, or in ony foirt to irritat thame, quhome he is fory to haif offendit sa helie. He comperit in Judge-

¹ This Letter does not appear in the Record.

² Continued from 23. and 24. Jan.

ment, nocht to mak ony defence, in his offence committit aganis his Maieftie, be vmbefetting and transgrefling of his lawis, in bering and wering of piftolettis, bot fimplie and huimblie to cum in his Maiefteis clemencie and will; quhilk he offerit in all pointis to fulfil: And nocht only to obey his Maieftie thairanent, bot lykewyis to vnderly his Maiefteis will, concerning quhatfumewir fatisfacioun to be maid in all foirt of honoure and humbill obedience to my Lord of Lunderis, and Laird of Tillybairdin, as maifter and cheif to vmq^{le} Johne Murray; and in geir and vthirwyis to Charles Murray and his freindis, for Affythment of the Slauchter of the faid vmq^{le} Johne; quhairin abfolutlie I put my felf in his Maiefteis clemencie and will.

Quhairvpoun, the faid Mr Thomas Hammilton askit instrumentis.

The famin day, Sir Patrick Hepburne of Lufnes, knycht, and Johne Touris of Inverleith, become pledgis and fouirteis, coniunctlie and feveralie, for Johne Arnot Younger of Wodmyll, that he fall remane in waird within the tolbuith of Ed^r, and fall nocht depart furth thair of quhill his Maieftie declaris his will, in the quhilk he come, for bering and wering of Piftolettis; vnder the pane of Fyve thowfand merkis.

Umbesetting the Highway — Masterful Theft, &c.

Jan. 30.—GEORGE HOME in Aytoune.

Dilatit of vmbesetting of Williame Murray, burges of Ed^r, vpoune Coldinghame-mwre, and maifterfullie Steilling fra him of ane thowfand threfcoir fevin pundis iijf.iiijd. in gold and filuer.

Comperit Mr Dauid Guthre, as preloquitour for W^m Murray, quha hes speciall interes in this mater; and defyrit this mater may continew, quhill the morne, that he may cum fufficientle instructit with probatiounes, that (he) can nocht haif for the present.—The pannell defyrit that he mycht be putt to the knowledge of ane Affyse of countrey men.

Jan. 31.—Comperit W^m Murray, merchand burges of Ed^r, and produceit ane Warrant, fubfcryuit be the Kingis Maieftie; quhair of the tennour followis.

REX,

JUSTICE CLARK and 3our deputtis, We greit 3ow weill. It is our will, and We command 3ow, that vpoune pe fycht heirof, to stay and continew all proceeding aganis George Home, for his allegeit reife fra W^m Murray, or putting of him to pe knowledge of an Affyis pairfoir, till 3e reffae our forder Warrant pairanent; keping him in fuir waird in pe meyntyme. As 3e will anfuer to ws; keping pis present for 3our Warrant. Subfcryuit with our hand, At Ed^r, pe penult day of Januar, 1598.

(Sic fubfcribitur)

JAMES REX.

Forging and uttering base coin — Treason.

Feb. 9.—ELSPETH SKIRLING, spous to Johne Hepburne induellare in

Sanct Marie Wynd, Marioune Hepburne hir dochter, Mariorie Fyn, dochter to Johnne Fyn in Bruntiland, and Helene Bruce, spous to Raff Wallace skynner, burges of Edinburgh.¹

Dilatit of the tressonabill Counterfitting, fforgeing and Prenting of false and adulterat testanis with the croce vpoun thame ; and Outputting of the famyn amangis our Souerane lordis liegis.

PERSEWAR, Mr Robert Lyntoune, subtitute for our souerane lordis Aduocat.

ASSISA.

Johnne Mosman goldfmyth in Edr,	Hew Lyndefay goldfmyth,	James Trotter (fmyth),
Johnne Cwninghame goldfmyth thair,	Thomas Smyth merchand,	James Crawford goldfmyth,
Williame Stalker goldfmyth thair,	Johnne Hog in the Potter-raw,	Robert Vaus tailzeour,
Abrahame Hammiltoune smyth,	Robert Thomfoune goldfmyth,	Dauid Heriot, goldfmyth,
Robert Cokkie goldfmyth thair,	Williame Harper merchand,	Robert Schaw stabler.

The quhilk day Elspett Skirling, &c. being enterit on pannell, dilatit and accufit, for airt, pairt, red and counfall of the tressonabill fforgeing, ffalcyfeing and prenting in calmis, maid of trie,² fillit vp with calk,³ of fals adulterat money, sic as Scottis testanis with the croce, to the similitude and liknes of our souerane lordis trew money ; quhilk thay, in the monethis of August and September lastbypast, and Februar instant, tressonablie fforgeit, counterfit and prentit within the duelling houffis *respectiue* of the said Elspett Skirling and Rauff Wallace, in Sanct Mary Wynd, and tressonablie outit⁴ the famin amangis our souerane lordis liegis in Bruntyland, Edinburghe and Potter-raw : Quhilk craft of the falcifeing of the said money, the saidis Marioune Hepburne and Helene Bruce lernit be the instructioun of Hew Bruntoun Inglisman, quha vfit and praktesit the famin in the saidis houffis, att Fafternis-ewin lastbypast : Lykeas, thay, att diuers and findry vtheris tymis, tressonablie fforgeit, prentit and Coinzeit ane number of the saidis fals testanis, quhilk wes outit be the said Mariory ; commitand thairby oppin Treassoun :—Wer putt to the knowledge of the Assyise aboue writtin ; in quhais prefens the saidis personnes, being accufit be dittay, of the crymes aboue writtin :

VERDICT. Eftir chesing, swering and admitting of the quhilk Assyis, and accusatioun foirsaidis, the saidis personnes of Assyis past all furth of Court to ane loft in the Tolbuith, quhair thay chuse Williame Harper Chancillor of the Assyis, and reasonit and votit vpoun the pointes thairof, and being resoluit thairwith, re-enterit agane in Court, quhair thay, be the mouth of the said Chancillare, ffand, pronunceit and declarit the said Elspett Skirling, Marioun Hepburne and Helene Bruce, to be culpable, ffylit and convict of the saidis crymes ; and the said Marjory Fyn, to be acquit and innocent thairof.

SENTENCE. For the quhilk caus, the Justice-depute, be the mouth of Wil-

¹ See the Case of Rauff Wallace, Feb. 24, 1598-9. ² Wooden moulds. ³ Chalk, Lat. *calx*.
⁴ Vended, uttered, put out.

liame Blak dempstar, ordenit the saidis Elspet Skirling, Marioun Hepburne and Helene Bruce, to be tane to the Castelhill of Edinburgh, and thair fyrst to be wirreit at ane staik, and thaireftir to be brunt in affis; and all thair movabill guidis to be efcheit and inbrocht to our fouerane lordis vfe, as culpabill of the saidis crymes.

[*Mr Robert Murray, Justice-Depute.*]

Murder.

Feb. 13.—ALEXANDER SPENS, wobster (weaver) in Cruikstoun.

Dilatit for airt and part of the crewall Murthour of vmq^{le} Johne Donald, Wohster in Cruikstoune.

PERSEWARIS, Christian Donald and Marioun Donald, as fisteris.

VERDICT. The Affyis, by the mouth of thair chancellor Williame Hoppriggill in Clentis, ffaund ' the said Alexander to be ffylit, culpabill and convict of the crewall Murthour and slauchter of the said vmq^{le} Johne Donald, wobster in Cruikstoun; committit in the moneth of August lastbypast, vnder fylence and cloud of nycht, vpoune the landis of Cruikstoune.'

SENTENCE. The Justice-depute, be the mouth of Williame Blak dempstar, Ordanit the said Alexander Spens to be tane to the Castlehill of Edinburghe, and thair his heid to be striken fra his body; and all his movabill guidis to be efcheit, &c.

Slaughter.

Feb. 20.—ROBERT STEWART, brother german to Patrik Erll of Orknay and Sir Robert Creychtoun of Cluny, knycht.

The quhilk day comperit Mr Thomas Wilfoune aduocat, and produceit our fouerane lordis lettres, dewlie execute and indorsat, purchest be George Meldrum apperand of Haltoun, Robert, Williame and Meldrum as sonis, with the kyne and freindis of vmq^{le} Mr Williame Meldrum of Montcoffer; for chargeing of Thomas Lewingstoun of Baldone, as cautioner for Robert Stewart, Brother-german to Patrik Erll of Orknay; and Johnne Creychtoun of Inuernytie, as cautioner for Sir Robert Creychtoun of Cluny, knycht, to haif enterit and presentit thame this day and place, to haif vnderlyne the law for airt and part of the Slauchter of the said vmq^{le} Mr Williame Meldrum; and protestit that Alexander Lord Spynie, and Dauid Lyndfay of Quarrelhill, cautioner for reporting and perfuit of the saidis lettres, be relewit. Quhilk wes admittit: quhairvpoun he askit instrumentis.

The famin day comperit Mr James Donaldfoune aduocat, and produceit his hienes Precept; quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. Forfamekill as our vperis lettres ar purchest att pe instance of pe bairnis, kyn and freindis of vmq^{le} Mr Williame Meldrum of Montcoffer, for chargeing of Johne Creychtoun of Inuernytie, as cautioner and fouretie for Sir Robert Creychtoun of Cluny, kny^t, and Thomas Lewingstoun of Baldone, as cautioner and fouirtie for Robert Stewart, broper-german to our rycht traift coufing, Patrik Erll of Orknay, to entir and present jame before 3ow in our Tolbuith of Edinburghe, the tuentie day of Februar instant, in pe hour of caus, to vnderly our lawis for airt and pairt of pe Slauchter of pe said vmq^{le} Mr Williame Meldrum. For keping of pe quhilk dyet, as We ar credible informit, bayth the parteis intendis to mak grit convocatioun of pair freindis, and vperis our liegis; quhairvpoun grit inconvenient may ensue, to pe disquyeting of our peciabill subiectis and present estait; quhilk We haif thocht guid to prevent, be pe delay of pe perfuit of pe said mater on the said day: Quhairfore, and for diuers vperis reasonabill caussis and considera-tiounis moving ws, it is our will, and We command 3ow, that incontinent, estir the fycht heirof, 3e desert the said dyett, swa that the saidis perfones, nor pair cautioneris, be nawyis callit, adjudgeit nor vnlawit for pair non comperance att pe said day, naper 3it the cautioner for reporting and perfuit of pe saidis lettres be vnlawit, for nocht production pairof: Dischargeing 3ow of all proceding aganis the saidis perfones and pair cautioneris, on pe said day, of 3our offices in pat pairt; nochtwithstanding of pair nocht comperance and entrie; with the quhilk We dispens be pir presentis. Subscryuit with our hand, At Haliruidhous, the xx day of Februar, 1598.

(Sic subscribitur) JAMES R. W. ELPHINSTOUN. SECRETARIUS.

Quhilk Precept, the Justice admittit. Quhairvpoun the said Mr James Donaldsoun askit actis and instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Forging and uttering base coin — Treason.

Feb. 24.—RAUFF WALLACE skynner, burges of Edinburghe.¹

Dilatit for airt and pairt of the tressonabill forgeing and prenting of ffals and adulterat money, fik as fals Scottis testans and Inglis testanis.

PERSEWAR, Mr Robert Lyntoune aduocat-depute.

The Justice produceit the Warrant vnderwrittin, direct to him be his Maief-tie; quhairof the tennour followis.

Rex,

JUSTICE Clark, aduocat and 3our deputtis, We greit 3ow weill: It is oure will, and We com-mand 3ow, that incontinent, estir pe fycht heirof, that 3e put Ralff Wallace, presentlie in waird, and dilatit of ffals cunzie, to pe knavledge of ane Affyis; and being convict, that 3e sie him pwneist, ac-cording to his demereittis; as 3e will anfuer to ws pairnent. Subscryuit with our hand, Att Halirude-hous, the xxij day of Februar, 1598.

(Sic subscribitur) JAMES REX.

The Aduocat produceit the Dittay, estir chefing, fwering of the Affyse, togid-der with the Depofitiounis of Rauff Wallace and his spous, and Marioune Hep-burne for verifeing of the Dittay.

¹ See the Case of Elspeth Skirling, &c. Feb. 9, 1598-9.

ASSISA.

Hew Lyndefay goldfmyth,	Thomas Mulliegan merchand,	James Trotter fmyth,
Archebald Somerwell merchand,	Johne Giffert merchand,	Robert Vaus in St Marie Vynde,
Robert Thomfoune goldfmyth,	Johne Blak maltman,	Johne Coninghame goldfmyth,
Robert Nicolfoune merchand,	Dauid Palmer goldfmyth,	Jo. young tailzeour in the Cannogait,
Thomas Huchefoune sword-flipper,	Johne Chalmeris merchand,	Peter Spens dag-maker thair.

The said Rauff denyit the hail Dittay and his Depositiounis; and declarit, that quhatewir he confest, it wes for tortour.—The Aduocat protestis for Wilfull errour, in cais thay acquit, in respect of his Confessioun.—The said Rauff produceit ane instrument of his declaratioune of innocencie, and that he deponit and confest all thingis be exquisite tortour.

VERDICT. The Assyse being convenit soliter allane, chose Johne Cwninghame chancillar, and past to reasoning vpoun the pointis of the said Dittay; and haifing votit and resoluit thairwith, callit the Justice to Judgement, quhair thay, be the mouth of the said Chancillar, ffand, pronunceit and declarit the said Rauff to be Cleane and acquit of airt, pairt, red and counfall of the tressonabill Counterfitting, fforgeing, ffalcefeing and Prenting of fals and adulterat money, sic as fals Scotis testanis and Inglis testanis; quhilkis wer tressonablie (and) falslie counterfittet, forgeit and prentit, be Hew Bruntoune Inglifman, quha, in the monethis of Januar and Februar, in the 3eir of God I^m.V^c.lxxxxvij yeiris, before the ffeist of Fasternis ewin, caist the famin within the said Rauffis duelling hous in Sanct Marie Wynd, the said Rauff being present thairat: Lykeas he, eftir casting of the famin, treasonablie conceit the tressonabill prenting and forgeing thairof, and outing of the famin, be the said Hew Bruntoune and vmq^{le} Helene Bruce, his (Rauff's) spous.—ITEM, ffand and pronunceit him to be ffylit and Convict, fforfamekill as he, knowing, that about Fasternis-ewin bygane ane yeir, vmq^{le} Helene Bruce his spous was tane and apprehendit for the tressounabill outing of fals Inglis testanis, coinzeit be the said Hew Bruntoune Inglifman, within hir duelling hous; he, the nycht of the apprehending of hir, vnderstanding that the said Hew wes the cause of his apprehensioune, for outing of the said fals coinzie, tuik and apprehendit him, and nochtwithstanding thairof, he treasonablie patt him away, and wald nocht present him to Justice, he being maist giltie of the said treasonabill cryme; and thairby, he committit maist oppin and mannifest Treafoune.

The whole persons of Assyis find Caution, ' that thay fall entir thair personis in waird, within the Tolbuith of Edinburghe, vpoun Tyifday nixtocum, before nyne houris, ilk persoun vnder the pane of Fyve hundreth pundis; except Johnne Giffert, James Trotter, Robert Nicolfoune and Johnne Blak, for ilk ane of thame, vnder the pane of Fyve hundreth merkis.

(Mar. 2.)—Rauff Wallace being presented on pannell, to haif hard Dome pro-

nunceit aganis him, as he that wes convict of the taking of Hew Bruntoune, Inglifman, and latting of him to libertie, conforme to the convictioun, the said Rauff declarit, that he wald cum in his Maiesteis will, for that thing quhair of he was convict; and protestit, that na wrang fould be doun to him, seing, quhen he tuik the said Hew, he offerit him to Alexander Perfoun, Baillie, and thair-ettir he past and focht the Bailleis of the Cannogait, quhom he could nocht gett; and or¹ he returnit, the personis quhom-with he wes left, patt him away.

RAUFF WALLACE DOME.

(Mar. 3.)—The Justice-deput produceit ane Warrant, direct fra his Maiestie to him, to that effect; quhair of the tennour followis.

REX,

JUSTICE, Justice-clark and 3our deputis, We greit 3ow weill. Forfamekill as Rauff Wallace, skynner in Edinburgh, being laillie accusit, and put to pe knowledge of ane Assyse, for certane tressonabill crymes of ffals cuinzie, prentit in his hous, ffor the quhilk his wyffe wes laillie execute, the said Rauff is convict be pe said Assyis of pe tressonabill taking and away-putting of Hew Bruntoune, Inglifman, fforger and prenter of pe said fals cunze, within pe said Rauffis hous, knawing him gyltie pairof, at pe tyme quhen pe said Rauffis wyffe wes takyn in Leyth, ane 3eir syne or pair-bye, for pe outputting pairof; and for pe nocht presenteng of the said fals cunzeour befor our Justice, to haif bene pwnest for his offence; ffor the quhilk, the said Rauff come in our will: And We, being perfytelie informit, that pe said Rauffis wyffe declarit vpoune hir conscience befor hir death, diuers tymes, befor pe prenteng of pe said fals coinzie, and that he pat pe said fals cunzeour away, for hyding and feir of detecting of his and his wyffes gyltines; quhairbye he is worthie of extreme pwnestment. Thairfoir it is oure will, and We command 3ow, that 3e hald Court, and gif and pronounce pe lyke dome aganis him, as was gevin aganis his vmq^{le} spous; to be takyn furth to ane staik, and wirreit, quhill he be deid, and his bodie brunt in asses, quhill he be deid,¹ in exampill of vperis: And this on-nawvis ye leve vndone: As 3e will anfuer to ws vpoune 3our obedience; ffor the quhilk pir presentis falbe to 3ow ane warrant. Subfcryuit with our hand, Att Halyrudhous, pe thrid day of Marche, 1598.

(Sic subscribitur)

JAMES REX.

According to the quhilk Warrant, the said Justice-depute, be the mouth of Williame Blak, dempstar of the said Court, decernit and ordanit the said Rauff Wallace to be tane to the Castell-hill of Edinburgh, and thair to be wirreit at ane staik quhill he be deid; and thairefter his bodie to be brunt in asses; and all his landis, heretage, and his movabill guidis, to be foirfalt and escheit, &c. as convict of the tressonabill taking and apprehending of the said Hew Bruntoune, Inglifman, quha cunzeit fals cunzie within the said Rauffis duelling-hous; and nocht presenteng him to Justice, conforme to the Act of convictioun.

Wilful Error on Assise.

Feb. 27.—THOMAS MILLIGAN, merchand-burges of Edinburgh, and fourteen others.

Dilatit, for airt and pairt, of the manifest and Wilfull Errour committit be

¹ Before, *ere.* ² These four words are evidently a clerical repetition.

thame, being admittit vponne the Affyis of Rauff Wallace, skynner, &c. and Acquitting him of the fyrst point of the Dittay.—Continued to Mar. 2.

Mar. 2.—The case again continued to Mar. 9.

(Mar. 9.)—The Justice desertis the dyet, in respect that the Thesaurer and the Aduocat, being oft tymes callit to perfew, comperit nocht; quhairuponne the perfounes aboue writtin comperand, askit instrumentis.

Slaughter.

Mar. 3.—JAMES BARCLAY, in Mekill Tary.

Dilatit for airt and pairt of the slauchter of vmq¹⁶ Williame Dowglas, sone to Williame Dowglas of Erlisfynne.¹

Comperit Mr James Dundas, chanter of Murray, and Minister of Aloa, and produceit the testimoniall.—The pannel takis instrumentis of his offer to ane Affyse; and protestis, that he be nocht trublit in tyme cuming.—Only seven Affisers appear, who, in like manner, protest, 'that thay be nocht trublit in tyme cuming vpoun this Affyse; quhilk wes admittit.'—Testimoniall subscriuit be Mr Johnne Stratoune, Minister att Raffort, direct fra the Ministeris of the Presbiterie of Forres, of the dait, att the Kirk of Forres, the xv of Februar, 1598, testifeing that thay had sene the said Alexander (Tulloch, sone and apperand air to Robert Tulloch of Tannoquheis), and that he wes vnhabill to travell; quhilk excuisse maid be the Minister of Aloes, togidder with the Testimoniall, the Justice admittit.—Continued to the thryd day of the nixt Justice-air of Elgyn and Forres, or foner, &c. on xv days wairning.

Slaughter.

Mar. 16.—PATRIK CAMPBELL of Kethik, Andro Sym, his seruand, Williame Spalding, in Kethik, and John Drummond of Coquhalzie, and five others.

Dilatit for airt and pairt of the slauchter of vmq¹⁶ Williame Hay, sone to Williame Hay of Gourdie;² (committit vponne the secund day of Februare lastby-past, vponne fet purpois, prouifoune, and foirthocht fellonie).

PERSEWARIS, Andro Hay, apperand of Gourdy, Laurence, Robert, and Patrik Hay, as breyder, (brothers), Johnne Stewart, appeirand of Airtillie, Johnne Halyday, aduocat.

The cautioners for Campbell, Sym, and Spalding, who did not appear, are 'americiat in the pane of ffyve hundreth merkis' for Campbell; and for each of the others, 'ane hundreth merkis.' The principal to be denounced rebels, &c.

The Justice continued this case 'to the thrid day of the nixt Justice-aire of Perth, or foner, vponne fyftene dayis wairning.'

¹ See Jan. 4, 1598-9. ² See Mar. 20, 1598-9.

[*Mr Williame Hart and Mr Robert Murray, Justices-Deputes.*]

Theft.

Mar. 17.—ROBERT QUHIPPO, indueller in Edinburgh.
Delaitit for certane crymes of Thift.

PERSEWAR, Mr Thomas Hammiltoun of Drumcairne, aduocat.

PRELOQUOUTOURIS for the pannell, Mr Johnne Ruffell, Mr Thomas Craig, Cornelius Tennent, Williame Home, brother to Sir George, The Guidman of North Beruik, Mr Samuell Home.

The Aduocat produceit the Warrant, direct fra his Maieftie, Ordaining him to infit in the perfute; as also ane Warrant to the Juftice, to proceid and minifter Juftice in the faid mater, togidder with the Dittay.

It is allegit, that Mr Williame Hairt, as Juftice, can nocht be Judge in this mater; becaus his wyfe, callit Margaret Carnecors, and the Guidman of Gallowfcheillis, ar ferdis of kyn, viz. thair grandfyris ar tua brether: Quhilk reknung he offeris him to verifie instantlie, be gentillmen and vtheris witneffis vn-fufpect; in respect the Judge declairis he knawis nocht the reknung: Quhilk Guidman of Gallowfcheillis is partie in this caus, be this qualificatioune, viz. he purchest the Warrant fra his Maieftie, to tak the defender; he affistit the Bailleis in taking of him; he feit the officer to fummond the Affyfe; and hes gevin the Aduocat informatioun; and is vpgever of the Dittay.—The Aduocat anfueris, the alledgeance aucht to be repellit, becaus thair is na vther partie or perfewer heir bot him felf, as Aduocat for his hienes entris; nather can the Guidman of Gallowfcheillis haif ony entreis, in perfute of this Dittay: ffarder, repeitis the decifioun gevin in the action perfewit be the aduocat aganis the Laird of Delgetie, in the lyk caice; and the Interlocutour alreddie pronunceit vponne this alledgeance.

The Juftice repellis the alledgeance, in respect the Aduocat is only perfewer; as also, that Mr Robert Murray is also Judge, aganis quhome thair is na declinatour.—Quhairvpoun the defender askit instrumentis, and proteftit for remeid of law.

It is allegit be the defender, that he can nocht be put to ane Affyfe, in respect that he (is) nocht deprehendit in a mater of Treffoun, nor *in flagranti crimine*; and thairfoir, fould haif bene fummond vponne a fyftene dayis wairning.—It is anfuerit be the Aduocat, the alledgeance aucht to be repellit, in respect of the crymes fet down in the Dittay, quhilkis, in Thift allanerlie, may be tryit fummerlie without ony delay, according to the practik; and the pannell is brocht to the bar out of the Kingis waird.

The Juftice repellis, in respect the Dittay is only for thift; quhairupoun the Aduocat askit instrumentis.

The defender, of his awin consent, defyris Tyfday nixtocum, to the effect that

he may cause the parteis contenit in the Dittay compeir, and cleir the Dittay.—The aduocat takis instrumentis of the pannellis defyre, quhairby he eschewis present tryell, and craves proces.

The Justice ordanis proces.—The defender thaireftir defyrit, that feing my Lord Aduocat is nocht obleift to fueir ony Dittay, that thairfoir it may be knawin to the Justice befor the electioun of the Inqueift, gif ony partie vpone ony of the articles contenit in the Dittay, will fueir the famin to be of verritie.—It is anfuert be the Aduocat, the alledgeance meritis na anfuert.

Follows the ASSISE, and Objections to Assisers.

The aduocat takis instrumentis, that *David Seytoun* declairis, that thair is feid standing betuix him and the pannell.

It is allegit, that *Alexander Dikfoun in Edgecarno* can nocht pas vpone the Assyse; becaus it is of veritie, that he was in companie with the Laird of Samelstoune, vpone the grund betuix Kidlaw and Newtown mylne, at the committing of the slauchter of vmq^e Williame Quhippo, the defenderis brother, quha was flane be the Laird of Samelstoun; for the quhilk the defender beiris feid aganis the said Alexander.—The Aduocat anfuert, that the allegeance aucht to be repellit, vnles the pannell wald allege, that the Assysfour was airt and pairt of the said slauchter for his hund vpoun the grund: He nocht geving affistance to Samelstoune in the fact, can work nathing aganis him; nather the pannellis beiring of feid aganis the assysfour, vnles thair was ane just caus of feid gevin be the assysfour.—To the quhilk it is anfuert, that gif the said Alexander was to be accuset criminallie vpone his lyfe at the same defenderis instance, as being vpone the grund the tyme of the committing of the said slauchter, and sua being airt and pairt thairof, na Assyse could clange him; and consequentlie, he can nawayis be sufferit to pas vpone this Assyse.—The Aduocat askit instrumentis, that *Alexander Dikfoun* being swoirne, declairis that he saw nevir the defenderis brother.—*Alexander Dikfoun in Edgecarno*, being swoirne, deponis, that the day of the committing of the slauchter of this defenderis brother, thair being ane hunting apointit betuix the Laird of Sammelstoun, elder, and the Laird of Colstoun, his maister, thay met; and the said Patrik Hammiltoun, now of Sammelstoun, haifing huntit his haulk, and followit on horfbak, the rest being on fute, except the Lairdis of Colstoune, and Auld Sammelstoun, and the said Patrik Hammiltoun following his haulk, forgadderit with the deponeris brother, and hurt him; and thaireftir came bak to the hunteris, and schew that he had allanerlie hurt him, and saw na forder; the said Patrik and the deponeris brother being a myle frome thame.

The pannell allegit, that *Thomas Woid in Grange* can nocht pas vpone this Assyse; becaus thair is blude betuix thame.—The said Thomas confestit the alledgeance to be trew.

It is allegit aganis *The Laird of Rochlaw*, that he can nocht pas vpone this Assyse; becaus the Laird of Rochlawis wyfe is thridis of kyn to the Laird of Spottiswoid; quhilk Laird of Spottiswoid, with the kyn and freindis, standis vnder deidlie feid with the defender, for the slauchter of the said Laird of Spottiswoidis brother.

It is allegit, that *Archebould Geddes, younger*, burges of Edinburgh, that thair was bluid betuix him and the defender.

It is allegit aganis *James Laufoun* and *Johne Reidpeth*, that thair is deidlie feid standing betuix thame, and the defender vnreconceillit.—It is confest be the said James Laufoun and John Reidpeth, that thair beir the defender at evill will.

It is allegit aganis *George Rutherford*, that he is the Laird of Sesfuirdis man, quha is partaker of the Laird of Spottiswoidis feid.

The Aduocat takis instrumentis, that the pannell, out of his awin mouth, objectis aganis *Mr James Home*, fen being ane vnfreund to Hardeis, as pairtaker with him in his thift.

It is allegit aganis *Patrik Hoppringill*, that he can nawayis be vpone this Affyse; becaus thair is deidlie feid, standing as yet vnreconfeillit, betuix Williame Hoppringill, his brother sone, and the excipient, quha come and perfewit him for his lyfe, at the houfe of Blindley.—It is anfuerit be the Aduocat, that the allegeance is nocht relevant, becaus it is nevir allegit, that Patrik Hoppringill is pairtaker of the feid, or that his brother-sone is at feid with the pannell, for his awin cause: And as to his brotheris sones affifting of the Bailleis in his taking, that was lauchfull, and can impoirt na feid; sfforder, the alledgeance of kyn with the Guidman of Gallowfscheillis is generall.—The Aduocat takis instrumentis.

The pannell takis instrumentis, befor the reiding of the Dittay, that thair is na persewer comperis to sweir the Dittay.—The Aduocat takis instrumentis, that he offeris to verifie the Dittay, and to cause the Guidman of Gallowfscheillis sweir the famin to the Affyse: In respect quhair of, and of the notorietie of the pointis of the Dittay, in cais that thai change, protestis for Wilfull Errour aganis the Affyse.

The Aduocat protestis, that the allegeances maid be the defender may be minutit, to the effect that it may be schawin to the Kingis Maiestie, quhidder this Judgement be lauchfullie vsfet or abufet.

For verificatioun of the Dittay, the Aduocat producet ane Miffaue Lettre, direct be Sir Williame Seytoun to the Laird of Traquair.

THE quhilk day, Robert Quhippo, burges of Edinburghe, being enterit on pannell, perfewit and accuset be Mr Thomas Hammiltoun of Drumcairne, aduocat, of the crymes eftir specifet; that is to say.

THE DITTAY against *Robert Quhippo*.

(1.) FOR airt and pairt of the thifteous Steilling, conceilling, refetting and away-taking of ane blak meir and ane broun horse, pertening to Baldie Watt in Adinstoun, furth of the landis thair of; committit with his complices, in the moneth of November I^m.V^o. fourfcoir sevintene yeiris.—(2.) ITEM, ffor airt and pairt of the thifteous Steilling, conceilling, refetting and away-taking of ten oxin and fyve ky, furth of the landis of Soutray-barnes; quhilkis ky and oxin pertentit to Robert Wodell in Tranent, and was pasturand and in girfing vpone the saidis landis; committit in the moneth of August I^m.V^o. fourfcoir sytene yeiris.—(3.) ITEM, fforfamekill as James Hoppringill, sone to Williame Hoppringill, haifing in the moneth of August, 1595 yeiris, delyuerit to the said Robert Quhippo the sowme of lxxxvij li. to be convoyit to George Hoppringill of Blindlie, for woll coft be the said James fra the said George: And in the meane tyme he consultit with James Hardie, his compain; eoun, ane notorius theif, how he fould detene the said sowme; and agreit, that the said James fould sett vpone him at Wompla-bush, in his passing to Blindlie with the said filuer; lyke as, he meitand with him thair, caufit the said James cut his claythis, as gif ane number of theifis had fet vpone him and had tane the said filuer, with his naig frome him; with the quhilk filuer he nevir partit; bot, be confert, staw the said filuer; and was airt and pairt with the said James Hardie in steilling thair of.—(4.) ITEM, fforfamekill as the said Robert, accompaneit with France¹ and France, brether to the Laird of

¹ French, Frank.

Thornydikis, came in the moneth of Februaire or thairby, in the yeir of God, 1590, to vmq⁶ Thomas Bailleis duelling hous in Sanct Johnes Kirk, and thair brak vp the dar of the stable and thifteoullie staw, conceillit, reffet and away-tuik foure hors pertening to the said vmq⁶ Thomas, and convoyit the famin away with him; and he was airt and part of the thiftous steilling thairof.—(5.) ITEM, fforfamekill as the said Robert, accompaneit with dyuerse cownone theifis, his complices, to the number of sax personis, on hors and fute, quhairof foure vpone hors and tua on fute, of the quhilk number Thomas Hardie in Boundmylrig was ane, all bodin in feir of weir,¹ with fuoirdis, secreittis² and vtheris waponis *invafue*, laitlie, vpone the xj day of Januar lastbypast, vnder fylence and clud of nycht, betuix fyve and sax houris at evin, as notorius briganes,³ vmbefet the way betuix the burgh of Edinburgh and toun of Leyth to Peter Paterfoun, seruitour to Johne Fyndlafoun burges of Dundie, as he was, in sober and quyet maner, gangand furth of the said burch to the toun of Leyth; and thair, with drawn swoirdis fett vpone him, and gais him dyuerse bauche straikis,⁴ and maisterfullie staw, rest and away-tuik fra him tua hatis, ane swoird, ane pair of buitis, ane pair of spures, ane bonet-caice⁵ full of evidendis,⁶ ane nicht bonet,⁷ with tua pair of schankis,⁸ being thairintill; pertening to the said Johne Fyndlafoun.—(6.) LYKEAS, he, the famin nycht, betuix the houris foirfaidis, fet vppone George Herper and George Martene, boitmen in Borrowstoun-nese, as thay war passand in sober and quyet maner, fra the said burch of Edinburgh to the toun of Leyth, dredand na harme, &c. and maisterfullie staw, rest and away-tuik fra the said George Martene fourfcoir li. money; and fra the said George Herper, ane ten s. peace.—(7.) LYKEAS, he, the famin nycht, about the houris foirfaidis, maisterfullie fet vppone dyuerse our fouerane lordis leigis, passand betuix the said burch of Edinburgh and toun of Leyth, and staw, rest and away-tuik fra thame thair cloikis and purffis.—(8.) ITEM, ffor airt and psirt of the thiftious steilling, conceilling, resfeting and away-taking of thre ky, furth of the burch of Lynlythgw; quhilkie ky pertenit to Johne Tulloch smyth thair; committit in the moneth of September, anno 1596 yeiris.—(9.) ITEM, ffor airt and psirt of the thiftious steilling, conceilling, resfeting and away-taking of foure ky and twa oxin, pertening to Waterstoun, his awin man, in Kydlaw, furth of the toun and landis thairof; committit in July 1597 yeiris.—(10.) ITEM, ffor cownoun thift, cownone resfet of thift, inputting and outputting of thift, infang and outfang thift, fra land to land, fra towne to contrie, baith auld and new.

VERDICT. The Justice-depute, eftir dyuerse allegeances maid be the said Robert and his preloquoutouris, quhairfoir the said Robert fould nocht be put to the knowlege of ane Assyse, for the saidis crymes, &c. pat the said Robert to the knowlege of ane Assyse; and he being accufit be Dittay in thair presens, quha denyit the famin, thay removit furth of Court to the Over-Tolbuthe of Edinburghe; quhair thay, being convenit thair allanes, ffirst, be pluralitie of voits choisit the said Mr Patrik Hepburne of Smetoune chancellor of the said Assyse, and thaireftir reffonit and voitit vppone the haill pointis of the said dittay; and being throuchlie advyfet thairwith, re-enterit agane in Court, in presens of the saidis Justice-Deputis; quhair thay, be the maist psirt, be the mouth of the said Chancellor, ffand, pronunceit and declairit the said Robert Quhippo to be Cleane, Innocent and Acquit of the haill crymes aboue writtin; except, that thai fand

¹ Warlike array. ² Chain-mail, *secretly* worn under the ordinary dress, 'Pyne doublets.'
³ Robbers, Fr. *brigands*. ⁴ Heavy, severe or deadly strokes. ⁵ Anglicè, 'Band-box?'
⁶ Title-deeds, vouchers, or legal documents. ⁷ Night-cap, Fr. *bonet-de-nuit*. ⁸ Hose, stockings.

him culpabill and convict of airt and pairt of the theftious steilling, conceilling, reffeting and away-taking of ten oxin and fyve ky furth of the Landis of Soutray-barnes; quhilkis ky and oxin pertent to the said Robert Weddell in Tra-nent, and was pasturand and in gerfing thair, vpone the saidis landis; committit in August, 1595 3eiris.—ITEM, of the airt and pairt of thiftious steilling, conceilling, reffeting and away-taking of foure hors fra vmq^{le} Thomas Bailzie of St Johnes Kirk, furth of his stable thair; committit in the moneth of Februaire or thairby, I^m.V^c.lxxx ten 3eiris.

SENTENCE. For the quhilk caus, the saidis Justice-Deputis, be the mouthe of Williame Blak dempster, Ordanit the said Robert to be tane to the Gibbet besyde the mercait croce of Edinburghe, and thairvpoune to be hangit quhill he was deid; and all his moveabill guidis to be escheit, &c.

[*Mr William Hairt, Justice-Depute.*]

Slaughter.

Mar. 20.—GEORGE RATTRAY, seruitour to the Laird of Craighall, and Thomas Lathreis, cherurgeon in Perth.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Williame Hay, sone to Williame Hay of Gourdie.¹

The Aduocat protestit for Wilfull Errour, in respect of the verificatioun of the cryme, and of his Confessioune, verifeit be the Laird of Auchey and Mr Patrik Hay.

VERDICT. The Assyis being chosin, sworne and admittit, remowit altogidder furth of Court, to the heich Tolbuith of Edinburghe, &c.; and be the mouth of Williame Dowglas of Erlismylne, chancillar, all in ane voce, ffand, pronunceit and declarit the saidis George Rattray and Thomas Lathreis to be ffylit, culpabill and convict of airt and pairt of the crewall Slauchter of vmq^{le} Williame Hay, sone to Williame Hay of Gourdie; committit in the moneth of Februar lastbypast, within Andro Gybis duelling hous in Perth.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair, thair heidis to be strikin fra thair bodeis; and all thair movabill guidis to be escheit and inbrocht to our souerane lordis vse.

Abiding from the Raid of Stirling — Forfeiture.

Apr. 20, 1599.—JAMES CONNELL in the Maynis of Fleminghill and Twelve others.

¹ 1598-9, Feb. 16. 'The Slauchter of William Hey, sone to the Gudeman of Gourdie, in Andro Gibis hous in the Kirkgait (of Perth), be the Laird of Craighall, Rettray and his complices. Thomas Lafreis chyrgiane wes thair; quha sufferit for it.' *Fleming's Chronicle*, MS. Adv. Library. See also Mar. 16, 1598-9.

PERSEWAR, Mr Thomas Hammiltoune of Drumcairne, aduocat.

PRELOQUUTOIRIS for the pannell, Mr Johnne Nicolfoone, Mr Richart Spens.

Comperit Johnne Grahame of Knokdolian, and produceit our fouerane lordis lettres, deulie execute and indorfat, &c.—The Aduocat produceit ane Act of convictioun, of the dait the xiiij day of December, 1584, quhair the perfounes aboue writtin wer convict ffor thair contemptibill (contemptuous) remaning fra the Raid of Striuling, quhilk wes in the moneth of Apryll, 1584 yeiris; and desyrit dome to be pronunceit aganis thame, as thay that wer convict in maner foirfaid. —The pannell askis instrumentis, that thay desyre the Aduocattis aith, quhidder the Laird of Knokdoliane be his informer or nocht: And als, alledgis that he is informer of the aduocat in this perfuit, and that he wes present att the bar for the said purpos; and desyrit the Laird of Knokdolianis aith thairvpoun; quhairvpoun he askit instrumentis.

The Justice findis that the Aduocat fould nocht gif his aith, nor yit declair quha fould be his informer.

Alledgit that na dome can be pronunceit aganis Johnne Wrycht in Bankhous, becaus he wes nocht convict of the cryme quhairof the rest wes convict.—The Aduocat in the contrair.

It is alledgeit for the haill pannell, that na dome of fforfaltour can be pronunceit aganis thame, vpoun the convictioun produceit; becaus the famin is gewin and pronunceit in the 3eir of God I^m.V^c.lxxxiiij 3eir, fen the quhilk tyme oure fouerane lord, with auife of his estaitis in Parliament, in the moneth of December, 1585 yeiris, hes be expres Act of Parliament annullit all crymes and offences committit aganis his Maieftie, for the quhilkis his Maieftie may haif ony particuler interes, be quhatfumewir perfoun or perfounes, men or wemen, within this realme; and hes declarit the famin to be voyd, of the selff, and of nane avall, force nor effect; as att mair lenth is contenit in the fyrst article of the Pacificatioun maid att Lynlythgw, heirwith produceit; quhilk Pacificatioun, in all the heidis and articles thairof, is ratifeit and apprewit be his Maieftie and Estaitis of Parliament, in the yeir of God I^m.V^c.lxxxvij yeiris, eftir his hieneis perfyte age: Lyke as also, in the famin Parliament, thair is ane generall aboli-tioun of all crymis and offences committit be quhatfumewir his hienes liegis, fen the tyme of his hienes Coronatioun, to the day and dait that may follow thairvpoun, maid and grantit to quhatfumewir personis: And trew it is, that the crymes contenit in the convictioun produceit, concernis his Maiefteis interes al-lanerlie; and the famin, with the convictiounis following thairvpoun, precedis the said Pacificatioun; and thairfore, be the expres prouisioun thairof, ar null of the selffis.—It is anfuerit be the Aduocat, that the alledgeance is nawyis relevant, nather can it ftay dome to be pronunceit agains the pannell, conforme to

the convictioun producit ; becaus the Actis of Parliament, quhairvpoun the alledgeance is foundit, contenis only ane abolitioun of crymes committit be his Maiesteis professit rebellis, in the commoun troubles ; and is nawyis menit of sic as abaid att all tyme att his Maiesteis obedience, and wer newir ather foirfalt, baneift, or denunceit rebellis, for the said commoun caus : For gif the said Act mycht be ane warrand to this pannell, it mycht also weill serue to be remiffioun to all sic as ather committit thift, or oppreffioune, or transportit forbidden guidis, foirstallit victuallis, or regratit the mercatis, before the said Act, in the yeir of God, 1585, quhilk wer absurd ; and thairfore the pannell, newir haifing bene pairt-takeris of the commoun troubles, can nawyis inioy the benifite of the said Act, maid allanerlie for that caus, for satling of the saidis trublis ; and nawyis to procure impunitie to sic as haifing abidden att his Maiesteis obedience, hes committit ony crymes ; vtherwyis the said Act, quhilk wes maid for pacefeing of the countrey, and vniting of his hienes guid subiectis, fould haif bene ane generall Remiffioun to all thewis, brigands, oppreffouris, and vtheris diforderit people of the countrey ; quhilk na man will alledge.

To the quhilk it is replyit, that the generall Abolitioun and Act of Pacificatioun hes twa partis ; ane thair of, quhilk is confaut in favouris of thay (those) professit rebellis contenit in the anfueris, sic as repoffeffioun of thay persounes disposselt for the commoun caus ; vpoun the quhilk pairt of the Pacificatioun the defenderis alledgeance is nocht foundit : The secund pairt thair of is maid and confaut in favouris of the hail liegis ; be the quhilk, all crymes, offences and attemptis, committit aganis his Maiestie, and for the quhilk his hienes hes particuler interes allanerlie, ar altogidder annullit and aboleifchit ; except the speciall crymes and speciall persounes committeris thair of, mentionat in the saidis Actis of Pacificatioun and Abolitioune ; quhilk exceptioun makis the said law to be generall and vniuerfall, to all kynd of crymes quhilkis ar nocht exceptit ; and it is na absurd thing to grant, that his Maiestie hes gewin ane pardoun and remiffioun to all crymes and offences mentionat in the said anfuer, quhen the famin is limitat to ane certane tyme ; and speciallie, quhen the famin is maid be his hienes with auife of Parliament, for establieffing of ane generall peax and quyetnes within the countrey : And quhen it is menit that thiftis, reiffis and oppreffiounes, be this constructioun, will fall be this Act of Pacificatioun ; it is anfuerit, that the saidis crymes concernis particuler parteis, and nocht the Kingis interes allanerlie ; and the parteis interes is nocht difchargeit be the said Act of Parliament ; and this cryme concernis the Kingis interes allanerlie.—It is anfuerit be the Aduocat, that the excepting of sum crymes in the Act, is only menit of crymes committit be the saidis persounes aganis his Maiestie, the tyme of the commoun troubles ; nather can the famin Act be extendit to ony crymes com-

mittit be ony vther perfounes ; for it is notoure, that in all Justice Courtis, fen the yeir of God 1585, dittay hes bene tane, and tryall and pwneifment hes followit, for all foirt of crymes committit before the said Parliament, haldin in the 1585, be sic perfounes as wes nocht pairt-takeris of the commoun trubillis.

The Justice continewis Interloquoutour to the morne, and ordanis the perfonis comperand to find cautioun.

Apr. 21.—SENTENCE. The Justice Ordanit na proces againis Johnne Wrycht in Cabrokhill. The said Justice-depute ffind, that Dome fuld be pronunceit aganis thame, in maner following: And be the mouth of Williame Blak dempftare, Ordanit that the saidis perfonis, and ilkane of thame, fuld fforfalt their landis, heritages, takkis, fteidingis, cornis, cattell, guidis and geir; and the famyn to be efcheit, to our fouerane lordis vfe: And to pas in ward within our Tolbuithe of Edinburghe, thairin to remane induring his hienes will; as convict in ane Court of Justiciarie, haldin in the Tolbuith of Edinburghe, the said xvj day December, the 3eir of God I^m.V^c.lxxxiiij 3eiris foirsaid, be the vmq^h Mr Johnne Grahame Justice-depute, for abyding fra our fouerane lordis oift, raid and airmye, quhilk wes ordanit be his hienes Proclamatioun to haue convenit at Halirudhous, in the moneth of Aprile, the 3eir of God I^m.V^c.lxxxiiij yeiris, and thairfra to haue past forduarde to the burghe of Striueling, for repreffing of the treflonabill attemptatis of certane his Maieftis tratouris and rebellis, quhilkis had fuppryfed the said burghe of Striueling and Castell thairof.

Using False Weights and Measures.

Maj 18.—JOHNE CARSTAIRS, citiner¹ in Sanct Androus.

Dilatit for contravening of the Actis of Parliament in vring of fals vechtis and mefouris.²

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord.

PRELOQUOUTOURIS, Mr Johnne Scharp, Mr Johnne Ruffell, Mr Henry Balfour, Mr Robert Leremont.

Comperit Mr Robert Weymis, and produceit ane Precept, fubfcryuit be his Maieftie, quhairof the tennour followis.

REX,

JUSTICE-GENERALL and 3our deputtis, We greit 3ow hairtie weill. It is oure will, and We, for certane reffonabill cauffis and confiderationis moving ws, Command 3ow and 3our clarkis, to continew 3our Court appoyntit to be haldin in our Tolbuith of Edinburgh, pe xvij day of Maj instant, anent pe accusatioune led at pe instance of our aduocat, aganis Johnne Carstairs, merchand, citiner in Sanct

¹ Citizen. ² This Trial is inserted, not so much on account of any peculiar importance which the Editor attaches to the case; but because it highly illustrates the constant importunities which must have been practised, in soliciting Warrants from the King; and the strange vacillation displayed by him in granting these Precepts. It is altogether a ludicrous, as well as a melancholy instance, of the absurdity of the King's perpetual interference with the judicial proceedings of the country.

Androis, for þe cauffis contenit in our vperis lettres, direct furth pairament : Dischargeing 3ow of all proceeding pairin aganis him or his cawtioner, vnto þe thrid day of þe nixt Justice air of our Sherefdom of Fyfe, or that he be wairnit of new agane vpoun fyftene dayis wairning : And that nocht-withstanding quhatfumevir Warrant, gevin or to be gevin to 3ow in the contrair ; quhairnent þir presentis falbe 3our Warrant. Subfcryuit with our hand, At Halyrudehous, the aughtene day of Maij, and of our regne þe xxxij yeir, 1599. (Sic subscribitur) JAMES REX.

Comperit the said Johne Carstairs, and produceit the Precept vnderwrittin.

Rex,

JUSTICE, Justice Clark and 3our deputtis, and our aduocat, We greit 3ow weil : Forfamekill as We vnderstand that our louit Johne Carstairs, merchand citiner in Sanct Androus, is, vpoune sinister repoint and informatioun maid of him, summond to vnderlye our lawis, for allegeit vsing of wrangous wechtis and meafouris : And seing, We perfytelie know the said Johne to be alwayes innocent of þe said cryme, and that the informaris name is nocht insert in the criminall lettres raisit pairament : Thairfoir, it is our will, and We command 3ow, that nochtwithstanding pairif, in caise ony informar compeir in the said cause, that 3e insist in the perfute pairif, minister justice pairintill, and put the samyn to þe knowledge of ane assyis ; and albeit na informar compeir in þe said mater, that 3it nochtwithstanding pairif, the Lettres being repointit, deulie execute and indorsat, 3e proceed pairintill and put þe samyn to the Tryell of ane Assyis ; and gif neid beis, that 3e cause summond ane assyis of sik persounes as ar presentlie within þis burch, or may be had at þe bar for þis effect : And failzeing of the repoint of þe saidis lettres, that 3e direct na sik lettres aganis þe said Johne in ony tyme heirefter, vpoune ony sik informatioun, quhairbye the said Johne may be molestit or trublit, he and his freindis put to extraordinar chargeis and expenffis, in attending vpoune ony sik dyet, in ony tyme heirefter : Quhairnent þir presentis falbe sufficient for 3our Warrant : And for 3our forder Warrant, it is our Will that þir presentis be registre in þe buikis of Counsale, *ad futuram rei memoriam*. Subfcryuit with our hand, Att Halyrudehous, the xvij day of Maij, 1599.

(Sic subscribitur)

JAMES REX.

THE BAILIE-DEPUTE of the Regality of St Andrews permitted to sit in judgement, with the Justice-depute.

Maij 19.—Comperit Mr Robert Leirmand as procuratour and depute for the Laird of Derfie, stewart of the Regalitie of Sanct Androus, and desyrit Johne Carstairs to be replegeit to the Regalitie of Sanct Androus ; at the leift, that the said Stewartis-depute, lauchfullie authoresit, may sitt in judgement with the Justice, according to the provisioun of the Act of Parliament.

The Justice refusis the Replegiatioun, becaus the Kingis aduocat wes fyrft challanged before the Justice generall ; and Admittis Williame Leirmond, Baillie-depute, to sitt with him in Judgement, to see justice ministrat as efferis : Quhair rycht of Baillerie being sene, he satt down in judgement.

The aduocat askis instrumentis of the swering of the Assyfe, and protestis for Wilfull Error in cais thay acquit.—The haill Assyfe askit instrumentis, that nather witnes nor probatioun wes produceit to thame, for verificatioun of the dittay.

Comperit Mr Henrie Balfour, Aduocat, and produceit his Maiesteis Warrant, quhair of the tennour followis.

Rex,

JUSTICE, Justice Clark and 3our deputtis, We greit 3ow weil. Seing, the mater criminall

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perfewit at our instance and our aduocat, aganis Johne Carstairs, citiner of Sanct Androis, wes continewit 3isterday to þe nyntene day of Maij instant, quhairnent We find our selfis indirectlie circumvenit;¹ and We being of deliberat mynde, that justice falbe ministrat indifferentlie to our hail liegis, to þe effect that malefactouris may be pwneiffit, and sik as ar innocent may be defendit, be thair innocencie: Heirfoir, it is oure will and We command 3ow, that the said mater be put to þe knowlege of ane Inqueist, without ony forder delay or continewatioune, the said xix day of Maij instant; and that 3e proceid and minister justice pairintill, as accordis of the laws: And in cais ony of þe perfonis of þe Inqueist summond to pass vpoune the Assyis be absent, that vperis be elected and chofin in pair place; nochtwithstanding ony letter, charge or directionne, gevin or to be gevin be ws in the contrar. Subscruiit with our hand, Att Halyrudehous, the xix day of Maij, . . .

(Sic subscribitur) JAMES REX.

Comperit lykewyis, the samyn day, Mr Robert Lyntoune, subtitute for Mr Thomas Hammiltoune aduocat to our souerane lord, and produceit his Maiesteis Warrant; off the quhilk the tennour followis.

Rex,

MR THOMAS HAMMILTOUNE of Drumcarne, our aduocat: It is oure will, and We command 3ow, that 3e insit in our name in the perfeit of þe lettres criminall, raisit at our instance aganis Johne Carstairs, citiner of Sanct Androis, for vsing of fals wechtis and mesouris, as is alledgeit: And that 3e sie the said mater be put to þe knowlege of ane condigne Assyis, to þe effect the veritie may be tryit, and justice ministrat as accordis of þe law: As 3e will be anfuerebill to ws vpoune 3our dewtie and obedience, nochtwithstanding ony vther Letter gevin, or to be gevin be ws in þe contrair. Subscruiit with our hand, Att Halyrudehous, the xix day of Maij, 1599.

(Sic subscribitur) JAMES REX.

Followis the DITTAY against John Carstairs.

THAT quhair, it is statute and ordenit be our souerane lordis maift nobill progenitour, King James the fourt, of worthie memorie, in his hienes Parliament, hauldin at Edinburghe, the xxvj day of Junij I^m.iij^c.lxxiiij (1474) yeiris, that all thai that vvis fals meafouris and wechtis, disfaueand the pepill, sould be indytit as ffalsaris, and dittay ordanit to be takin thairof be the Justice Clark; as att mair lenth is contenit in the said Act of Parliament, off the dait aboue writtin; quhilk is ratifeit and approvin in all Parliamentis that ewir hes bene haldin senfyne be our souerane lord and his hienes maift noble progenitouris, of worthie memorie: Neuirtheles, it is of veritie, that the said Johne Carstairs hes maift fraudulentlie and falslie, contrar the tennour of the saidis Actis of Parliament, lawis and constitutiouns of this realme, daylie and continewallie thir sax yeiris lastbypast, in vsing of his industrie and traffique of merchandice, vfit wechtis and meafouris, in bying, bloking and intaking of all foirt of geir fra the commoun peple, with grit wechtis and lang elvand,² far mair gritar and langar nor the commoun courfe of the countrey, and of the citie quhair he duellis, and throw all the mercatis of this realme quhair he hantis,³ frequentis, and makis his residence and mercats: And agane, in felling, weying, and gewing furth of the samin merchandice, wair and guidis, with les meafouris and schortar elvand, to his hienes leigis: Lyke as, the said Johne Carstairs hes bein oft and diuers tymes

¹ Circumventéd, imposed upon.

² Eln-wand, or yard in measure.

³ Haunts, visits.

trappit and fnairrit in his dowbill fraudes, falsfett and diffait, in vſing of the ſaidis fals wechtis and meafouris, bayth in the Citie of Sanct Androus, and in findrie vtheris our ſouerane lordis mercattis and publict places of this realme; and ſpeciallie, att findrie tymes, be Daudid Watsoun, deane of Gild of the ſaid Citie, and his Gild breder; and at laſt wes accuſit, tryit and conuict of the ſaid cryme of ffalfett and fraudulent vſing of the ſaidis fals wechtis and meafouris, before the ſaid Deane of Gild and Gild breder, in the moneth of the 3eir of God I^m.V^c.lxxx 3eiris; as the convictioun att mair lenth beiris.

VERDICT. The Affyis, be the mouth of Stevin Philp, merchand in Sanct Androis, thair chancillar, ffand, pronunceit and declarit the ſaid Johne Carſtaris, to be Innocent and Acquit of the ſaid crymes,

[CURIA JUSTICIARIE tenta in Templo de Falkland, xvj Junij 1599, per M. Wilelmum Haert et per Andream Meluile, Magistrum domus,¹ ſ. d. n. Regis.]

Assault within the Palace of Falkland.

Jun. 16.—MR PATRIK MYRTOUNE, ane of his Maieſteis Maifter carveris, and JOHNNE RAMSAY, ane of his Maieſteis familiar ſerwandis.²

DITTAY against Mr Patrik Myrtoune.

FORSAMEKILL as he, vpoune the tent day of Junij instant, being in his Maieſteis chalmer in the Palice of Falkland, and enterand in conference with Johnne Ramsay, ane vther of his Maieſteis familiar ſerwandis, efter ſum contentious purpoſe paſt amangis thame, vnſemelie for ſik ane place, he nather regairdit the dewtie aucht to his Maieſtie his ſouerane prince, as his borne ſubject, nather the mair ſtrait obligatioune quhairby he was bund to his hienes, as his awin proper ſerwand; he treſſonable and malitiouſſie ſtruike the ſaid Johne Ramsay vpone the face with his hand, and gaif to him ane cuff,³ his Maieſtie being in his cabinet within the ſaid chalmer: And ſwa, alſweill in reſpect of the neirnes of the fact, committit fa neer his Maieſteis awin perſoune, as that the ſamyn was done within his awin bed chalmer, he hes treſſonable tranſgreſſit his hienes lawis and

¹ The Chamberlain and Master of the Household had jurisdiction in all offences committed within the King's Palace and certain bounds. The Lord High Constable had likewise similar powers, but more extensive than either of these other officers. Fortunately the whole facts in this very singular case have been pretty fully detailed in these proceedings. ² The well known Sir John Ramsay, (brother of George first Lord Ramsay of Dalhousie. He was afterwards created Viscount of Haddington, Lord Ramsay of Barns and of Melrose in Scotland, Baron Kingston upon Thames and Earl of Holderness in England. Ramsay, at that time one of the King's Pages, was the principal instrument in saving King James VI. from assassination, at Perth, on Aug. 5. 1600, when assaulted by Mr Alexander Ruthven, brother to the Earl of Gowrie. Ruthven was twice stabbed by Ramsay with his dagger and thrown down the staircase, where he was dispatched by Sir Thomas Erskine and Dr Hugh Herries. It was he also who subsequently rushed upon the Earl of Gowrie, and pierced him through the heart. See Trials for the GOWRIE CONSPIRACY, Aug. 22 and Nov. 1600, Aug. 12, 1600, Jun. 24, 1609, &c. ³ A slap or slight blow.

Actis of Parliament maid thairanent, and hes incurrit the panis thairof: Lyke as also, he vpoune the morne thairefter, being the ellevint day of the said moneth of Junij, vpoune ane new rencounter maid betuix the said Mr Patrik and the said Johne Ramsay, within the Inner cloise of the said Palace, his Maieftie being within the samyn, he maist contempteuflie and vndewtifullie drew his sword and preiffit to haif ftrykkin and flane the said Johne thairwith, gif he had nocht bene stayit be certane of his Maieftis ferwandis, being thair present for the tyme; quhairbye, he hes also transgrefsit his hienes Actis of Parliament and Lawis of this realme, and hes incurrit the panis thairin contenit.

DITTAY against Johne Ramsay.

Forfamekill as he, vpoune the tent day of Junij instant, being in his Maieftis bed-chalmer, within his Palice of Falkland, quhair his Maieftie was for the tyme, within the cabinet thairöf; and haifing enterit in certane vnsemelie and contentious purpofis, with Mr Patrik Myretoune, ane of his Maieftis carveris; and be vndifcretioun of his language and behaviour, entering in fik quarrelling with vtheris;¹ and that in end, all dewtie being forzet² on ather fydes; and nather respecting tyme, place, nor the neirnes of his Maieftis awin persoune, the said Johne maist vnadwyfedlie and vndewtifullie gaif to the said Mr Patrik the ley;³ quhairvpoune the said Mr Patrik ftryking him with his awin hand vpoune the face, the said John thairbye contracting ane deidlie quarrell aganis him, vpoune the morne thairefter, the ellevint day of the said moneth; being resolut to revenge his particuler,⁴ without ony regaird of the Kingis Maieftis honour and his awin dewtie, his Maieftie being his native Prince and gracious maister; wilfullie and malitiouflie, vpoune fet purpois and foirthocht fellonye, assailziet and invadit the said Mr Patrik within the Inner cloise of the said Palice, his Majestie being within the said Palice for the tyme, and tressonable struck the said Mr Patrik with ane batoune⁵ vpoune the arme and heid, and thairefter drew his sword to haif flane him thairwith, gif he had nocht bene stayit, be certane of his hienes gentlemen and ferwandis being present for the tyme: Quhairbye he has tressonable transgrefsit his hienes lawis and Actis of Parliament maid thairanent, and hes incurrit the panis thairin contenit.

PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat to our souerane lord.

ASSISA.

Andro Lundy of Conland,	Robert Arnot, Baillie in (of) James Boig, fellarman,	
Mr Frances Bothwell, seruitour to his Ma ^{tie} ,	Falkland,	James Blyth, in Falkland,
Johne Drummond, Ifchar to his Ma ^{tie} ,	Williame Henryfoun, seruitour to his Ma ^{tie} ,	James Lundie, seruitour to her Ma ^{tie} ,
Hary Balfour, seruitour to his Ma ^{tie} ,	Johne Boig, Maister portour,	Robert Galbraith, Pantrieman,
	Williame Craig, ailman,	James Lyddell, Ypotifar.
	John Awerie, in Falkland,	

¹ Each other. ² Forgotten. ³ The lie. ⁴ Personal quarrel. ⁵ The blow with the baton was given to aggravate the previous offence, and to afford an opportunity of immediate combat.

Mr Patrik Myrtoune, eftir reiding of the Dittay, defyrit tryell to be tane of the Dittay laid to his charge ; and als, nochtwithftanding, he wald humblie fubmit him to his Maieftis will.—The faid Johne Ramsay, eftir reiding of the Dittay laid to his charge, declarit that he could nocht deny the Dittay, bot wald maift humblie fubmit him felff in his Maieftis will.—Quhairvpoune and the faid Mr Patrikis will, the faid Mr Thomas Hammiltoune askit instrumentis.

VERDICT. Quhilkis perfonis of Affyis being chofin, fworne and admittit, eftir the accusatioune of the faidis perfonis be dittay of the crymes *refpectiue* aboue writtin, removit furth of Court to ane quyet place of the faid kirk, quhair thay electit and chufe the faid Johne Drummond (of Slipperfeild) Chancillar, &c., and ffand, pronunceit and declarit the faid Mr Patrik Mortoune to be fyllit, culpabill and convict of the crymes aboue writtin, contenit in his Dittay : And als ffand, pronunceit and declarit the faid Johne Ramsay to be ffylit, culpabill and convict of the crymes aboue writtin, contenit in the Dittay foirfaid.¹

[*Mr Robert Murray, Justice-depute.*]

Theft of a Coffer with Writtings, &c.

JUN. 21.—GRISSELL MATHOW, ferwand to James Seytoun, burges of Aberdene, and William Calder, workman in Abirdene.

Dilatit for airt and pairt of the thifteous Steling of ane coffer with writtin and evidentis furth of the faid James (Seytounes) hous, pertening to Mr George Seytoun ; committit in the moneth of May laftbypaft.

James Seytoun takis instrumentis that Griffell Mathow was never seduceit to mak the Confessionis quhilkis ar writtin ; and also, that the thing that he confest befor the Sherefe of Abirdene and baillies thairof is trew, and he abydes at the famyn ; and farther, that the Depofitioune, now producit, was maid in the faid James Setounis awin hous, quhair thair was na tortour nor yrnes presentit to hir. Scho (Griffell Mathow) confeffis lykewyis, that scho maid that Confessioune vncompellit. Eftir reding of the Dittay, scho ratefeit the faid Declaratioune maid be hir ofbefoir, and confest the famyn to be of veritie.

Williame Calder declairis that he brocht the coffer doun the stair.

Mr Alexander Peblis takis instrumentis, that thay declair thay maid the same Depofitionis, abydes thairat and declairis the famyn to be of veritie.

DITTAY against Grissell Mathow and William Calder.

FORSAMEKILL as thay, in the moneth of May laftbypaft, being intifit and seduceit be James King, burges of Abirdene, to thifteouslie steill and gif to him the maift secreit coffer quhilk Mr George Seytoun, Tutour of Meldrum, had, standand in the faid James Seytoun's duelling hous in the Braidgait of

¹ The King's Will is not inserted, and no farther entries occur. Owing to Ramsay's youth and other circumstances, it is likely that both were placed under arrest for a short time. At all events, both of them were afterwards restored; and it is likely that they received a suitable reprimand.

Abirdene, with his gold and siluer being thairin; and the said Griffell being seruitrice within the said hous, and knawing the hail secretis thairof, after conference with the said James, sche desyrit him to cum about ellewin houris att ewin, the nycht of the away-taking thairof, to the said James duelling hous; and thair sche fould delyuer to him the maist secret coffer quhilk the said Mr George vsit; sche supponing that his gold and siluer wes thairin: Lyke as, the said James, accompaneit with the said Williame Calder, in the moneth of May lastbypast, vnder sylence and cloud of nycht, about xj houris att ewin or thairby, come to the said James Seytounis duelling hous, to ane chalmer vpon the turnpyke heid thairof, quhair thair wes ane new coffer, bandit with qubyte irne, pertening to the said Mr George, standand, and thair the said Griffell delyuerit the said coffer to the said Williame, quha brocht the samyn doun to the hall dure, quhair the said James King was standand; and thairfra 3e and he thifteoullie concealit, reslett and away-tuke the said coffer, quhairin thair wes certane writtis and euidentis, doun the stair; and convoyit the famin furth of the turnpyke zett, doun the cloife, and throw Capitan Keiris 3aird and to Fyveis wallis, quhair thay fett doun and brak vp the syde thairof with ane quhingar,¹ and thifteoullie stall and away-tuke furth of the famin, twa bunfchis of letteris and writtis: And swa, thay and ayther² of thame ar airt and pairt of the thifteous steilling thairof, concealing, reslettting and away taking of the famin coffer, with the writtis thairin, furth of the said James duelling hous: Quhilk coffer pertenit to the said Mr George, as said is, as wes notburlye knawin.

VERDICT. The Assyis being chosin, sworne and admittit, and in thair presens the saidis Griffell Mathow and Williame Calder accusit be Dittay; and estir thar Depositiounis, maid att Abirdene the sewint, and att Edinburghe the xij dayes *respectiue* of Junij instant, quhairin thay confest the hail Dittay aboue written, wer produceit to thame, for verifeing thairof; and efter reding thairof in thair audience, the saidis persounes remowit furth of Court to ane quyett pairt of the said Tolbuyth, &c.; and be the mouth of Patrick Con of Auchry, chancillar, ffand, pronunceit and declarit the saidis Griffell Mathow and Williame Calder to be culpabill, ffylit and convict, &c.: Quhairvpoun the said James Seytounie askit actis and instrumentis.

[*Mr William Hairt and Mr Robert Murray, Justices-deputes.*]

June 23.—SENTENCE. The Justice-deputtis, be the mouth of Williame Blak, dempstar, decernit and ordanit the said *Grissell (Mathow)* to be tane to the North Loch of Edinburghe, and thair DROWNIT³ quhill scho be deid; and all hir movabill guidis to be escheit, &c.

[*Mr Robert Murray, Justice-depute.*]

Jun. 27.—The Justice Depute Decernit and ordanit the said *Williame Calder* to be skourgit throw the burch of Edinburghe, and Baneift the said Burch, and lykewayis baneift the burch of Abirdene; and never to returne within the said burrowis, vnder the pane of deid.

¹ A short sword, *hanger* or cutlass. ² 'Ilk-ane,' each, *either*. ³ This is the first, perhaps the only instance, of sentence of Drowning, pronounced during the reign of James VI. by the High Court of Justiciary. It was common in all Regality and Barony Courts, having a feudal right of '*pit and gallows*,' to inflict death upon women in this manner. The North Loch of Edinburgh was the scene of execution, in all such cases, where sentence was pronounced by the Baillies of Edinburgh, or by the Baillie of Regality of Broughton. The bones of some of the culprits have often been turned up, when the surface of the ground required to be disturbed.

[*Mr Williame Hairt, Justice-Depute.*]

Bearing of Pistolets — Slaughter.

Jun. 23.—PATRIK DUNBAR, sone to Johne Dunbar of Leacht.

PERSEWAR, John Tait, as broder to the said vmq^{le} Charles Tait.

PRELOQUOUTOUR for the pannell, Mr Johne Nicolfoune.

The quhilk day, anent the criminall actioun and cause, persewit in ane Court of Justiciarie, haldin in the Tolbuith of Edinburghe, the xxij day of Junij instant, at the instance of Johne Tait, as brother to vmq^{le} Charlis Tait, younger of Adamehill, aganis Patrik Dunbar, brother to Johne Dunbar of Leacht, for contravening of our souerane lordis Actis of Parliament, in bering and weiring of pistulettis, vpoun the landis of Bar, Kilmarnok and toune thairof, vpoun the xxiiij, xxv, xxvj, xxvij, xxviiij and penult dayes of October lastbypast; at the leift, in ane or vther of the saidis dayis: And fiklyke, for airt and pairt of the felloune and crewall slauchter of the said vmq^{le} Charlis Tait; committit vpoun the penult day of the said moneth of October lastbypast, with sword and schot of pistulettis in the toune of Kilmarnok, vpoun set purpois, provisioun and foirthocht felonye: At the quhilk xxij day of Junij instant, the said Patrik comperand with Mr Johne Nicolfoun, his preloquoutour, and enterand on pannell, conforme to ane charge gevin be vertew of our souerane lordis lettres, purchest at the instance of the said John Tait, to Dauid Dunbar of Baldork as cawtioner, quha wes chargeit to enter him to vnderlye the law for the crymes foirsaidis; and alledgeit that na proces culd be led aganis him, for beiring, weiring and schuting of pistulettis; nather culd he be put to the knowlege of ane Assyis thairfoir: because he hes obtenit our souerane lordis Remiffioun, vnder the Greit Seill, for the samyn: As the said Remiffioun, of the dait, at Halyrudehous, the xx day of Februar, produceit, beiris: And ficlyke, it was alledgeit be the said Patrik and his preloquoutour, that na proces can be led aganis him, nather could he be put to the knowlege of ane Assyis, for airt and pairt of the slauchter of the said vmq^{le} Charles Tait, becaus it is of veritie that the said vmq^{le} Charles, being chargeit be Robert Giliuerie, messinger, vpoun the xxv day of March, the yeir of God I^m.V^c. lxxxxvj yeiris; and that be vertew of our souerane lordis lettres, purchest at the instance of George Dunbar in Lesheffok, as fader, with the remanent kyn and freindis of vmq^{le} George Dunbar, seruitour for the tyme to James Chalmer of Gaitgirth, to haif fund sufficient cawtioun and fouertie to him that he suld haif comperit before our souerane lordis Justice or his deputis, in the Tolbuithe of Edinburghe, the xxj day of Apryle nixt thaireftir, in the yeir of God foirsaid, and vnderlye the law for airt and pairt of the slauchter of the said vmq^{le} George Dunbar, in defalt of fynding of the said fouertie, and for his dissobedienc and contemptioun; the said Robert Giliuerie, messinger, be vertew of the saidis lettres, vpoun the secund day of the said moneth, past to

the mercat croce of the burch of Air and thair lawfullie denunceit the said vmq^{le} Charles Tait our fouerane lordis rebell, and put him to his hienes horne, as the extract of the saidis Lettres of Horning, dewlie execute, indorfat and registrate, vnder the signe and subscriptione manuall of Williame M^cKerrell, thereffe clark of Air, produceit to the saidis Jugeis, at mair lenth beris: And swa, the said vmq^{le} Charles wes slayne att the horne.

With the quhilkis alledgeances, the said Justice depute, nocht being avyfit, continewit to pronounce his Interloquoutour thairin to this day and place; and ordanit the said Patrik Dunbar to find cautioune for his entrie; quha fand Williame Dunbar of Enterkyn cawtione and fouertie for his comperance; lyke as, the said Patrik Dunbar, comperand and entrand on pannell this day, with the said Mr Johne Nicolfoune his preloquoutour, and the said Johne Tait, as perfewar, oftymes callit, lawfull tyme of day biddin, and nocht comperand to perfew, the said Justice Depute ffind be Interloquoutour na proces to be led aganis the said Patrik Dunbar, nather yit that he salbe put to the knowlege of ane Affyis for the crymes foirfaidis; in respect of the alledgeance abouewrittin, vereseit.

Slaughter.

Jul. 4.—ANGUS WILLIAMSOUNE alias M^cINTOSCH, in Termit, Johne and Angus his sonis, Lauchlane Williamfoune, George M^cConnell Reoch, at the Brigend of Innernes, and Allester M^cAchane VicGillichallum.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Allester M^cRannald sone to Allane M^cRannald of Eifter Leyis.¹

The quhilk day, comperit Daud Hammiltoune, agent,² and produceit our fouerane lordis lettres, dewlie execute and indorfat, (except the summonding of ane Affyis,) purchest be Johne M^cRannald, sone and apperand air to Allan M^cRannald of Eifter Leyis, as brother, with the remanent kyn and freindis of vmq^{le} Allester M^cRannald, sone to the said Allane, to tak fouertie of Lauchlane Williamfoune, alias M^cIntosche, &c., that thay sould haif comperit befoir our fouerane lordis justice or his deputtis, this day and place, in the hour of cause, and vnderlyne the law, for airt and pairt of the slauchter of the said vmq^{le} Allester M^cRannald. Quhairvpoun he askit instrumentis.

Comperit the samyn day, Angus Williamfoune of Tarmit, &c., and exponit and declarit, that thay war summond be Johne Rofs, messinger, and that be vertew of our fouerane lordis Lettres, purchest at the instance of Johne M^cRannald, sone and apperand air to Allane M^cRannald of Eifter Leyis, as brother, with the remanent kyn and freindis of vmq^{le} Allester M^cRannald, sone to the said Allane, to

¹ See Jul. 20, 1599. ² This is the earliest instance the Editor has met with of an *Agent* appearing, as procurator, at the bar of the Court of Justiciary.

fynd sufficient cawtioun and fouertie that thay fuld haif comperit befoir our fouerane lordis Justice or his deputtis this day and place, in the hour of cause, and vnderlyne the law for airt and pairt of the slauchter of the said vmq^{le} Allester M^cRannald; and thay, for obedience of the said charge, fand Lauchlane M^cIn-
tosche of Danachtan cawtioner and fouertie for thair entrie, to the effect foirsaid; for quhais relieff, and tryell of thair innocencie in the said cryme, thay comperit, as said is, and enterit on pannell; and protestit for relief of thair said cautioner: As lykewyis, offerit thame reddie to abyde the tryell of ane Assyis, and vnderlye the law for the said cryme; dissassenting fra all continewatioune: In respect quhairof, and that na partie comperit to persew thame, being oftymes callit, and lawfull tyme of day biddin, thay lykewyis protestit, that na lettres be grantit in tyme cuming, for trubling or summondng thame for the said cryme: Quhairvpoune thay askit actis and instrumentis.

[*Mr Robert Murray, Justice-Depute.*]

Slaughter.

Jul. 13.—JAMES GRAHAME, brother-german to vmq^{le} David Grahame of Fyntrie.

Dilatit for the slauchter of vmq^{le} Johne Crawford, seruitour for the tyme to vmq^{le} Robert Erle of Orknay; committit in the moneth of December yeiris, within the Kirkzaird of Fernay, vpoune fett purpos, provisioune and foirthocht felonye.

PERSEWAR, Marioune Boyes, relict.

The said James Grahame alledgeis, that he can nocht pas to ane Assyis, becaus he hes obtenit the Kingis Respect¹ for the said cryme, for the space of xix yeiris nixt, efter the dait thair of, quhilk is of the dait, at Falkland, the nynt day of July instant; and takis² him to the said Respect.—It is alledgeit be the persewar, that the said Respect is contrair the Actis of Parliament, and thairfoir is null in the self; it being grantit, without satisfacioune of partie.—It is anfuertit be the pannell, that the grace³ of ane King can nocht be tane away be ane Act of Parliament; and the Kingis handis can nocht be clofit in granting of the samyn.

The Justice admittis the Respect, in respect the pannell is reddie to find caution to satisfie⁴ the partie, as law will. Williame Stewart, brother to Johne Erle of Atholl, becomes fouirtie that he sall satisfie the said Marioune Boyes, persewar, as law will.

¹ Respite, dated at Falkland, Jul. 19.
Assythment.

² Betakes.

³ Royal prerogative.

⁴ Viz. for the

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Jul. 20.—ALLANE M^cRANNALD of Eifter Leyis.¹

Dilatit for airt and pairt of the slauchteris of vmq^{le} Donald Williamsfoune, in, and for the slauchter of vmq^{le} Alexander and Johne Hayis, in Kilrawik: PERSEWARIS, James Hay, sone lauchfull to vmq^{le} Alexander, and brother to vmq^{le} Johne, with thair remanent kyn and freindis; Johne Williamsfoune, as brother, with remanent kyn and freindis.

The pannell offerit him reddie to abyde the tryell of ane Affyis, and vnderlye the law, for the saidis slauchteris, dissaenting fra all continewatioune: In respect quhairof, and that na partie comperit to insift in his persute, protestit first for releif of his cawtioneris, (Alexander Ruthvene, pensioner of Rofs, and Alexander Bayne, fear of Logie); as also, that he be nawyis trublit, persewit nor summond for the slauchter of the saidis personis in tymes cuming; and lykewyis protestit that the dyet sould desert.—The Justice ordanis this dyet to desert.

Slaughter.

Jul. 25.—WILLIAME AUCHINCRAW, in Swynwod-heuchaid, Hary Crow (Auchincraw), in Eist Restoune.

Dilatit for airt and pairt of the slauchter of vmq^{le} George Hwme of Spot; committit in the moneth of September, the yeir of God, I^m.V^c.lxxxvj yeiris, vpoune set purpois, provisioune and foirthocht felonye.

Comperit Williame Home, brother to the Gudeman of Manderstoune, togidder with Jeane Hammiltoune, relict of vmq^{le} George Home of Spot, and Annas Home, dochter, and produceit our souerane lordis lettres, dewlie execute and indorfat; quhairvpoune thay askit actis and instrumentis.

Patrik Cokburne, Tutour of Langtoune, called, as cautioner and fouerte for the saidis Williame and Hary; lawfull tyme of day biddin, and nocht enterand, he was vnlawit, and amerciat in the panis, contenit in the Actis of Parliament, viz^t ij^c markis, for non-entrie of each of the saidis Williame and Hary: Lyke as, the said Justice-depute adjudgeit the saidis Williame and Hary Auchincrawis to be denunceit our souerane lordis rebellis, and put to the horne, and all thair movabill guidis ordanit to be escheit and inbrocht to our souerane lordis vse, as fugitiues fra his hienes lawis for the said cryme.

Forging and Counterfeiting, and Uttering Base Coin.

Nov. 24.—JOHNE MURRAY, Leiche,² in Dunfermling; Walter Murray, his brother, in Creiff; Williame Thomesfoune, smyth, in Cowper-in-Angus; Williame Sympfoune, seruitour to Arthour Smyth, in Quhitfeld; and Thomas Fraiser, in Banff.

¹ See Jul. 4, 1599.

² Physician.

Dilatit for airt, pairt, red and counsale of the treffonabill fforgeing, ffalfeing and counterfitting of fals cunzie, fik as fals ten-schilling peiceis, twa-mark-peiceis, fyve-pund-peceis, fyftie-schilling-peceis, hat-peiceis, piftulettis and crownis.

ASSISA.

Johne Irving of Kynnok, Adame Wilfoune goldfmyth thair, Johne Mofman y^r, merchand thair, Hew Lyndefay goldfmyth in Ed^r, Andro Naper merchand in Ed^r, Daid Meldrum of Segie, Robert Fairlie goldfmyth thair, W^mWilliamfoune merchand in Ed^r, George Mowtray of Seyfeild, R^r Thomsoune goldfmyth thair, James Crawford goldfmyth thair, W^m Stalker goldfmyth thair (Ed^r), Johne Lamb goldfmyth thair, Archibald Geddes merchand thair, Thomas Somervell maltman thair.

The aduocat takis instrumentis of the Confessioune of *Johne and Walter Murrayis*, of the first, secund and thrid poyntis of thair Dittay, and of *Williame Sympsounis*.—The aduocat takis instrumentis of *Williame Thomesounis* Confessioune of the fforgeing of the yrnis for prenting of fals piftulettis; and that he was airt and pairt thairof.—The aduocat takis instrumentis of *Thomas Fraseris* Confessioune of his knowlege of the cunzeing of the counterfit money, contenit in his Dittay; and of the conceling of the famyn fra the Kingis Maieftie and his Justice.

The Justice produceit the Warrant vnderwrittin, ordaning the famyn to be infert in proces; quhair of the tennour followis.

REX,

LORD JUSTICE and Justice-Clark, We greit 3ow hairtie weill. It is oure will, and be pir presentis, We desyre 3ow, concerning Johne Murray, brother to Walter Murray, tane laillie in Dunfermling, and dilatit of ffals cunzie; becaus he first confessit and declarit pe veritie of his awin and his complices proceding pairin, he being convict with his complices for pe said cryme; that 3e moderat the dome aganis him, in maner and forme as efter followis, to wit, that he be Baneist pis our realme of Scotland, and decernit to pas furth of pe fame, within pe space of aucht dayis, and never to returne pairt agane, during all pe dayis of his lyfytyme, vnder pe pane of deid, to be execute aganis him with all rigour: And pis to be infert in 3our sentence; ffor the quhilk, pir presentis falbe 3our Warrant, Subfcruit with our hand, Att Halyrudehous, the xxiiij day of November, 1599.

(Sic subscribitur) JAMES REX.

Follow the DITTAYS against the whole Persons on Pannell.

JOHNE MURRAY and WALTER MURRAY, being enterit on pannell, Dilatit and accusit of the crymes vnderwrittin, to wit, ffor the treffonabill outing¹ of fals and adulterat money, fik as x f. peceis and twa mark peceis, amangis our souerane lordis liegis, to the fimilitude and likenes of his hienes trow money; quhilk fals money, extending to the sowme of xxiiij lib. money, the said Johne reffautit fra George Drummond, saidler in Banff, to be outit twa 3eir syne or thairbye; quhair of he delyuerit ane pairt to the said Walter Murray, his brother, and thay passit throw syndrie pairtis of the cuntrie about Banff and Turra, to haif outit the famin; and haifing onlie outit ane few nowmer thairof, becaus thay war fa conspeckell,² that thay culd nocht pas; the said Johne come bak to the said George Drummond, and delyuerit fa mony thairof as was nocht outit to him agane: Be outing and conceling of the quhilk fals cunze, thay and ather of thame committit Treffoune. ITEM, lykewyis for the treffonabill outing of ffals and adulterat cunze, fik as fals fyve-pund peices, and fyftie-schilling peiceis, and disfaueing of our souerane lordis liegis thairbye; quhilkis Hans Johnstoune, Fleming and Thom Reid, his prenteis, of thair special counsale, directiounne, outred and furneiffing, about twa 3eir sen-

¹ Vending, circulating, putting out, uttering.

² *Kenspeckle*, conspicuous, glaring.

fyne or thairbye, prentit in the places, (and) to the nowmer following, to wit : In the tonne of Kyn-cardyn, fyftie foure falfe fyftie-fchilling peiceis : *Item*, in the Eift-ferrie of Dundie, xxxij fyftie-fchilling peiceis ; quhilkis thay and the faid Hans pairtit amangis thame ; committand thairbye Treffoune.—*ITEM*, The faid Johne and Walter Murrayis, and WILLIAME SYMPSONE, feruitour to Arthour Smyth, in Quhitfeild, being indytit and accufit, for the treffonabill fforgeing and conceling of xiiij fcoir of fals Hat-peiceis, Crownis and Piftulettis, quhilk the faid ARTHOUR SMYTH and Williame Sympfoune, of the speciall command and counfale of the faidis Johne and Walter Murrayis, cunzeit about gule¹ laftwas, of brafs, and delyuerit the famyn to the faid Walter, quhilk he brocht away with him to Dunfermling ; ffor the hundreth quhairof, he fuld haif payit to the faid Arthour the fowme of ten markis : And becaus he had na money to pay thairfoir, he left with him ane plaid and ane pair of fchankis, and promeit to gif him ane yrne studie ;² quhilk wes done be the knowlege of the faid Johne Murray and Williame Sympfoune, quha treffonablie conceillit the famyn ; and fwa, committit oppin and manifet Treffoune.—WILLIAME THOMESOUNE, fmyth in Cowper-in-Angus, being indytit and accufit of art, pairt, red and counfale of the treffonabill fforgeing, cunzeing and prenting of fals Piftulettis, quhilkis George Drummond, faidler, and Arthour Mwle, gude-brother to the faid Williame, of the faid Williamis knowlege and conceilling, about twa 3eir fen fyne or thairbye, treffonablie fforgeit of brafs, in the burch of Perth, and vpoune the Craigis of Kynnowle ; ffor outred of the quhilk cunzie, the faid Arthour forgeit ane pair of ymes for the prent of the faidis Piftulettis, quhilk the faid Arthour Moule gravit about ane yeir fyne or thairbye ; and fwa, the faid Williame treffonablie conceillit the famyn.—Lykeas, THOMAS FRASER, flokker of Piftulettis in Banff, being indytit and accufit of the treffonabill conceilling of the fforgeing, prenting and counterfitting of xxx falfe Piftulettis of brafs, to the fimilitude of trew Piftulettis, quhilkis Hanfe Johnfoune, Fleming, and vniq³ Thomas Lathreis, cherurgean in Perth,³ and George Drummond, faidler, than indweller in Banff, about thre yeir fenfyne or thairbye, cunzeit and prentit in the faid Thomas buith in Banff ; quhilkis Piftulettis the faid Thomas faw vngylt ; be conceilling quhairof he committit Treffoune.

VERDICT. For the quhilkis crymes, the faidis fyve perfonis, and ilkane of thame, was put to the knowlege of ane Affyis, of the perfonis (above) writtin, &c. ; and, efter cheiffing of the faid George Mowtray of Seyfeild chancellor, thay reffonit and votit vpoune everrie poynt of the faidis crymes ; and being thruchlie avyfit, efter longe reffoning and voiting thairin, &c. thay ffand, pronunceit and declarit the faid Johne and Walter Murrayis, Williame Sympfoune, Williame Thomfoune and Thomas Frafer, to be ffylit, culpabill and convict of the crymes of Treffoune *respectiue* aboue writtin.

SENTENCE. For the quhilk caufe, the faid Justice-depute, be the mouth of Robert Galbrayth, dempftar of the faid Court, Ordanit the faid *Walter Murray, Williame Sympfoune and Williame Thomfoune*, to be tane to the Castell-hill of Edinburgh, and thair to be wyrreit at ane ftaik, and thair bodeis to be brunt in affes ; and all thair landis, heritageis, takis, fteidingis, rowmes, poffeffionis, to be forfaltit, efcheit and inbrocht to our fouerane lordis vfe : **AND** als, at command of our fouerane lordis Precept, aboue written, Ordanit the faid *Johne Murray* to be Baneift this realme ; and to pafs furth thairof within aucht dayes ; and nevir to returne agane within the famyn, vnder the pane of deid : Quhilk was pronunceit aganis the faidis perfonnes for Dome. And continewit

¹ Yule, Christmas. ² Stithy, a smith's anvil. ³ See his trial, Mar. 20, 1598. He was beheaded at the market-cross of Edinburgh, along with George Ratray, for manslaughter.

the pronouncing of dome aganis the said *Thomas Fraſer*, quhill he was fordet avyfit thairwith.

'Oker' — Taking usurious Interest.

Dec. 4.—WILLIAME WILLIAMSONE, merchand-burges of Edinburgh.

Dilatit of contravening of the Actis of Parliament, in taking of fyftene markis for the lane¹ of ilk hunder of foure hundreth markis, lent be him to Gylbert Maiftertoun and Johne Mofman, merchandis burgefſis of Edinburgh; committit at the feiftis of Whitsunday and Martimes 1598, and Whitsunday 1589 yeiris; and for taking of fyftene markis for the lane of ilk hundreth markis of fourtene hundreth markis, lent be him to Williame Scott of Balwerie; (thairby) committand oker.²—Continued to Feb. 8.

'Oker' — Taking usurious Interest.

Dec. 4.—MARGARET TINDALL (TINWALL), the relict of vmq¹⁶ Archibald Dowglas of Stanypeth.

Dilatit of Okeran, and contravening of the Actis of Parliament, in taking yeirlie of tuentie markis for the annuel-rent of ilk hunder merkis of fewin hundreth merkis, lent be hir to Johne Harlaw, as principal, Robert Scott and Johne Bannatyne, burgefſis of Edinburgh, his cautioneris.—Continued to Feb. 8.³

[*Mr Robert Murray, Justice-Depute.*]

Slaughter.

Dec. 14.—ALEXANDER GUTHRIE, eldar of Kincaldrum, David Guthrie, younger of Kincaldrum, Johne Rynd, younger of Kerſe, Arthour Erskyn, portioner of Auchterforfar, Gedeon Guthrie, in Lytill Lowre, Williame Guthre of Langlandis of Guthrie, Alexander Guthrie, fear of that Ilk.

Dilatit of airt and pairt of the ſlaucher of vmq¹⁶ James Guthrie, ſone to Alexander Guthrie (elder) of that Ilk; committit in Junij laſtbypaſt.

PERSEWAR, Mr Robert Lyntoune, Aduocat ſubſtitute.

The Juſtice continewis this mater to the morne; and the Affyſe comperand, war wairnit perſonalie to compeir the morne; ilk perſoun, vnder the pane of twa hundreth mark.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat.

Dec. 15.—Continued to xvij of Dec.; the Inqueiſt of new to compeir the ſaid day.

Dec. 18.—Continued to the Juſtice-air of the ſherefdome of Forfare, or ſoner vpoune xv dayis wairning.

¹ Loan, uſage or intereſt. ² Uſury, extorting uſurious or unlawful intereſt for the uſe of money lent. ³ No farther proceedings are recorded.

**'The first Day of the Zeir appointit to be the first Day of Januar
zeirlic.'**

[The following curious document, which was referred to in a Note to p. 1, (Mar. 15, 1568-9,) is now, for the first time, printed from the Records of the Privy Council. It was uniformly acted on throughout the kingdom after the first day of January, 1600.]

APUD HALIRUIDHOUS, *xvij Decembris, lxxxix*° (1599.)

THE KINGIS MAIESTIE and Lordis of his Secret Counfall, vnderstanding, that, in all vtheris weill governit commoun welthis and cuntreys, the first day of the zeir begynis zeirlic vpoun the first day of Januare, commounlie callit 'NEW ZEIRIS DAY;' and that this realme, onlie, is different fra all vtheris, in the compt and reckning of the zeiris: And his Maiestie and Counfall, willing that thair falbe na disconformitie betuix his Maiestie, his realme, and liegis and vtheris nichtbouris cuntreys, in this particular; bot that thay fall conforme thame selfis to the ordour and custum obseruit be all vtheris cuntreys; especialie, feing the course and seasoun of the zeir is maist propir and ansuerabill thairto, and that the alteratioun thair of importis na hurte nor preiudice to ony pairtie: THAIRFOIR, his Maiestie, with aduise of the Lordis of his Secret Counfall, Statutis and Ordanis, that, in all tyme cuming, the first day of the zeir sal begin, zeirlic, vpoun the first day of Januar; and thir presentis to tak executioun, vpoun the first day of Januare nixtocum; quhilk falbe the first day of the I^m. and sex hundreth zeir of God: And thairfoir, Ordanis and Commandis the Clerkis of his hienes Sessioun and Signet, the Directour and Writtaris to the Chancellarie and Preuey Seall, and all vtheris Jugeis, Writtaris, Notaris and Clerkis within this realme, that thay and euerie ane of thame, in all tyme heir- efter, date all thair decreittis, infestmentis, charteris, seasingis, letteris and writtis quhatsumeuir, according to this present ordinance; compting the first day of the zeir, fra the first day of Januare zeirlic; and the first day of the I^m. and Vj^e zeir of God, fra the first day of Januare nixtocum. And Ordanis publicatioun to be maid heirof, at the mercat-croceis of the heid burrowis of this realme; quhair- throw, nane pretend ignorance of the same.

Slaughter.

Dec. 19.—WILLIAME M^cINTOSCHE of Esseich, Duncan M^cIntosche, sone to Lauchlane M^cIntosche of Donachtan, and others.

Comperit Mr Donald Campbell, and produceit our souerane lordis lettres, deulie execute and indorsat, purchest be Allester M^cGregour of Glenstray, as Cheif and neir kynnisman to vmq^{le} Patrik M^cGregour, in Cadderlie, Johne Hay of Vrchye, as brother, with the kyn and freindis of vmq^{le} Williame Hay; and ficylke, Johne M^cConeill V^cIntailgeour, sone to vmq^{le} Donald M^cIntailgeour, in

Barglas, and Donald M^cGilleis, as fader to vmq^{le} Dowgall M^cGilleis; to tak fouerte of Williame M^cIntofche of Esseich, Duncan M^cIntofche, sone to Lauchlane M^cIntofche of Donachtan, and diuers vtheris perfonis thairin contenit; be the quhilkis Lettres, the saidis perfonis ar, vpoune the sevint day of December instant, denunceit rebellis, and put to the horne, in default of finding of fouerte, to haif comperit befor the Justice or his deputis, to haif vnderlyne the law for the slauchter of the saidis vmq^{le} perfonis. Quhairvpoune he askit actis and instrumentis.

Shooting of Hagbutts and Pistolets — Ambesetting the Highway.

Dec. 27.—ALEXANDER BLAIR of Bagray.

Dilatit for beiring and weiring of hagbuttis and pistulettis, contrair the tenour of the Actis of Parliament, and vmbefetting of the hie gait and passage to Johne Creychtoun of Inuernytie, in his cuming hame to his duelling-place of Inuernytie, and schuting of hagbuttis and pistulettis at him; committit vpoun the xix day of September lastbypast.

Williame Bonar of Rossye become plege and fouertie for Alexander Blair of Bagray, that he fall compeir before our fouerane lordis Justice or his deputis, the thrid day of the nixt Justice-air of the sherefdom of Perth, or soner, vpoune xv dayis wairning, and vnderlye the law, &c.

Hamesucken — Slaughter.

Jan. 8, 1600.—THOMAS GAIRDYN of Legatstoune.

Dilatit of airt and pairt of the slauchter of vmq^{le} Alexander Guthrie of that Ilk; committit in the moneth of October, the yeir of God, I^m.V^c.lxxx and sewin yeiris, be way of Hame-suckin, besyde the Place of Inuerpeffer, vpoune sett purpos, provisioune, auld feid and foirthocht felony.

PERSEWAR, Alexander Guthrie, younger of that Ilk.

The pannell produceit our fouerane lordis Remissioune vnder the Greit Seill, of the daitt, att Aberdene, the first day of August, I^m.V^c. fourfcoir and nyne yeiris, grantit be his hienes for the said cryme, and tuik him thairto: Quhilk was admittit be the Justice-depute, quha ordanit him to find cautioun and souirtie to satisfie the partie, as law will: Lyke as, the said Thomas, for obedience of the said ordinance, fband Williame Stewart of Seytoun, George Gardin of Latoune, and him self.

Hamesucken — Slaughter.

Jan. 8.—DAVID GAIRDIN, brother-german to Thomas Gardin of Legatstoune.

Dilatit for airt and pairt of the said crime, was adjudged to be denounced rebel, and put to the horn, for non-appearance to vnderlie the law; and David Peirsoun of Cairny, his cautioner, was americiated in the pain of 100 marks.

[*Mr Williame Hairt, Justice-Depute.*]

Adultery.

Feb. 15.—ALEXANDER HAY of Dalgettie.¹

Dilatit for the cryme of Adulterie; committit with Barbara Forbes, his alledgeit spous.

The Laird of Delgattie takis instrumentis of his entrie; and proteftis for relief of his cautioner.

The Justice continewis to the xij of March nixtocum. Johne Frafer of Creichie becomes fouirtie, &c.

Forgery—Falsifying and counterfeiting a Charter, &c.

Feb. 15.—FYNLAY FERNIE, sone to vmq^{le} Alexander Fernie of Nig, Robert Innes, notare, and James Tarbart, wryter.

Dilatit of airt and pairt of the falsifeing, forgeing and counterfitting of ane fals Chartour and Instrument of Seasing; quhilk Chartour is alledgeit maid be vmq^{le} Alexander Ferne of Nig to vmq^{le} Alexander Ferne, his sone and apperand air, &c.

[The Dittays are each inserted at length in the Record. That against James Tarbet's only is here given, the others being little else than repetitions in point of form.]

DITTAY against James Tarbett.

JAMES TARBETT, Ye ar indytit and accufit, for being airt and pairt of the fforgeing, ffeinzeing and counterfitting of ane false Chartour, as maid be vmq^{le} Alexander Ferne of Nig to vmq^{le} Alexander Ferne, his sone and apperand air, of all and hail the syve oxgait of land of Pitcalzean, twa oxgait of land callit the Quarter-land of Nig, with the fourt pairt of the kill thairof, and superioritie of ane oxgait of land in Meig, and of the Croftis callit M^cWaldene, M^cCoreis, Croft-cullin, Ballasmath, Smythif-croftis, Meringis and thair pertinentis; daitit the xx day of Marche, the yeir of God I^m.V^c.lxxv yeiris, albeit writtin be yow, and Johne Kennedie at your command, according to the hail tennour of the bodie thairof, within thir nyne or ten yeiris lastbypast, aff ane copie thairof in paper, delyuerit to yow be Johne Irving and Fynlay Ferne; to quhome ye redelyuerit the said Chartour, writtin be yow, and at your command, as said is, in parchement; to the effect, the samyn mycht be to thame ane principall Chartour; the dait of the samyn beand ane pairt of the bodie of the Chartour, being fourtene or fyftene yeiris anteriour to the vryting of the samyn: Lyke as, within thre dayes eftir the vryting of the said Chartour, ye saw Fynla Ferne, in Kait Thomas taverne, at the drynking of ane pynt of vyne with ane Johne Irving, subscriye the samyn with his hand, with the name of 'Alex' Ferne,' his fader: Quhilk Chartour is improvin,² and declarit false and feinzzeit aganis the said Fynla Ferne, *in foro contradictorio*, be the Lordis of Counsale; and he ordanit to be pwneist in his perfoun and guidis for the samyn; quhair of ye are airt, pairt, red and counsale, and hes conceillit the samyn.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord.

PRELOCUTORIS for James Tarbert, Mr Richard Spens, Mr Thomas Wilfoune.

Of the quhilk Dittay, the said James Tarbett become in our fouerane lordis will.

¹ See Nov. 25, 1598, &c.

² By Action of Reduction-Improbation on the ground of forgery, &c.

VERDICT. The Assyse, be the mouth of Thomas Inglis, in Paslay, chancellor, ffand and pronunceit the saidis *Finla Fernie* and *Robert Innes* culpabill and convict of the crymes respectiue aboue writtin.

SENTENCE. The Justice-depute, be the mouth of Robert Galbraith, dempstar of the said Court, ordanit thame to be tane to ane Gibbet, befyde the mercat-croce of Edinburgh, and thair to be hangit quhill thay be deid ; and all thair movabill guidis to be escheit, &c.

Feb. 16.—*ASSISA, super Jac. Tarbet.*

Sir Jo^a Creychtoun of Inuernytie, Williame Hay of Linplum, Dunbar of Entirkyn,
 Sir Ja^a Edmeiftoun of Duntraith, Mr James Watfoune, portioner of Gawin Hammiltoun of Roploch,
 Somervell elder of Cam- Sauchtoun-hall, Edward Maxwell of Tynwall,
 nethan, Crawford of Beircroftis, Awlay M^cCaulay of Ardincapell,
 Sir James Maxwell of Calderwod, Jo. Robertfoune of Smythstoun, James Carmichaell of Pityfchaw.
 Johne Blair of Bagillo, Mr George Frafer in Edinburgh,

Mr Thomas Hamiltoun of Drumcarne, aduocat to our souerane lord, produceit the Warrant vnderwrittin.

REX,

JUSTICE, Justice-Clerk and your deputis, We greit 3ow weill. It is oure will, and We command 3ow, that, vpoune pe sycht heirof, 3e put James Tarbet, wryter, to the knowledge of ane Assyis, for pe cryme of ffalset, confessit be him, in his Depositione ; and ester his convictione, that 3e pronounce pe dome of hanging aganis him, and cause him immediatlie to be execute to pe deid ; As 3e will anfuer to ws vpoune 3our offices and obedience : Qubairanent, thir presentis falbe your Warrant. Subscryuit with our hand, At Halyruidehous, the xvj day of Februar, 1600.

(Sic subscribitur) JAMES REX.

VERDICT. The Assyis, be the mouth of thair chancellor, Sir James Edmeiftoun of Duntraith, kny^t, ffand, pronunceit and declarit the said James Tarbet to be ffylit, culpabill and convict of airt, pairt, red, counfall and conceling of the fforgeing, ffein3eing and ffalfeseing of the said Chartour, as is contenit in the accusatioune aboue specifcit.

SENTENCE. To be tane to ane Gibbett, befyde the mercat-croce of Edinburgh, and thair to be hangit quhill he be deid ; and all his movabill guidis to be eschete, &c.

Slaughter.

Feb. 16.—*WILLIAME CRAIG* of Craigstoun.

Dilatit for airt and pairt of the cruell slauchter of vmq^h Patrik Forbes of Carnehill ; committit in the moneth of Maij 1579, on the landis of Carnehill, of sett purpose, prouisioune and foirthocht fellounie.

For quhilk actioun the said Williame tuik him to his Maiesteis Respect, (Respite,) under his hienes Priuie Seill, At Halyruidhous, Februar xx, 1585 ; and ffund Patrik Lord Glamis, and him selff souirtie, conjunctlie and feuerallie, to satisfie the parteis, conforme to law.

[*Mr William Haert and Mr Robert Murray, Justices-Deputes.*]

Abiding from the Earl of Angus' Raid at Dumfries.

Feb. 21.—GEORGE CAMPBELL of { Plegio, Daniele Cwninghame de Dal-
Cefnok, { beythe.
Johnne Schaw of Sornebeg, Domino Haning.
George Lokart of Bar, Archibaldo Lokert burgen de Ed'.
Mr Matho Rofe of Haning, { Dischargeit, in respect provin he duellis
in Glasgou, &c.
Johnne Wallace of Carnell, Domino Lochnoreis.
David Blair of Edentoun, Domino Corfbie.
Williame Dumbar of Entirkyn, Domino Bar.
David Foullertoun of Corfbie, Domino Edentoune.
Edward Wallace of Seweltoune, Domino Carnell.
Hary Stewart of Barskimming, Absent.
Williame Crawford of Lochnoreis, Domino Carnell.
Hew Cwninghame of Laigland, Jofias Stewart de Boningtoune.
Allane Lord Cathcart, { Continewit tertio Itineris xv dierum :
{ Plegio, Joh. Cathcart de Carloune.
Johnne Cathcart of Cairltoune, Domino Ardmillene.
Johnne Dalrumpill of Stair, Domino Lochnoreis.
Johnne Campbell of Shankiftoune, Eodem.
Bernard Farguefoun of Kilcairren, { Dischargeit be the Thefaurar, in respect
{ of his aige, with consent.
Hew Kennedy of Girvanmanis, Absent.
Johnne Corry of Kelwod, Domino Lochnoreis.
Hugh Kennedy of Bennene, Domino Barganye.
Walter Mwir of Cloncaird, Eodem.
Thomas Kennedy of Ardmillane, Domino Carloune.
Walter Kennedy of Knokdone, Absent.
Johnne Kennedy of Blaquhane, { Gilberto Kennedy de (Bargany ?) tertio
{ Itineris xv dierum.
Matho Stewart of Dunduff, Domino Auchindrane.
Johnne Mure of Auchindrane, Domino Dunduff.
Mr Lambert Kennedy of Kirkmichell, Absent.
Johnne Daidfoun of Pennyglene, Domino Kelwod.
Fargus Kennedy of Knokda, Domino Carloune.
Johnne M^cAlexander of Dalreoch, Domino Knokda.
Gylbert Kennedy of Bargany, Domino Carloune.

Dilatit for abyding fra the Leutennentis Raid of Drumfreis, appointit be Archebald Erll of Angus to haif convenit thairat.

Comperit Johne Halyday Aduocat, and produceit the Warrant vnderwrittin; for *Girvanmanis*, (*Hew Kennedy*), and allegeit that the Justice could nocht vnlaw his cautioner, nor adiudge him self to the horne.

REX,

THESAURER, Aduocat, Justice, Justice Clark with 3our deputtis, We greit 3ow weil Vnderstanding, that our rycht traift coufing and counfalour, Andro Lord Vchiltrie, his kyn freindis, men, tennentis, seruandis and dependaris wer, vpoun pe respect of James Dowglas of Torthorwald being in pe cumpany of our rycht traift coufing the Erll of Angus our Leutennent for pe tyme, exemit frome his iurisdiction and obedience of his Proclamatiounis publeifchit for conuening of our subiectis within pe boundis of his Leutennandrie; and that nochtwithstanding 3e our saidis Thesaurer and aduocat hes raft our vperis lettres at 3our instance, and amangis vperis hes caufit charge Hary Stewart of Barfkymming and (*Hew*) Kennedy of Girvanmanis, twa speciall kynnismen, freindis to our said coufing the Lord Vchiltrie, to compeir before 3ow our Justice and 3our deputis, vpoun the xxj day of Februar instant, to vnderly our lawis within our Tolbuith of Edinburgh, for alledgeit nocht obedience of our Proclamatioun, chargeing subiectis within pe boundis of Kyle, Carrik and Cwninghame, to meit our feid Leutennant att Drumfres, vpoun pe day of lastbypast, for pe furtherance and aduancement of our seruice, att our West Bordour. It is pairfoir our will, and We command 3ow, our said Thesaurer and aduocat, pat vpoun pe sycht heirof, 3e pais frome pe perfuit of pe saidis Hary and (*Hew*) for pe said caus, and deleit pair names furth of pe criminall summondis intentit att 3our instances aganis pame. And lykewyife, that 3e our Justice and Justice Clark dispence with pair non-comperance of pe said perfounes befor 3ow at pe said dyett; and on nawyis vnlaw or proceid aganis pame or pair cautioneris, for pair nocht comperance att pe same dyett, nochtwithstanding of ony vper command, gewin or to be gewin to 3ow in the contrar; as 3e and ilkane of 3ow will be anfuersabill to ws vpoun 3our office and obedience; Quhairnent pir presentis fallbe 3our Warrant. Subscryuit with our hand, Att Halyruidhous, the day of Februar, 1600.

(Sic subscribitur)

JAMES R.

MONTROISE CANCELLARIUS, LENNOX, R. COKBURNE, JO. PRESTOUNE, FYVIE.

The said Johne Halyday produceit ane Letter subscryuit be the King and Counfall, discharginge the Justice of all proceeding aganis *the Laird of Caprintoune, &c.*

WE vnderstanding that our louittis, William Cwninghame of Caprintoune and Daniell Cwninghame of Dalbeyth, being chargeit be vertew of Proclamatioune, to haif mett our rycht traift coufing, Williame Erll of Angus, our Leutennent and Wardane of our West Marcheis, att Drumfres, or sic vper partis contenit in our said Proclamatioun, for perfuit of pe disobediēt perfounis within our said Wardanrie, in pe moneth of Februar, I^m.V^e.lxxxvij 3eiris: And pat for obedience pairof, and command of our said Proclamatioune, thay addressit pame selfis in weirlie maner with pair freindis and seruandis to our said raid; and James Dowglas of Torthorrell, being our rebell, and lying att our horne, for pe slauchter of our vmq^{te} coufing, James Stewart of Newtoun, and pair neir kynnifman, being pan in cumpany att pe said raid with our said Leutennent; swa that the saidis Williame Cwninghame of Caprintoune, George Campbell of Cefnok, nor the said Daniell Cwninghame, could nocht guidlie remane att our said raid, (the said James Dowglas being in pair cumpany): Quhairvpoun thay haifing than menit pame vnto ws, We, for eschewing of gritar inconuenient, than faithfullie promittit *in verbo principis*, and gave licence to pame, pair freindis and seruandis, to pas hame fra our said Raid; and that thay sould paireftir, att na tyme adres pame selfis to ony raid with our said Leutennent, (the said James Dowglas being in cumpany with him,) bot that thay sould remane att hame, and incur

na skayth nor danger pairthrow.¹ And als, that the saidis Williame, George and Daniell, being lykewis chargeit agane, to haif mett with our said Leutennent att our said burch of Drumfreife, vpon þe xxij day of September lastbypast, (with quhom the said James Dowglas wes þan in cumpany,) swa that thay mycht not addres þame selfis þairto: Thairfoir, and according to our said promeis, we haif frelie Remittit, and be þir presentis Remittis the saidis Williame Cwninghame, George Campbell and Daniell Cwninghame þair kyn, freindis and seruandis of all offence, cryme and panis committit be þame, for abyding fra þe saidis raidis or ony of þame; Dischargeing heirfore our Thesaurer, Aduocat, Justice, Justice-deputis and vþeris officeris quhatfumevir, of all calling, atteiching, areifing, pointing, vnlawing, trubling or intronetting with þe saidis personis, thair freindis or seruandis, or ony of þame, for abyding fra þe saidis raidis or ony of þame, and of þair offices in þat pairt for ewir; nochtwithstanding ony lettres, proclamatiounes and charges direct pairnent: Quhairnent and hail panis content pairn, We haif dispenfit, and dispenfis be þir presentia. Subscryuit with our hand, Att Halyruidhous, the xvj day of Februar, 1600.

(Sic subscribitur)

JAMES R.

LENEX, MONTROISE, CASSILLIS, VCHILTRIE, FVIE, BLANTYRE, SECRETARIUS.

The Justice continewis to gif ansuer to the Kingis twa Lettres produceit, to the morne.

It is allegeit na proces aganis *the Laird of Blarquhan*, in respect of the Leutennentis Licence produceit, to remane fra the Raid; and that he had xxiiij personis dependeris at the Raid.

WE WILLIAME ERL OF ANGUS, Lord Dowglas and Abirnethie, Lieutennent to his Maiestie owr þe Eist, West and Middill Marchis of Scotland anent England, be þe tennour heirof gewis and grantis Licence and libertie to þe rycht honourabill John Kennedie of Blaquhane, elder, to remane and abyde att hame fra our Raid and Proclamatioune, quhilk is proclameit be ws to conuene att Drumfreis, the xxij day of þis instant of September, and þaireftir to pass forwart with ws towardis þe Bordouris, and þair remane, with xx dayis prouisioune, according to our Proclamatioune: Quhilk we be þis present promittis and grantis þis our Licence to þe said Johne Kennedy of Blaquhan to remane and byde at hame fra our said Raid and Proclamatioun; And that in respect of his present diseife: Be þis present, subscryuit with our hand, Att Drumfreis, the xvij day of þis instant of September, a thousand fyve hundreth foursoir and nyntene zeiris; befoir þir witneffis, Williame Bannatyne of Corhous, Williame Cwninghame tutour of Bonytoun.

(Sic subscribitur)

W. ANGUS, LEU*.

It is allegeit be *Mr Matho Roife of Haining*, that he wes nocht subiect to the Proclamatioun, becaus he duelt the tyme of the Proclamatioun, and ane zeir befoir and senfyne in Glasgw; and he hes nocht ane hous in Kyle.—The Aduocat allegis the contrar: In respect of the summondis, he fowld be put to ane Assyse and thai sould cognos thairvpoun.

It is allegeit for *Bernard Farguesoun*, that he is past the age of the Proclamatioune: Quhilk alledgeance wes admittit be the Justice, and he dischargeit and put away.

¹ This Letter affords a striking illustration of the insecure and disturbed state of the country, and the weakness of Government. Douglas of Torthorwald, residing so near the Borders, seems to have been too powerful a subject to be sued, even for the Slauchter of a Stewart, 'cousin to the King.' Although at *the Horn* for this Slauchter, the Lieutenant scruples not to accept of the assistance of this rebellious subject to restore peace on the Borders, instead of delivering him up to justice for his crimes!

It is allegit for *the Laird of Seweltoun*, that he hes nather land nor heretage; and thairfoir, nocht subiect to the Proclamatioune.—The Aduocat allegis that he fould pafs to ane Affyse.

The Pannell cummis in (the King's) Will; except fa mony as produceit the Kingis Warrant.

Feb. 22.—The quhilk day comperit Sir Hew Campbell of Terrinzeane, knyght, and produceit our fouerane lordis Will; and defyrit it to be infert and registrat, &c.

THE KINGIS Will for the Barrounis of Kyle and Carrik.

Rex,

JUSTICE, Justice Clerk and your deputis; We greit 3ow weill. Forfamekill as the perfounes vnderwrittin, thay ar to say, Johnne Schaw of Sornebeg,¹ &c. become laitlie in our will, for pair remaning and byding att hame fra pe oift² and Raid proclameit and appointit to haif mett with our Leutennent in Drumfreis, vpoun pe day of September last. Thairfore, We haif declarit oure will as followis, to witt: That We haif Renunceit and dischargeit, and be pir presentis renunceis and dischargeis all actionne and caus, criminal and ciuile, quhilk We had, haue, or ony wyis may haue, move or perfew, aganis pe saidis perfounes for pe caus foirfaid: And Remittis and forgewes pame frelie for ewir: And Ordanis this our declaratioun of our Will, to be als effectull for pair fuitie in tyme cuming, as gif thay had particuler Remiffiounis pairvpoune vnder our greit seill. Oure will is heirfore, and We command 3ow to pronunce and delyuer pis oure will, giudiciale; and caus thir presentis be actit and registrat in our buikis of Adiornall: As also, that 3e deleit furth of our saidis buikis, pe Act quhairby Hew Kennedy in Balloch wes vnlawit for nocht entrie of Walter Kennedy of Knokda, minor, before 3ow for pis fame caus: As 3e will anfuer to ws pairvpoune: Quhairnent thir presentis falbe vnto 3ow ane warrant. Subscryuit with our hand, Att Halyruidhous, the xxij day of Februar, 1600.

(Sic subscritur)

JAMES R.

Quhilk the Justice causit publeife Giudiciale, and declarit to be our foverane lordis will, as is aboue writtin: Quhairvpoune the perfounes on pannell present for the tyme askit actis and instrumentis.—The Justice admittit the Letteris produceit, &c.

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Mar. 4.—WILLIAME STEWART brother (german) to the Lord Vchiltre, and Williame Stewart sone naturall to Sir Williame Stewart of Carstairs, kny^t.

Mawife Aikman, the relict of vmq^{le} Robert Cathcart, (wryter in Edinburghe) produceit our fouerane lordis lettres deulie execute and indorsat, purchest be hir self with the bairnis and kyn and freindis of the said vmq^{le} Robert, for charging of Walter Mure of Cloncaird, as cautioner and fouerte for Williame Stewart brother to the Lord Vchiltre, and Williame Stewart sone naturall to Sir Wil-

¹ It has been thought unnecessary to repeat the names.

² Host, army.

liame Stewart of Carstairs, kny^t, this day, &c. to vnderlye the Law for the slauchter of the said vmq^{le} Robert, (committit the third day of Junij, 1590 :) Quhairvpoun scho askit instrumentis and protestit for relief of Allane Cathcart of Drumjowan, cawtioner for reporting of the saidis Lettres to this day.

The Justice (in obedience to a Warrand from the King) continewis this dyet to the morne, the fyft day of Marche instant.¹

Mar. 5.—Continewis the mater to the xxix day of Maij.—William Stewart of Seytoun becomes pledge and fouirtie that thay fall compeir, &c.

Maij 29.—The perfonen on pannell takis instrumentis of thair compearance, and proteftis for releve of thair cawtioune; and als, in respect that na partie comperit to perfew thame, produceit the Extract of our souerane lordis Remiffioun, quhairof the tennour followis.

PRECEPTUM REMISSIONIS *Willelmi Stewart fratris Andree domini Stewart de Vchiltre, et Willelmi Stewart filij quondam domini Willelmi Stewart de Housloun, pro arte et parte Interfectionis quondam Roberti Cathcart scribe die mensis anno domini, I^m.V^o. nonagesimo commiff.; ac pro omnibus actione et crimine que inde sequi aut prenominatis personis inde quouifmodo imputari poterint, &c. Apud Falkland, decimo quarto die mensis Augusti, anno domini millesimo quingentesimo nonagesimo nono.*

Hec est vera copia abbreviationis, Precepti Remissionis superscript. content. in libro Secreti Sigilli s. d. n. regis extract. de eodem copiat. et collationat. per me DANIELEM HAY, notarium publicum ac ejusdem Secreti Sigilli scribam.

Slaughter.

Mar. 8.—ROBERT TULLOCH of Tannoquehis, and Alexander Tulloche, his sone and apperand air.

Dilatit for airt and pairt of the slauchter of vmq^{le} Williame Dowglas sone to Williame Dowglas of Erlifmyll.²

Comperit the Aduocat, and produceit ane Precept direct fra his Maiestie; quhairof the tennour followis.

REX,

MR THOMAS HAMMILTOUN of Drumcarne our aduocat. It is our will, and We command 3e, that 3e perfew our criminall lettres, raist att pe instance of James Dowglas, and remanent brep^t, kyn and freindis of vmq^{le} Williame Dowglas, sone to Williame Dowglas of Erlifmyll aganis Alexander Tulloch, sone and apperand air to Robert Tulloch of Tannoche, for vnderlying of our lawis for pe slauchter of pe said vmq^{le} Williame Dowglas: And that 3e insist with the saidis perfewaris, in pursuit of pe saidis Lettres the aucht day of March instant, or ony vper day or dayes neidfull and convenient; kepand pir presentis for 3our Warrand: And this 3e failt nocht to do, nochtwithstanding of ony command gewin or to be gewin in pe contrar. Subscryuit with our hand, Att Halyruidhous, the aucht day of March, 1600.

(Sic subscribitur)

JAMES R.

Comperit Mr Johne Scharpe aduocat, and produceit ane Warrand subscryuit be his Maiestie; quhairof the tennour followis.

¹ See May 18, 1604.

² See Jan. 2, and Mar. 8, 1598.

Rex,

JUSTICE, Justice Clark and your deputis, We greit you weill. Forfamekill as We ar informit that Robert Tulloch of Tannoquibie is chargeit as cautioner for Alexander Tulloch his sone, to enter and present the said Alexander, vpoun the aucht day of March, befoir you, to vnderly our law for alledgeit airt and pairt of the slauchter of vni^{le} Williame Dowglas, sone to William Dowglas of Erlisfmyll. It is our will, and We command you, for diuers caussis moving us, to suffer and permit the said dyett to the saxtene day of Maij next; and that ye desist and ceis fra all calling, vnlawing or proceeding aganis the said Robert Tulloch, or aganis the said Alexander Tulloch his sone, the said day, for pair nocht comperance, Quhairnent we dispens be pir presentis, discharginge you pair of, and of your office in pat pairt; and that nochtwithstanding ony vpir command or Warrant, gewin or to be gewin to you on the contrar: As ye will ansuer to Us vpoun your obedience. Subscryuit with our hand, Att Halyruidhous, the aucht day of Mairch, 1600.

(Sic subscribitur)

JAMES R.

Comperit the Gudeman of Erlisfmyll, togidder with Mr Thomas Hammiltoune, and producit ane vther Warrant subscryuit be his Maiestie; quhair of the tenour followis.

Rex,

JUSTICE, Justice Clark and your deputtis, We greit you haertlie weill. It is our will, and We command you, that incontinent estir the sycht heirof, ye proceed and minister in the actione and caus persewit att the instance of the kyn and freindis of vni^{le} Williame Dowglas, sone to Williame Dowglas of Erlisfmyll, the aucht day of March instant, aganis Alexander Tulloch, apperand of Tannocheis, and his cautioner, for the crewall slauchter of the said vni^{le} Williame Dowglas; and that but ony prorogatioun, continewatioun or delay to be grantit; and that nochtwithstanding of ony Precept or command, purchest or to be purchest, in the contrar heirof, Quhilk We annull be pir presentis. Subscryuit with our hand, Att Halyruidhous, the aucht day of March, 1600.

(Sic subscribitur)

JAMES R.

The said Mr Thomas Hammiltoun of Drumcarne aduocat lykewyis alledgeit, that the last Precept sould be admittit, in respect of the Act of Parliament, defying justice to be ministrat; and that the Precept producit be Mr Johne Scharp aucht nocht to be admittit, in respect it is contrar the Act of Parliament, and that my Lord of Angus declarit that it wes his Maiesteis will that the last Precept sould tak place, feing that he at the granting of the fyrst wes wrangulie informit.

The Justice-Depute, mynding to haif continewit the mater to Tyisday nixtocum, quhill the Kingis Maiesteis mynd wes knawin, ordanit Mr Johne Scharp, producar of the Precept for Robert and Alexander Tulloch, to find caution for the entrie of the said Alexander Tulloch the said day; quha refuset to find the said caution: And in respect thair of, Ordanit the said Robert Tulloch to be vnlawit for nocht entrie of the said Alexander Tulloch his sone; and the said Alexander to be denunceit rebell and putt to the horne.

Adultery.

Mar. 12.—ALEXANDER HAY of Delgatie.¹

¹ See Nov. 25, 1598, Feb. 15, 1600, &c.

Dilatit for the cryme of Adulterie, committit with Barbara Forbes his allegeit spous.

Continued to July x. Johne Frissell of Creichie becomes plege and fouertie.

Privileges of the Faculty of Advocates — Not liable to pass upon Assises.

Mar. 12.—MR JAMES M^cGILL of Rankelowr-Nethir, Aduocat, allegeit, that becaus he is ane ordinar Aduocat, lawfullie admittit be the Lordis of Counfall, with all privilegeis and immunitis; thairfoir he aucht nocht to pass vpoune ony Inqueist: And for verificatioune thairof, remittit the samyn to the notorietie of the Juge and hail memberis of Court: Quhilk, the said Juge acknowlegeing to be of veritie, thairfoir hes declarit and declairis, that the said Mr James is frie fra all Affyffis, and aucht nawyise to be vnlawit for his absence thairfra at ony tyme heirefter, during all the dayes of his lytyme, in respect of the Privilege of his said Office.—Quhairvpoune the said Mr James askit instrumentis.

Slaughter.

Mar. 12.—ANDRO MURRAY of Balwaird and Anthon Murray his serwand.

Dilatit of airt and pairt of the Slauchter of vmq^l° Daid Lundie, sone to Mr George Lundie of Gorthie; committit vpoun the xxv of March 1598 yeiris, be syde Inglis-Tarbert, vpoune sett purpoise, provisioune, and foirthocht felonye.

PERSEWAR, Walter Lundie, as brother.

The Justice, with consent of partie, continewis this mater to the morne, the xij of March instant, &c.

Mar. 13.—Sir Johne Creychtoun of Inuernytie, as cawtioner, was vnlawit and americiat for nocht entrie of the saidis perfounes, viz. for Andro Murray, in the pane of Ane thowfand markis, and for the said Anton, twa hundreth markis: Lyke as, the Justice-depute adjudgeit the saidis Andro and Anthon to be denunceit our fouerane lordis rebellis, &c. and all thair movabill guidis to be escheit, &c.

[*Mr William Haert and Mr Robert Murray, Justices-Deputes.*]

Slaughter in a Single Combat or Duel.

Jun. 5.—ROBERT AUCHMOWTIE cherurgeane, burges of Edinburgh.

[THE Editor has thought this case of so much importance, as to demand the insertion of all the legal objections and arguments of both parties, which fortunately have been preserved at considerable length. The Case of Auchmowtie, is the earliest instance preserved on Record, of a party committer of Manslaughter, in a Duel, or 'Singular-Combat,' suffering death; where nothing unfair was proven by the public or private prosecutor. It thoroughly illustrates the state of the Law and practice, and the opinions then entertained, by the most eminent Scottish lawyers and statesmen, on this interest-

ing subject. The ancient Law, and especially the practice, relative to Criminal Trial for single combats, seem to be now imperfectly understood, owing perhaps, in some measure, to the obscure state of the Records; for few would choose to encounter the labour, or could afford the time, necessary to be expended in examining the Books of Adjournal, merely for the purpose of illustrating an individual case. Although the arguments are somewhat prolix and redundant, it was deemed best to give them in the precise form in which they stand in the Record.]

Dilatit, of airt and part, of the Slauchter of vmq^{le} James Wauchop, sone to George Wauchop of Gleghorne (Cleghorne, burges of Edinburghe); committit the xx day of Apryle lastbypast.¹

PERSEWARIS, George Wauchop of Gleghorne, fader to the defunct; Mr George Wauchop, brother; Mr Thomas Hammiltoune of Drumcarne, Advocat.

PRELOQUUTOURIS for the pannel, Mr Johne Scharpe, Mr Alexander King.

Mr Johne Scharpe and Mr Alexander King produceit ane delyuerance of the Lordis of Counfall, purchest at the instance of Robert Auchmwtie; quhairbye thay ar chargeit to compeir this day, befor the Justice or his deputis, to procure² in defence of the said Robert, for the slauchter of the said vmq^{le} James: Quhairvpoune thay askit instrumentis.

The perfewaris produceit the Dittay underwritten.

DITTAY *against the pannell.*

ROBERT AUCHMWTIE cherurgeon, burges of Edinburghe, ye ar indytit and accufit, fforfamekill as ye, haifing confaut ane deidlie hatrent and malice aganis vmq^{le} James Vauchope, sone to George Vauchope of Gleghorne, merchand burges of Edinburghe, laitlie, vpoune the xix day of Apryle lastbypast, tuke on the Singular-Combat with the said vmq^{le} James, but³ licence of our souerane lord,

¹ The following account is given by George Birrell, in his 'Diarey,' p. 48. 'The 2 of Apryll, being the Sabothe day, Robert Auchmuttie, barber, ('barber-chirurgion,') flew James Wauchope, at the Combat, in St Leonardis Hill; and vpone the 23, the said Robert put in ward in tolbuith of Edinburghe. And in the maine tyme of hes being of ward, he hang ane klok without the window of the irone hous, and ane wther within the window thair; and faying, that he wes feik and might not sie the licht. He had *aqua fortis* continuallie seithing at the irone window, quhill at left the irone window wes eittine throw; swa, vpone a morneing, he causit his prentes boy to attend quhen the toune-gaird sould haue dessolvit; at quhilk tyme the boy wattit on, and gaue his maister ane tokine that the said gaird wer gone, be the schaw or waiff of hes hand curche. The said Robert hang out a tow, quhairon he thocht to haue comeit doune: The said gaird spyit the waiff of the hand curche; and swa the said Robert was dissapointit of his intentioune and devyse. And swa, on the 10 day, he wes beheidit at the Croce upone ane scaffolt.'

² To act as Procurators, or Advocates, in defence of the Pannel.

³ Without. It was by no means unusual, in these turbulent times, for such licenses to be granted by the King, both in exercise of his ancient Feudal prerogative, and as the only means which could then be devised for preventing bloodshed to a more frightful extent. Only a few years before, a remarkable instance is recorded by Birrel, Mar. 15, 1597. 'Ane fingill Combat fochein betuix Adame Bruntfeild and James Carmichaell. The said Adame Bruntfeild challengeit James Carmichaell for murdering of his vmq^{le} brother Stephen Bruntfeild, Capitane of Tantalloune. The said Adame *purscheit ane Licience* of his M. and faucht the said James on Barnbowgall Linkis, befor Fywe thousand gentilmen; And the said Adame being bot ane 3oung mane and of a mein statur, flew the said James Carmichaell, he being als abill a lyik man as wes leiweing.'—In a MS. Hist. of Scotland, Adv. Lib. A. 4, 35, it is recorded, 'thai mett in ane small inche be the sie neir to Barnbugell; my Lord Duke and fundrie utheris being thair Judges.'

and provokit him thairto, that he vpoune the morne thairefter, being the tuentie day of the said moneth, and the Sabboth day, fuld meit yow, bodin¹ with sword and gantillet, vpoune St Leonardis Craigis,² befyde this burch of Edinburgh, near to our fouerane lordis Palice of Halyrudehous, quhair his Maieftie was in proper perfoune for the tyme; and thair to fecht with you the Singular-combat, for certane iniurious wordis fallin out betuix you and him: Lyke as ye, vpoune the said xx day of Apryle, being the Sabboth day, airtie in the morning, betuix fyve and sax houris, accompaneit with vtheris your complices, come to the said place appoyntit, callit St Leonardis Craigis, and thair awaittit vpoune the said vmq¹⁶ James cuming to yow; quha, haifing kepit the said tryift³ at the said hour and place, ye and your complices foirfaidis sett vpoune the said vmq¹⁶ James, and maift schamefullie and crewallie, with swordis, straik him in the face and vpoune the heid, and gaif him foure bludie woundis thairon; and thairbye maift barborouflie, crewallie and tyrannouflie flew the said vmq¹⁶ James Vauchope, vpoune fet purpois, provifionne and foirthocht felonye; in hie contemptiounne, &c.

*ARGUMENTS and PLEADINGS of the Parties.*⁴

The said Dittay being red, the Pannell afkis instrumentis of the tennour thairof, and speciallie of that pairt, quhairin it is alledgeit that the pretendit Slauchter contenit thairin procedit vpoun the provocation to ane Singular Combat, and that vmq¹⁶ James Wauchop refoirtit to the place appointit, and it is alledgeit that he wes thair flayne: And alledgeit, that the mater contenit in the Dittay aucht nocht be putt to the knowledge of ane Affyse, becaus the said vmq¹⁶ James, the tyme of the said alledgeit slauchter, and be the space of diuers yeiris of before, wes the Kingis rebell, putt to the horne, for noncompearance, to anfuer to his Maieftie and the Counfall, for the tressonabill reffett, intertinnement and intercommoning of vmq¹⁶ Archibald Wauchop, sumtyme apperand of Nudry-Merchall, than standand vnder proces of fforfaultour, for the cauffis thairin contenit: quhilkis Lettres of Hoirning wer execute aganis him, and wer direct vpoun ane Decreit, gewin be his Maieftie and Lordis of his hienes Secret Counfall, of the dait, att Halyruidhous, the xxij day of Februar I^m.V^o.lxxxxvj yeiris: And for verificatiounne of the said alledgeance, the preloquntouris produceit the Decreit foirfaid, with the Extract of the Lettres of Hoirning, with the executioun thairof: And thairfore, in caise the Dittay wer of veritie, quhilk is nocht grantit, the slauchter of ane rebell, quha had na protectionn be his Maieftie nor be the Law, and speciallie vpoun ane Singular-combat takin on be bayth the pairteis, is nocht ane cryme pwneifabill: And thairfoir, the Dittay fould nocht be put to the knowledge of ane Affyis.

It is anfuerit, be the Aduocat and perfewaris, that the alledgeance foundit vpoun the Hoirning produceit is nawyis relevant; becaus the said Hoirning is and wes null, fra the beginning, and is fa declarit be decreit of the Lordis of Counfall and Seffionne, in Maij laft, heirwith produceit: And feing, it is of lyke⁵ of the Law, 'nocht to be att the horne,' and 'nocht to be lauchfullie putt to the horne,' the perfoun that wes flayne, newir being lauchfullie denunceit, he man⁶ be repute newir to haif bene

¹ Furnished or provided with. ² Perhaps that part of Salisbury-craggs opposite to St Leonard's-hill, situated within the King's-park; and then resorted to in affairs of honour. On Mar. 11, 1597, 'William Gluffer and James Hepburne slew ane another at the fingell-combat, on the hill callit Sant Leonardis Craigis. The said twa ver buriat on the morne thairefter.'—*Birrel*. ³ Appointed meeting.

⁴ In order to condense these legal disputations as much as possible, they are thrown into a small-sized type. ⁵ Alike, of equal import. ⁶ Must of necessity.

att the horne : In respect quhairof, this mater aucht to pass to the tryell of ane Affyse ; and for verificatioun of the answer, producit the said Decreit.—It is answert be the preloquoutouris for the said Robert, that thair alledgeance is maist relevant in itt selff, and concludis necessarlie : And as to the answar, it is na argument aganis the relevancie, bot it apperis to be ane reply to elide the allegiance, howbeit it wer relevant, and is foundit upoune ane Decreit obtenit before the Lordis of Counfall and Sessioune, presentialie producit ; quhilk Decreit the preloquoutouris desyris to be red, befor thay mak ony forder answar thairto.

The said Decreit of the Lordis of Counfall and Sessioune being red, the preloquoutouris for the defender acceptit the samin *in quantum* ; and answrand to the perswaris alledgeance, sayis, that the Hoirning producit, procedit vpoun the Decreit of his Maiestie and the Lordis of his hienes Secret Counfall, for the said vni^o James Wauchopis contumacie, being challengeit vpoun ane cryme of Treasonne ; quhairin the Lordis of Sessioun nocht being Judgeis competent in the fyrst instance, mekill les could thay be Judgeis compitent in the secund, to retreat¹ the Decreit of our souerane lord and Lordis of his hienes Secret Counfall ; and swa, the former Decreit, being alledgeit to be reduceit be the Lordis of Sessioun, quha wer nocht Judgeis, the said fyrst Decreit standis in effect ; and consequentlie, the proces of Hoirning following thairvpoune. Attowre the said Decreit is gewin for null defence and nocht comperance of my Lord Thesaurer and aduocat nocht comperand, quha wer only summond, and the said Robert Auchmowtie, quhais presens could nocht be misknawin, in respect of the fact interuenient, and being in preafoun for the challenge of the said alledgeit slauchter, the tyme of the executioun of the summonds and deductioun² of the bail proces ; and he was nawyis summond. And mair-owre, the said actioun of Reductiounne, quhairvpoune the said Decreit reductiue procedit, is intentitt att the instance of Mr George Wauchop, as air apperand, to the effect that he mycht be Retourit ;³ and of his sifteris, to the effect that thay mycht be decernit executouris, to the effect that thay mycht recover the said James heretage and movabill guidis, and to that effect allanerlie ; the effect of the Lordis Decreit reductiue can nocht exceid the intentioun and desyre of the perswaris. And quhair it is alledgeit be my Lord Aduocat, that the said proces of Hoirning being reduceit, it is all alyke as gif it had newir bene execute ; it is answert thairto, that the said allegiance is alluterlie⁴ irrelevant of the Law, becaus it is sufficient for the said Robertis Defence, that att the tyme of the said alledgeit slauchter, thair wes anie decreit of his Maiestie and lordis of Secret Counfall standand, be the quhilk, lettres wer ordanit to be direct, to denunce him rebell for his non comperance, in ane mater of Treassoun ; the said Decreit beirand that he wes lauchfullie chargeit and comperit nocht. Vpoun the quhilk Decreit, our souerane lordis lettres of Hoirning wer direct, and the samyn dewlie and lauchfullie execute and dewlie registrat in the Shereffis buikis ; swa that nane could pretend ignorance thairof : And gewand⁵ that the saidis Lordis mycht haif bene Judgis to the Reductioun of the charge⁶ of the fyrst lettres and to the Decreit gewin be his Maiestie and the Lordis of Secret Counfall thairvpoune, quhairvpoune that pretendit Reductioun procedis, allanerlie⁷ vpoun this reasoune, that the executions of the charge to comper befor his Maiestie and Loirdis of Secret Counfall, wes nocht subscryuit, att the leift, wes nocht stampit, be the officer : As to the subscrytioun, it wes nawyis necessar be the lawis of this realme, and thairfore the caus of gewing of the saidis Lordis Decreit man be ascryuit allanerlie to the wanting of the stamp. It is also of veritie, that the said James Wauchop continewit in his rebellious be the space of four yeiris or thairby, and newir quarrellit the samin in his tyme ;⁸ and thairfore, quhatsumewir thing is done be the saidis Lordis Decreit aucht nawyis preiudge the Defender in his Defence of the alledgeit cryme, committit of before, he being now challengeit vpoun the said alledgeit slauchter.—

¹ To recall, retract, or set aside.

² Leading, carrying on.

³ A form of law, proceeding on a writ

issued from Chancery, by which a person is returned by an Inquest, as heir to a party deceased.

⁴ Altogether,

entirely.

⁵ Giving, or granting, for the sake of argument.

⁶ An official notification given by a Messenger at arms to the party against whom a writ is issued, and certified by the officer serving, in an instrument, termed an ' Execution,' which is usually indorsed upon it,

⁷ Only, solely.

⁸ During his lifetime.

And that part of my Lord Aduocattis ansuer, beirand, 'that the Reductione of the Hoirningis estir the slauchter, is alyke as gyf the Hoirning had newir bene execute,' is allenarlie irrelevant of the Law, in this mater, and subiect quhairvpoun the question standis; for, be the Lawis of all natiounis, ane rebell, speciallie for ane caus of Treasoun, may be slayne, and that slauchter is nocht pwneifabill be the lawis; quhilk is of veritie, nocht only quhen the proces of rebelloun is maist iustlie and ordourlie procedit, bot als this famin ground of the law is als trew, quhen be a Decreit of the Prince and his Counfall ony persoun, challengeit vpoun Treasoun or ony vthir cryme, comperis nocht bot disobeyis, and thairfoir is ordenit to be declarit and publeist as rebellis; and quhair publicatioun is maid dewlie and sufficiently, and quhair the famin is registrat in the proper registeris appertening thairto, as is cleirly verifeit in this caice be the writtis produceit, the gritest point of this questioun standis in the propofitioun: For verificatioun quhairof, the defender alledgeis thir places of the Law and of the Doctouris, as followis, to preif this conclusiounne, *Quod Bannitum, cuius bannum iniustum aut nullum est, impune licet occidere.* Alexander, concilio 65, lib. 3, numero 6, et deinceps. Baldus, consilio 142, lib. 4.—Phillippus Decius, consilio 482, lib. 4.—Nellus a Sancto Germano, in Tractatu 'de Bannitis.'—Bartolus, in lib. 'Si ex lege facta de Adulterijs,' Verba Bartoli ad questionem, 'de eo qui interfecit non legitime exbannitum;' et dicit, 'si interficiens nullitatem sciebat, tum punitur; secus, si hoc ignorabat et quod ignorans, non punitur;' reddit rationem Dicus, qua occidens deceptus est, auctoritate publice scripture.—Bartolus in L. 2, § 'hec actio,' ff. vi bonorum raptorum. Hec Bartoli verba, 'Occidens bannitum cuius bannum non tenebat, excusabitur a pena homicidij.'—Joannes Andree in additionibus ad speculat. in Tit. de Obligationibus et solutionibus, concludit, quod 'si quis banitus fuerit propter pecuniam non solutam et postea soluerit, banno tamen non cancellato occisus fuerit, non tenetur pena homicidij.'—Bartolus in L. genero ff. de his qui notantur infamia, hec verba, quod 'si quis occidit illum quem credebatur esse exbannitum, vel adulteravit illam quum credebatur non mixtam, quod non punitur pena homicidij nec adulterij.'—Item, Julius Clauus, § finali, in his criminibus in verbo 'Homicidium,' quhair he tretis this questioun att grit lenth; quhair rebelloun is nocht formall, or quhen thair is ane play, na nullitie, gif the rebelloun be fund in the register and nocht cancellat, nor na Relaxatioun, as we call it in the famin Register, occisor non teneatur pena homicidij.

Item, the Defender desyris my Lord Justice, for schortnes, to ressaue the buikis contenant the places alledgeit, and to considder the famin, as accordis; speciallie, seing the questioun is nocht only vpoun the defenderis lyffe, bot als it may bring in ane dangerous preparatiue throw all this realme; that estir a man be slayne, being fund att the horne be vertew of ane Decreit, and the hoirning newir being quarrellit during all his tyme, and the Hoirning being retretit¹ allanerlie, for want of ane stamp vpoun the fyrst charge of summonds, quhairof all men mycht pretend just ignorance, be reasoun that the saidis lettres of Hoirning with the Decreit wer registrat, lyke as, the said Hoirning wer stampit, and the saidis Lettres of Hoirning and chargeis wer reduceit, *in consequentiam*; for the charge wes newir registrat nor miferit² to be registrat. It is also gritlie to be weit,³ that this slauchter procedit nocht vpoune ony lang precogitat malice, bot vpoun ane quarrell tane betuix twa young men in thair heit, vpoun ane singular combat, fochin⁴ the tyme and place appointit; quhilk nedit nocht his Maiesteis Licence, becaus the said James Wauchop wes nocht his lieg, bot rebell, as said is.

It is replyt be the persewaris, as of before, that the haill former alledgances aucht to be repellit, becaus the famin being foundit vpoun the said Hoirning, and vpoun the privedge of the Law to slae rebellis, the said Hoirning falling, the haill alledganceis following thairvpoun lykewyis fallis, ffor the cauffis foirsaidis: And quhair it is alledgeit, that the Decreit annulling the Hoirning is null, becaus it wes gewin be the Lords of Sessoun, nocht being Judgeis competent; and for the non comperance of the defendar summond, and that the famin can be na forder extendit nor to the persewaris interes ly-

¹ Retracted or set aside.² Needed, had occasion to be.³ Weighed.⁴ Fought.

bellit, it aucht to be Repellit, in respect of the Decreit standand, to the validitie quhairof and jurisdiction of the Lordis of Sessioun gewaris thair of my Lord Justice is nocht Judge; nather can ane Decreit, gewin vpoun the nullitie of ane Hoirning for ane nullitie of the law, be restrictit to the particular interes of ane partie perfewar, bot being fund null of the Law, att the instance of ony lauchfull partie, man be null, *quoad omnes mortales*; nather is thair ony relewant caus contenit in the saidis alledgeanceis, quhairfore the said Robert Auchmowtie fould nocht haif bene summond to the gewing of the said Decreit, for his cryme and malifice could nocht mak him necessar partie in the Reduction of the Hoirning, execute at my Lord Thesaureris instance, aganis the defunct. And quhair the alledgeance beris, that the Decreit of the Lords of Secreit Counfall and lettres rasit thairvpoun, with the denunciatioun and registratioun of the samin, being formall, and exstant publictlye in Registeris, can nocht be tane away *in consequentiam*, for nullitie of the fyrst charge, that is altogidder irrelevant of the law; quhairby it is exprellie provydit, that na man can be lauchfullie denunceit to the horne, vnles he be fyrst lauchfullie chargeit: The Decreit produceit, with the lettres and denunciatioun following thairvpoun, can newir subfist, becaus thay proceid nocht vpoune ane lauchfull charge, bot vpoune ane charge altogidder null of the law, and declarit to haif bene fa fra the beginning, be the Decreit produceit: And quhair it is affermit be the pannell, that the law of all natiounis, *licet rebelles impune occidere*, for verificatioun quhairof thay cite Alex^r, Bartolus, Baldus, Nellus, Decius, Julius Clarus and vtheris, it is anfuert, that na respect aucht to be had in this caice to the said alledgeances, becaus the defunct wes newir rebell be vertew of the Horning produceit; becaus it is exprellie statute, be Act of Parliament, that all chargeis and executiounes of Lettres of Horning salbe stampit with the messinger executouris stamp, beirand the fyrst lettres of his name and surname, vthirwyis, incaife ony of the executiounis necessaris want the solempneteis of the law, the Horning is altogidder null; and it is of veritie, that the only charge quhairvpoun the Decreit and Hoirning produceit procedis, wantis the said solemnitie, as is declarit in the Decreit-reductiue produceit; and thairfore the said Horning is, and wes fra the beginning null; quhilk nullitie being ane nullitie of the law, is and hes alwyis bene compitent to haif bene proponit, be way of actioun or exceptionne: And seing the samin could newir haif debarrit the said v^mq^h James, being on lyffe, fra his defence, or haif bene objectit to him as ane lauchfull impediment to him; fa the samin can nocht stay nor delay the lauchfull tryell and pwneifment of his slauchter, speciallie, becaus the said Horning is nocht only null of the law, bot declarit null be sentence of the ordiner Judge: And quhair it is allegit be the pannell, that many inconvenientis may follow to the liegis, gif ane Horning, exstant in the Register att the tyme of the slauchter committit, in the perfoun of the pretendit rebell, the samin salbe na warrand to the committer of the slauchter; giff ony place be to motiues, in this judgement, my Lord Justice hes to consider how mony grittar inconvenientis may ensue, gif ane fals or null Hoirning, exstant in the Register, salbe ane sufficient warrand to murthour ony of his hienes frie liegis without perrell or puneifment. And as to the hail authoriteis of the Doctouris alledgeit, thay ar sett doune vpoune ane generall propositioun, proceding, *nimirum non stante statuto, quod licent bannitum impune occidere; possit quis puniri ob interfectionem illius, cuius bannum de Registro non erat cancellatum, vel cuius bannum erat nullum?* Quhilk can nocht militat in our caice, becaus thair is na statute nor Law in this countrey gewing power to all men to slae sic as ar att the horne; mekle les to slae sic as wes newir lauchfullie att the horne; *igitur*, &c.

The Defender, be his preloquoutouris, Repetis thair former alledgeances, insafar as the samin contentis thair objectionis aganis the Decreit-reductiue, and remittis the samin to my Lord Justice, speciallie in that pairt, quhairin the Justice-generall, in ane mater criminal, properlie appertening to his jurisdiction, may judge in ane mater of Treasoun or Reductioun of ane Decreit gewin vpoun ane challenge of Treasoun; in the reductioun of the quhilk Decreit, thay could na mair be Judgeis nor thay mycht be judgeis in the principall caus or mater. And quhair it is reasonit be the perfewaris, that the proces of Hoirning is reduceit, the defenderis adheris to the anfuertis maid be thame ofbefoir; and eikis

thairto, that the perfewaris alledgances ar nocht relevant, nocht specifeand that the said proces of Horning wes reduceit before the said alledgeit slauchter; for the reducioun supervenient, and speciallie for the alledgeit want of ane stamp, quhilk is the only reafoun of the said reducioun, is na cans to take the defenderis lyffe; speciallie, the want of ane stamp nocht being in the denunciatioun of the Horning, bot in the executioun of the charge, quhilk wes nather registrat nor necessar to be registrat: And forder, it is ansuerit be the Defender, that of the Law and practik of all natiounis, and speciallie within this realme, na man is pwneift for the slauchter of ane rebell; and quhensoever the rebelloun wes proponit aganis the accusatioun, the Justice newir patt that slauchter to the knowledge of ane Assyis, quhilk, as is belewit, my Lord Aduocat will nocht deny; swa that the argument is nocht vpoun that generall; for it is out of all dout, that my Lord Aduocat makis the questioun vpoun the Reducioun of the horning: To the quhilk it is ansuerit, be the maist pairt of the wryteris on the Law, that howbeit the proces of rebelloun eftir the slauchter wer fund informall or null of the law, that declaratour can nawyis preidje the partie defender; and this is maist equitabil and agreeand to reafoune: And it apperis, that thair is na ansuer maid to the conclusioun of the Doctouris of the law; bot that thay found thame selffis, in the countreis quhair statutis ar maid, that it sould be lessum to ony privat man to slay ane rebell, and that in this realme thair is na sic statute or ordinance: To quhilk it is ansuerit, that the Justice-Generall followis the dispositioun of the Commoun Law and the consuetude of all natiounis: and als, it is knawin to be ane inveterat consuetude of this realme, att this tyme, and by the space of twentie zeiris bypast, that quha soewir is challengeit vpoun ane slauchter and vpoun rebelloun wes newir putt to the knowledge of ane Assise; and thair is na questioun that ane consuetude inviolablie obseruit is of gritar force nor ane writtin law, L. 'non dubium,' ff. 'de legibus;' and as the Doctouris concludis, that ane rebell, quha wes declarit formallie rebell, may be slayne vnpwneift, sa thay conclude, quhair the proces of rebelloun is newir drawin in questioun the tyme of the rebellis lyftyme, bot eftir his deceis, albeit the famin be null, the slayer still (thall) nawyis be pwneift: Now, this is owre proper questioun, *an Bannitus vel rite vel nulliter bannitus, possit impune offendi?* The affirmatiue thairof is cleirly verifeit be the allegatiounis before reherfit, in the quhilkis the Doctouris adduces diuers grit praktesis and decisiounis in findrie of the maist famous Judgementis¹ of Europ, quhair the slayaris of rebellis, albeit vnjustlie declarit rebellis, and quhais rebelloun wes declarit null: Quhilkis allegatiounis ar nawyis refutit be my Lord Aduocat, that quhen the rebelloun is fund null eftir the slauchter that the slayar salbe pwneift.

It is ansuerit be the perfewaris to the fyrst pairt of the alledgance, anent the iurisdiction of the Lordis of Sessioun, anent the Reducioun of the Horning produceit, that albeit thay could nocht haif bene judgis compitent to the tryall of the cryme contenit in the charge vsit aganis the defunct, yit thay wer maist compitent judgeis to the Reducioun of the Hoirning, for the nullitie of the law thairin contenit; nather aucht thair ony respect to be had to the dait of the decreit of Reducioun, gewin sen the slauchter of the said vmq^{re} James Wauchop, becaus the famin, being ane Declaratour of nullitie of the said charge and denunciatioun following thairvpoun; lyke as the famin charge and Hoirning following thairvpoun mycht haif bene alledgeit and declarit null in this Judgment, be way of exceptioun, gif it had bene produceit in this Judgment, quhilk is nocht necessar now, in respect of the Declaratour and Decreit produceit: And as to the generall ground of the Law proponit for the pannell, quhilk thay wald mantene be ane alledgeit custum of this Court, quhilk thay wald mak equivalent to ane statute, becaus thay haif na Law nor Act of Parliament to warrand the said propositioun; the said alledgeit custum of this Court can nawyis warrand this propositioun, becaus it wes newir fund be ony sentence or Interloquoutour of this Court, that it wes lesum to slae ane man being att the horne; bot quhensoever the pannell proponit sic ane defence, the gritest favour that wes grantit to thame, in respect thair- of, wes to continew the mater to the thryd day of the Air or soner, vpoun xv dayes wairning; quhilk

¹ Tribunals, courts of Justice.

can nocht be grantit in this caice, becaus it is sufficientlie verifeit to my Lord Justice, that the defunct deit nocht rebell, and that the Hoirning vsit in thair defence is and wes null fra the beginning, and wes null of the law; quhilk is the principall reply quhairvpoune the persewaris infistis: And yit, for satisfioun of the defenderis argument, that of the law, *licet Bannitum impune occidere, licet illius bannum fuerit nullum*, it is anfuert, and the persewaris fall verife be the authouris citat be the defenderis, that the contrar is trew of the law; as is affermit be Bartolus in L. 'vt vim,' numero primo ff. 'de Iusticia et jure,' in thir wordis, 'Bannitus est referuata defensio, ergo illicita est offensio;' et infra, 'sed ego dico, quod de jure communi non licet occidere Bannitos.' Forder, for corroboratioun of the reply, foundit vpoun the nullitie of the Hoirning, and that thairfore can furneis na defence to the pannel, the persewaris citatis¹ Bartolus ad legem quartam, § 'condemnatum,' ff. 'de re iudicata,' his verbis; 'non jure Bannitus, non dicitur exbannitus, nec potest impune offendi.' Idem ad Legem penultimum, ff. 'de adimendis legatis;' et ad legem 'vxor,' numero tertio, ff. 'de Donationibus inter virum et vxorem:' et lege, 'non putant' § non queuis,' ff. 'de bonorum possessione contra tabulas.'—Forder, it is ane proposition mantenit be all the Doctouris, quod 'non licet Bannitum in ciuitate tolleratum impune occidere, quia talis tollerantia in ciuitate prestabat illi securitatem, tametsi de banno nondum fuerit cancellatus.' Sallicetus in Lege, 'nullus,' capitulo 'de Judeis;' et sequitur Joannes de Annama in capitulo 'sicut;' extra 'de Indicijs,' dicens 'hoc esse singulare dictum et se vidisse seruari in Bononia;' Joannes de Arnono, singulari decimo; Hippolitus de Marcilijs, singulari 77. Phelmus in capitulo, 'sicuti Judei' in fine; Et ibi Johanes de Anonia extra 'de Judeis.'—And it is manifest that the defunct, continewallie eftir the alledgeit Hoirning to the hour of his deceis, had publict refoirt within this burcht, and had acces and permissioun to do his lauchfull effairis thairin bot ony impediment, bot of the knowledge, permissioun and allowance of the Magistratis and Counfall thairof, it being knawin that he wes the Kingis frie liege, and nawyis lauchfullie denunceit at the horne: Lyke as, the pannell wes his familiar companzeoune, frequentit his conuersatioun, borrowit and lent, eit and drank with him, as his awin confessioun beris; and swa can newir be hard to say that he wes rebell.—Fynallie, the pannell can newir be hard to found ony defence vpoun the foirfaid ground of the law, quod licet Bannitum impune occidere, becaus it is certan of the law 'quod impunitas occidenti Bannitum non conceditur, quando non ob publicam utilitatem sed ob priuatum odium vel priuatas inimicitias quis bannitum interficit hunc enim vel ut homicidum debet Iudex punire.' Bartolus in Lege 'de Delictoribus,' lib. ij: Ludouicus Romanus in Lege 'si quis in graui,' § 'vtrum,' ff. 'ad Senatam consultum:' Felicius in capitulo 'in Ecclesiorum,' numero 10, 11, vel 12, 'de Constitutionibus.' Marcilius consilio nono, numero 28, et consilio 10 numero 42. Baldus in Lege 'decuriones,' capitulo, 'de his qui notantur infamia,' &c., 'hanc sententiam probant Doctores omnes' ad Legem ultimum, Capitulo 'de maleficis et machematicis,' in fine, his verbis, 'aut proprium fortassis inimicum sub huiusmodi vindicti nomine occidens'² And it is notour and confest be the pannel to the Kingis Maieftie, and att his examinatioun, that he slew the defunct, not for ony respect of his pretendit rebellious or for seruice to his Prince, bot for his awin particuler quarrell and combatt, vnderthane vpoune the pannellis provocatioun and cartell in writ; quhilk falbe sufficientlie verifeit to my Lord Justice, gif he think itt expedient. In respect quhairrof, the hail former alledgeances aucht to be repellit, and the dittay aucht to be putt to the knowledge of ane Assyis.

It is anfuert be the defender, that the Lordis of the Sessioun could newir be Judgis to the Reductione of the Hoirning, becaus it procedit vpoun ane decreit gewin be the King and Counsal; to the Reduction quhairrof the saidis Lordis wer nocht Judgis; and swa the Decreit standand, thay could be na Judgis to the reducioun of the Hoirning.—To the secund pairt, quhair it is alledgeit, that it wes newir found in this Court, that itt wes lesum to ony persoun to slae (ane re)bell, &c. it is anfuert,

¹ Cite or quote.

² Part of this page torn away here, by which several lines are rendered unintelligible.

that quhen rebelloun is proponit the judgement and gif neid beis nocht only continewatioun of the mater wes do decifiounis, wes directlie the allegatioun maid of the Doctouris (by) the Perfewaris; the defender referis to the buikis,¹ hinc inde. As to the argument (of) ane rebell being tolerat in ane citie can nocht be offendit, the maist pairt of the Doctouris concludis indistinctlie, that he may be offendit quibidder he be tollerat or nocht; and mair, althocht he obtenit the Kingis grace, and the grace be nocht registrat, *potest impune occidi*; sa it is in this caise, quhair thair is na Relaxatioun registrat: Attowre, the reply wes newir fund relewant be the practik of this realme, and it wer ane grit danger gif swa war. *Item*, that pairt, it is nocht lesum to slae ony rebell *priuati odij causa*, &c. it is nocht relevant, ffor the maist pairt of all the wryteris are in the contrar; and be the practik of this realme, non queritur, vtrum sit publici boni an priuati odij causa?

The perfewaris ceisand to repeat ony thing that is alreddy said, answers only to twa pointis, quhillkis femis to be newere proponit be the defenderis; the ane, that the Doctouris affermis, that ane rebell haifing obtenit the Kingis grace, may be slayne but perrell of Law, gif his grace be nocht registrat; quhillk is altogidder contrair the lawis and practik of this countrey, becaus in crymes of rebelliousne committit to the Kingis Maiesteis only particular offence, his Maiesteis awin is grantit to the rebell preungeis haill crymes, and makis him to be lauchfull subject, that may nocht dit but pwneifment, and his in that cause nedit na quhair it is nixt alleget wes newir practesit, that ane man being slayne att the horne, and his kyn and freindis perfewing the slear before the Justice, that ony proces wes grantit in the mater: It is answert be the perfewaris, that in ane actioun altogidder lyke to this caise, verry notour to my Lord Justice and all the memberis of Court, the *Laird of Arkinglas*, being accusit for the slauchter of the *Laird of Caddell*, alledgeit, that na proces could be grantit in the said mater, becaus the defunct wes slayne att the horne; and for verificatioun thairof producit Lettres of Hoirning dewlie execute, indorsat and registrat aganis the defunct, att the instance of Mr James Harvie, advocat: To the quhillk it wes answert, that the said Hoirning wes reduceit, and sa could nocht stay proces: It was duplyt, that the Reductioun could nocht preiudge the pannell, becaus the actioun of the Reductioun wes intentit eftir the deceise of the Laird of Caddell, and sa could nocht mak him nocht to haif deceffit att the horne, nather could the said defender be preiudgeit, he nocht being callit thairto, speciallie feing the perfewaris of the Reductioun, to witt the relict and bairnis of the defunct, becaus lang before the intentioun of the said Reductioun, thay had summond the said Laird of Arkinglas to vnderly the Law for the said slauchter, and for his nocht comperance had putt him to the horne; to the quhillk it wes answert, that the Hoirning being null fra the beginning, and declarit sa be the Decreit of the Lordis, the Decreit wes drawin bak to the tyme of the denunciatioun, and sa the defunct deit nocht att the horne, nather wes it necessar to thame to call the said Laird of Arkinglas to the said Reductioun, becaus his cryme could mak him to haif na interes in thair ciuile caus and thay had done sufficiently calling the partie rasar of the lettres, and the Kingis Thesaurar and Advocat for his Maiesteis interes: In respect of the quhillkis answers, veriseit be the Decreit producit, my Lord Justice repellit the haill defensis proponit be the pannell vpoun the said Hoirning, declarit the famin null, and fand forder proces in the said mater.—In respect quhairof, being ane cace sa lyke to this present caise, that thair can na a poynt of disconformitie be alledgeit betuix the caissis; Repeatand the former answers thairwith, the haill alledgences proponit be the defenderis aucht to be Repellit.

It is answert be the defenderis, as to my Lord Aduocatt alledgance anent the Princeis grace and admiffioun to his fycht, *omnino id non relevat*, without ane relaxatioun.—*Item*, anent the secund alledgance, foundit vpoun ane practik, anent the accusatioun of Arkinglas; answers, that thair is na thing

¹ The Books or authorities formerly quoted by the pursuer.

schawin to verifie ; and protestis, that it be nocht respectit, vnto¹ itt be schawin, that we may anfuer thairto.—The Aduocat referris the notoriety thairto to my Lord Justice.—It is anfuerit be the defender, that that alledgeit notoriety can nocht preidge him, without he saw it, and might anfuer thairto.

THE JUSTICE continewis Interloquontour to the sewint of Junij instant.

[*Mr William Haert, Justice-Depute.*]

Jun. 7.—The Defenderis defyris the practik alledgeit for Arkinglas to be sene, before ony forder proces ; quhilk can nocht be refusit, bayth in respect of the Act of Parliament, be the quhilk it is statute, that all the verificatiounes of the accuser fould be producit in presens of partie, quha can nocht be preidgeit be the pretendit knowledge of the Judge or memberis of Court, speciallie in ane accusatioun capital.—The persewaris anfueris, that the Act of Parliament alledgeit be the defenderis, is only anent the verificatioun of the cryme to be producit to the Assyis ; and that na vther verificatioun fould be ressaute, fra² the Assyis be inclofit, nor was alledgeit and producit in presens of partie before the inclofing ; and concernis nocht the alledgeances of the Law nor practik maid and to be decydit before my Lord Justice, in the quhilk his awin knowledge and conscience is his onlie warrand.—Anfuerit the defender, that in ony mater criminall, thair may be twa kynd of defensis to him ; ane to impeid the mater to pas to ane Assyse, the vther, to purge be the Assyis, quhen thay ar chofin : In this caise, thair is ane exception peremptour proponit, quhairfore this mater fould nocht pas to ane Assyse, to the quhilk thair is diuers anfueris, and replys maid ; and speciallie the last, foundit vpoun the said pretendit practik quhairvpoun my Lord Aduocat apperis maift to be foundit ; and gif ony sic practik be, it fould nocht be respectit without the productione thairto, be reafoun that in ane ciuile cause of leift consequens, ane decisioun alledgeit and nocht producit wald nocht be respectit, and gif the said alledgeit practik wer schawin, the defender wald reafoun that it wald nocht militate in this cause : And the Judge can haif na warrand in this caus to judge vpoun his conscience ; the practik nocht being producit, and the partie nocht being hard.—Anfuerit the persewaris, that thair reply is nocht foundit vpoun the practik alledgeit, bot vpoun the Decreit of Reduccion of the Hoirning vsit be the defenderis ; the effect of the quhilk decreit being impugnit be the defenderis, the said Decreit is mantenit be the persewaris to be ane lauchfull ground, be law, reafoun, and practik, to mak the said hoirning null fra the beginning ; and for my Lord Justice bettir satisfioun, the said practik is alledgeit, quhilk being notour to his Lordship, as done in ane action quhair as himselff wes persewar, it nedis na forder productione nor verificatioun ; ffor the relevancie of the said reply dependis nocht vpoun the practik, bot is relevant of the law, albeit the practik be allegit for forder bleiring³ of the mater, and that quhilk is notour to the Judge, *in jure vel praxi*, neidis na forder verificatioun.

The defender anfueris, that infasar as my Lord Aduocatis reply is foundit vpoun the law, he referris him to the lawis alledgeit be him ofbefoir for his defence, and sayis, that thairby it is cleirly decydit that the defence proponit is of the law maift relevant, defyring the Judge, as he will anfuer to God and his Maiestie, that ewerie place alledgeit be confidderit be him and his Assessoris⁴ before the Interloquontour : And quhair my Lord Aduocat anfueris, that the relevancie of his alledgeance dependis nocht vpoun the practik, gif his lordship will anfuer directlie that it falbe na pairt of the verificatioun or confirmatioun of the reply, his lordship fall nocht be vrgeit with the production thairto : bot, feing my Lord Aduocat affermis that that practik is fa notour and weill knawin to my Lord Justice in that mater, quhilk wes persewit at his awin instance ; that knowledge, how grit it war, can nocht tak away the defenderis defensis, quhilk he can nocht propone, that practik nocht being schawin ; speciallie, confiddering the name of this judgement, and the wechtines thairto vpoun lyffe and deid, and it may verry weill stand, that the argumentis of the defence wes nocht maid in the vther cause

¹ Till. ² From the time that the Assise are inclosed. ³ Confusing, blinding. ⁴ The Assessors are not marked in the Record ; but it has formerly been remarked, that it was the dailly custom to have Assessors, and that they are only occasionally named in the books of Adjournal.

quhairin the practik wes alledgeit : And farder, it is ane vndoutit ground of the law, that judgementis fould nocht proceed vpoun examplis, bot vpoun the lawis : And it is ane vther ground, that ony thing judgeit aganis ane perfoun can nocht be hurtfull to ane vther ; and the defender hopis that the Judge will nocht tak vpoun his consciencie to proceed vpoun that practik, quhill it be sene be the partie and his objectionis hard.

It is answert, that it is na forder necessar to produce the practik alledgeit notour to the judge him self, nor to produce ane law and Act of Parliament ; and swa thay ceis to insist ony forder vpoun that poynt. As to the last part of the last answert, that the Judge aucht to decerne be law and nocht be examplis, it apperis that that answert can nocht weil agree with ane vther answert maid be the partie in this samin proces, that the practik and custome of the Court hes the force and effect of ane Law ; quhairvpoun thay inferrit that it wes lesum, be the practik of this countrey, to slay ane man att the horne, quhill wes nocht sa relevantlie alledgeit be thame as this practik is be the perfewaris, becaus thay alledgeit na decisioun in termes for thair argument, as in this caise. As to the last part, *quod res inter alios acta, alios non preiudicat*, that is vnderstand to be confiderit *in facto* ; bot quhair in lyke caissis that is decernit be the Judge to be Law, quhill may astrik¹ him of Law and reason to the lyke decisioun in thingis thaireftir falling furth, it is nocht to be confiderit *ratione rei, sed ratione paritatis rationis*, quhill makis the constant² decisiounis of the Judgis in caissis bypast, to haif the effect and strenth of Law in thingis present and to cum.

The Defender answert, that thair is na difconformitie of his former answertis to ony of his vther alledgeances maid in this proces, ffor it is certane, that be the constitutionis of the maist part of all the Natiounis, *quod licet Bannitum impune offendere* ; and it is ressaunt as ane commoun law within all the Judgementis³ within Europ, and within this realme ; and quhairwir it is alledgeit, it stopis the pannell to pas to ane Assyise ; and it is certane that thair is ane grit difference betuix ane Law confiderit, and ane example : ffor ane Law is ane thing quhill is perfyte of itt self ; ane consuetude hes the effect of ane law, quhair it is groundit vpoun mony factis and decisiounis, *in foro contradictorio*, quhair the parteis ar hard ; bot vpoun ane singular act thair can nocht be ane consuetude induceit ; and gif the practik alledgeit vpoun this singular act wer exhibite, the partie wald propone, that that practik war nocht in the termis of this caus : And thairfoir, the defender repetis his fyrst desyre vpoun the production of the practik ; and gif it be nocht produceit, the answert maid thairvpoun fould nocht be respectit.—And forder, the defender alledgeit, that be⁴ the perfewaris verefeis nocht thair intention ; and thairfoir referris him to the buikis.

The perfewaris and defenderis being inquirt, gif thay wald say forder, declarit that thay wald say na forder.

INTERLOCUTOR. The Justice continewis this mater to Tyisday nixtocum, the tent day of Junij instant, becaus he is nocht throuchlie auisit with the alledgeances, defensis and answertis proponit, *hinc inde*.

The samin day, Mr George Wauchop, ane of the perfewaris, produceit his Maiesteis Warrant, quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weil. Forfamekill as Robert Anchmowtie, chirurgiane, is presentlie in waird, for pe slauchter of vmq^{le} James Wauchop, the parentis of the said James haifing lamentable futed⁵ att our handis for Justice, quhill We of our Royall dewtie can nocht refuse. It is our Will pairfore, and We command 3ow, that 3e, with all convenient diligence, estir the sycht heirop, 3e proceed and minister justice vpoun the said Robert, for the slauch-

¹ Restrict.

² Uniform, undeviating.

³ Tribunals, Courts of judgment.

⁴ Besides, *forbye*.

⁵ Suted, sued, made suit.

ter of the said vmq^{le} James: And gif ony difficultie aryise, that 3e vfe the auife of þe wyfest and maift lernit men, in discuffing pairof, quhom 3e fall adioyne to 3ow as Affeffouris. And this 3e failt nocht to do, nochtwithftanding of quhatfumewir Warrant, directioun or command, gewin or to be gewin to 3ow on þe contrar. As 3e will anfwer to ws pairvpoune; quhairanent thir presentis falbe 3our warrant. Subfcryuit with our hand, At Striueling, the penult day of Maij, 1600.

(Sic fubfcribitur)

JAMES R.

Vpoun the production quhairof, he askit instrumentis; as also askit instrumentis, that the Justice continewit to proceid and gif Interloquoutour in the said mater, quhill the tent day of this instant.

[*Mr Robert Lyntoune, substitute to the Aduocat, in his absens.*]

Jun. 10.—The famin day, George Wauchop produceit the Kingis Maieftis Warrant, and defyrit the famin to be infert, quhairof the tennour followis.

Rex,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. Forfamekill as it is schawin to ws, that the commoun course of justice, quhilk We ar maift willing fould be participat to our haill liegis, it is verry fair hinderit and delayit be verry friuolous subterfugeis in þe perfuit intentit be George Wauchop aganis Robert Auchmowtie chirurgeane; quhairin as We of our princelie dewtie hes ewir bene of intentioun, that in þat mater justice fould haif place; fwa We wald na occasioun wer gewin to þe partie perfewaris justlie to mak complent to ws of þe stay of justice heirintill: Thairfore it is our command, that all excuiffis sett a pairt, without ony delay quhatfumewir, 3e proceid and minister justice in þe said mater: As ye will anfuer to ws vpoun þe dewtiefull discharge of your office. Subfcryuit with our hand, Att Falkland, the nynt day of Junij, 1600.

(Sic fubfcribitur)

JAMES R.

INTERLOQUOUTOUR *aganis Robert Auchmowtie.*

THE Justice Repellis the haill Defensfis proponit in the twa Courtis of before, for the defender, in respect of the anfueris maid thairto on the Law and vtherwyis be his Maieftis aduocat: And thairfore, ordanis the said Robert to be put to the knowledge of ane Assyise, for the Dittay produceit be the aduocat aganis him, tuicheing the Slauchter of the said vmq^{le} James Wauchop.

Thaireftir, the said Robert declarit that he wald cum in his Maieftis will, for the Slauchter of the said vmq^{le} James Wauchop.

The Perfewaris askit instrumentis of (the) Justice Interloquoutour, and that the said Robert declarit he wald cum in his Maieftis will, for the Slauchter of the said vmq^{le} James: And thairefter, produceit ane Warrant direct fra his Maieftie; quhairof the tennour followis.

Rex,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. It is our will, and We command 3ow, that in cais Robert Auchmowtie, att his accusatioun for þe slauchter of vmq^{le} James Wauchop, becum in our will for þe famin, that 3e refuse to accept him in will, and putt him to þe knowledge of ane Assyis, proceid and minister justice vpoun him, conforme to þe lawis of our realme: As 3e will anfuer to ws vpoun 3our office and obedience; kepan þir presentis for 3our warrant. Subfcryuit with our hand, Att Falkland, the aucht day of Junij, 1600.

(Sic fubfcribitur)

JAMES R.

In respect of the quhilk Warrant produceit, the Judge ordenit the said Robert to be putt to ane Affyise.

The said Robert declarit in oppin audience, in prefens of God, that Johnne Auchmowtie and James Chalmeris cam nocht neir him att the combat betuix him and vmq^{le} James Wauchop; and that thay vewit the feildis only, that the Baillie of Nudreis sonis war nocht to supplie him.

ASSISA.

William Naper merchand-burges of Edinburgh,	Robert Halyburtoune merchand- burges thair,	Johne Stenhop of Stenhop-mylne, Thomas Marfchell merchand thair,
Patrik Kennedie saidler burges thair,	Alex Broune merchand thair, James Lychtoune merchand thair,	Alex ^r Fairlie of Braid thair, Andro Watfoune, merchand thair,
Johne Henderfoun maltman in Plefance,	Andro Naper merchand thair, Johne Landis merchand thair,	Johne Heriot tailzeour merchand thair.
Johne Ramfay of Quhytehill,	Johne Aitkyn merchand thair,	

VERDICT. Quhilkis perfonis of Assyis, being chofin, fworne and admittit, and the said Robert accusit be Dittay of the crymes abouewrittin, quhilkis war also fworne be the saidis George and Mr George Wauchopis to be of veritie; removit altogidder furth of Court to the Counsale-hous, quhair thay, eftir che-fing of the said Alexander Fairlie of Braid Chancellor, reffonit and votit vpoune the poyntis of the said Dittay; and being throughlie avyfit thairwith, re-enterit agane in Court, quhair thay, be the mouth of the said Alexander Fairlie of Braid, Chancellor, ffand, pronunceit and declarit the said Robert to be fylit, culpabill and convict of the slauchter of the said vmq^{le} James Vauchope, committit the xx day of Apryle lastwas, vpoune St Leonardis-Craigis.

SENTENCE. For the quhilk cause, the said Justice, be the mouth of Robert Galbraith, dempftar of the said Court, Ordanit the said Robert Auchmowtie to be tane to ane skaffald, besyde the mercat-croce of the burch of Edinburgh, and thair his heid to be frykkin fra his bodie; and all his movabill guidis to be escheit and inbrocht to our fouerane lordis vse, as culpabill of the said cryme: Quhilk wes pronunceit for dome.

[*Mr Williame Hairt, Justice-Depute.*];

Treasonable Reset and Intercommuning with a Declared Traitor.

Jun. 11.—SIR JOHNE CRANSTOUNE of that Ilk, knycht, and Mr Williame Cranstoune, fear of that Ilk.

Comperit Mr Williame Cranstoun, fear of that Ilk, and produceit ane War-rand, direct fra his Maiestie, Ordaning the perfuit aganis him and his gud-fader to be continewit, as followis.

Rex,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. It is our will, and for cer-tane cauffis and confideratiounis moving ws, We command 3ow, that, vpoun the fycht heirof, 3e con-

tinew the dyet appointit for þe Lairdis of Cranftoune, eldar and 3ounger, for thair comperance befoir 3ow, to vnderly þe Lawis for þe crymes contenit in our lettres direct þairanent, vnto þe xvij day of Junij instant; and on nawayis proceid aganis þame, nor þair cautioners, fund for þair comperance þat day: As 3e will anfuer to ws vpoun 3our office and obedience; kepand þir presentis for 3our War-rand. Subfcriuit with our hand, Att Falkland, the fyrft day of Junij, 1600.

(Sic fubfcribitur)

JAMES R.

Mr Robert Lyntoune, aduocat fubftitute, produceit the Kingis lettres, purcheft att the instance of Mr Thomas Hammiltoun of Drumcarne, aduocat, aganis Sir Johne Cranftoune of that Ilk, and Mr Williame Cranftoune, fear of that Ilk, for the Reffett of Mr Thomas Cranftoune, fumtyme of Morieftoune.—The faid Mr Williame Cranftoun proteftit, in refpect that Mr James Watsoun, minifter of Cranftoun, comperit and testifeit the feiknes of Sir Johne Cranftoun of that Ilk, quha mycht nocht compeir. As alfo he comperit him felff, and wes reddie to find new (caution); that the Laird of Coldinknowis, cautioner for thair entrie be releuit; quhilk the Juftice grantit.

James Dowglas of Caveris, fcheref principall of Tewiotdail, becomes pledge and fouirtie, &c. for thair entrie the xvij day of Junij instant.

(Jun. 18.)—Being enterit on pannell, perfewit and accufit be Mr Thomas Hammiltoun of Druncarne, aduocat to our fouerane lord, for his hienes interes, of the crymes following: That is to fay,

DITTAY againft Sir Johne Cranftoun, kn^t, and Mr Williame Cranftoun.

THAT quhair, it is expreflie provydit, ftatute and ordenit, be diuers lovabill Actis and Statutis of Parliament, that na maner of man tak vpoune hand, oppinlie and notourlie to rebell aganis our fouerane lord; and rycht fwa, it is ftatute and ordenit, that nane of our fouerane lordis liegis refsett, fupplie, mantene, do favouris and intercommoune with manifft and notorious rebellis, and fic as hes notoriouflic committit Treffoun, ather be help or be counfall, vnder the pane of treafoun and forfaltour of thair lyffe, landis and guidis: As the faidis Actis and Statutis in thame felffis att lenth beris, quhair of nane of our fouerane lordis lordis liegis juftlie can pretend ignorance. Neuirtheles, it is of veritie, that Mr Thomas Cranftoun, fumtyme apperand of Morieftoun, ffor diuers heich crymes of Treafoun and Conspiraceis, committit be him aganis his Maieftie and Eftait, in cumpany with Frances fumtyme Erll Bothwell, and namelie, in the Conspiraieie praktesit att his hienes Palice of Halyruidhous, in the moneth of December, the yeir of God I^m.V^c.lxxxxj yeiris, being forfaltit in the Parliament haldin att Edinburgh, in the moneth of I^m.V^c.lxxxij yeiris; and thaireftir, of new, haifing committit the lyke treafounis and attemptatis aganis his Maiefteis perfoun and eftait, in the monethis of Junij, Julij, Auguft, September, October, Nouember, December and Januar, or in ane or vther of the faidis monethis, the yeir of God I^m.V^c.lxxxij yeiris, he wes fummond to haif comperit before his

Maieftie and Lordis of Secreit Counfall, to haif anfuerit for the faidis crymes and attemptis; and for his nocht comperance, wes decernit to be denunceit our fouerane lordis rebell, and putt to the horne; and in respect thairof, be expres Act of his hienes Secreit Counfall, maid att Striueling, in the moneth of Februar, the yeir of God I^m.V^c.lxxxxiiij yeiris, it wes statute and appointit, that nane of our fouerane lordis liegis fould tak vpoun hand to reffett, fupplie or intercommon with the faid Mr Thomas, or to furneis him meit, drink, hous, harbrie, nor vtherwyis haif intelligence with him, priuatlie or publictie, be lettres, meffageis or ony vther maner of way, vnder the pane of Treaſoun. AND yit the faid Mr Thomas, continewing in his former Treaſoun and rebellioun, he of new, in the moneth of Apryle, the yeir of God I^m.V^c.lxxxxiiij yeiris, come in cumpany with the faid Frances ſumtyme Erll of Bothwell, James Dowglas ſumtyme of Spott, vmq^{te} Hercules Stewart, brother to the faid Frances, vmq^{te} Archebald Wauchop ſumtyme younger of Nudrie, and diuers vtheris his Maieftis rebellis, forfaltit traittouris, aſſittit with certane clannit men of the Bordour, oppin thewis and rebellis, to the number of ſax hundreth men, bodin in feir of weir,¹ with jakis,² ſpeiris, ſteil-bonnettis, hagbuttis, piſtolettis and all vther weirlyke prouiſiounis, and in profeſſit hoſtelitie, with cumpaneis of wad-geit³ men, diſplayit cornettis and bennaris, cam to the toun of Leith; and thair-ettir, in thair retreat, betuix the Wowmet-edge and the Borrow-mure of the burch of Edinburgh, his Maieftie being in proper perfoune vpoune the feildis, invadit and perſewit diuers our fouerane lordis faithfull ſubiectis, perſewit thame for thair ſlauchteris, with drawin ſwordis, ſperis and ane grit number of ſchottis of hagbuttis and piſtolettis, and woundit ane number of thaim, to the grit effuſioun of thair blude, tuik diuers perfounes, ſpuilzeit thame of thair horſſis, armour and guidis: Quhairby, the faid Mr Thomas, being vpoun the ground, ane of the cheif leidaris and conductouris of the faidis rebellis, committit publict, profeſſit and manifet Treaſoune: And continewallie ſenſyne, knawing his giltines in the faidis crymes being notour, hes bene fugitiue fra the lawis. Quhilkis rebelliounis being ſa grit and manifet, and quhilkis of thame ſelfſis fould haif movit all the guid ſubiectis of the realme, to haif refuſit quhatſumeuir maner of aeid and ſupplie to the faid Mr Thomas: Yit it is maiſt trew, that Sir Johne Cranftoun of that Ilk, knycht, cheif and ſpeciall kynniſman to the faid Mr Thomas, and Mr William Cranftoune, fear of that Ilk, brother to the faid Mr Thomas, quha could nawyis miſknaw the faidis Conſpiraceis, treaſounis and rebelliounis, diuers and findrie tymes ſen the faidis yeiris, I^m.V^c.lxxxxiiij and lxxxxiiij yeiris, bot ſpeciallie in the monethis of Januar, Februar, March, Apryle, Maij, Junij, Julij, Auguſt, September, October, November and December, in the yeir

¹ In warlike array.² Short coats of chain or plate mail.³ Hired.

of God I^m.V^c.lxxxxix yeiris, att the leift in ane or vther of the faidis monethis, willingie and wilfullie Refsett, fuppleit, intercomonit, gaif aeid and counfall, hous and harbrie, meit and drink to the faid Mr Thomas Cranftoun, in his duelling-place of Nether Craling, fuppleit and intercomonit with him thairin, be the fpace of diuers dayes and monethis, att thair pleafour; quhairby thay and ather of thame hes contrawenit the lawis, ftatutis and Actis of Parliament and Secreit Counfall, and hes incurrit the panis thairof, viz. of Treaſoure and ffoirfaltour of thame ſelffis, thair lyffis, landis and guidis; quhairin thay aucht to be convict, in example of vtheris to comitt the lyke attemptatis in tyme cuming.

AND the faidis Sir Johne and Mr Williame Cranftounis, being inquyrit, gif thay wald abyde the tryall of the law and of ane Affyſe, for the cryne foir-faidis; thay produceit the LETTER vnder writtin, for anfuer.

WE will nocht contend with his Maieſtie; bot in þis mater, as in all vper thingis, we ar content to ſubmitt our ſelffis to his Maieſteis guid pleafour and will; proteſting alwyis, that we can newir acknowledge our ſelffis to be giltie of ony cryme or offence; and ſa, beſeikis his hienes to confider of us, as of his Maieſteis maift obedient faithfull and humble ſubiectis.

(Sic ſubſcribitur) CRANSTOUN, W. CRANSTOUN.

The Juſtice, nocht being auifit with the anfuer, continewis this mater to the morne, quhill he vnderſtand his Maieſteis mynd thairanent: And Ordanit the faidis Sir Johnne and Mr Williame Cranftoun to keip thair houffis.

(Jun. 19.)—The faidis Sir Johnne Cranftoun and Mr W^m Cranftoun tuik instrumentis of thair comperance, and proteſtit for releif of thair ſouirtie; and thaireftir produceit the Warrant vnderwrittin, quhairof the tennour followis.

REX,

JUSTICE, Juſtice-Clark, oure Aduocat and your deputtis. It is our will, that Sir Johne Cranftoun of þat Ilk, kny^t, and Mr Williame Cranftoun, ſear pair of, be commandit to pair ludgeing, without finding of ony cautioune for pair comperance befor 3ow heireftir: Quhairanent þir prefentis falbe your Warrant. Att Haliruidhous, the xix of Junij, 1600. (Sic ſubſcribitur) JAMES R.

The quhilk Precept the Juſtice admittit, and ordanit the faid Sir Johnne Cranftoun and Mr Williame Cranftoun to paſs to thair ludgeing.

Hurting an Ox in the Plough—Pannel Banished.

Jun. 14.—GEORGE DEMPSTAR, ſone to David Dempſtar, citiner,¹ (in Brechin).

Dilatit of hurting of ane ox pertening to Thomas Collace of Pitforquhie, with twa ſtraikis in the bak, quhilk ox was gangand in his pleuch, teilland his ground of the landis of Pitforquhie; committit in the moneth of Marche laſtbypaſt.

The faid George declaris, that he wald cum in his Maieſteis will for the faid crime.—The Juſtice declaris, he will put him to ane Affyſe.

¹ Citizen or 'indweller;' not a burgeſs.

SENTENCE. The Assyis, be the mouth of thair Chancillar, Andro Wod, brother to Balbegno,¹ ffand the said George to be ffylit, culpabill and convict.

The Justice delyuerit the said George Dempstar to Thomas Geddes, baillie, to be re-enterit in waird within the Castell of Edinburgh, quhill his Maieftes mynde wes knawin anent the dome.

DOME aganis George Dempstar.

Sentence was not pronounced, until Jul. 4, when the following entry occurs in the Record.—The said George Dempstar produceit his Maieftes Warrant, quhairof the tennour followis.

REX,

JUSTICE, Justice-Clark and 3our deputis, We greit 3ow weil. Forfamekill as George Dempstar, sone to Daid Dempstar, citiener in Brechin, being convict before 3ow, in ane Justice-court, hauldin in our tolbuith of Edinburgh, the fourtene day of Junij lastbypast, for pe hurting of ane ox pertening to Thomas Collace of Pitforthie, quhill wes teilland the ground of pe landis of Pitforthie; wes committit to ward, within our Castell of Edinburgh, quhill our mynd wes declarit pairament: Thairfore, we command 3ow, that, eftir the sycht heirof, 3e caus present him on pannell, and pronunce dome, That he be Baneist our realme, during our will, for pe said cryme; and that he pass furth pairof, within fourtie dayis eftir pe dait heirof; and nocht to returne pairin, but our speciall licence; vnder pe pane of deid: ffor pronunceing quhairof, thir presentis falbe 3our warrant. Subscryuit with our hand, Att Halyruidhous, the thryd day of Julij, 1600. (Sic subscribitur) JAMES R.

According to the quhilk Warrant, the Justice-depute, be the mouth of James Lowrie, dempstar, Ordenit the said George Dempstar to be baneist this realme, during our souerane lordis will; and to pass furth thairof, within fourtie dayes eftir the dait heirof; and that he returne nocht thairin, but speciall licence of his Maieftie; vnder the pane of deid.

[*Mr Robert Murray, Justice-Depute.*]

Wearing and Shooting of Hagbutis and Pistolets, &c.

JUN. 24.—ADAM SCHAW, (in Castell-Cawill), brother to George Schaw of Glenmure.

Comperit Johnne Halyday, aduocat, and produceit ane Precept, direct be the Kingis Maieftie; quhairof the tennour followis.

REX,

JUSTICE, Justice-Clark and 3our deputis, We greit 3ow weil. It is our will, and We command 3ow, that, vponne the sycht heirof, 3e continew the criminall action perfewit att pe instance of our aduocat aganis Adam Schaw of Glenmure, for bering and schuting with hagbutis and pistolettis,² contrar pe tennour of our lawis and Actis of Parliament, vnto the fyrst day of Julij nixt;

¹ The others were Alexander Keyth, sone to the Laird of Ludquharne, Johnne Ramsay callit of the Forth, James Ramsay of the Rinde, Thomas Wilkie portioner of Saughton, Johnne Dunbar of Moynes, Johnne Stevinsoune of Hermescheillis, George Barroune of Kynnaird, Nicoll Dalzellmylne, Andro Brodie, Alexander Horfburch of Harkes, Archibald Hammiltoune, smyth, and Williame Broune, in-dueller in Edinburgh. ² He is dilated 'for bering, wering and schuting of pistolettis, and hurting and wounding of George (Charles?) Campbell of Horfleuch in pe rycht arme.'

and reffau new cautioun conforme to þe ordour; as 3e will anfuer to ws pairvpoune: Quhairanent thir presentis falbe 3our Warrant. Subfcryuit with our hand, Att Halyruiddous, the xx day of Junij, 1600.
(Sic fufcribitur) JAMES R.

The Justice, nochtwithftanding of the Precept produceit, vnderftanding his Maieftis mynd, continewis the mater to the morne. Gylbert Pennycuik (of that Ilk) becomes pledge and fouirtie, &c.

Jun. 25.—Charles Campbell of Horfleuch produceit the Kingis Maieftis Precept, ordaining the Justice to continew the perfuit to the xxvij day of Junij infant, &c.

Jun. 27.—Gylbert Pennycuik of that Ilk americiated in the pane of ffour hundreth markis, for non-production of the faid Adam Schaw; who is ordanit to be denunceit our fouerane lordis rebell, and putt to the horne, and all his movabill guidis to be efcheit, &c.

[*Mr William Borthuik, Justice-Depute.*]

Hearing of Pistolets, &c.—Remission on Payment of Fine.

Jul. 1.—GEORGE SCHAW of Glenmure.

Being enterit on pannell, as he that was lawfullie fummond to compeir befor the Justice or his deputtis, to heir his hienes will declarit, anent the bering and wering of piftulettis.—Comperit lykewyis Andro Lord Stewart of Vchiltrie, and produceit ane Precept direct fra his Maieftie, &c.

REX,

JUSTICE, Justice-Clark and 3our deputtis, We greit 3ow weill. Forfamekill as George Schaw of Glenmwre become in our will, in ane Court of Justiciarie, haldin in þe Tolbuith of Edinburgh, the xvij day of Maij laftbypaft, for bering, wering and fchuting with hagbutis and piftulettis, and hurting of Charlis Campbell of Horfleuch pairwith; as ane Act maid pairvpoune beiris: Sen the quhilk day, the faid George hes payit and delyuerit to ws þe fowme of ffyve hundreth markis, in full fatifactionne of our will for þe faid cryme thairfoir: And for declaratioun of our faid will, wit 3e, that We haif Remittit, and be þir presentis Remittis, the faid George Schaw for þe faid cryme, and renuncis and difchargeis all actionne, tryell (criminal) and civill, that We, our Thefaurer or aduocat may haif aganis þe faid George Schaw, for þe famyn cryme: Difchargeing our Thefaurer and Aduocat of all calling, trubleing or perfewing of him þairfoir, in tyme cuming. And þis We prounece to be our will; and caufe þir presentis to be infert and regiftrate in our buikis of Adiornall, *ad perpetuam rei memoriam*: Quhairanent thir presentis falbe 3our warrant. Subfcryuit with our hand, At Halyrudehous, the first day of Julij, 1600 3eiris.
(Sic fufcribitur) JAMES REX.

Quhilk Precept being red and produceit in jugement, the Justice authoreifit the famyn to haif full effect to the faid George Schaw for the faid cryme, conforme to the tennour thairof in all poyntis. Quhairvpoun the faid George askit actis and instrumentis.

[*Mr Williame Haert, Justice-Depute.*]

Abiding from the Raid of Dumfries.

Jul. 2, 3, & 4.—JOHNE ROSS of Drumgrange, George Logane of that ilk, James Boifwell, feare of Auchinlek, Johne Boifwell of Duntrine-gemen, Robert Mure of Knokmarloch, Robert Wallace of Holmestoune, Hew Wallace of Boigheid, W^m Cwninghame of Polquharne, George Schaw of Glenmwre, and W^m Wallace of Lytill Cefnok.

Dilatit for abyding fra the Raid of Drumfreis, ordenit to haif convenit with Archbald Erll of Angus Lieutennent, in September laftwas.

[A variety of procedure takes place, in these and some other similar cases, but not of sufficient importance to be inserted at length. Some of the parties are fined, others discharged, &c.]

Adultery.

Jul. 10.—ALEXANDER HAY of Delgattie.

George Sinclair of Majj and James Forbes of Lethindie, become pledgeis and fouerteis, conjunctlie and feuerallie, for Alex^r H. of D., that he fall compeir befoir the Justice or his deputis, &c., the xvj day of Julij instant; for the crymè of Adulterie, committit with Barbara Forbes, his alledgeit spous.—Johne Fraiser of Strichin, cautioner for his entrie, is relieved of his caution.

Jul. 16.—The case is continued to the next Justice-air of 'Abirdene, tertio Itineris, (vel premonitione,) xv dierum.' Williame Rois of Kilraik becomes pledge for his appearance.

Slaughter — Hurting and Wounding.

Jul. 15.—JAMES MAISTER OF OGILVIE,¹ Sir Johne Ogilvie of Craig, Mr David Ogilvie, Frances Ogilvie, all brether; James Gordoun, seruand to the Maister, Patrik Guthre of Pitmowes, Johnne Barclay, sone to George Barclay of the Syde.

Dilatit of airt and pairt of the slauchter of vmq^{le} Patrik Rynd, sone to W^m Rynd of Kerfe; and of hurting of Alex^r Lord Spynie, in the heid; committit in March laftbypast.

Mr Olipher Colt produceit ane Warrant, direct to the Thesaurer and Aduocat for deleiting of Patrik Guthrie; quhair of the tennour followes.

Rex,

THESAURER and Aduocat, We greit 3ow weill. It is our will, and We command 3ow, that, vpoun the sycht heirof, 3e deleit Patrik Guthrie of Pitmoweis furth of pe criminal summondis

¹ See Jul. 25 and 29, and Aug. 14.

raist at your instance aganis the Mr of Ogilvie, and sic as accompaneit him on pe feildis att pe late Conflict betuix him and our coufing the Lord of Spynie; swa that he be nawyis callit nor persewit thairfore: As ye will anfuer to ws vpoun your offices and obedience: Quhairanent thir presentis falbe your warrand. Subscryuit with our hand, att Halyruidhous, this xxvij day of Junij, 1600.

(Sic subscribitur) JAMES R.

Quhilk Precept, the Justice, with auife of Alexander Maister of Elphinstoun, and Mr Thomas Hammiltoun, admittit; and ordenit na proces aganis the said Patrik Guthre nor his cautioner.—The Lord Advocate having produced a Warrant from the King to that effect, the Justice continued the case to the xxv of July.

Slaughter.

Jul. 24.—HECTOR BANNATYNE of Kames.

Dilatit of airt and pairt of the slauchter of vmq¹ Johne Spens of Vester Kames.

PERSEWARIS, Niniane Spens, eldest sone, Patrik Maxwell of Newark, George Spens in Edinburgh, Mr Sanderis Maxwell.

PRELOQUUTOURIS for the pannel, Mr Thomas Craig, Mr Johne Ruffell, Sir Johnne Hammiltoun, the Lard of Garthland, the Lard of Corhous.

The persewaris takis Instrumentis of the productione of the lettres, and takis instrumentis for releif of his cawtioune.—Alledgeis, that na preloquoutour can be hard, nor yit aucht the defender to be hard, becaus the defender is att the horne for the said caus; as the lettres dewlie execute and indorsat, produceit, beiris.—Anfueris the preloquoutouris, that the partie may procur¹ for him self; and thay will compeir vpoun thair awin perrell; and declaris thay accept the Horning.—And it is alledgeit for the pairt of the said Hector Bannatyne, and alledgeis, that the samin is null, becaus in Act of Parliament, in anno lxxxxvij² (1597), it is speciallie provydit, that all executiounis of Horningis falbe registrat in prefens of the Shereff-clark, ane notar, and foure witnessis; quhilk is nocht done, becaus the executiounis of the Hoirning is nocht registrat, conforme thairto.—Anfueris the persewaris, that the lettres and executiounis ar sufficientlie registrat; and abydis at the lettres, executiounis and registratioun, as thay ar produceit, and ar sufficient: And forder alledgeis that the Justice is nocht Judge to the nullitie of the Horning.

The Justice ordanis the preloquoutouris to compeir in defence, nochtwithstanding of the Horning produceit.

Forder, (the persewar) alledgeis, that the prelocutouris can nocht compeir, in respect of ane Horning produceit, be the quhilk the Lard of Cames is denunceit att the instance of Ninian Stewart, fear of Kilchattan, for nocht reffauing of the said Ninian immediat tennent to the landis contenit in the lettres, of the dait the

¹ Procure, i. e. act as procurator, speaker, or counsel, in his own behalf and defence. ² Acta Parl. 1597, cap. 36, fol. 139.

xj August 1592 zeiris.—Anfueris the preloquoutouris, that the Hoirning is null, in respect the executionis ar nocht regiftrat.

The perfewaris paffis fra thair alledganceis produceit be thame, for this day only, &c.

Alledgeis, that Ninian Spens can nocht perfew in judgement, becaus he is minor, vnauthorifit with tutouris and curatouris.—The famin day, the said Ninian creat Patrik Maxwell of Newark and Mr Alexander Maxwell curatouris *ad lites*. The pannell askis instrumentis, that the Laird of Newark and Mr Sanderis¹ ar chofin preloquoutouris.

Alledgis that this mater can nocht be put to the knowledge of ane Affyse, for the cryme, albeit he wer nocent,² (he being maist innocent;) becaus the said vmq^{le} Johnne Spens wes lauchfullie denunceit rebell and put to the horne, vpoun the fourt day of Julij 1592 yeiris, att the instance of the said Hector Bannatyne and Charles Bannatyne, for nocht obedience of ane Decreit of the Lordis of Counfall; quhilk Hoirning wes regiftrat vpoun the famin fourt day of July 1592 yeiris; as the famin, produceit, beris.—The perfewaris askis instrument of the alledgeance.

The perfewaris alledgis, that the Horning is null, becaus he is relaxt; as the lettres of Relaxatioun and executiounis produceit beris.—The defender acceptis the Relaxatioun; and anfueris, that the said vmq^{le} Johnne Spens stuid rebell, be vertew of the Horning produceit, nochtwithstanding of the Relaxatioune; becaus it is of veritie, that he is denunceit rebell at the instance of twa speciall parteis, viz. at the instance of Hector Bannatyne of Cames, in the fyrft place; and lykewyis at the instance of Charles Bannatyne, in the secund place, and for diuerse cauffis and for diuers effectis: And trew it is, that this Relaxatioun produceit relaxis him fra the horne, infasar as he wes put to the horne at the instance of Charles Bannatyne, and nawyis is relaxt fra the horne, infasar as he is at the horne at the instance of the Laird of Cames, and for ane caus only; quhairas the Decreit hes mair cauffis quhairvpoun the saidis lettres procedis; and fwa, he standis yit effectuellie at the horne, at the instance of the Laird of Cames, as yit vnrelaxt: And forder, the Laird of Cames is nather fummond nor appointit to be fummond be the fuspentioune. And forder, the said relaxatioune is null, becaus the executioun of the Relaxatioun is nather flampit nor fubscryuit; quhairas the Act of Parliament Ordanis the executioun to be stampit with twa lettres:³ And repetis the Act of Parliament maid in the tyme of King James Fyft.—Thrydlie, the said Relaxatioune is null, in respect thair is na officer contentit in the letteris of Relaxatioune.—Thaireftir, the perfewaris produceit the extract of the relaxatioune.

¹ Viz. Mr Alexander Maxwell.
Messenger's or Officer's name.

² Guilty.

³ Viz. With a seal, bearing the Initials of the

Anfueris the perfewaris, *ffyrst*, that the officer relaxis the said vmq¹ Johnne Spens, for the cauffis contenit in lettres of Horning, and hes suspendit the officer executour of the horning fra ony forder executioun, for the cauffis contenit in the Decreit of the Lordis; and thairfore, before ye tak away the Relaxatioun, the Judge can nocht cognos vpoun the nullitie of the Horning, bot the Lordis¹ man be Judgis thairto. As for the *secund* pairt, allegis that the said lettres of Relaxatioun ar sufficientlie stampit; as the extract of the Relaxatioun beris. *Thridlie*, declaris that the officeris name is contenit in the extract, and the officer makis mentioun of the officeris stamp as affixit, as the famin beris. Forder, alledgis, that thay will abyde be the principall Lettres of Relaxatioun and the extract thair of; and gif thair be ony difference betuix the principall and the extract, wyte² the extractor.

The Justice Continewis the mater to the morne.

The famin day, Hector Bannatyne of Cames, being sworne, Declarit that he dred³ bodelie harme of Patrik Maxwell of Newark, Mr Sanderis Maxwell his brother, and Ninian Stewart of Kilchattane.

Jul. 25.—The Cafe continued to the Justice-air of ‘Buit, tertio Itineris, xv dierum.’ Plegio, Domino Johanne Hammiltoune de Litrik milite.

Slaughter — Hurting and Wounding.

Jul. 25.—JAMES MAISTER OF OGILVIE and others.⁴

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat to our souerane lord.

PRELOQUUTOURIS for the pannell, Mr Johnne Russell, Williame Oliphant, Francis Erle of Erroll, Erle of Buchan, The Lard of Fyndlater, My Lord of Aldbar.

Mr Daud and Frances Ogilveis ar content presentlie to abyde the tryell of ane Affyis. The remainder of the pannell, declarit, that they wald nawyis enter in proces with his Maiesteis aduocat, for the cryme contenit in the lettres, insafar as his hienes hes actioun competent to thame for the famin crymes, or ony of thame; bot offerit thame selfis in his grace will thairfore; protesting that thair becuming in will, &c. fould nawyis be hurtfull or preiudiciall to thame or nane of thame, for quhatfumewir actioun or exceptioun compitent to thame or ony of thame, aganis quhatfumeuir persoune or persounes, haifing interes to persew for the saidis crymes; quhairvpoun the said Mr Thomas Hammiltoune askit instrumentis.

The Justice continewis the mater to the morne; and warnit the Affyis to the morne.

¹ Of Council and Session. ² Throw the blame upon the Extractor. ³ Not *dreed* (suffered), but feared or *dreaded*. Letters of Lawburrows appear, by the Record, to have been granted against these parties, which were afterwards deleted as ‘past fra be pe Lord of Cames.’ ⁴ See Jul. 15 and 29, and Aug. 14.

The Justice, in our fouerane lordis name, acceptit the pannell (and other under named) in his hienes will for the crymes aboue writtin; and Ordenit thame to pafs in waird to thair ludgeingis within this burch of Edinburgh, and to remain thairin quhill thay be fred be his Maieftie: And to that effect, to find cautioune to keip thair said waird, ay and quhill sufficient cautioun be fundin be thame that thay fall fatisfie his Maiefteis will to be declarit.

James Ogilvie of Balfoure becomes pledge and fouertie for James Maifter of Ogilvie, &c., as above, 'vnder the pane of Fyve thousand poundis.' Sir Johnne Ogilvie of Innerquharratie kny^t, becomes pledge and fouirtie for Mr David O., Frances O., brether to James M^r of O., and Johnne Barclay, that thay fall compeir befor our fouerane lordis Justice or his deputis, the thryd day of the nixt Justice-air of the sherefdom of Forfar, or soner quhen or quhair it fall pleis our fouerane Lord, vpoun xv dayis warning, &c.

Shooting of Hagbutis and Pistolets — Hurting and Wounding.

Jul. 26.—JOHNNE OGILVIE, callit *Reid-Johnne*, Alexander Ogilvie, callit *Blak-Sandie*, James Ogilvie of Boigfyde, Johnne Barclay sone to George Barclay of the fyde, and Johnne Lyoune, seruand to the Maifter Ogilvie.

Dilatit of bering, wering and schuting of hagbutis and pistolettis; and for hurting of Alexander Lord Spynie, &c.

The parteis 'became in will;' and found caution, as in the former case.

Abiding from the Raid of Dumfries.

Jul. 29.—GEORGE KENNEDIE of Glenmuk,

Dilatit for abyding fra the Raid of Dumfries, quhilk was convenit with Williame Erle of Angus, Lord Dowglas, and Lieutennant, in the moneth of September lastbypast.

The pannell become in our fouerane lordis will thairfore. And thaireftir the said George produceit his Maiefteis will; quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and your deputies, We greit 3ow weill. That nochtwithstanding George Kennedie of Glenmuk obtenit oure Licence, with certane v^{rs}, for pe caus following, 3it he is to entir on pannell before 3ow, in our Tolbuith of Edinburghe, the xxix day of Julij instant, in pe hour of caus, and is to be persewit be our traift coung and counsalour Alex^r Maifter of Elphinstoun, our Thesaurer, and Mr Thomas Hammiltoun of Drumcarne, our aduocat, for abyding fra our Raid of Drumfries, hauldin be our rycht traift coung and counsalour Williame Erle of Angus, in pe moneth of September lastbypast; and at pe said day is contentit to cum in our will for pe said cryme. Thairfore 3e fall, incontinent estir pe sycht heiroy, refflaue the said George Kennedie in our will; and pronunce and declair this to be our will, as followis: That the said George, before he pas aff pannell, con-

tent and pay to our Thesaurer the sowe of ane hundreth poundis; and that in full satisfacionne of our will, for his abyding fra the said Raid; and forder pronunce and declair, that the said George Kennedy falbe remittit and forgewin of all vp' pane and penaltie that we may lay to his charge, in tyme cuming, for abyding fra pe said Raid; and that he be nawyis callit, trublit, molestit nor perfewit for pe famin, in tyme cuming; nochtwithstanding of ony vp' Warrant that may be direct in pe contrar heir-of: And caus thir presentis be registrat in our buikis of Adiornall for the said Georgeis better securitie. Subscryuit with our hand, At Lynly^t, the xxvij day of Julij 1600 3eiris.

(Sic subscribitur) JAMES R.

The Justice, with auise of the Thesaurer, continewit the mater to the morne, quhill the Thesaurer wer auisit with the blank contenit in the said Letter.

Shooting with Hagbutis and Pistolets — Slaughter.

Jul. 29.—ALEXANDER LORD OF SPYNIE,¹ Sir Johnne Lyndesay of Bal-linscho, (Wodheid knycht,) Alexander Lyndesay of Faisdew, (Fesdow,) Harie and Gilbert Rind (sonis to Williame Rind, of Kerse,) Harie Lyndesay, sifter sone to the Laird of Pitcarlie, (servitour to the said nobill Lord,) Andro Brydie, Mr Patrik Lyndesay, Daid Balfour, brother to Burlie, James Lyn, Preift, Daid Lyndesay, father brother to the Laird of Blariefedden, Alexander Lyndesay at the myll of Fynevin, Daid Gardin of Leis, and Harie Lyndesay of Blariefedden.

Dilatit for contravening of the Actis of Parliament, in bering, weiring and sehuting with Hagbutis and Pistolettis: And for art and part of the Slauchteris of vmq^{re} Lowrence Burne and James Irnis, seruitouris to the Maister of Ogilvie and Sir Johnne Ogilvie.

PERSEWAR, Mr Thomas Hammiltoune (of Drumcairne, aduocat to our souerane lord.)

PRELOQUUTOURIS for the pannell, Mr Johnne Scharpe, Mr Alex^r King, and Mr Thomas Wilfoune.

The Lord of Spynie produceit the Kingis Warrant, vndervrittin, desyring the samyn to be admittit; and declarit that he and the perfonis on pannell vald abyde thairat; quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputis, We greit 3ow weill. Forfamekill as, vpoun pe xvij day of pis instant, Alex^r Lord of Spynie and certane his compliceis and pair cautioneris wer ad-iudgeit and decernit in certane panis and vnlawis, for pair nocht entrie and comperance before 3ow, our said Justice and 3our deputis, to haif vnderlyne our lawis, for certane crymes specifeit and contenit in pe Criminale lettres rasit pairvpoun: Nochtwithstanding, ffor certane cauffis moving ws, It is our will, and we command 3ow to discharge the saidis vnlawis, and deleit the Actis furth of our buikis of Adiornall, quhairby thay wer decernit in the saidis vnlawis, swa that na executioun follow pairvpoun heirestir: And that 3e tak new cautioun of pe said Lord and his compliceis, that thay fall compeir before 3ow, our said Justice, and 3our deputis, vpoun pe xxix day of pis instant, and vnderly our lawis for pe crymes specifeit in our saidis lettres: And that thay fall renunce all exceptioun of nocht lauch-

¹ See Jul. 15 and 25, and Aug. 14.

full citatioune, vpoune fyftene dayis warning; fwa that, in caife of pair nocht comperance, thay may alfwyll be denunceit to our horne as thair cautioneris vnlawit, in respect of þis our favour now fchawin vnto þame: As 3e will anfuer to ws þairvpoun: Quhairnent thir presentis falbe 3our War-rand. Subfcriuit with our hand, Att Halyrudhous, the xvij day of Julij 1600 3eiris.

(Sic fubfcribitur) JAMES R.

Comperit Alex' Lord of Spynie, Sir John Lyndefay of Wodhead, knyght, &c., quha denyit exprellie that poynt of the fummondis anent the fchuting, bering and wering of hagbutis and piftolettis in maner lybellit, and offerit to abyde tryell thairanent: And in fafar as the fummondis may appeir onye cryme, anent the flaughter of vmq^{le} Lowrence Burne and James Irnis, vpoune the fourt day of Marche laft, declarit and affermit that quhat ever fell out thairanent, was in thair maift juft and lauchfull defence; as is manifft be the Confeffiounne of partie and act of Adiornall maid thairanent, vpoun the xxv day of Julij instant, be James Maifter of Ogilvie, Sir Johnne Ogilvie of Craig, and thair compliceis, than comperand on pannell; quha being convenit, adiornayit at the instance of his hienes aduocat for his Maieftis interes vpoune the faid xxv day of Julij instant in this Jugement, lying await for the faid nobill Lord, his kyn and freindis, for thair Slaughte and vmbefetting of thair hie-way befide the place of the Leyis, as thay war rydand furth the way, in fober and quyet maner; the faid Maifter, Sir Johnne and thair compliceis, vnderftanding be thair fpyis and watcheis, that the faid nobill Lord was to cum furth of his duelling place of Kinbrakmouth to the Place of Gairdyn; the faid Maifter, Sir Johnne Ogilvie and thair compliceis, vpoune fet purpois, provifiounne and foirthocht felonye, ad-dreff thame felffis, in armes and wappynnis invafiue, with hagbuttis, piftulettis, jakis, fecrettis, fteilbonettis, gauntiletis, lance-ftaffis and vtheris, to the nowmer of perfonis or mae; and thair fchot, thair hagbuttis and piftulettis at the faid nobill Lord, his kyn, freindis and ferwandis, being in cumpany with him, hurt and deidlie woundit the faid nobill lord in the heid, and left him lyand for deid; and crewallie, with thair hagbuttis and piftolettis, fchot vmq^{le} Patrik Rynd his ferwand throw the bodie to the deid, vpoune the fourt day of Marche laftby-paft; as in the fummondis perfewit thairanent and act of Adiornall maid thair-vpoune, at lenth is contenit. AND trew it is, that James Maifter of Ogilvie, Sir Johnne Ogilvie of Craig and thair compliceis, pannellit, comperand perfonalie vpoune the faid xxv day of Julij instant, become in his Maieftis will for the faidis haill crymes and poyntis of the faidis Summondis, be Act of this Court, as the famin beris; and thairby hes confeffit and affermit the famyn crymes, Slaughte, fchuting of piftolettis to that effect, invafiounne, perfuit, lying await and vmbefetting of the faid Nobill Lord, his kyn, freindis and company, in his hie-way and paffage frome his awin hous, rydand thairfra in fober and quyet

maner, as said is; quhairbye it is evident, that quhatever fell out be occasioun. foirsaid, on the pairt of the said nobill Lord, was in his awin maist just and lawfull defence, and remanent on pannell, his freindis and cumpany; as is expresse affermit be the said Act of Adiornal and Confessioun of pairtie thairanent. The quhilk Act of Adiornal and summondis quhairvpoune the samyn procedit, with the haill poyntis and mem^reris thairof, the said nobill Lord and remanent personis on pannell repeittis, &c.; and yit, insafar as the said summondis now persewit may appeir to import ony cryme for the slauchteris foirsaidis, the said nobill Lord, &c. declarit that thay vald nawyis enter in proces with his Maiestie or his hienes aduocat for the samyn slauchteris, insafar as his hienes may haif actioun compitent thairfoir, in thair contrair; bot offerit thame in his graces will for the famin Slauchteris, committit in thair defence, as said is; protesting, that this thair offer or becuming in will for the said slauchteris, for his hienes interes, as said is, fall nawyis be preiudiciall to thame or ony of thame, anent quhatfumeuir actioun or exceptioun compitent to thame, or ather of thame, aganis quhatfumever persoune or personis haifand interes to persew for the samyn Slauchteris, as accordis of the law: Quhairvpoune the said nobill Lord and remanent personis on pannell askit actis and documentis.

The Aduocat askit actis and instrumentis, that the said Alex^r Lord of Spynie, &c. becom in will, as said is.

The famin day, Alexander Maister of Elphingstoune produceit HIS MAIESTEIS WILL, *towards my Lord of Spynie*; quhairof the tennour followis.

REX,

JUSTICE, Justice Clark and your deputtis, We greit you weill. Forsamkill as Alexander Lord of Spynie, Sir Johne Lyndefay of Wodheid, knycht, David Gairdyn, Harie and Gilbert Rindis, David Balfoure, David Lyndefay, Harie Lyndefay seruitour to the said nobill Lord, Alexander Lyndefay of Faifdow, ar becom in our will, ffor the slauchter of certane our subiectis, committit be pame in the Confict, quhilk happynnit and fell out betuix pame, and James M^r of Ogilvie and pair complices; howewir the same be alleget to haif bene committit in pair awin defence. Thairfoir it is our will, and We command and ordane, that the said Lord of Spynie, for him selff, and takand the burding on him for his said brother and remanent complices foirsaid, fall remane and keip waird in his ludgeing, within our burch of Edinburghe; and on nawyis remove pairfra, quhill We declair our will towardis pame; vnder the pane of Fyve thousand pundis: As als wa that he, for him selff, and takand pe burding on him as said is, fall satisfie and fulfill our will to be declarit as said is, vnder the said pane. And that ye cause pronounce pis our will and pleasour aganis the said Lord and his complices iudiciallie; and mak ane act pairvpoune: Quhairanent pir presentis fallbe your warrand. Subscryuit with our hand at Lynlythqw, the . . . day of Julij, 1600 3eiris. (Sic subscritur) JAMES R.

According to the quhilk, the Justice Ordanit, &c. Harie Lyndefay of Kynfawnis become plege and fouerte for Alexander Lord of Spynie, &c. vnder the said pane.

Harie Lyndefay of Blariefedden, Mr Patrik Lyndefay, Alexander Lyndefay

at Fynnevin-mylne, James Lyn and Andro Brydie, tuke instrumentis of thair comperance, and that they offerit thame reddie to abyde the tryell of ane Affyis of the crymes contenit in the lettres produceit aganis thame. Whereupon the Justice continued the matter to the Justice-air of ' Forfar, tertio Itineris, vel super premonitione xv dierum.' Alexander Lord of Spynie, becomes ' plege and souerte' for their entry.

[Mr Williame Hairt, Justice-Depute.

ASSESSOURIS, Mr Edward Bruce and Johne G . . . stoune.]

**Fire-raising — Houghing of Cattle — Murder — Theft — Resetting
Rebells, &c.**

Jul. 29.—JOHNNE ROISE of Ballivot.

Dilatit of the Burning of the (duelling hous of) Clunie, pertening to George Dunbar thair; And for the thefteous Steling of the said George Dunbaris hail infycht and pleineiffing (guidis and geir, to the valour of) twa thousand markis worth, ten horsis, threscoir nolt; And for Hoching of xvij oxin and ky pertening to the said George:—*Item*, for airt and pairt of the Slauchter of vmq^r Robert Roife, (sone to Daid Roife of Lyne):—*Item*, for the Murthour of Huchfoune Roife in Logy: And for ressett of Daid (M^cWilliame) Roife Williamfoune and vtheris, rebellis at the horne, for the thift abouewrittin: And for Commoun Thift; as at lenth is contenit in the dittay.

The Justice-Depute produceit the Warrant vnderwrittin.

REX,

JUSTICE, Justice Clark and your deputis, We greit you weil. It is oure will, and We command you, that according to our former directiounes, you put Johnne Rois of Ballivot to the tryell of ane Affyis, the morne, the xxix day of July instant, for sik crymes as he is dilatit and suspect gyttie of; and befor his putting to the same tryell of ane Affyis, that you reaxaminat him vpon his faul and conscience,¹ for the better clering of the treuth of sik thingis as war inquyrit of him of befor: As you will anfuer to us vpon your offices and obedience: Quhairanent þir presentis falbe your Warrant. Subscryuit with our hand, At Lynlythqw, the xxvij of July, 1600.

(Sic subscritur)

JAMES R.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarn, aduocat to our fouerane lord.

PRELOQUOUTOURIS for Mr Johnne Roife.

The Laird of Ballingoune, The Barroun of Kilraik,² Mr Johne Ruffell, Mr Williame Oliphant.

The famin day, the Aduocat tuik instrumentis, that Johnne Roife declarit that he wald abyde the tryell of Affyse. Thaireftir, he declarit that he wald vse his Aduocatis counsal and aduife.

The Aduocat takis instrumentis, that Mr Johnne Ruffell declarit that this gentilman wes mifufit be tortour aganis the Law.

¹ It appears that the torture was used in this case, ' be my Lord Justice, att his Maiesteis directiounes.' See *Objections against The Laird of Duffous*, p. 144. ² William Roife of Kilravock.

Allegeis that Mr Edward Bruce can nocht be Judge nor Affeffour, becaus the Chantour of Murray and Deane and subdeane, quha ar of kyn to the said Mr Edward Bruce, hes bene dilatouris and accuffaris and informeris in this caus ; and swa he can nocht be Judge nor Affeffour.—The Aduocat anfueris, that this exceptioun can nocht be hard aganis my Lord of Kinlofs,¹ albeit it mycht be aganis the proceis thame selffis.

The Deane of Murray being demandit and inquiryt, gif he has gewin counfall aganis Johnne Roife, denyit the famin. Robert Dunbar, being sworne, denyit that he ewir gaif counfall in perfuit of Johnne Roife ; and declarit (he) affisit the Sheref of Murray in executioun of the Kingis Commiffioun in taking of Johnne Roife, and wes his freind, and faulfit his lyffe.—The said Mr Johne Russell takis instrumentis of the said Robert Dunbaris declaratioun.

Alledgeis Johnne Roife, that he can nocht be put to the knowledge of ane Affyis for Thift, Slauchter or Murthour, quhill² he be fummond vpoun fyftene dayes wairning, and soner haif ane copie of the Dittay.—The aduocat anfueris, that the alledgeance aucht to be repellit, in respect of the daylie practik of this hous, that perfounes tane be vertew of his Maieftis Commiffioun and putt in waird, may be brocht fra the waird to the pannell,³ and putt to ane Affyis but⁴ ony citatioun or delay : And it is of veritie, that this defender wes tane, be vertew of his hienes Commiffioun, in the moneth of Apryll lastbypast, and hes bene detenit in waird continewallie sensyne, and hes bene diuers tymes examinat vpoun the crymis contenit in his Dittay, as is knawin to my Lord Justice.—It is duplyit be the pannell, that the propositioun contenit in the said argument ressaues⁵ ane distinctioun, viz. parteis committit to waird be the Kingis Commiffioun, for ane cryme done aganis his hienes, may, without ony citatioun, be presentit in judgement ; bot be the contrar *in delictis priuatis* betuix partie and partie, sic as thift, ressett of thift, slauchter and murthour, as the partie aduerfar is purchesser of his Commiffioun priuatlie, vpoun his awin information, he can nawyis wyn that vantage, that summerlie, without dittay or copie thairof delyuerit, or lauchfull citatioun, he fall be summarlie be put to ane Affyis, as is in this caise : Swa that the Kingis Commiffiounis ar of diuers natouris ; sum gewin be his Maieftie without fute or informatioun of partie, vtheris gewin be informatioun. As to the nixt poynt, that he wes tane be Commiffioun, thair is na Commiffioun schawin ; *et rite omnia*, it is defyrit to be schawin, that the partie may object aganis it.

Thaireftir, the pannell refwmit the argument aboue writtin, for the Ressett of

¹ Mr Edward Bruce was Commendator of the Abbacy of Kinloss, and by courtesy, termed ' My Lord of Kinlofs.' ² Until. ³ From imprisonment to the bar of the Court. ⁴ Without.

⁵ Receives, admits of.

David Roife and vtheris contenit in the Dittay, att the horne, for Fyre-raifing and thift. It is alledgeit, that as tuiching that pairt of the dittay concerning the ffyre-raifing, I fould nocht be put to ane Affyis ; becaus ffyre-raifing is ather *delictum publicum* or *priuatum* ; gif it be *priuatum*, I fould be fummond vpoune fyftene dayes wairning ; gif it be *publicum*, I fould be fummond vpoun fourtie dayis wairning, quhilk is nocht done.—The Aduocat repetis his former anfuer, with the practikis of Arkinglas, tane in this toun, presentit on pannell ; Robert Quhippo, for thift ; Rauff Wallace, for fals cuinzie ; Pacok, for the flauchter of vmq^l Hary Colvile, and diuers vtheris. As to that pairt of the allegiance, that Thift, Murthour and flauchter, and Refsett of thift, quhilk ar capital crymes, ar *priuata delicta*, he makis na anfuer ; becaufe it is *ignorantia juris* to call thame *priuata delicta*.—To the quhilk it is anfuerit be the pannell, that as to the particuler practikis nominat, thair is na thing produceit ; and aganis the famin practikis, thir particuler practikis ar alledgeit : The perfuit movit be the Laird of Cwninghameheid and the Bairnis of the Laird of Waterf-toun, aganis David Wylie ; in lykemaner, the perfuit movit be the freindis of vmq^l Coronall Prestoune, aganis Maidland *alias* Broune ; in the quhilkis, it wes fund be the Justice, that nochtwithstanding thay wer tane, thay aucht to haif had fyftene dayes wairning. As to the nixt argument, tuiching *delictis priuatis*, repetis his former anfuer.

It is alledgeit, that Johnne Roife of Ballivot can nocht be put to the knowledge of ane Affyis for the Slauchter and Murthour of Huchfoune Roife, becaus that in the moneth of December, 1588 yeiris, he wes acquit lauchfullie be Affyise of the said cryme ; as the Testimoniall of the dait, the thryd of December, vnder the feillis and subscriptiounis of Lauchlan Angus M^cintosch in Termit, Johnne Cuthbert in New Castelhill, burges of Inuernes, &c., and fubferyuit be Johnne Dunbar, Johnne Wilfoune, Alexander Gaderar, notaris and clarkis.

ITEM, It is alledgeit, that the Slauchter of Robert Roife fould nocht be put to ane Affyis, becaus it wes done in the defence of his lyffe, in his awin hous, quhair he wes affageit be xxiiij perfounes, for recovering of ane Decreit of Removing.

ITEM, As to the Refsett of rebellis, he can nocht be put to ane Affyise, becaus thair is na thing produceit to testifie thame to be at the horne. *Secundo*, gif it wer produceit, *non est crimen capitale*.

As for George Dunbaris thift of Clwnie, and for Refsett of thift, hoching of oxin, and for the Fyre¹

As to the generall, for Commoun-thift and Refsett of thift, it is fa generall that it fould nocht be put to ane Affyise.

Anfueris the Aduocat, to the Testimoniall of the clangeing produceit, that the

¹ A blank is left for filling up the plea of law.

famin can nocht stay proces, becaus the cryme being treffonabill, for the Slauchter of Huchfoun Roife vnder traift, the famin could nawyis be persewit, bot ather at the instance of the kyn and freindis of the defunct for thair interes, or of the Aduocat for his interes ; and swa this Testimoniall, nocht proceding vpoun sic perfute, is null. As to the *secund*, anent the Slauchter of Robert Roife, that the famin fould be repellit, be reffoun the defender produceis nocht his decreitis and lettres, quhairby he wald allege the fact to be *jure factum* ; and the allegiance can nocht stay the mater fra ane Assyse. As to the *thryd*, anent the reffett of rebellis, contenit in the dittay, (it) aucht to be repellit, in respect of his hienes Commiffioun, gewin, for taking of the defender and his saidis compliceis, as denunceit rebellis, for the saidis crymes ; lyke as, Lauchlan Roife in Leanwradich, being rebell, and tane with the defender furth of his hous, wes senfyne put to the knowlege of ane Assyfe, and wes convict and execut for the saidis crymes. The Aduocat lykewyis takis instrumentis, that pannell refuset to abyde ane Assyfe for Commoun Thift and Refsett of Thift ; quhilk ar relevant crymis, being subioynit to ane particuler Dittay.

To the quhilk, it is anfuerit schortlie, *fyrst*, as tuiching the Testimoniall anent the Murthour of Huichfoun Rois, albeit it be sett doune in the Dittay to be treffonabill, he remittis the famin to the confideratioun of the Justice. The *secund* pairt of the argument alledgeit be the Aduocat, aucht to be repellit ; in respect of the Testimoniall produceit. As to the nixt, tuiching the Slauchter of Robert Roife, the excipient declaris, that he proponis that the famin may be coniunctlie discussit, be the Assyfe, with the Dittay. As to the *thryd* poynt, confidering the Refset of rebellis, allegis, na thing produceit to verifie the rebellis.

INTERLOCUTOR of the Justice-Depute.

THE JUSTICE Findis, that Johnne Roife of Ballivot salbe putt to the knowlege of ane Assyfe, for the Burning of the Clwne, and for the steilling of George Dunbaris guidis, and hoching of the oxin. The Justice findis na proces aganis the said Johnne Roife for the Murthour of Huchfoun Roife, in respect of the Testimoniall produceit, testifeing him to be acquit. Findis, that Johnne Roife fould nocht be putt to ane Assyfe, for the Slauchter of Robert Roife, quhill he be summond vpoun fyftene dayes wairning, except he wer att the horne for the said slauchter. The Justice Ordanis the Horning (to) be produceit, quhairin Dauid M^cWilliame and his compliceis wer at the horne, for the Burning of Clwne and Thift, or (*before*) he be put to ane Assyfe for the Refsett of thame. Ordanis Commoune Thift to be put to ane Assyfe, in respect of the particuler Thift put to ane Assyfe.

The Aduocatt takis instrumentis of the Interloquoutour. Allegis the aduocat, that Johnne Roife wes chargeit of befoir vpoun fyftene dayes wairning, for the Slauchter of v^mq^l Robert Roife, and produceit the lettres quhairby he wes chargeit ; and swa he can nocht pretend ignorance that he wes wairnit vpoun fyftene dayes wairning.—It is alledgeit be Johnne Roife, that he wes nocht summond, att the leift lauchfullie summond ; becaus he is nocht summond att his duelling, and na duelling hous desiguit ; and *secundlie*, it is allegeit, that the charge makis

na mentioun that he knokit sax knokis.—The Aduocat alledgis, that he wes lauchfullie fummond, as the executioun beris ; and ane copie affixt bayth att his duelling and att the mercat croce.

The Aduocat produceit ane Hoirning aganis Daid M^cWilliame Roife and Lauchlan Roife and vtheris, quhome Johnne Roife reffett.—(Johnne Roife) alledgis, that the Horning is null, becaus the personis quha ar fummond and alledgeit to be att the horne are nocht chargeit vpoune fourtie dayes.—It is anfuerit be the Aduocat, that the Horning is lauchfull, becaus thay ar lauchfullie put to the horne for thift and hoching of oxin.

The said Mr Johnne Ruffell alledgeit for Johnne Roife, before Interloquoutour, that he can nocht be putt to ane Affyse for Refsett of rebellis ; becaus he is nocht fummond vpoune fyftene dayes wairning thairfore ; and wes nocht fummond for Refsett of rebellis of befoir. It is alledgeit forder, that the Horning quhairby the rebellis is putt to the horne, quhom for, and for quhais reffett he is to be put to ane Affyis, is null ; becaus it is nocht regiftrat conforme to the Act of Parliament, in prefens of ane Notar and foure witneffis.—It is anfuerit be the Aduocat, that Johnne Roife can nocht be hard to obiet aganis the Horning, becaus the defender, be the famin Lettres, is chargeit to find cautioun, and for disobediencie is denunceit and tane for the famin cryme, be vertew of ane Commiffiounne rafit vpoun the saidis lettres.—The aduocat addis forder, that the hoirning is sufficient, becaus the persoun att the horne is lauchfullie denunceit.

THE JUSTICE continewis Interloquoutour till the morne ; and wairmit the Affyse to compeir the morne att tuell houris.

Jul. 30.—THE Aduocat passis fra that pairt of the dyttay, concerning the Refsett of Daid M^cWilliame Roife, rebell, and vtheris his complicis, *pro loco et tempore* : Quhairvpoun the defender askit instrumentis.

It is alledgeit for Johnne Roife of Ballivot, that tuiching of that point of the dittay, concerning Robert Roife, the defender aucht nawyis to be put (to) ane Affyse ; becaus he is nocht chargeit vpoun fyftene dayes wairning ; and insafar as it is alledgeit that thair wes ane anteriour citatioun vfit aganis him for the said cryme, the famin is nocht lauchfull ; feing it is euident, be the executiounis, that he is nather chargeit personallie, nor att his duelling place, conforme to the Act of Parliament ; and insafar as thar is mentioun maid of ane duelling place, trew it is, the famin is nocht designit ; it being of veritie, that the tyme of the charge, and diuers monethis of befoir, and diuers monethis thaireftir, he duelt with his hous and famelie in his place of Slenes and duelling hous of Narne, att the quhilkis, and nather of thame, he is nocht chargeit : And gewand¹ that the executioun mycht respect the place of Ballivot, quhair he is alledgeit to be char-

¹ Giving, or granting, for the sake of argument.

geit, yit it can nocht sustene the executioun ; becaus he offeris him to preve, be witnes att the bar, that he duelt att his duelling place of Narne, the tyme of the charge, diueris monethis ofbefore, and diueris monethis senfyne : And nocht only is the duelling place nocht designit, bot thair is na mentioun of knocking, conforme to the Act of Parliament. It is forder alledgeit, that the partie enterit on pannell wes nocht tane for this cryme, viz. for the slauchter of Robert Roife, bot be vertew of ane Commissioun ; quhilk Commissioun procedit vpoun ane Hoirning ; quhilk Hoirning is null, and consequentlie the Commissioun fallis. It is forder allegeit be the said Johnne Roife, that na proces can be deduceit in this mater, without the Commissioun and Hoirning be produceit.

THE JUSTICE findis, that the said Robert (Johnne) Roife salbe put to the knowlege of ane Affyis for the Slauchter of Robert Roife, nochtwithstanding of the alledgeances proponit be the said Johnne Roife.

The Aduocat takis instrumentis of the Interloquoutour.

OBJECTIONS *against the Affise.*¹

It is allegeit aganis *the Laird of Duffous*, [William Sutherland,] that he can nocht pas vpoun the Affyis of Johnne Roife, becaus he is thrydis and ferdis² of kyn with Dumbar, sheref of Murray ; quhilk sheref of Murray hes behavit him selff as expres partie aganis the said Johnne in this persute ; fyrst, in causeing of him to be tane and apprehendit in the moneth of May lastbypast ; nixt, in purchessing of ane Commissioun for his apprehensioun, and executing of the samin, be him selff, his freindis and assistis ; causing of him to be brought to Edinburghe, and thairefter transporting of him out of Edinburghe to Forres ; patt him in irnis thair ; brocht him bak in irnis ; purchest warrandis to that effect ; hes gewin informatioun to his Maiesteis Aduocat ; hes soliscit and procureit in this caus ; the persounes of Inqueist gewin vp be him ; and fra the beginning, hes behavit him selff as partie ; procureit fra his Maiestie Warrandis to tortour him ; and estir the taking of him, hes brunt his bigingis and his houffis, within systene dayes estir the taking of him ; and hes brunt his victuall, writtis and eidentis, being thairin ; haifing nather Commissioun, fyrst nor last, for doing of ony of the premiissis ; and be him selff and his seruandis, freindis and assistis, speciallie David Dumbar of Daldork, Williame Dumbar of Entirkyne, Patrik Dumbar, sheref-depute of Elgyn and forres ; quha comperis personalie, and informis the Aduocat, quhilk he can nocht deny vpoun his conscience, hes persewit this excipient with all regour.

And forder, *Johnne Dumbar younger of Craichla*, being requeistit be the Sheref Murray to pas vpoun this Affyis, hes purchest Licence fra him to pas hame : And as to the Commissioun, the samin wes grantit to Johnne Dumbar of Moynes, quhilk procedeit vpoun ane reasoun of Horning quhilk is null ; and swa, fra the beginning all is null, and consequentlie the Sheref Murray maun be estemit ane profest partie, but (*without*) ony Warrant.—The Aduocat anfueris, that the alledgeance is nocht relevant, ffor quhatewir the Sheref Murray did in this mater, haifand the Warrant of his Maiesteis Commissioun and directioun, as is notour to my Lord Justice, the executioun thair of tending only to Justice, can import na declinatour aganis him selff, mekill les aganis his kynnisman, aganis quhome thair is na relevant alledgeance maid, ather of feid or partial counsall.—To the quhilk it is anfuerit, ffyrst, that thair is na Warrant produceit ; nixt, he had na Warrant ather to burne houffis, nor to tak and apprehend the partie ; bot speciallie, for burning of the hous estir the partie wes ap-

¹ It has been thought of importance to preserve these curious objections at length. They strongly illustrate the remarkable state of the manners and customs of this District of Scotland at this period ; and besides, show the practice of the Court, in such matters, in a very striking manner. ² Within the third and fourth degrees of kin, or relationship. This was a statutory disability, and very frequently pleaded.

prehendit; for les had he ony Warrant to gif vp ane Affyis, to gif vp dittay, to crave ane tortour; or to do ony of the particuler deidis contenit in the former alledgeance: And quhen ewir ony partie ingyues him selff willinglie, in that quhilk nawyis appertenis to his office, he man be estemit as partie. And forder, the notorietie of this alledgeance is remittit to my Lord Justice, that the Sheref Murray, be him selff and his freindis, hes delt with his Majestie, the Officeris of Estait, the Lordis of Secreit Counfall, in preiudice of this partie, for away-taking of his lyffe. And last, qwhatsumewir Commiffiounne can be pretendit, ather in his name, or in the perfoun of the Laird of Moynes, is alreddie fallin, and can be na Warrant ather to the ane partie or the vther; becaus it procedit vpoun ane Horning, quhilk is alreddie null. And swa, all that he hes done, is done but (*without*) ane Warrant, and consequentlie, man be estemit to be done be him as ane partie. Attoure,¹ it is of veritie, that the Sheref Murray, without ony Warrant, ester he had brunt the hous of Ballivot, quhilk wes estir the taking of the said Johnne Roife be the space of fystene dayes, violentlie, att his awin hand, tuik Johnne Roife eldest sone, and apperand to Johnne Roife of Ballivot, constitute him presoner and captiue, quhill² thairestir he wes compellit to find cautioune for his releif.

It is forder alledgeit, that the said Laird of Duffous can nocht pass vpoun the said Johnne Rosses Affyse, becaus thair is deidlie feid³ standand vnrecounsalit, betuix the Sheref Murray, his kyn and freindis on the ane pairt, and the said Johnne Roife, his kyn and freindis on the vther pairt; nocht only for the cauffis foirfaid, bot als wa for the burning of the hous of Ballivot, and taking of his eldest sone; with the quhilk Sheref Murray, the Laird of Duffous is standand in consanguinitie, in maner foirfaid. It is forder alledgeit aganis the said Laird of Duffous, that he can nocht pass vpoun the said Johnne Rosses Affyse, becaus ane of the speciall pointis quhairfore the said Johnne Roife wes tortorit, wes for the burning of the coirnis of James Sutherland, brother to the Laird of Duffous; in respect quhairof, the said Laird of Duffous can nocht passe vpoun his Affyis, feing the tortoring of him for the caus foirfaid importis ane deidlie feid.—The Aduocat repetis his fyrst anfuere, eikand, That the inquestioun of the burning of James Sutherlandis coirnis att Johnne Roife, in his tortour be my Lord Justice, att his Maiesteis directiounne, can import na feid aganis the Laird of Duffous.

Forder, it is alledgeit, that quhen the Sheref Murray fould haif put Johnne Roife to ane Affyis in Forres, the said Laird of Duffous came, as partie, with the Sheref to ingyue him selff⁴ vpoun his Affyse.

The Laird of Duffous, being sworne, declarit that he cam to Forrese, be command of the Kingis Maiesteis Letter, and as summond vpoun his Affyis, and nocht to persue the said Johnne Roife.

It is forder alledgeit be the said Johnne Roife, that the Laird of Duffous can nocht pass vpoun his Affyis, becaus thair is deidlie feid standand betuix the Sheref Murray, his kyn and freindis on the ane pairt, and Johnne Roife of Ballivot, his kyn and freindis on the vther pairt, for the crewall slauchter of vmq⁵ Allester Roife, quha wes slayne be the Sheref Murray his kyn and freindis, in the moneth of Maij; quhilk vmq⁵ Allester Roife and Johnne Roife ar brether bairnis; And repetis the kyn⁵ betuix the Laird of Duffous and the Sheref of Murray. In lyke maner, thair is deidlie feid standand vnrecounsalit, betuix the Laird of Duffous, his kyn and freindis on the ane pairt, and the said Johnne Roife, his kyn and freindis on the vther pairt, ffor the crewall Slauchter committit be George Roife, quha is secund and thrydis of kyn with the said Johnne; quhilk George Roife slew Johnne Stewart, feruand to James Sutherland, brother to the Laird of Duffous.—The Aduocat anfuereis, that the slauchter of Allester Roife can import na feid, becaus he wes put to the tryell of ane Affyse, and ordourlie convict for Thift, and execute to the deid. As to the secund, anent the slauchter of Johnne Stewart, it is nocht relevant, except Johnne Roife wald alledge, that the Laird of Duffous wes pairt-taker of that feid.

Anfuereis the pannell to the fyrst, that the alledgeance standis relevant, except my Lord Aduocat wald

¹ Moreover, besides. ² Until. ³ Deadly feid. ⁴ To offer himself voluntarily, as an 'ultrionous witness,' without lawful citation to that effect. ⁵ Details the relationship.

instantlie verifie be writt, be quhat autoritie the said vmq^{le} Allester wes put to ane Affyse, and att quhat instance, and for quhat caus.—The Aduocat takis instrumentis that the Barroun of Kilraik declarit Allester Rois to haif bene heidit.—As to the nixt argument alledgeit be the aduocat, berand, that alledgance of the slauchter of Johne Stewart is nocht relevant, &c. ; it is anfuert for Johne Roife, that the slauchter of Johne Stewart, quha wes feruitour to James Sutherland, brother to the Laird of Duffous, committit be George Rose, makis him and his hail freindis to be pairt-takeris of the deidlie feid.

Alledgis, that *Alexander Young burges of Elgyn*, can nocht pas vpoun the Affyse of Johne Roife, becaus he is nocht ane landit man ; *Secundlie*, he is seruand to the Laird of Duffous : Quhilk the Laird confest.—The Aduocat allegis nocht relevant, becaus ane burges may be a peir to ane landit man, nocht being ane barroune.

It is alledgeit, that *James Ruthirfurd burges of Elgyn*, can nocht pas vpoun the said Johnis Affyse, becaus he is sifter sone to the Laird of Tarbet, quha is vnder deidlie feid with Johne Roife for the slauchter of vmq^{le} Allester Roife.—The Aduocat alledgis, nocht relevant, in respect of his argument maid of befoir aganis the Sheref Murray.—It is alledgeit forder, be pannell, aganis James Ruthirfurd, that the Laird of Tarbet wes att the burning of the hous of Ballivot estir the apprehensioune, and att the taking of Johne Roifis eldest sone.—The Aduocat anfuert, that quhat wes done in the burning, and taking of John Roifis sone, wes done be vertew of the Commiffioun.

It is alledgeit aganis *Robert Dumbar of Burgye*, that he can nocht pas vpoun the said Johnne Roffis Affyse, becaus he wes att the burning of Johne Roife of Ballivot (his house) and taking of his eldest sone. Forder, it is alledgeit that George Dumbar, quha had his hous brunt, mareit Robert Dumbaris sifter. [‘Repellis Robert Dumbar.’]

It is alledgeit, that *George Brodie burges of Edinburghe*, can nocht pas vpoun Johne Roifis Affyis, becaus he is thryd and ferdis of kyn with the Sheref Murray, for his Gudame wes the Auld Shereffis sifter : Nixt, he wes att the taking of Allester Roife.—Aduocat anfuert, that the taking of Allester Rose wes lauchfullie take, be the Sheref Murray as ane judge compitent.

It is alledgeit aganis *Mr Johne Dowglas of Nevay*, that he can nocht pas vpoun his Affyse, becaus he is thrydis of kyn with the Sheref Murray, for his Gudame wes the Auld Shereffis sifter : *Secundlie*, thair is deidlie feid standand betuix Mr Johne Dowglas and Johne Rose ; becaus Mr George Innes, sifter and brether bairnis with Johne Roife, slew Mr Johne Dowglas moder : Forder, his brother Mr Alexander Dowglas, wes playne dilatour¹ of Johne Roife to the King.—The Aduocat anfuert to the freindschip² of the Sheref Murray as of before : As to the feid, referris to the said Mr Johne Dowglas ayth. [‘Stand by.’]

It is alledgeit aganis *George Lohart of Bar*, that he can nocht pas vpoun Johne Rose Affyse, becaus he is nocht within the foure-half-about : *Secundlie*, the Sheref Murray and the Laird of Baris wyffe ar thryd and ferdis of kyn. [‘Bar, stand by.’]

It is alledgeit aganis *Thomas Gilzeam of Monachtie*, that he is nocht xxj yeiris, and that he has na land. [‘Repellit Thomas Gilzeame.’]

It is alledgeit aganis *Johne Hunter*, that he is na burges ; quhilk wes confest.

The King's Will against James Maister of Ogilvie and Alexander Lord of Spynie.³

Aug. 14.—Comperit Alexander Maister of Elphingstoune, thesaurer to our fouerane lord, and produceit ane Act, containing his Maiesteis Will aganis the saidis personis, &c. ; quhilk Act the said Justice-depute pronunceit and declarit

¹ Accuser ; informer against ; he who gave up the Dittay. ² Relationship. ³ See Jul. 15, 25, & 29.

judicialle to the saidis parteis, and ordenit the samyn to be regiftrate in the buikis of Adiornall, and to haif the strent of ane Act thairof, with executoriallis to pas thairvpoune, &c. ; quhair of the tennour followis.

AT HALYRUDEHOUS, the fourtene day of August, 1^m.VI^e. 3eiris. Forfamekill as *Alexander Lord of Spynie*, and certane his compliceis, on pe ane pairt, and *James Maister of Ogilvie*, and certane his compliceis, on pe vther pairt, ar becum in his Maiesteis Will, for pe Slauchteris and vtheris crymes committit be pame, at pe Conflict quhilk happit and fell out betuix pame, in pe moneth of laft : The Kingis Maieftie pairfoir hes declarit, and be pir presentis declairis, his hienes Will, as followis : THAT is to say, becaus the said Maister of Ogilvie and his complices, belydes the slauchter committit be pame, hes violat and contravenit his hienes lawis and Actis of Parliament, maid aganis the bering, wering and schuting of hagbutis and pistoletis, that thairfoir he fall mak payment to his hienes, and to his Maiesteis Thesaurer, in his hienes name, of pe sowme of ffyve thousand pundis ; quhair of pe sowme of ane thousand markis betuix and pe first day of September nixtocum, and the remanent of pe said sowme betuix and the tent day of November nixtocum : AND that the said Lord of Spynie fall lyke-wayis mak payment to his Maieftie and his Thesaurer, in his hienes name, of pe sowme of ffyve thousand markis ; quhair of ane thousand markis betuix and the said first day of September, and pe remanent of pe said sowme betuix and the said tent day of November nixtocum : As also, that the said Lord of Spynie, for him selff, and takand the burding on him for pe haill perfonis quha wer in company with him at pe said Conflict, on pe ane pairt ; and the said Maister of Ogilvie, for him selff, and takand pe burding on him for pe haill perfonis quha war in company with him att pe said Conflict, fall subscryue ane Submissioun of pe feid and contraverfie betuix pame to his Maieftie, and sik of his hienes Counsaile as his Maieftie fall thynk meit : And forder, that the said Maister of Ogilvie fall within pe space of sex dayis enter his perfoun in Waird, within pe burcht of Hadingtoun, and pair remane, or in ony pairt beeft¹ pe said burcht : And that pe said Lord of Spynie fall, within the samyn space, enter his perfoun in Waird, within the burcht of Lynlythqw, and pair remane, or in ony pairt beeft² pe samyn burcht ; ay and quhill this Declaratioun of his Maiesteis Will be fullie satisfieit and obeyit be pame, in all poyntis : And that thairefter thay be fred be his Maieftie. And ordanis and commandis the Justice, Justice-Clark and pair deputtis to pronunce pis his hienes Declaratioun of his Maiesteis Will judicialle, and to cause regiftrate pe samyn in pe buikis of Adiornall.

(Sic subscribitur) JAMES REX.

For pronunceing and declaratioun quhair of, David Hairt, seruitour to the said Alexander Maister of Elphingstoun, askit actis and instrumentis.

The Earl of Gowrie's Conspiracy.

[THE GOWRIE CONSPIRACY has long been reckoned as one of the darkest pages of Scottish History ; and the subject has, perhaps, given rise to a greater profusion of controversial tracts, and to more difference in opinion among historians, than almost any other passage in our Annals. Having been so fortunate as to recover the Original Autograph Letters of Robert Logan of Restalrig amongst the 'Warrants' of the Parliament, and of the Privy Council, of Scotland ; and having, besides, after considerable research, discovered many other illustrative

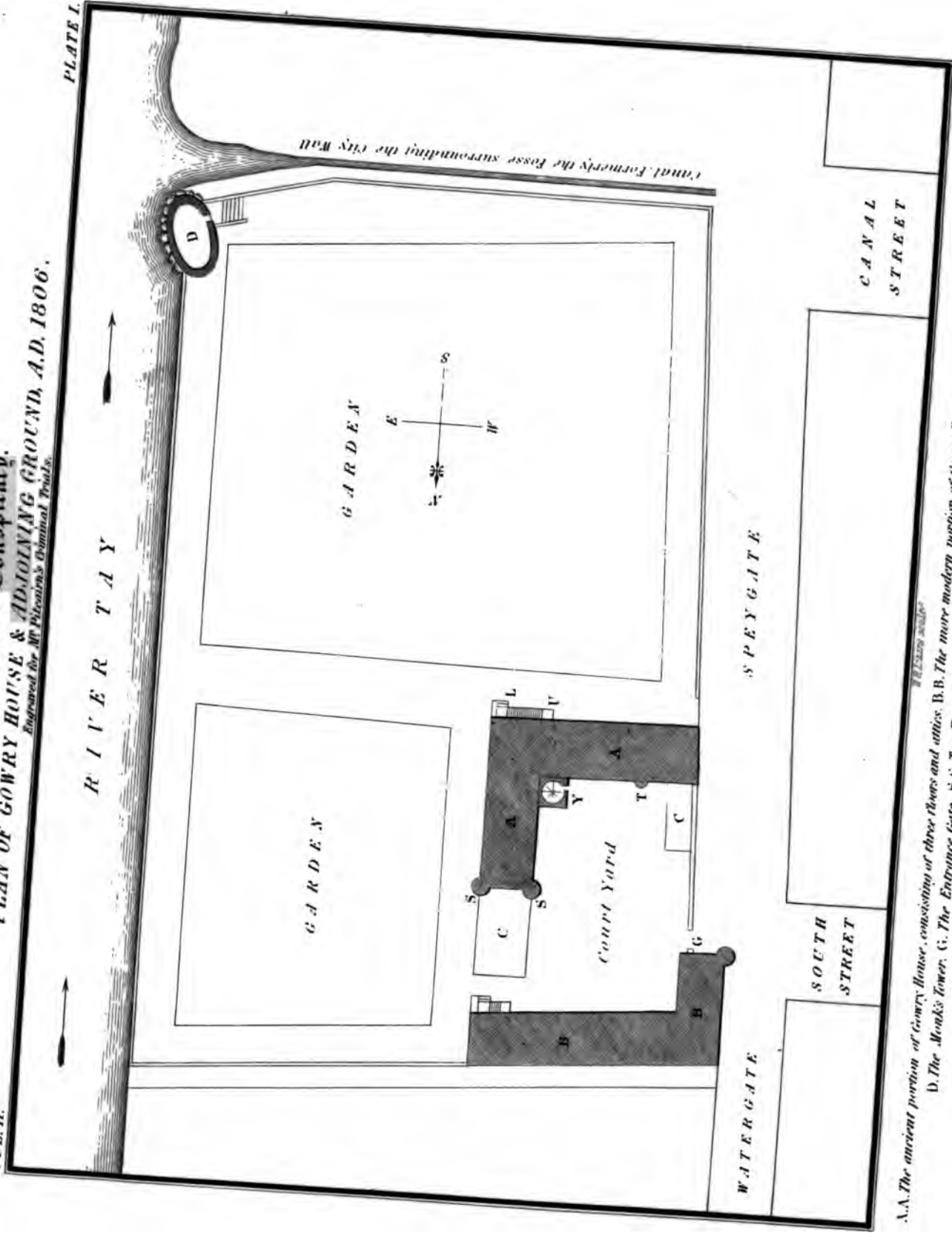
¹ To the eastward of.

² To the westward of.

Gowrie's Conspiracy.
PLAN OF GOWRY HOUSE & ADJOINING GROUND, A.D. 1806.
Entered for Mr. Pictor's Ornamental Prints.

VOL. II.

PLATE I.



A.A. The ancient portion of Gowry House, consisting of three towers and attics. B.B. The more modern portion of Gowry House. C.C. Temporary Sheds, latterly used for Artillery.
 D. The Monks' Tower. G. The Entrance Gate. S.S. Two Towers. T. The Black Turpike. L.I. Flight of Steps leading to the Garden.

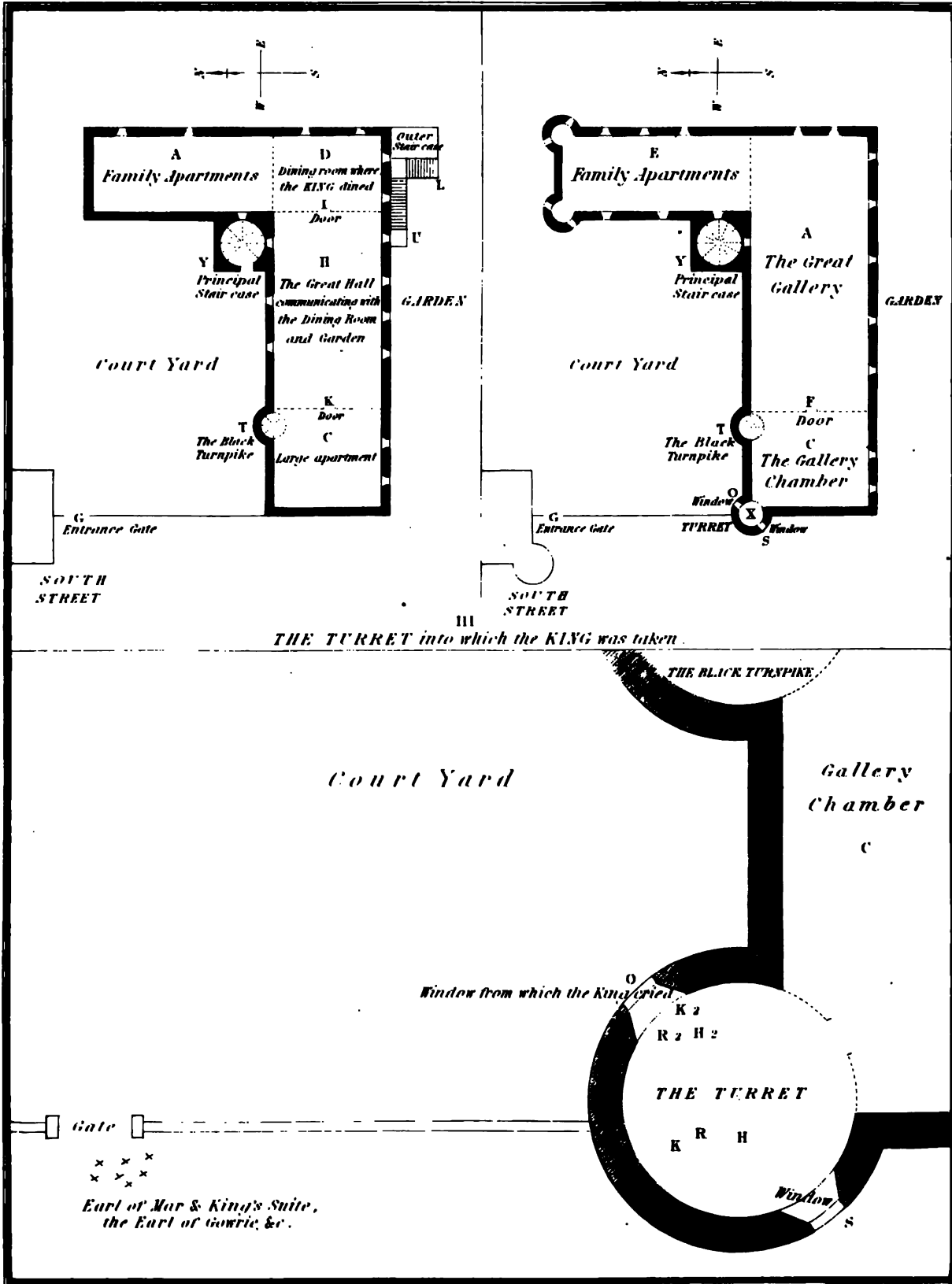
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Howrie's Conspiracy.

Engraved for Mr. Pitcairn's Criminal Trials.

I **FIRST FLOOR.** **II** **SECOND FLOOR.**
above the Kitchen or Ground floor. *above the Kitchen or Ground floor.* **PLATE II.**



K, R, H. Position of the King, the Master of Ruthven and Andrew Henderson, on their entrance into the Turret & at the commencement of the Struggle.
 K 2, R 2, H 2. Their relative Situations, at the time the King cried for help.



documents, tending to throw additional light upon this obscure and much-contested point, the Editor had intended prefacing the present Article, by a short Sketch or Narrative of the whole facts and circumstances upon which the reality and truth of this extraordinary drama must now be considered as hingeing. After mature deliberation, however, this purpose has been abandoned, chiefly because the introduction of such disquisitions is, in some measure, unsuitable to the plan and intention of this Collection, and, if indulged in, would encroach on space which is so much better occupied by extracts from the original and graphic pages of the Books of Adjournal. It seems to be more consistent with the nature of this work, to collect and place in juxtaposition the entire authentic information which can now be procured from original and undoubted sources. With this view, therefore, considerable labour has been expended in searching the Public Records, and the unexhausted and truly valuable stores of the Faculty of Advocates, whose MS. Collections have been as carefully and extensively examined, as the other laborious avocations of the Editor would permit.

This arrangement is the less to be regretted, as so many excellent, though certainly most conflicting Accounts, have been written, both for and against the reality of this Conspiracy. Mr Parker Lawson, the ingenious author of the Life and Times of Archbishop Laud, has recently treated of this subject, in a concise and able manner, in his 'History of Remarkable Conspiracies.' The Editor, having heard of the work when it was in the course of going through the press, gave that gentleman free access to his entire Collections, partly with the view of saving the necessity of such a Disquisition as that which he had himself contemplated; and in order that the truth of this Conspiracy might, by Mr Lawson, be thoroughly sifted and placed upon an unquestionable foundation. The reality of the Gowrie Conspiracy has now, as is conceived, been satisfactorily made out by Mr Lawson, who has embraced views similar to those entertained by the Editor; and, after a patient examination of the whole of the evidence and materials, which have now been collected, has come to the same conclusions.

The Editor has only farther to remark, that the result of his enquiries and examinations of Original Documents are now offered to the Public; and that these Papers, a great portion of which are here for the first time published, are arranged, either in the order of their dates, or according to their apparent importance, and their bearing on the question. If they have swelled out to an undue size, the Editor hopes their novelty, and historical interest, will make ample amends. They have, at a considerable additional expense to the Editor, been condensed, as much as regard for the uniform typography and appearance of the book would permit.]

[CURIA JUSTICIARE, *f. d. n. Regis, tenta in Pretorio de PERTH, xxij August 1600, per Magistrum Wilelmum Haert, Juslicium Deputatum.*]

Aug. 22.—MR THOMAS CRANSTOUNE and George Craigingelt, seruitouris to vmq^{le} Johnne Erll of Gowrie ; and Johne M^cDuff alias Barroune, in Strabrand.

Dilatit of airt and pairt of the Treasonable crymes vnderwrittin ; committit aganis HIS MAIESTIE, the fyft of August instant.

The quhilk day, comperit Mr Thomas Hamiltoune, aduocat to our souerane lord, and produceit his hienes Warrant, directit to the Justice ; quhair of the tennour followis :

REX,

JUSTICE, Justice-Clerk and your deputis, We greit you weill. It is oure will, and We command you to put Mr Thomas Cranstoune, Johnne Barroune and George Craiggelt, to the knowledge of ane Assyis, for the lait traitterous Conspiracie devyfit and intendit to be execute aganis us, at Perth : And thay being convict, that ye cause dome to be pronunceit aganis same, to hang same to deid : And that ye sie the same dome put to executione, without delay : Quhairnent thir presentis falbe your Warrant. Subscryuit with our hand, At Falkland, the xxj day of August, 1600.

(Sic subscribitur)

JAMES REX.

ASSISA.

James Bower, notar in Perth,	Robert Broune, Kepar of his	George Murray, burges of Perth,
Andro Rae, baillie thair,	Maieftis wyne sellar,	Patrik Seill, thair,
Johne Ogilvie, saidler thair,	James Liddell, Potifar to his	Johnne Pullour, merchand thair,
Dauid Rynd, flescheour thair,	Maieftie,	Andro Gellatlie, merchand thair,
Thomas Elgyn, thair,	James Bog, aid to the Maister	William Jak, baxter thair,
James Balnavis, flescheour thair,	Portar,	Patrik Drummond, skynner thair.

It wes alledgeit aganis *Robert Broune*, that he can nocht be putt on his Assyse, becaus he bure sword that day, and beris quarrell att him (Mr Thomas Cranstoune ?) The said Mr Thomas askit instrumentis, that Robert Broun declarit he bure quarrell aganis Mr Thomas sen that day, for the perfuit of his Maieftie.—The Aduocat askit instrumentis, that the said Robert declarit that it wes for perfuit of his Maieftie the King, quhilk can be na quarrell ; and thairfore he can nocht be put off the Assyse.

The Justice admittis Robert Broune vpoune the saidis personis Assyis.

It is allegeit be Mr Thomas Cranstoune, that *James Liddell* can nocht be vpoun his Assyse ; becaus he misreportit of him at Falkland.

The advocate produced the fveral Dittays, which follow.

DITTAY *against Mr Thomas Cranstoune.*

MR THOMAS CRANSTOUNE, Ye ar indytit and accufit of airt and pairt of the detestabill, horribill and tressonabill Conspiracie attemptat aganis our souerane lordis maist nobill persoune, be vmq^{le} Johnne Erle of Gowrie and vmq^{le} Mr Alexander Ruthven, his brother ; Forfamekill, as the saidis vmq^{le} Erle and Mr Alex-

ander his brother, haifing maift develiflie concludit amangis thame felffis trefsonable to Murthour his Maieftie, thair natiue Prince : And for that purpois, the Erle haifing directit the faid v^mq^{le} Mr Alexander, vpoune the fyft day of Auguft instant, to his Maieftie, the faid v^mq^{le} Mr Alexander, v^fing incredibill craft and diffimulatioune, haifing efelie perfwadit with his fair wordis, vtterit in maift humbill and loving maner, his Maieftie to ryde with him to St Johnftoune ; and the faid v^mq^{le} Johne Erle of Gowrie, haifing with the lyke deffait of mynde and hwmilitie of behaviour, reffautit his Maieftie, and drawin him to his ludgeing ; immediatlie efter denner, the faid v^mq^{le} Mr Alexander requeifitit his Maieftie to gang with him to the Gallerie chalmer of the faid lugeing, quhilk his Maieftie reddelie did, fufpecting na ewill, bot mefuring the intentionis of that diffaitfull traittour with the finceritie of his hienes awin hairt : In the meyn-tyme, the faid v^mq^{le} Mr Alexander, haifing lokkit behind him diuerfe duris, led his Maieftie to the Cabinet of the faid Gallerie chalmer, quhair he had preparit Andro Henderfoune, familiar feruand to the faid v^mq^{le} Erle with ane fecreit,¹ plait-flevis, fword and quhingear, be expres command of the faid Erle, to await vpoune the faid Mr Alexanderis cuming, and do quhatfoever he commandit him ; and thair, finding tyme and all vther occasionis to concur for performing of his maift abhominabill trefsoune, haifing coverit his heid, and drawin Andro Henderfounis quhingear, he maift horriblie and crewallie presentit the famyn to his Maiefteis hairt, vowing instantlie to flay him for the death of his v^mq^{le} fader, convict and execute to the death, be ordour of Justice, for Heich Trefsoune : And fynding him felff fumquhat diflapoyntit, be the faid Androis withdrawing of his quhingear furth of his hand ; and, as it pleafit God, fumquhat dafchit be his Maiefteis graif and constant fpeicheis and reffonis, he trefsonable caufit his Maieftie fweir that he fuld keip fylence, and remane prefoner in that chalmer, quhill he returnit fra his brother, with quhome he wald consult. And fwa, haifing trefsonable imprefonit his Maieftie, and lokkit the dur vpoun him, and incontinent returning within the chalmer, he trefsonable fwoir that his Maieftie behovit to die ; and preiffing to haif bund his Maiefteis handis with ane gartane,² quhilk he had lowfe in his handis for the purpois ; and fynding his Maieftie to refift, he putting his rycht hand to his fword to haif drawin it, and with the vther maift crewallie and vnmercyfullie haifing grippit his Maieftie mouth and berd, of purpois baith to hald him and hinder him to fpeik ; neuirtheles, his Maieftie, extraordinarlie ftrenthennit be the mercie of God, ftayit him to draw his fword, and cuming to the wyndok foirnent the way to the Spay-poirt, cryit for ‘ Help ’ to my Lord of Mar, and vtheris his faythfull fubiectis ; quhair the faid Erle of Mar, with diuerfe vtheris his Maiefteis deutifull fubiectis and fer-

¹ A coat of chain-mail of proof, *secretly* worn under the usual dress.

² Garter.

wandis, being of accident drawin thair, be the maist tressonabill devyife of the said vmq^{le} Erle of Gowrie, be ane bruit¹ gevin out be yow the said Mr Thomas Cranstoune, that 'his Maieftie wes riddin away,' thairbye to induce his hienes ferwandis to ryn to thair horfis, and thynking to follow the King, to poist of (*off*) the toune, and to leif him destitute of all help: That deveilleisch inventioun, proiectit for the mair secret and assurit executioun of his Maieftis slauchter, turneing, be the providence of God, to the beginning of his Maieftis saiftie and releif; all faythfull subiectis, seing his Maieftis exceding danger, haiftit for his releif; bot preiffing all to enter the way, thay saw his Maieftie drawin to the said chalmer be the said vmq^{le} Mr Alexander, and being secludit be sa mony durris, lokkit, in that passage, be the said vmq^{le} Mr Alexander, of set purpos: At last, Sir Johne Ramsay, led doubtleslie be the spreit of God for his Maieftis saiftie, ran vp the bak turnepyke,² being ane vnaccustumit passage, and enterit be ane dur of the said chalmer, quhilk anfuert to the said turnepyke; quhilk dur wes opnit of accident, be the said Andro Henderfoune; quha, being confoundit with horroure of sa heich tressoune, quhen he saw it at the poynt of the executioun, baith hairt and hand being tane fra him, be the power of God, protectour of his Maieftis innocencie; the said Sir Johne Ramsay entering in the chalmer, and seing the horribill violence vsit be the said vmq^{le} Mr Alexander to bereve his Maieftie, destitute of armour or wappynnis, of his lyffe, ran to his help; and haifing gevin to the said Mr Alexander sum straikis with his quhinge-gear,³ expellit him furth of the foirsaid chalmer. During the quhilk space, the said vmq^{le} Erle, persaising his tressoune discoverit, and being vpoune the Hie street of the said burcht of Perth, accompaneit with thre or four scoir of personis or thairbye, he come foirnent the duelling-hous of Archebald Makbreg, haifing na provocatioun, nor knawin nor sene cause to vse ony wappynnis, drew his twa swordis, and thairbye gaif example to his haill cumpany to do the lyke, and altogidder ruschit langis⁴ that pairt of the gait,⁵ with drawin swordis to the zet⁶ of his lugeing; his Maieftie being thairin for the tyme, in maner foirsaid: And thair, ye the said Mr Thomas, enterand with your drawin swerd befor the said Erle, he commandit yow to enter vp the Blak-turnepyke; lyke as ye and he tressonablie ran vp the said turnepyke, accompaneit with Alexander and Harie Ruthvennis, Hew Moncreif, Patrik Eviot and diuerse vtheris your complices, and cuming to the said Gallerie chalmer dur, within the quhilk his Maieftis maist nobill persoun was for the tyme; and thair, fynding the said Sir Johne Ramsay, Sir Thomas Erskyne and Doctor Herreis at the dur for his Maieftis defence,

¹ Fr. *bruit*, a report or rumour. ² For 'blak turnepyke,' a winding staircase, commonly in a turret. The term is still used in Scotland. ³ A sort of cutlass or short sword, a *hanger*. ⁴ Along, *alongst*. ⁵ Street or road. ⁶ Gate.

ye tressonable invadit and persewit thame for thair slauchteris, repulfat thame perforce, and enterit within the samyn chalmer, hurt and woundit thame, and everie ane of thame ; and left nocht of the persute of the said horribill Tressoune, quhill the said vmq^{le} Erle, being slane within the said chalmer, and ye haifing resflaut twa deidlie woundis, disparit of performing your interpryis, fled doune the cloise, quhair ye tressonable commandit to gaird and keip the bak yet ; and assistit ane nowmer of seditious rebellis, quha had includit and beseageit his Maiestie within the said ludgeing. Quhairbye, ye haif committit maift Heich, manifest and abhominabill Tressoune ; and ar airt and pairt thairof.

DITTAY against George Craiggyngelt.

GEORGE CRAIGGYNGELT, Ye ar indytit and accusit of airt and pairt of the maift crewall, abhominabill and tressonabill Conspiracie attemptit aganis our Souerane Lord, be vmq^{le} Johne Erle of Gowrie your maifter, and vmq^{le} Mr Alexander Ruthven his broder, vpoune the fyft day of August instant. Forsamekill as, Johne sumtyme Erle of Gowrie, and vmq^{le} Mr Alexander Ruthven his broder, haifing maift crewalie, vnnaturallie and tressonable Conspyrit his Maiesteis Murthour ; and, for performance thairof, vpoune the fyft day of August instant, the said vmq^{le} Mr Alexander, be directioun of the said Erle, haifing maift dissaitfullie drawin his Maiestie to Perth : And, efter his denner, haifing perfwadit his hienes to gang quytlie his allane to the Gallerie chalmer, and thair, tressonable, with the drawin quhingear of Andro Henderfoune, quhome he had laid than in wait, armit with secreit, plait-slevis, sword and quhingear, to assist him and do quhat he directit, according to the command gevin to him be the said vmq^{le} Erle his maifter, haifing preiffit to haif slane his Maiestie ; and being sumquhat stayit be sik graif perswasionis, as God at that tyme furneiffit his Maiestie to stay the rage of that tressonabill angre, he tuke his Maiestie sworne that he suld keip sylence, and remane presoner in the foirsaid chalmer, till he returnit : And than lokkand the dur, and incontinent returnand, he declarit his Maiestie behovit presentlie to die ; and preiffing to bynd his handis, and incensit be his resistance, haifing layit his rycht hand to draw his sword, and being stayit be his Maiestie with his vther hand, haifing vnnaturallie and crewallie tane his Maiestie be the berd and the mouth, to hald him and stay him fra crying ; nochtwithstanding quhairrof, his Maiestie, be the assistance of God, wan to the windok that luikis to the Spay-poir, and thair cryit for ‘ Help ! ’ During the quhilk space, the said vmq^{le} Erle, haifing raifit ane fals brute, that ‘ the King wes away ; ’ thairbye to haif inducit all his hienes serwandis to poift to overtak him, vpoune the way to Falkland : Quhill thay wer making haift to get thair horsis, and abyding vpoune thame, betuix the said lugeing and the poirt, it pleffit God, that my Lord Duke, the Erle of Mar, and certane vtheris his Maiesteis

weill affectionat subiectis and serwandis, saw and hard his Maiesteis cry ; quha rynnand to his releve, and fynding na man to enter, being excludit be sa mony duris, lokkit of set purpos be the said Mr Alexander at his vpging : At last, it pleast God to direct Sir Johne Ramsay vp the Bak-turnpyke, quhair, fynding the bak dur of the said chalmer opnit be Andro Henderfoune, quha, stupefeit with the vnspekabill horrour of the sycht of the said Tressfoune, preparit him selff to flie thairfra ; the said Sir Johne enterit, and in his faythfull and dewtiefull hairt of his Maieftie, geveing fum straikis with his quhingear to the said vmq^{le} Mr Alexander, pat him perforce furth of the said chalmer : And than, the said vmq^{le} Johne Erle of Gowrie, seing his Tressfoune discouerit, and in danger to be dissapoyntit, casting of the mask of his depest diffimulatioune ; being vpoune the Hie streit of Perth, accompaneit with thre or four scoir of his complices, without ony occasioun gevin to him, or sycht of ony contrair partie,¹ drew his twa swordis, and thairbye caufit the rest draw thair swardis ; and than tressonable come, in hostile maner, to the yet of the said duelling-houfe, quhair his Maieftie was for the tyme, and tressonable entering with drawin swordis, Ye the said George Craiggelt, than meting him with ane drawin twa-handit sword in your hand, the said Erle commandit to keip the bak yet, quhilk ye tressonable did ; and ye, with Mr Thomas Cranfoune, Alexander and Harie Ruthvennis, Hew Moncreif, Patrik Eviot and vtheris his complices, rinnand vp the Blak-turnpek, to the chalmer quhair he knew his Maieftie to be for the tyme, tressonable and perforce enterit thairin, straik fra the defence thairof Sir Thomas Erskyne, Sir Johne Ramsay and Doctour Herreis, his Maiesteis serwandis, and persewit thame for thair slauchteris, and crewallie woundit thame, and infisit in the crewall and vnmercifull persuit of this abhominabill Tressfoune to the verrie death : During the quhilk tyme, Ye the said George Craiggelt, obeying the tressonabill command of your said vmq^{le} maister, tressonable enclofit the said bak yet ; and assistit be ten or twelf rascallis, your complices, tressonable besegit his Maieftie, your soueranis maift nobill persoune ; and remanit with your twa-handit sword drawin, in your hand, attour² the space of twa houris, at the said bak yet, and in the cloise of the said lugeing, and sufferit na man to haif entrie or passage at the said yet : And lykewyis, tressonable minasfit his Maiesteis domestik seruitouris, being inclusit and besegit with his Maieftie within the said lugeing, for thair slauchteris, boisting³ to hang thame, and avowing that thay fuld all die ; ye herand and seand Harie and Alexander Ruthvennis, and vtheris your complices, call for poulder to blaw vp the said lugeing, and caufing bring ane jeist⁴ to ryn at the yet thairof, and ding it vp,

¹ Adversary. ² Above, more than. ³ Threatening. ⁴ A joist or beam, to be used as a battering-ram to force open the gate.

thair, fynding the dur of the said chalmer opnit, be the said Andro Henderfoune, preiffand to flie furth of the fame, abhorrand the fylthines and crewaltie of the said Treasfoune, the said Johne Ramsay enterit, and difchargeand his native and bund dewtie to his Prince, gaif to the said Mr Alexander fum woundis, and expellit him furth of the said chalmer; quha, falling in the fute of the said trumpyke; albeit ye the said Johne Barroune, hard, faw and knew his Maiefties perrell, nawyis movit thairwith, nor preiffand onywyis, according to your dewtie, to mak him ony releif; bot be the contrair, preiffand to affist the said treflonabill attemptat aganis his Maieftie, ran furth to the Hie Streit, quhair the said vmq^h Erle was for the tyme, and declarit to him that his said vmq^h broder wes flane; and thairbye incenfit the said Erle to draw his fwordis, and furioullie ran with his complices to his ludgeing, quhair his Maieftie was for the tyme; and treflonablie enterit thairin, and paffit vp to the dur of the chalmer, quhair his Maieftie was for the tyme, and invadit his Maiefties ferwandis, being thair for his Maiefties defence, and perfewing thame for thair flauchteris, dang¹ thame in diuerfe pairtis of thair bodeis; and infistit in the treflonabill executioun of his Conspiracie foirfaid, to the verrie death; quhome ye treflonablie movit, be your aduerteifment, to the executioun of the said treflonabill Murthour, with his awin handis: Lyke as, ye followit him in the said treflonabill interpryife, and enterit within the said lugeing; and in the cloife, at the bak zet, haveing encourageit all men to affist the said vmq^h Erle, did quhat in yow lay to fteir vp all men to fortifie the said vmq^h Erle in his said Conspiracie: And thairbye, ye was airt and pairt of the said maift horribill Treason.

THE said Aduocat produceit, for verificatioun of the Dittays; in the fyrft, the Depofitiounis of Andro Henderfoune, to prove the devyfe and actuall executioun of the Treasoun lybellit; and vfit the famin aganis the haill pannell. And, for verificatioun of Mr Thomas Cranftounis particuler Dittay, produceis the said Mr Thomas thrie Depofitiounis, fubfcryuit with his hand, and cognofeit be himfelf: Togidder with George Craingingeltis Depofitioun, fubfcryuit with his hand. And, in lyke maner, produceit the said Georgeis Depofitioun aganis himfelf: And the Depofitioun of Johne M^cDuff alias Barroun, for verificatioun of his Dittay. Togidder with the Depofitioun of Olipher zoung, James Drummond and Daud Rynd, anent the bringing of ane jeift to force the zett, his Maieftie being thairin: And alfo, the said Daudis Depofitioun, that he hard Alexander Ruthven cry for powder.

Repetis the xxv Act of King James the fecund, expreffing that the Invasioun of the Prince, and affalzeing of ony castell, place or hous, quhair his Maieftie is, is Treasfoune: And lykewyis, the hundreth threfcoir and fyftene Act of the

proper name Turnbull is still vulgarly pronounced Trumbull, and was at this period commonly so written; the word turnpike seems to have been similarly corrupted. ² Violently struck and thrust at.

DEPOSITION OF MR THOMAS CRANSTOUN.¹

AT THE BURCH OF PERTH, and within the duelling hous of Johne Pitcarne thair, the sext day of Auguft, the yeir of God I^m and sex hundreth yeiris.

Quhilk day, in prefens off Mr Patrik Galloway Minister to his Maieftie, Oliuer Young, Andro Ray bailzels, James Adamfone dene of gild, Williame (Jak) dekin of the baxteris, and Henrie Elder commoune clerk, wreter heiroy, burgefles of the faid burch of Perth,

MR THOMAS CRANSTOUNE, fwmtyme feruitour to vmq^{le} Johne Erle off Gowrie, being appellit on his confcience, as he vald anfuer to God, feing he was vpoune his deid bed, as appeirit to thame, deidlie vondit with twa fraikis, Deponit as followis. THAT vpoune the fyft day of Auguft instant, he being in the ludging, hering ane vncertane rumour and brute² of the Kingis furth-going to the South Inche, came doune the bakftair to the gardin zear, quhair my lord his maifter wes ganging, as he rememberis, with my lord Duik, or with fwme vther nobill man; to quhome the faid Mr Thomas faid, 'The report and brute is, my lord, that his Maieftie is gane to the South Inche:' Quhairvpoune my lord defyrit him to 'to hawe his hors readie, that he nicht follow;' quha anfuerit, 'they³ war in Scone; and fa being his Maieftie in the Inche, it vald be hard or they come furth thairof⁴ and to ourtak his Maieftie.' Thaireftir, he followit my lord throuch the hall to the wtter clois, and thairfra the faid Mr Thomas paffit to the bak clois to feik his boy, for fending of him to Scone for the hors; quhome he culd nocht find: And quhill he wes thair, he hard ane tumult and din; and thairvpoune come throch the wtter clois to the for-zeatt, inquiring all the gett,⁵ 'Quhat the matter fuld be?' And in the end, feing my lord his maifter frugling befoir the zeatt, with certane of Tullibardins feruandis, young Tullibardin being prefent; he, fwa far as he nicht, with the help that was prefent, freithit⁶ my lord fra prefent frugling. In the meane quhill of the faid frugling, my lord fell on his henche and elbo; bot ryfing agane, paffit vp the gait, foirnent Archebald Makbrekis, quhair he drew his tua fuordis furth of ane skabert; quhilk the faid Mr Thomas feing, being jowp alane,⁷ lwit his klok fall,⁸ and lykwayis drew furth his fuord, inquiring of my lord, 'Quhat the fray was, and quhat he wald do?' To quhome my lord anfuerit, 'He wald gang in to his awin hows, or die be the way.' Quhair-to the faid Mr Thomas replyit, he vald gang befoir him; bot prayit his lordfchip to tell him, 'quhome at he fuld fraik, becaus he knew nocht quha was partie.' And fua, tindyng fordvarit to the zeatt, ane pat ane steilbonet on my lordis hede; quha it vas he knawis nocht. Proceeding fordvarit, at the awld turnepect dur, the Maifter of Gowrie was lyand, quhidder deid or hurt he knew nocht; and nocht perfytlie knawing quha than it was, becaus he saw nocht his face; fpearing quho it was, my lord baid, 'Vp the stair!' And he paffing fordvarit, at my lordis command, nawayis knawing quha followit, my lord come to ane chamber, quhair he saw Sir Thomas Erskin, Doctour Hereis and Jhone Ramsay standin with drawin fuordis; quhilk Doctour Hereis, prefenting his fuord to ftop the entrie, Mr Thomas faid to him, 'zeall theiff! dar thou?' Doctour Hereis anfuerand, 'A Mons⁹ Cranstoune!' Quhilk Mr Thomas faid, 'Theiff! giff thou be innocent of zone fklachter, come furth and I fall varrand the.' Thairefter, my lord and Jhone Ramsay jokit:¹⁰ The rest fraik fwme fraikis at Mr Thomas, and he at thame. Quhow my lord and Jhone Ramsay fched¹¹ he knew nocht, alvyis¹² Mr Thomas deilling with the rest. Jhone Ramsay fraik the faid Mr Thomas throw the body; and thairefter wes ftrukin at, he belewis be Doctour Hereis, bot nocht throch the body. Quhilk Mr Thomas, miffing my lord, lap¹³ out at the dur and come furth of the place. Efter all, Mr

¹ From the original, preserved among the Warrants of Parliament, General Register House.

² Fr. *bruit*.

³ His horses were at Scoon, his usual residence.

⁴ Ere they could be sent for from Scoon, a distance of two or three miles.

⁵ Way.

⁶ Freed, delivered.

⁷ Apparently, in extremity of peril, without adequate means of assistance. Perhaps from O. Fr. '*jupper*,' to shout or cry aloud. '*Jupperty*,' in old Scots, signifies a dangerous enterprise, from O. Fr. '*jeu-perdu*—or rather, '*jeu-parti*,' a hazardous game.

⁸ Disencumbered himself of his cloak, by dropping it on the ground.

⁹ For *Monsieur*, as is afterwards explained.

¹⁰ Probably for 'yokit,' or engaged in combat.

'Jowkit,' would signify a dexterous evasion of thrusts; but there was no room in that apartment for such a display of the art of self-defence.

¹¹ Separated.

¹² Ever, continually.

¹³ Leaped, sprung.

Thomas protestit, in presens of God, that he nether was with my lord, nor with the Maister; nether hard spokin with any of thame, befor this twmult, nocht sax wordis, fourtene dayis of befor: And protestit lykvyis, in the presens of God, that he newer knew my lord nor the Maister to hawe pretendit¹ any thing aganes the Kingis persone: And forder protestit, that na suspitioune be tane of his name, as being callit Mr Thomas Cranstoune; becaus it is of weritie, that he passit furth of this cuntrie vponne the third day of Februar I^m.V^c. fourfcoir nyne yeiris, and retwrnit nocht thairefter thairto quhill the morne efter Peace-day,² in the yeir of God I^m.V^c. fourfcoir fewentene yeiris: Quha passing thairefter to France, quharfra he came hether, remanit quhill he come hame with the Erle of Gowrie. And in the mair verificatioune heirop, the said Mr Thomas subscrivit thir presentis with his awin hand.

(Sic subscribitur)

M. P. GALLOUAY, witness.

OLIPHER YOUNG, Bailze, witness.

A. RAY, Baliuus, witness.

MR THOMAS CRANSTON.

JAMES ADAMSONE, witness.

VILLIAME JAK, witness.

HENRIE ELDER, witness.

CRAIGENGELTIS DEPOSITIOUNE.³

AT FALKLAND, the xvj day of August, 1600. IN presence of my Lordis Chancellor, Secretar, Justice Clark, Comptrollar, Schir George Home of Spot, Schir Patrik Murray and Mr William Hert, Justice.

GEORGE CRAIGENGELT being examinat, Deponis as followis. DEPONIS, that he newir hard the Erll of Gowrie, sen his hamecuming, speik any thing anent the mislyking or revendge of his fateris deathe, nether in priuat or publict. Deponis, that he desirrit, at all tymes, Mr William Rind, quha had my lordis eare by⁴ ony man, to perswaid my lord to keip him self in the Kingis favour and obedience; in respect of jelosie that wes amangis thame: Quha anfuert, that he fould do all that he culd to perswaid my lord sa to do; and that it wes best sa to do.

Being inquirit, gif he, being in cumpany at the latter meit,⁵ befor my lordis ganging to Strabrand with Andro Henryfoun and Mr Williame Rind, said, that 'thair apperit to be sum elast⁶ betuixt his Maiestie and my lord; and that it wes verray meit it wer foirfene; and quhat fuld cum of it?' Anfuert, that he denyis it panielie, that euir he spak it or hard of sic a thing.

Denyis, that during my lordis being in Strabrand, nather yit in St Johnstoun,⁷ eftir his cuming fra Strabrand, he knew ony man or page to cum fra Court to my lord; or that he commandit to gif thame any meit or drink.

Deponis, that my lord and his broder vfit at all tymis maist familiar conference, quhen my lord had na vthir cumpany.

Deponis, that at my lordis being in Strabrand, Sandie Ruthven come fra Dunkeld to my lord: And that vpoun Fryday, my lord directit Capitane Ruthvene to ryde, and tell my Lady that he wes to cum; and Capitane Ruthven mett my lord at the cobill,⁸ and raid bak to Dunkeld with my lord; quhair he, having sownpit, returnit to his bed to Trochene, the deponer being in cumpany.

Denyis, that he knew any thing of the Maister or Andro Henryfonis ryding to Falkland, vpoun the Tyifday the sift of August. Declairis, that he wes lyand in his naikit bed that day; quhill eftir the Kingis cuming, that Thom Eldar and Johnne Barroun come till him and baid him ryife, and said 'the King wes cum.' Quhilk he did, and come to the kitecheing, quhair he fand na appeirance of meit for the King; and thairfoir fend out to Duncane Robertfonis house, quhair he gat a murefoule.⁹ And thaireftir, this deponar caufit mak reddu a schoulder of muttoun and a hen; quhilk wes lang in doing. And that he thaireftir went vp and brocht down sum straberries and dressit fyve or sex dischis of desert: And in the ganging vp the stair, met the Maister of Gowrie buittit, and inquirit at him, 'Quhair he had bene?' Quha anfuert, 'Ane eirand nocht far af.' And the deponar inquirit agane, 'Qubat movit

¹ Designed, plotted. ² 'Pais,' 'Pasche,' Easter. ³ From Original, among Warrants of Parliament.
⁴ More than. ⁵ Probably the last service or course, or the dessert at dinner. ⁶ Grudge, cause of offence;
literally, eye-sore. ⁷ Perth. ⁸ Ferry-boat. ⁹ Muir-fowl, grouse.

the King to cum fa suddanlie, vnlukit for?' Quha anfuert, that ' Robert Abircrumby, that fals knaiff, had brocht the king thair, to caus his Maieftie tak ordour for his debt.'

Deponis farther, that the Erll of Gowrie that day neur spak word to the deponare, nor defirit him to mak any prouiffoun for the Kingis cuming.

Deponis, that, eftir the Kingis dennar, he gart tak vp the Duk and the Erll of Maris dennar: Quhilk endit, he caufit James Erkin and the feruandis dyne; lyke as, the deponar fat doun with thame, and fat quhill thai hard a tumult on the gait. And then he and the rest at the table raife, and went altogidder to the cloife, quhair the deponar saw the Maifter lyand deid, at the fute of the Blak turnepyke; and that the deponar cryit then, ' Quhair is my lord?' And saw na body beyde the Maifter; and that he ran out at the zett, and mett my lord at the zett, cumand in with tua drawin fuordis in his hand, a knappifcall¹ bonat on his heid, and a cumpany of ten or tuelff with drawin swordis with him. Rememberis, that Mr Thomas Cranftoun and Hew Moncreiff wes with my lord, quha enterit togidder, with thair drawin swordis, in at the Blak turnepyke. And the deponar herd ane cry, ' Keip the zett!' Quhilk movit him to rin in about the nuke of the houfe, to the bak zett of the zaird,² to fe that na man ifchit that way; with whom past a nowmer of ten or tuelff raskallis of the toun. And the deponar being thair, Mr Thomas Cranftoun come till him, and baid ' Keip that zett!' And deponis, that lykuife that he saw Mr Williame Rind in the zard, and baid his fifter ga hir way. And that Mr Thomas and Mr Williame pairtit fra him thair, immediatelie, without forder speche. And that the deponar, having remanit thair a quhill, come bak to the cloife, quhair he saw Hary Ruthven cum doun the Blak turnepyke; quha said to the deponar, that ' my lord wes hurt vp in the chalmer.'

Being thaireftir inquirt, ' Quhair he gat the twa-handit sword, quhilk he had drawin in his hand?' Anfuert, that quhen he raife with the rest fra his dennar, hering the tumult, he past to the pantrie to feik his sword, quhair the Dur wes steikit;³ and fa he went vp to my lordis chalmer, quhair he fand the twa-handit sword; and come immediatelie doun to the cloife with it; and saw Mr Alexander Ruthven lyand deid in the Blak turnepyke, as said is.

Declaris, that he neur spak a word with Cryftie that day; or that euir he spak a word with him, of the fufpitioun betuix the King and my lord, at ony vther tyme.

Denyis, that he wes vp the Blak turnepyke ony tyme that day.

Denyis, that eftir the dennar, he baid Barroun or Cryftie the Portar follow him; or that he and they went in at the Blak turnepyke togidder.

Deponis thairefter, that Johne Barroun and Barroun Fandowie brocht the Maifter out of the chalmer, quhan he wes flaying, doun the Blak turnepk stair; and that the said John Barroun spak that to this deponare.

Deponis, that befoir my lordis ganging to Strabrand, vpoun a nycht at ix houris at evin, my lord gart ifche⁴ the chalmer, quhair remanit onlie Mr William Rind, Mr Thomas Cranftoun and a tailgeour; And that vpoun the morne thairefter, that Mr Williame Rind declairit to the deponar, that my lord wes feyand⁵ on a py dowblett,⁶ with⁷ the taill pecis for the wamb.

(Sic fubfcribitur)

G. CRAINGELT.

¹ Often written 'knapschaw,' and 'knapfchay.' A 'steel-bonnet,' or helmet, fitting close to the skull, of a round form. It seems often to have been fitted into the usual bonnet, or other head dress, and worn along with the 'secret,' or chain-mail, to avoid the appearance of being fully armed. ² Yard, garden. ³ Shut, fastened.

⁴ Make void or empty; he desired those in the chamber to retire, excepting, &c. ⁵ Trying, assaying. ⁶ Often called a 'Secret,' being a kind of chain or plate armour strongly quilted into the breast of the dress, for the sake of concealment. There have been many conjectures as to the meaning of the word 'py,' or, as it is more frequently written, 'pyne;' which appears to the Editor to be from O. Fr. *peigne*. 'Faire peigne,' to give one the slip, to elude by craft or stratagem, &c. Mr Arnot thinks it was so called, from being 'worn by pions or foot soldiers.'—*Trials*, p. 81. But there was no occasion for their armour being concealed. It is worthy of remark, that in the struggle between Mr Alexander Ruthven and the King, when Sir John Ramsay came to the King's rescue, the latter instantly exclaimed, 'Fy! strik him laich, becaus he hes ane pyne-dowlit vpoun him!' ⁷ The words, 'the theis (*thighs*) and,' are deleted from the Deposition.

THIS deponar, being re-examinat this day, at efternone, deponis, that the tumult raise at the end of the latter meit; and that he, with his Maiesteis officeris, ran furth of the hall; and that he went to the pantrie to feik his sword, and the dur being steikit, he went vp to my lordis chalmer, quhair he fand ane twa-handit sword, and come down immediatlie to the cloise, drew it and keist the skabert away, quhan he saw Mr Alexander lyand deid in the fute of the Blak turnpyke: And then immediatelie went to the zett, and mett my lord cumand in thairat, with tua drawin swordis in hand, and ane cumpany with drawin swordis with him. And that the deponar come bak to the cloise with him, quhill my lord enterit, and his cumpany with him, in at the Blak turnepyke; and then the deponar hard a cry gangand, 'Keip the bak zett!' Quhairvpoun he past to the bak zett; bot quha cryit, he knew not. Being inquirit, 'Quhy he went not vp with my lord, his maister, in at the Blak turnpyke?' Deponis, that the heiring of the cry, to gang to keip the bak zett, movit him to gang thair.

(Sic subscribitur)

G. CRAIGINGELT.

APUD EDINBURGH, *quarto die mensis Novembris anno domini millesimo sexcentesimo, per dominos Commissarios subscriptos, viz. Joannem Comitem de Montrose Cancellarium, Alexandrum Magistrum de Elphingstoun thesaurarium, D. Jacobum Elphingstoun de Barntoun secretarium, Petrum Episcopum Dunkelden., Jacobum Commendatarium de Inchechaffray, Edwardum Commendatarium de Kinlose, Marcum Dominum Newbuttil, Alexandrum Dominum Fyvie; Thomam Fischer et Georgium Hereott pro Edinburgh, Alexandrum Rutherford pro Aberden, Jacobum Forret pro Glasgow, Jacobum Drummond pro Perth; Commissarios s. d. n. Regis specialiter constitutos, per Commissionem, datum sub testimonio Magni Sigilli; Vnecum Thoma Scott deputato Mariscalli, Gulielmo Henrysoun et Gulielmo Hay pro Constabulario, Daniele Grahame et Joanne Frazer pro Vicecomite, et Thoma Cannaquhane adjudicatore.*

The Earl of Gowrie's Conspiracy—Forfeiture of the Brothers of the late Earl, &c.

NOV. 4.—WILLIAME RUTHVEN as brother and heir apparent to vmq^r Johne Erle of Gowrie, and Mr Alexander Ruthvene and his tutors and curators, &c.: ALEXANDER and HARIE RUTHVENIS, sonnes to vmq^r Alexander Ruthvene of Foreland, HEW MONCREIF, brother Germane to Williame Moncreif of that Ilk, PATRIK EVIOTT, brother to Colene Eviott of Balhouffie, and ANDRO HENRYSOUN chalmerlane of Scone.

The quhilk day Maister Thomas Hammyltoun, aduocat to oure Souerane lord, producit, in prefens of the saidis lordis Commiffionaris,¹ ane Summondis of Treafoun, dewlie execute and indorfat aganis Villiamie Ruthven, brother and apparent air to vmq^r Johne Erle of Gowrie and Maister Alexander Ruthvene, and the said Williames tutouris and curatouris, gif he ony hes, and all vtheris have-

¹ See Records of Parliament, Acta. 1600, fol. 192.

and or pretendand to have interes in the mater of Treassoun vnderwrittin ; to heir and sie it be fundin and declarit, that the saidis vmq^{le} Johne Erle of Gowrie and Mr Alexander Ruthven to haue committit Treassoun aganis our souerane lord, in bereving of his Maiestie of his lyfe, at Sanct Johnstoun, the fyft day of August last bipast. The quhilk summondis being callit thryse at the bar, and the said Williame Ruthven nawayes comperand ; and thairefter, Johne Blinself Ilay, herauld, comperit and maid fayth, that he lauchfullie summonit the said Williame Ruthven at the zett¹ of Dirltoun, vpoun the tuentie aucht day of August last bipast, and that vpoun the samyn day he summond him at the marcat croces of Edinburgh, Hadingtoun, schore and peir of Leyth ; and that vpoun the penult day of August, the yeir of God foirsaid, he summond the said Williame Ruthvene at the marcat croce of Perth, Scone, and Kinroschire, and his tutouris and curatouris, gif he ony hes, and all vtheris haveand or pretendand to haue enteres in the foirsaid actioun and cause of Treassoun ; and that he execute the samyn summondis of Treassoun at the samyn places, befoir William Ramfay trumpatar, Robert Eldar meffinger in Edinburgh, Thomas Wallis and Williame Baxter postis in Edinburcht, Daid Gray thair, and Daid Young thair, Vpoun the verificatioun of the executioun of the said summondis of Treassoun, and that the said Williame Ruthvene nor nane vtheris comperit in the said mater, the said Aduocat askit instrumentis.

And siclyk, the said Aduocat producit ane vther Summondis of Treassoun, rasit at the instance of oure souerane lord and his hienes Aduocat, aganis ALEXANDER and HARIE RUTHVENIS sonnes to vmq^{le} Alexander Ruthvene of Freland, Hew Moncreif brother germane to Williame Moncreif of that Ilk, Patrik Eviott brother to Colene Eviott of Balhouffie, (and Andro Henrysoun chalmerlane of Scone,²) to heir and sie thame decernit to haue committit Treassoun and Lefemajestie aganis oure souerane lord, at Perth, the fyft day of August last bipast ; as at mair lenth is contenit in the said summondis. The quhilk summondis being thryse callit at the tolbutth window, and nane of the saidis perfonas comperand, except the said Andro Henrysoun, quha, at command of the saidis lordis Commiffionaris of this present Parliament, wes brocht furth of the tolbutth of Edinburcht, and brocht and presentit be George Todrik baillie of Edinburcht befoir the saidis lordis Commiffionaris. And immediatlie thairefter, comperit personalie in presens of the saidis lordis Commiffionaris Johne Blinself Ilay herauld, and maid fayth that he lauchfullie summond the said Andro Henrysoun, personalie apprehendit within the said tolbutth of Edinburcht, vpoun the tuentie aucht day August last bipast ; and also, that he vpoun the penult day of the samyn moneth of August summond the saidis Alexander and Harie Ruthvennis, Hew Moncreif,

¹ Gate.² Afterwards ordered to be deleted.

and Patrik Eviott and the said Andro Henryfoun at the mercat croces of Perth, &c. Vpoun the verificatioun of the executionis of the foirlaidis summondis of Treassoun, and that nane of the foirlaidis perfones comperit to defend in the said mater, except the said Andro Henryfoun, the said Mr Thomas Hamyltoun of Drumcarne, aduocat to our souerane lord, askit instrumentis. And siclyk, the said Aduocat askit instrumentis that he presentlie producit, in presens of the saidis lordis Commiffionaris, oure souerane lordis Letter of Relaxatioun, gevin vnder his hienes signet, at Edinburcht, the thrid day of October lastbypast, berand, the said Williame Ruthven, Alexander and Harie Ruthvenis, Patrik Eviott and Hew Moncreif and Andro Henryfoun to be relaxit fra all Horningis execute aganis thame at the instance of quhatsumeuir perfones, at the mercat croce of Edinburcht, vpoun the tuentie day of October last bipast; and alsé, berand the saidis perfones to be relaxit from all Hornings, at the mercat croce of Perth, vpoun the tent day of October the yeir of God foirlaid; and lykwyes, to be relaxit, at the marcat croce of Hadingtoun, vpoun the last day of the famin moneth of October last bipast: The quhilkis Letter of Relaxatioun, executionis and indorsationis thairof, wer dewlie and lauchfullie registrat in the Schiref court buikis of the schirefdomes within the quhilkis they wer relaxit fra the saidis Horningis.

The lordis commiffionaris of this present Parliament Ordanis the said Andro Henryfoun to be tane to the tolbutth of Edinburcht, to be kept thair in waird as he wes ofbefoir: Quhilk Andro wes instantlie delyuerit to the said George Todrik baillie. Quhairvpoun the said Aduocat lykwayes askit instrumentis.

REGE ipso presente, cum omnibus regni statibus. Vnacum Francisco Comite Arrolie Constabulario Scotie, Georgio comite Mariscalli, et Daniele Grahame deputato vicecomitis de Edinburcht et Dauide Lyndesay adiudicatore.

Nov. 11.—The quhilk day, the said Maister Thomas Hammyltoun, aduocat to our souerane lord, of new producit the said summondis of Treassoun dewlie execute and indorsat, aganis WILLIAME RUTHVEN, brother and apperant air to vmq^{re} Johne Erle of Gowrie, and Maister Alexander Ruthven his brother, and the said Williames tutouris and curatouris, gif he ony hes, and all vtheris haveand or pretendand to haue interes in the said mater of Treassoun, to heir and sie it be fundin and declarit, that the said vmq^{re} Johne Erle of Gowrie and Maister Alexander Ruthvene his brother committit Treassoun aganis oure said souerane lord, in maner specefeit in the said summondis, vpoun the fyft day of August last bipast: The quhilk Williame Ruthven, his tutouris and curatouris and all vtheris haveand or pretendand to haue enteres, being thryse callit at the

tolbuth window, and the said Williame Ruthven nor nane vtheris in his name comperand to haue anfuerit to the said fummondis ; quhairvpoun the said Aduocat askit instrumentis. And thairefter, the said Johne Blinfell, Ilay Herauld, comperit personalie in presens of the Kingis Maiestie and estaitis, and maid fayth that he lauchfullie fummonit and warnit the said Williame Ruthven, at the place of Dirltoun, vpoun the xxvij day of Auguft last bipast ; and that vpoun the famin day he fummond him at the mercat croces of Edinburcht, Hadingtoun, and at the schoir and peir of Leyth : And alsé, that he vpoun the penult day of the said moneth of Auguft, fummond the said Williame Ruthvene at the mercat croces of Perth, Scone and Kinroschire, &c. : As the executionis thair of beris. Vpoun the verificatioun of the executionis of the quhilk fummondis of Treassoun, and that the said Williame Ruthven nor na vtheris in his name comperit nocht to defend in the said mater, the said Aduocat askit instrumentis.

And siclyk, producit ane vther fummondis of Treassoun, rasit at the instance of our said souerane lord and his hienes aduocat aganis Alexander and Harie Ruthvenis, sonnes to vmq^{le} Alexander Ruthven of Freland, Hew Moncreif, brother germane to Williame Moncreif of that Ilk, Patrik Eviot brother to Colene Eviot of Balhouffie and Andro Henryfoun chalmerlane of Scone, to heir and sie thame decernit to haue committit Treassoun and Lesemajestie aganis oure said souerane lord, at Perth the fyft day of Auguft lastbipast ; in manner contenit in the fummondis of Treassoun rasit thairvpoun. The quhilkis persones being thryfe eallit at the tolbut window, and nane of thame comperand, except the said Andro Henryfoun, quha comperit be Mr Thomas Henryfoun ane of the Commisaris of Edinburgh, quha producit this writting vnderwrittin, subscrivit be the Kingis Maiestie ; quhair of the tennour followes.

REX,

ADUOCAT, it is our will, and We command 3ow, that vpoun the sycht heirof, 3e delete Andro Henryfoun, chalmerlane to vmq^{le} John Erle of Gowrie, his name, furth of pe fummondis of Treassoun and Forfaltour, rasit and execute aganis him, ffor his being airt, pairt, red, counsaill and conceilling of the lait Treassoun, conspyrit be the said vmq^{le} Erle, his vmq^{le} brother and complices, aganis oure persone : As 3e will anfuer to ws thairvpoun : Keipand thir presentis for 3our warrand. Subscryuit with our hand, At Halyrudhous, pe xj day of November, 1600.

(Sic subscribitur)

JAMES R.

Conforme to the quhilk command, the said Aduocat instantlie delete furth of the said fummondis of Treassoun the said Andro Henryfoun, and scorit his name furth thair of. Quhairvpoun the said Maister Thomas Henryfoun askit instrumentis.

And thaireftir, comperit personalie in presens of the Kingis Maiestie and estaitis, Johne Blinfell, Ilay Herauld, and maid fayth that he lauchfullie fummonit and warnit the saidis Alexander and Harie Ruthvenis, Hew Moncreif and Patrik

Eviott, vpoun the penult day of August lastbipaft at the marcat croces of Perth, &c. Vpoun the verificatioun of the executionis of the foirfaid fummondis of Tref-foun, and that nane of the foirfaidis perfones comperit to defend in the faid mater, the faid Maifter Thomas Hammyltoun, aduocat to oure fouerane lord, askit instrumentis, &c.

REGE presente, &c.

Nov. 15.—The quhilk day, Mr Thomas Hammyltoun of Drumcarne, aduocat to our fouerane lord, producit in presens of the Kingis Maiestie and haill estatis of parliament, lykas he did diuerse tymes ofbefore the faid tua fummondis of Treassoun, &c., the quhilkis tua fummondis, reffones and causes thairin contenit, being first red in presens of the Kingis Maiestie, and in presens of the Lordis of Articles,¹ they fand baith the samyn fummondis relevant. And thair-estir, this instant day, baith the saidis fummondis of Treassoun being red in presens of the Kingis Maiestie and haill estaittis, and the faid William Ruthven, his tutouris and curatouris, and all vtheris haveand, or pretendand to haue, enteres; the saidis Alexander and Harie Ruthvenis, Patrick Eviott and Hew Moncreif, being thryse callit at the tolbutth window, and nane of them compe-rand, the saidis haill estaittis fand baith the saidis fummondis, reffones and causses thairin contenit relevant; and thairfoir they admittit the samyn to the faid Aduocattis probatioun. And immediatlie thaireftir, the faid Aduocat, for preving of the pointis of baith the saidis fummondis of Treassoun, producit the Lettre of Horning, dewlie execute and indorfat aganis the saidis Alexander and Harie Ruthvenis, Hew Moncreif and Patrik Eviott, and that they were denun-cit rebellis and put to the horne, for the crymes of Treassoun thairin contenit. And repetit the haill Depofitiounis of the witnesses examinat befor the Lordis of Articlis: And the Depofitionis of vmq¹⁶ Mr Thomas Cranftoun and George Craingingelt; and thair executioun to the death, for the foirfaid cryme of Treaf-soune. And last, the faid Aduocat repetit the notorietie of the deid of the faid Treassoun, togidder with the haill circumstances of the faid mater; and renun-cit forder probatioun for preving of the pointtis of baith the saidis fummondis of Treassoun; and desyrit the faid proces to be advyfit. And thairvpoun the faid Aduocat askit instrumentis.

The quhilk day, the faid Aduocat, eftir that he had repetit and producit all

¹ LORDIS OF THE ARTICLES. EPISCOPI, Dunkelde, Brechinen.—ABBATES, Halyrudhous, Lundo-ris, Blantyre, Inchaffray, Kinlofe, Townglade.—COMITES, Lennox, Arroll, Marfchall, Mar.—DOMINI, Setoun, Levingftoun, Newbuttill, Fyvie.—BARONES, Sir James Hamyltoun, Innerweik for Hadingtoun, Craighall for Fyff, Kinnard for Forfar, Drum for Kincardin, Inchemartine for Perth, Tutour of Cromartie for Cromartie.—COMMISSARIJ BURGURUM, Thomas Fischer and George Hereott for Edinburgh, Constable of Dundie for Dundie, James Drumond for Perth, Alexander Rutherford for Aberdene, James Forrest for Glasgow, George Bruce for Culrose, Laird of Darfie younger for Sanctandros, Johne Williamfoun for Striviling.

his probationis to the saidis hail Estaitis, quihilkis he wald vse, for preving of the pointis of the saidis summondis of Treassoun, rasit and persewit at the instance of our said souerane lord and his hienes Justice, aganis the said Williame Ruthven, bruther and apperant air to the said vmq^{le} Johne Erle of Gowrie and Alexander Ruthven his brother, his tutouris and curatouris, and all vtheris haveand, or pretendand to haue interes, in the mater of Treassoun vnderwrittin; quhairby they wer summond to haue comperit befor our said souerane lord and his Estaitis of Parliament, at ane certane day bigane, with continewatioun of dayes, to haue ansuerit to the pointis and crymes of Treassoun and Lesemaiestie contenit in the saidis summondis: Off the quhilk summondis the tennour followes:

SUMMONDIS of TREASSOUN aganis WILLIAM RUTHVEN, as bruther and apperent air to vmq^{le} Johne Erle of Gowrie, and Alexander Ruthven his brother.

JACOBUS, Dei gratia Rex Scotorum, dilectis nostris Leoni Regi Armorum, Merchemount, Ilay, Rofs, Rothesay, Albanie, et Snawdoun, Heraldis; Roberto Stewart, Dauidi Bryfoun, Alexandro Dowglas et Jacobo Chalmeris, clavigeris; Ormount, Bute, Vnicorne, Carrik, signiferis, nuncijs ac eorum cuilibet, coniunctim et diuisim, vicecomitibus nostris in hac parte, salutem. Mandamus vobis et precipimus, quatenus summonetis legitime et peremptorie, coram testibus, Willielmum Ruthvene fratrem et heredem apparentem vel successorem quondam Joannis Comitis de Gowrie et quondam Magistrum Alexandri Ruthven sui fratris, personaliter, si eius personalem presentiam commode habere poteritis, alioquin apud locum sue habitationis; si vero extra regnum nostrum fuerit, quod summonetis dictum Willielmum Ruthvene et omnes et singulos eius tutores et curatores, si quos habet pro suo interesse, necnon omnes et singulos alios interesse habentes seu pretendentes, per publicam proclamationem, apud cruces forales burgorum nostrorum de Edinburgh, Hadingtoun, Perth, aliaque loca necessaria, super premonitione sexaginta dierum, ita quod hujusmodi summonitio ad eorum aures et notitiam verefamiliariter peruenire poterit, ad comparandum coram nobis nostroue Justiciario quarto die mensis Nouembris proxime futuri, hora causerum, cum continuatione dierum, in Parlamento nostro tenendo apud Edinburgh primo die dicti mensis Nouembris sequentis, ad respondendum nobis seu nostro Justiciario in prefato Parlamento, ad videndum atque audiendum, per nos et trium regni nostri statuum decretum et sententiam decerni, dictos quondam Joannem Comitem de Gowrie et quondam Magistrum Alexandrum Ruthven eius fratrem, crimen Lesemajestatis in ipsorum vita commisisse. PROPTEREA quod, omni Dei metu, Principis respectu, et legum rejecta reuerentia, nostrorumque immemores beneficiorum, qui ob paterna crimina Majestatis damnatos ab exilio, infamia et egestate reductos, ad summas opes summosque honores ereximus, ingenitum tamen in nos prodentes odium, incredibilemque nostram benevolentiam, incredibili atque inaudita ingratitude compensantes, in mense Julio proxime preterito, et initio Augusti instantis, proditionem nostram pernitiam et necem conspirarunt: Quoque scelerata et nefaria consilia facilius exequerentur, dictus quondam Joannes Comes de Gowrie, quinto die Augusti instantis, dictum quondam Magistrum Alexandrum Ruthven fratrem suum Falcolandiam summo mane misit, vt nobis persuaderet, se, incio dicto Comite fratre suo, ingentem auri vim ab obscuro homine quodam repertam detexisse, ac thesaurum ipsum repertoremque eius clam omnibus artiffime mandasse custodie, donec omnia pro nostro jure nobis declararet, sperare autem nos talis sui erga nos officii memores et auri portione et omni alio fauore se remuneraturos, expedire vero ad vitandum

suspicionem, ut sine ullo comitatu, prohibeat sequi domesticorum solita turba, Pertham secum proficisceremur; quo in suam nos potestatem ex animi sententia redactos minori negotio trucidarent. Cuiusquidem tragedie mandatas sibi partes, dictus quondam Magister Alexander, incredibili calliditate et confidentia, agens suavissima oratione vultuque ac verbis benevolentiam, reuerentiam, fidem humillimumque erga nos obsequium spondentibus, quod cupit facile persuadet, Nosque, nihil vel fraudis vel periculi subesse suspicantes, paucissimis, iisque inermibus, comitati ferius inparatas ducentem insidias, sicuti Pertham contendimus. Comes interim nos adventare stipatoribus, armis, aliisque omnibus ad defensionem necessariis destitutos, primo per Andream Henderfoun, secundo per Andream Ruthvene, per dictum Magistrum Alexandrum premissos, monitus, ac postremo per ipsum Magistrum Alexandrum certior factus, et execrandam Conjuracionem callidissime dissimulans, obuiam nobis extra urbem progressus, intra menia et sedes suas detestando facinori destinatas perfide deduxit: Ibi dum prandii specie aliquandiu, donec omnia ad cedem necessaria pararentur, detinet, in secretius cubiculum cum dicto quondam Magistro Alexandro fratre suo et dicto Andrea Henderfoun, quem lorica et galea armare se iusserat, ingressus, dicto Andree imperat, ut quicquid dictus Magister Alexander iuberet strenue exequeretur; ipsumque Andream quid imperare vellet curiosius sciscitantem, obserato ostio, donec ipsi ad perpetrandum facinus redirent reliquit. Ac rebus ita dispositis, dictus quondam Magister Alexander ad dictum cubiculum, magnifica se ibi promissa perfecturum affirmans, nos facile attrahit: Vero Comes, quo omnem omnino opem auxilij spem nobis in tanto discrimine eriperet, rumorem de nostro per posticum subito decessu, per certos familiarum suorum spargens, eumque dictus Comes et Magister Thomas Cranstoun eius seruus, verum esse charissimis consanguineis nostris Ludouico Lennoxie Duci et Joanni Marrie Comite paucisque alijs domesticis nostris qui forte aderant impudenter asseverantes; ut comitea nostri ita decepti, citatis equis, ex vrbe prorumpentes Falcolandiam, quo nos contendere dictus Comes affirmabat, celerrime sequi niterentur. Dictus interim quondam Magister Alexander, multis a tergo obseratis ostiis, ad illud tandem conclave in quo dictum Andream Henderfoun armatum, ut diximus, in insidijs locaverat, nos perduxit, scelestissimoque perpetrando facinori tunc aduenisse tempus ratus, tecto capite, in nos proditorie irruit, ac fedissimis prosequutus conviciis presentem mortem admoto ad jugulum nostrum pugione minatus est: Nos vero et resistere quantum inermibus licuit, et persuadere nitentes, ut a seuo detestando et proditorio scelere, sine vlla iusta causa aut vllius boni futuri spe suscepto, desisteret et ad saniora consilia rediret; promissa etiam attemptate Proditionis si recipisceret venia, rapidum perditissimi hominis furorem paulatim ita retudimus ut se Comitem quid de nobis statuere vellet consulturum responderet; et in dicto cubiculo, captiuos nos obserato post se ostio relinquens: Moxque rediens, moriendum instanter nobis esse pronunciauit, ac colligari manus nostras, quo vincum facilius interficeret, vocato ad auxilium suum dicto Andrea Henderfoun, conatus quum mori potius quam talem ferre ignominiam, paratos nos et strenue resistentes cerneret enses stringere, nosque eo conficere proditorie parans, nos, nullis armis, nullis comitibus sed sola Dei Omnipotentis operes fulti, fortiter resistere cepimus: et manus illius firmiter retinentes, post diurnam luctam, cubuli fenestram que precipuam Parthie plateam respicit, eo invito, apperimus, et dictos nostros fidos consanguineos Ludouicum Lennoxie Ducem, Joannem Marrie Comitem, qui ibi forte equos suos ut nos consequerentur expectabant cernentes, ad auxilium aduersus horrendam Proditionem, et vim vite nostre aliatam vocavimus: Cumque illi de nostra magis quam sua salute solliciti in neglecto discrimine celerrime procurerent: Pervenire tamen ad dictum cubiculum, tot ostijs, per dictum Magistrum Alexandrum de industria oclusis, nequiverunt, donec mira Dei Omnipotentis misericordia, fidelissimus nobis adolescens ac familiaris seruus Joannes Ramsay, alio aditu forte ascendens, dicti cubuli ostium aliud, quo dictus Andreas Henderfoun horrore suscepti facinoris territus profugerat, apertum reperiens ingressus, ac vite nostre a dicto quondam Magistro Alexandro vim intentam cernens, opem strenuissime tulit; et aliquot vulneribus dicto Magistro Alexandro inflictis, nobis iuuantibus cubiculo eiecit. Dictus autem quondam Joannes Comes de Gowrie, dum paucos qui forte aderant domesticos nostros auxi-

Iſtum nobis ferre parantes perſpicit, omni tandem reiecta diſſimulatione, delibratum facinus propriis manibus perpetrare, nobiſque preſentem mortem inferre decrevit, atque duobus ſtrictis enſibus ipſe armatus, et centum aut eo circa ſtipatus conſciis, qui gladiis, lanceis aliſque armis omnes muniti erant, a Via in aream edium ſuarum irrumpens, recta ad cubiculum in quo incluſos nos eſſe noverat properavit, dictumque Joannem Ramſay, Dominum Thomam Erkeyne et Hugonem Heres medicum, experte omnes erga nos fidei ſervos, qui forte accurrerant vitam ſuam pro noſtra ſalute profundere, et aditu dicti cubiculi in quo tunc eramus, dictumque quondam Comitem prohibere nitentes, proditorie invadens, dicto Magiſtro Thoma Cranſtone, Hugone Moncreif, Alexandro et Henrico Ruthvenis, Patricio Eviott, multiſque alijs domeſticis et conſanguineis ſuis ſtipatus ferociter repulit, et dictum cubiculum in quo nobiliſſima ſacraſſimaque perſona noſtra tunc fuerat, dictis noſtris fidelibus ſervis propugnantiſſimis ſummo impetu repulſis, et vi ingreſſus, ac nos ad cedem immaniſſime ac proditorie perſequens, dictos noſtros fideliffimos ſervos multis vulneribus faucios, fere oppreſſit; nec aliter a deteſtande Proditionis feroci ac pertinaci executione deſtitit, quam a dictis noſtris fideliffimis ſervitoribus conſoſſus cecidit priuſque immanis anima corporis ſedem quam deteſtande nefarie et horrende Proditionis conſilium et executionem deſeruit. Hincque dicti quondam Joannes Comes de Gowrie et quondam Magiſter Alexandro Ruthven eius frater, crimen proditionis et Leſemajeſtatis commiſerunt, contra nos, regalemque noſtram authoritatem, et in apertam legum omnium violationem. **ET PROPTEREA**, dictus Willielmus Ruthven, frater et heres apparens vel ſucceſſor dictorum quondam Joannis Comitis de Gowrie et quondam Magiſtri Alexander ſui fratris, omneſque tutores et curatores dicti Willielmi, ſi quos habet pro ſuo intereſſe, omneſque alij intereſſe habentes ſeu pretendentes, ad videndum et audiendum, per nos et trium regni noſtri Statum in Parlamento decretum decerni, quod dicti quondam Joannes Comes de Gowrie et quondam Magiſter Alexander Ruthven eius frater, crimina Leſemajeſtatis et Proditionis preſcripta in ſua vita commiſerunt: Ideoque nomen, memoriam, et dignitatem dictorum quondam Joannis Comitis de Gowrie et quondam Magiſtri Alexandri Ruthven ſui fratris extinctum eſſe et fore decerni, armaque et inſignia ſua de libro Armorum et Nobilitatis deleri, ac cancellari, itaque ipſorum poſteri ab officiis, honoribus, dignitatibus, ſucceſſionibus, poſſeſſionibus, boniſque omnibus, mobiliſque et immobiliſque, juribus, titulis, ſpe ſucceſſionis, et alijs quibuſcunque in hoc noſtro regno gauden. et poſſiden. ſeu vilo modo claman. ſint inhabiles et incapaces dehinc imperpetuum; atque omnia bona, terras, redditus, officia, beneficia, honores, dignitates, ſucceſſiones et ſucceſſionum ſpem omnem et apparentiam, jura, titulos, poſſeſſiones, aliaque jura et bona, mobilia et immobilia, et alia quecunque, que ad dictos quondam Joannem Comitem de Gowrie, et Magiſtrum Alexandrum Ruthven eius fratrem ſpectabant, aut vilo jure, titulo, ſucceſſionis ſpe, poſſeſſione, aut alioquouis modo ſpectare vel pertinere poterant, conſiſcari, in nos devolvi, ad nos pertinere, et nobiſcum deinceps in proprietate perpetuo remanere. Intimando dicto Willielmo Ruthven heredi apparenti aut ſucceſſori antedict. dictiſque tutoribus et curatoribus ſuis, ſi quos habet, aliſque omnibus intereſſe haben. vel habere pretenden. ſue compareant ſue non, dictis die et loco, cum continuatione dierum, nos et Juſticiarius noſter nihilo minus, Juſticia mediante, procedemus et procedet. **INSUPER** citetis Magiſtrum Joannem Moncreif advocatum, Alexandrum Blair Juniorem de Balthiok, Georgium Hay de Nethertoun Priorem de Charterhous, Robertum Grabam de Thornik, Joannem Grahame de Balgoun, Andream Hay Ballium de Perth, Alexandrum Peblis burgenſem ibidem, Joannem Murray de Arbeny, Willielmum Robertſon notarium in Perth, Gilbertum Richardson ibidem, Willielmum Rynde ibidem, Davidem Rynde ibidem, Joannem Rentoull ibidem, Georgium Forreſt ibidem, Thomas Burrell ibidem, Henricum Leyis ibidem, et Robertum Cryſtie janitorem quondam Comitis de Gowrie; Ludouicum Lennoxie Ducem, Joannem Comitem Marrie, Patricium Commendatarium de Lundoris, Joannem Grahame de Vrqahill, Dominum Thomam Erkene de Gogar, Dominum Joannem Ramſay, Dominum Hugonem Heres milites, Robertum Galbraith, Robertum Broun, Jacobum Boig, Jacobum Liddell et Joannem Boig in *lie aill-cellar*, Magiſtrum Petrum Hay, ad comparandum coram nobis, noſtrou Juſticiario, dictis die loco

rum continuatione dierum, ad perhibendum fidele testimonium in causa predicta, sub pena legis: Et presentes literas debite executas et indorsatas lateri earundem reddatis. Et vos qui presentes executi fueritis, fitis ibidem dictis die et loco, coram nobis vel dicto nostro Justiciario, portantes vobiscum summationis vestre testimonium in scriptis, pro premiffis, seu ipsos testes. Ad quod faciendum, vobis et vestrum cuilibet coniunctim et diuisim vicecomitibus nostris in hac parte committimus potestatem. Datum sub testimonio nostri magni sigilli. Apud Edinburghe vicefimo sexto die mensis Augusti anno domini millesimo sexcentesimo et regni nostri anno tricesimo quarto.

Followis the EXECUTIONIS of the foirsaid Summondis.¹

Vpon the xxvij day of August, the 3eir of God J^m and sex hundreth 3eiris, I Johne Blinfcshell, Ilay Herauld, ane of the schireffis in that pairt within constitute, past, at command of thir our souerane lordis lettres and summondis of Treassoun, to the duelling hous of Alexander Adamesoun in Edinburgh, in vmq^{le} M^r Thomas McCalzeans close, quhair Williame Ruthven, brother and apperant air or successour to vmq^{le} Johne Erle of Gowrie, and vmq^{le} Maister Alexander Ruthven, his brother, maid residence; and lykwayes, to the Castell of Dirltowne, quhair the said Williame resortit and maid sumtyme residence with Dame Dorathie Stewart, Countes of Gowrie, his mother, becaus I culd nocht apprehend him personalie; and at euerie ane of the saidis duelling houffes rex^{us}, with my displayit coitt of armes and found of trumpett, estir I had knokit sex feuerall knokis at euerie ane of the saidis duelling houffes rex^{us} be vertew of the saidis lettres, in his hienes name and authoritie, I summond, warnit, and chargit the said William Ruthvene, &c.

THE said Maister Thomas Hammiltoun of Drumcarne, aduocat to oure souerane lord, desyrit the saidis Estaitis declaratioun, giff the ressoun of the said summondis wes relevant aganis the said Williame Ruthvene, quhilkis Estaitis all in ane voce stand the samin relevant aganis the said Williame: Thairfoir the said Aduocat, of new, for verifeing of the said ressoun contenit in the said summondis of Treassoun, producit and repetit the saidis Lettre of Horning, execute and regiftrat aganis the said Williame Ruthven, the hail Depositionis of the witnesses examinat befor the Lordis of Articlis, with the Depositionis of the saidis vmq^{le} Maister Thomas Cranfoun and George Craingingelt, thair executionis to the death for the samin crymes, the notorie of the said fact of Treassoun and hail circumfances of the said mater; and alse repetit the hail vther probationis repetit be him of befor in the said mater this instant day; and desyrit the saidis Estaitis of Parliament to advyse the probationes foirsaidis, led and deducit in the said mater, and to pronunce thair Sentence of Parliament thairintill, according to the samin probationes and thair consciences. And thaireftir, the hail wryttis and probationes being red, sene and considerit be the hail Estaitis of Parliament, in presens of the Kingis Maiestie, and they thairwith being ryplie advyfit, the saidis Lordis and Estaitis of Parliament findis, decernis and declaris that the saidis vmq^{le} Johne Erle of Gowrie and Maister Alexander Ruthvene, his brother, committit and did oppin and manefest Treassoun aganis oure said souerane lord, in all pointis, articles and maner contenit in the said summondis: And thairfoir it wes gevin for dome, be the mouth of Dauid Lyndesay, dempfter of Parliament, in manner and forme as followes:

SENTENCE against the deceased EARL OF GOWRIE and MR ALEXANDER RUTHVEN, &c.

THIS COURT of Parliament schawes for law, that the saidis vmq^{le} Johne Erle of Gowrie and vmq^{le} Maister Alexander Ruthven, his brother, committit the foirsaid cryme of Treassoun and Lese-majestie, in thair lyfetymes, aganis our souerane lord and his authoritie royall, in maner at lenth contenit in the said summondis: And thairfoir decernis and declairis the name, memorie and dignity of the said vmq^{le} Johne Erle of Gowrie and vmq^{le} Maister Alexander Ruthven, his brother, to be extinguifchit, and thair armes to be cancellat and delete furth of the buikis of armes and nobilitie, sua that

¹ A small portion of one of the 'Executions' is here given, to show the solemnities, and 'the pomp and circumstance of state' then prevalent, in all official 'charges' for Treason. It is unnecessary to insert the whole of the Executions. They are all in the same style.

thair posteritie fall be vnhabill and incapabill in all tyme cumming to bruik, posses or inioy any offices, honouris, digniteis, successionis, possessionis, and all gudis, moveable and immoveable, richtis, titillis, hope of successioun, and vtheris quhatfumeuir, within this realme; and all gudis, landis, rentis, offices, benefices, honouris, digniteis, hope and apperance of successioun, richtis, titillis, possessionis and vtheris gudis and geir, moveable and immoveable, and vtheris quhatfumeuir, quhilkis ony wayes pertenit to the saidis vmq^{le} Johne Erle of Gowrie and vmq^{le} Maister Alexander Ruthven, his brother; or quhilkis, be ony richt, titill, hoip of successioun, possessioun, or ony vther maner of way, nicht haue belangit and pertenit to thame, to be confiscat, devoluit in oure souerane lord, and to appertene to his hienes, and in all tyme cuming remane in propirtie with his Majestie for euir. And forder, his Majestie and Estaitis soirsaidis, in detestatioun of the said horribill, vnnatural and vyill Treassoun attemptit be the saidis vmq^{le} Johne sumtyme Erle of Gowrie, and vmq^{le} Maister Alexander Ruthven, aganis his hienes awin lyfe, Decernis, statutis and ordainis, that the dead bodeis of the saidis Treatouris fall be caryit vpoun Moninday nixt to the mercat croce of Edinburcht, and thair to be hangit, quarterit and drawin, in presens of the hail peopill; and thairestir the heidis and quarteris of their carcages to be affixit vpoun the maist patent pairtis and places of the burrowis of Edinburcht, Perth, Dundee and Striviling. And this I give for dome.

SUMMONDIS of TRESSOUN aganis ALEXANDER and HARIE RUTHVENIS, sones to vmq^{le} Alexander Ruthven of Freland, PATRIK EVIOTT and HEW MONCREIF.

JACOBUS, Dei gratia Rex Scotorum, dilectis nostris Leoni Regi Armorum, Ilay, Albanie, Ross, Rothofay, Snawdoun, Merchemount, Heraldis; Roberto Stewart, Daudi Brysoun, Alexandro Douglas, Jacobo Chalmeris, clavigeris; Ormound, Bute, Vnicorne, Carrik, signiferis, Nuncijs, et eorum cuilibet coniunctim et diuisim, vicecomitibus nostris in hac parte, salutem. Mandamus vobis et precipimus quatenus summoneat is legitime et preemtorie, coram testibus, Alexandrum Ruthven et Henricum Ruthvene filios legitimos quondam Alexandri Ruthven de Freland, Hugonem Moncreif fratrem Willelmi Moncreif de eodem, Patricum Eviott fratrem Colini Eviot de Balbouffe, Conspiratores, perpetratores et celatores criminum Lesemajestatis subsequenti, personaliter si eorum personales presentias habere poteritis, alioquin apud loca suarum habitationum, et per publicam proclamationem apud cruces forales burgorum nostrorum de Edinburcht, Perth, Hadingtoun, aliaque loca necessaria, degentes autem vel existentes extra regnum nostrum, seu certum nullum domicilium habentes, apud dictos cruces forales, aliaque loca necessaria, super premonitione sexaginta dierum, ita vt huiusmodi summonitio ad eorum aures et notitiam veresimiliter peruenire poterit: quod compareant coram nobis seu Justiciario nostro quarto die mensis Nouembris proxime futuri, in nostro Parlamento apud Edinburgh, primo die dicti mensis tenendo, hora causarum, cum continuatione dierum, ad respondendum nobis nostroue Justiciario in presato Parlamento, super Proditoriis criminibus subsequenti; dictas, viz. personas et eorum quemlibet, pro sua proditoria arte, parte, consilio et auxilio, nefaria et execranda Conspiratione, consultatione, conclusione et perpetratione horrende seuissimeque Proditionis, contra nobilissimam et sacratissimam nostram personam et vitam, per dictas personas et quondam Joannem Comitem de Gowrie, quondam Magistrum Alexandrum Ruthvene eius fratrem, quondam Magistrum Thomam Cranftoun et Georgium Cragingelt eius seruos, aliosque suos complices, ipsorum nomine, ex sua causatione, mandato, assistentia, et ratihabitione, quinto die Augusti instantis, modo subsequenti, commisse et perpetrate. Cum enim dictus quondam Joannes Comes de Gowrie et dictus quondam Magister Alexander Ruthvene eius frater, eximia nostra beneuolentia, innumerisque cumulati beneficiis, inaudita atque incredibili ingratitude, in nostram perniciem Coniurassent; dictusque Comes dictum quondam fratrem Falcolandiam ad nos, dicto quinto die Augusti, misisset, vt eximii commodi obiecta nobis spe Pertham nos alliceret, additis ei Andrea Henderfoun et Andrea Ruthven, itineris socijs, qui dicti Magistri Alexandri iussu de nostro se responso celerrime monerent, dictusque quondam Magister Alexander sus-

ceptas in se tragedii partes tam callide et simulate egisset, ut nos, omni prorsus suspitione vacuos, facile in suam sententiam pertraxerat, et solita comitum turba sequi prohibita, Pertham secum deduxerat: Premisso interim dicto Andrea Henderfoun, qui nos adventare premoneret; Comes vero, dicto Andrea letica, galeo, gladio armare sese iussu, Andree Ruthven adventum expectat, atque ab eo etiam adventare nos certior factus, nec vultu tamen nec verbis se tali quiequam scire pre se ferens, more solito providere incipit: Ac tandem per ipsum Magistrum Alexandram, nos apud portam vrbis adeste monitus; obviam procedit et in edes suas proditorii facinoris destinatas ducens, prandij specie aliquandiu detinet, donec dictum Andream Henderfoun cum dicto quondam fratre in secretius cubiculum vocat; ibique dicto Andree imperat, ut quicquid dictus Magister Alexander juberet sedulo exsequeretur: Et repente ad nos reuersus, paucos familiarum qui nos sequuti erant primo ad prandium: Mox, eo finito, ad hortum, ab ea edium parte remotum, eo consilio invitat, ut nullis arbitris, dictus quondam Magister Alexander, qui prestare que promiserat se velle simulans, ad dictum cubiculum nemine familiarium nostrorum consilio, nos attraxerat, ut securius, sine strepitu vilo, vlloue impedimento, nos conficere posset. Cumque dictus Comes, quo omnem prorsus auxilii spem nobis eriperet, falsum rumorem per quondam Magistrum Thomam Cranstoun, seruum suum, de nostro subito descessu sparsisset, nostrique omnes familiares, ipso quoque Comite, adhibito iurejurando, id affirmante, verum esse credentes, in viam precipites prorumperent, ut concensis equis, citato nos cursu Falcolandiam sequerentur. Dictus, interim, Magister Alexander omnia pro voto successisse, tempusque perpetrando facinori advenisse ratus, multis post se obsecratis ostiis, ad dicti cubiculi conclave nos ducens, dicto Andrea Henderfoun armato prodeunte, dictus Magister Alexander ferociter et proditorie in nos irruit, fedissimisque et falsissimis profcindens conviciis, admoto ad jugulum nostrum pugione, presentem naecem minatus est: Nos vero, comitibus, armis, omnique alia humana ope destituti, ac soli Diuini naminis auxilio fulti, gravissima oratione, et si desisteret et ad saniora consilia rediret, promissa etiam Proditionis impunitate, iniquissimi hominis furorem paulatim ita repressimus, ut cum fratre consularum se, quid de nobis statuere vellent, dixerit; et, iurejurando prius a nobis extorto, captiuos nos silentesque in suum reditum in dicto conclavi remansuros, obsecrato post se ostio, nobis inclusis, egressus; breuissimaque interposita mora, rediens, moriendum nobis instanter pronunciauit: Cumque proditorie colligare nobis manus, quo minori negotio victos interimeret, niteretur, nosque strenue resisteremus enses suos dextera stringere, sinistra vero nocem nobis precludere faucesque abstruere cepit; nos vero, Dei Omnipotentis presenti ope confirmati, ac fortiter reluctantes, invito eo, ad fenestram que precipuam vrbis plateam respicit prevenimus, ibique dilectos nostros consanguineos Ludovicum Lennoxie Ducem et Joannem Marrie Comitem conspicientes, qui illic forte equos ut nos consequerentur expectabant ad ferendum nobis aduersus horrendam Proditionem et presentem mortem auxilium, vocauimus: Illi autem, tam imperate Proditionis immanitate percussi, cum ad opem nobis ferendam eelerrime qua nos conscendisse audierant, tot ostijs per dictum quondam Magistrum Alexandrum, de industria oclusis, frustra procurrerent; benigno tandem haud dabis Dei Spiritu ductore, familiaris noster Joannes Ramsay, adolescens, insolita forte conscendens via per aliud dicti cubiculi ostium, quod dictus Andreas Henderfoun, proditorii facinoris horrore attonitus, ut se inde proriperet, nuper aperuerat, ingressus, ac dictum quondam Magistrum Alexandrum mortem nobis pertinaciter intentantem cernens, aliquot inflictis ei vulneribus, nobis adjuuantibus, vix e cubiculo expellere potuit; cum dictus quondam Comes, detectam nostro clamore Coniurationem perspiciens, quod frater non potuit propriis ipse manibus perficere, desperato et proditorio animo properat, et strictis duobus quos gesserat ensibus, e via in aream edium suarum, centum aut eo circa stipatus conscis armatis, irruit, ac dicto quondam Magistro Thoma Cranstoun prevnte, dictus quondam Comes, dictique Alexander et Henricus Ruthvene, Hugo Moncreif, Patricius Eviot aliique eorum complices, recta ad cubiculum in quo nos antea inclusos noverant prorumpentes, nullo nobis ad respirandam, nullo domesticis ad opitulandum dato spacio, dictum Joannem Ramsay, Dominum Thomam Erskyne et Hugonem Heres medicum, qui soli forte ex nostris accederant et aditu cubiculi dictos proditores

prohibere conabantur, seuissime invadunt, ac summo impetu, iis repulsis, cubiculum vi ingressi nosque ad cedem rapidissime querentes, dictos nostros fidelissimos seruos, pro nostra salute fortissime dimicantes, multis illatis vulneribus, fere oppresserunt; donec dicto Comite confosso, dictisque quondam Magistro Thoma Cranstoun, Hugone Moncreif et Patricie Eviott, aliquot vulneribus faucis, e cubiculo expulsis, ad aream confugere coacti fuerunt; ibique convocato perditissimorum hominum ingenti multitudine, aditus omnes edium occluserunt, dispositisque vndique presidijs, proditorie nos obsidione cinxerunt; et trabem, vt ostia confringerent, adferentes, pulverem etiam tormentarium querebant, quo edes in quibus nos obsidebant ex fundamentis convulsas atque in aerem sublatas subverterent proditorie, nosque et dictos nostros confanguineos et familiares, aliosque fideles subditos nobiscum obsessos, incendio et ruina obrutos proditorie necarent; crucem etiam, et laqueos ac fedissima omnia alia mortis genera, iis omnibus qui nobiscum edes propugnabant seuissime minati: Aliquot etiam e nostris vulneratis ad mortem fere, in obsidionis proditorio proposito perseverauerunt, donec augente fidelium subditorum ad nos concursu conjurati, omnibus contra improbam ipsorum spem succedentibus, paulatim sese subducere coacti sunt: Hincque dicte persone, et earum quelibet, crimen Lesemajestatis contra nos, regalemque nostram auctoritatem et leges commiserunt. IDEOQUE dictus Alexander Ruthvene, Henricus Ruthvene eius frater, Hugo Moncreif et Patricius Eviot, Conspiratores, proditorique executores et celatores facinorum predictorum, ad videndum et audiendum sese et eorum quemlibet respectiue, premissa crimina Lesemajestatis commisisse, per nos et trium regni nostri Statuum decretum decerni et declarari; et super predictis et pluribus aliis rebellionibus, transgressionibus et proditoriis criminibus, per ipsos respectiue, contra nos, regnum nostrum et auctoritatem regiam, impie et nefarie perpetratis, dictis die et loco, cum continuatione dierum, proponendis et ostendendis, respondendum ac Juri parendum; et super ipsdem Judicium nostrum et Parliamenti nostri secundum leges regni nostri expectandum et subeundum, dictas viz. personas, Conspiratores, perpetratores et celatores criminum predictorum rex^m ad videndum et audiendum sese et eorum quemlibet, intuitu premissorum, crimen Proditionis et Lesemajestatis incurrisse, per nos et trium regni nostri Statuum decretum decerni et declarari; et propterea, personas suas penam Proditionis et ultimi supplicii a regni nostri legibus prescriptam subire, ipsorumque omnium bona, mobilia et immobilia, tam terras quam officia, beneficia, aliaque omnia ad eos spectantia, vel ad eos vilo modo pertinere poterunt, nobis confiscari, et pro perpetuo nobiscum in proprietate remanere; posterosque eorum ab honoribus, dignitatibus, officijs, beneficijs, successioneibus, aut vllis bonis, mobilibus vel immobilibus, in regno nostro obtinendis vel possidendis, esse et fore dehinc imperpetuum inhabiles et incapaces: Et vterius, in premissum respondendum et juri parendum: Intimando supradictis Conspiratoribus et eorum cuilibet respectiue, quod siue dictis die et loco cum continuatione dierum comparuerunt siue non, nos dictusque noster Justiciarius in premissis, justitia mediantes, procedemus et procedet. INSUPER citetis peremptorie, coram testibus, Magistrum Joannem Moncreif Aduocatam, Alexandrum Blair juniorem de Balthyok, Georgium Hay de Nathertowne, Magistrum Petrum Hay, Robertum Grahame de Thornik, Joannem Grahame de Balgowne, Joannem Murray de Arbanie, Andream Hay balliuum de Perth, Alexandrum Peblis, Willielmum Robertson, Gilbertum Richardson, Willielmum Rynd, Dauidem Rynd, Joannem Rentowll, Georgium Forrest, Thomam Burrell, Henricum Leyis ibidem, Robertum Chrystie janitorem dicti quondam Comitis, Ludovicum Lennocie Ducem, Joannem Marrie Comitem, Joannem Grahame de Vrqhill Dominos Thomam Erskyne, Joannem Ramsay et Hugonem Heres milites, Robertum Galbraith, Robertum Broun, Jacobum Bog, Jacobum Liddell et Joannem Boig in lie *ail-cellar*, ad comparendum coram nobis, dictoue nostro Justiciario, dictis die et loco, cum continuatione dierum, ad perhibendum fidele testimonium in causa predicta, sub pena legis; et presentes literas debite executas et indorsatas earundem latori reddatis: Et vos qui presentes exequuti fueritis, sitis ibidem, dictis die et loco, coram nobis seu dicto nostro Justiciario, portantes vobiscum summotionis vestre testimonium in scriptis, pro premissis, vel ipsos testes. Ad quod faciendum vobis et vestrum cuilibet, coniunctim et diuifim, vicecomitibus nostris in hac parte, nostram committimus potestatem. Datum sub testimonio nostri magni sigilli, Apud

Edinburcht, vigesimo sexto die mensis Augusti, anno domini millesimo sexcentesimo, et regni nostri Trigesimo quarto.

Quhilkis estaitis, all in ane voce, ffand the famin relevant aganis the saidis Alexander and Harie Ruthvenis, &c.¹

SENTENCE. This Court of Parliament schawis for law, that the saidis Alexander Ruthven, Harie Ruthven his brother, sonnes lauchfull to v^mq^{ls} Alexander Ruthvene of Freland, Hew Moncreif brother to Williame Moncreif of that Ilk, and Patrik Eviott brother to Colene Eviott of Balhouffie, committit the crymes of Treassoun and Lesemajestie aganis oure souerane lord and his autoritie royall, in maner at lenth contenit in the said summondis. And thairfoir, decernis and declaris thair persones to vnderly the panis of Treassoun and Lesemajestie, and last punisfchement prescryvit be the lawis of this realme: And all thair gudis, moveabill and immoveabill, alfweill heretages as offices, benefices and vtheris quhatfameuir pertening to thame, or quhilkis nicht onywayes belang or appertene to thame, to be confiscat to his Maiestie, and to remane with his hienes in propirtie for euir: And thair posteritie to be now and in all tyme cummyng vncapabill and vnhabill to bruk and posses, within this realme, ony honouris, digniteis, offices, benefices, successiones, or vtheris gudis or geir, moveabill or immoveabill. And this I gif for dome.

Documents Illustratibe of the Earl of Gowrie's Conspiracy.

No. I.

DEPOSITIONIS² of the WITNESSES examinat in presens of the Lordis of Articles, for preving of the saidis tua Summondis of Treassoun.

(1.) THE DUIK OF LENNOX, sworne and examinat, deponis, That vpon the fyft day of August last bipast, this deponar for the tyme being in Falkland, in companie with his Maiestie, he saw Maister Alexander Ruthvene speikand with his grace, besyd the stabillis, betuix sex and sewin in the mornyng: And schortlie thaireftir, his Maiestie passing to the Hunting of the buk, and haveing flane ane, in the park of Falkland, his hienes spak to the deponar, desyryng him to accompanie his Majestie to Perth, to speik with the Erle of Gowrie: And incontinent thaireftir, this deponar fend his seruand for ane vther horse, and for ane sword, and lap on and followit his grace: And as this deponar ouertuk his grace, Maister Alexander Ruthvene wes speikand with his Majestie: And schortly eftir the deponaris cummyng to the King, his hienes raid a pairt and spak with this deponar, saying, 'ze can nocht guesis quhat erand I am rydand for! I am going to gett ane poise³ in Perth; and Maister Alexander Ruthvene hes informit me, that he hes fundin ane man that hes ane pitcher full of cunzeit gold of great fortis.' And in the mentyme, his hienes inquirt at this deponar, 'Off quhat humour he thocht Maister Alexander Ruthvene to be of?' Quha answerit, that 'he knew nathing of him bot ane honest discrete gentilman:' And efter that his hienes had declarit to this deponar, the hail circumstances of the

¹ As narrated after the former Summons. ² From the Originals, preserved amongst the Warrants of the Parliament of Scotland, General Register House. ³ A board, or boarded treasure.

man quha had the said gold, the place quhair it wes fundin, quhair it wes keipit, this deponar anfuert, ' I lyk nocht that (schir,) ffor that is nocht lyklic.' And they rydand befyd the brig of Erne, his Majestie tauld to this deponar, that Maister Alexander defyrit him to keip that mater of the pois clofe secrete, and to tak na bodie with him. And than his hienes, baith at that tyme, and thaireftir in Sanct Johnestoun,¹ within the Erle of Gowreis hall, said to this deponar, ' Tak tent quhan I pafs with Maister Alexander Ruthvene and follow me.' And as his Majestie wes within ane myle to Perth, eftir that Maister Alexander had comeit ane certane space with his hienes, he raid away and gallopit to Perth befoir the rest of the cumpany, towardis his brotheris ludgeing; off purpoise, as the deponar belevis, to adverteise the Erle of Gowrie of his Majesteis cumming thair: And as his Majestie wes within tua pair of butelangis² to the towne of Perth, the Erle of Gowrie, accompaneit with diuerse perfones, all on fute, mett his hienes in the Inche, and salutit him. And immediatlie thaireftir, his Majestie, accompanyit with this deponar, the Erle of Mar, Lundoris, Inchaffray, Schir Thomas Erskene, Laird of Vrqhill, James Erskene, Williame Stewart, Schir Hew Heres, Schir Johne Ramfay, Johne Murray, Johne Hammyltoun of the Grange and Johne Grahame of Bagowne, past altogidder in the Erle of Gowries hall, the said Erle of Gowrie and Maister Alexander Ruthvene being baith present with thame; and eftir thair entrie, his Majestie cryit for ane drink, quhilk wes lang of cumming: And it wes ane hour nixt efter his first cummyng; befoir his Majestie gat his dennar: And the tyme that his Majestie gat his deserte,³ the Erle of Gowrie come to this deponar and to the Erle of Mar and remanent perfones foirfaidis, and defyrit thame to dyne; quhilk they did in the hall: And quhan they had neir hand dynit, the Erle of Gowrie⁴ come frome his Majesties chalmer⁵ to the hall and callit for wyne, and said that he wes directit frome his Majestie to drink his scoll⁶ to my lord Duik and the rest of the companie, quhilk he did: And immediatlie eftir the scoill had passit about, this deponar raife frome tabill, to haue awaittit vpoun his Majestie, conforme to his former directioun; and than the Erle of Gowrie said to this deponar, that ' his Majestie wes gané vp quietlie sum quiet erand: ' And syne the said Erle of Gowrie cryit for the key of his zaird,⁷ and passit in company with

¹ Perth. ² Butt-lengths, the length of two pair of butts. ³ The dessert consisted chiefly of strawberries, even at that time a favourite fruit in Scotland. They are often noticed in the Treasurer's books during the preceding century. ⁴ Gowrie had previously dined at half past 12 o'clock, as soon as he heard of the King's having consented to visit Gowrie house.—See *Andro Henderson's Deposition, &c.* ⁵ According to usual etiquette, the King dined apart from the rest of the guests, and was waited upon by his entertainer, though this appears to have been done in an ungracious manner. ⁶ This ancient custom was, in some measure, equivalent to the modern practice of drinking healths. The King's *scoll* was drank by deputy on this occasion, Gowrie, in his Majesty's name, drinking 'to my Lord Duik,' &c. Frequent allusions are made to a similar custom in Shakspeare, &c. ⁷ Garden, orchard and pleasure ground attached to Gowrie's house.

this deponar to the zaird, accompanyt with Lundoris and Schir Hew Hereis and certane vtheris. And schortlie eftir thair being in the zaird, Maister Thomas Cranftoun¹ come down to the zaird, cryand, 'The Kingis Majestie is loppin on² and riddin throwche the Inche.' And then the Erle of Gowrie cryit, 'Horffis, horffis!' And the said Maister Thomas Cranftoun answerit to him, 'gour horse is in Scone;' quhilk the Erle of Gowrie maid him nocht to heir,³ bot cryit ay, 'Horse, horse!' And the deponar and the Erle of Gowrie cum furth of the zaird, throw the hall, to the clofe and come to the wtter zett;⁴ and this deponar speirit⁵ at the porter, 'Gif the King wes furth?' Quha answerit, that 'he wes affurit that his Majestie wes nocht cum forth of the place.' Than the Erle of Gowrie said, 'I am sure he is furth; alwayes⁶ stay, my lord Duik, and I fall gang vp and get your lordschip the veritie and certantie thair of: And the said Erle of Gowrie passit vp, and incontinent come down agane to the cloise, and he affirmit to this deponar, that 'the Kingis Majestie wes furth at the bak zett and away.' Quhairvpoun this deponar, the Erle of Gowrie, and Mar and haill company, past furth at the foirzett of the ludgeing, and stude befor the samin zett vpoun the hiegait:⁷ And as they wer standing thair, advyseing quhair to seik the King, incontinent, and in this mentyme, this deponar hard ane voce, and said to the Erle of Mar, 'This is the Kingis voce that cryis, be quhair he will.' And sua they all lukand vp to the ludgeing, they saw his Majestie lukand furth at the window, wantand his hat, his face being reid,⁸ and ane hand gripand his cheik and mouth; and the King cryit, 'I am murtherit! Treassoun! My Lord of Mar, help! help!' And incontinent this deponar, the Erle of Mar and thair cumpany, ran vp the stair to the Galry-chalmer, quhair his Majestie wes, to haue relevit him: And as they past vpe, they fand the dure of the chalmer fast; and seing ane ledder standing besyd, they raschit at the dure with the ledder, and the stoippis of the ledder brak: And syne they send for hameris; and nochtwithstanding lang forceing with hammeris, they gat nocht entrie at the said chalmer, quhill⁹ eftir the Erle of Gowrie and his brother wes baith slane. That Robie Broun past about be the bak dur and come to his Majestie and affurit his hienes, that it wes my lord Duik and the Erle of Mar that wes strikand vp the chalmer dure; and than the hammer wes gevin throw the hoill of the dure of the chalmer, and they within brak the durris and gaif thame entrie: And at thair first entrie, they saw the Erle of Gowrie lyand dead in the chalmer, Maister Alexander Ruthvene being slayne and takin down the stair befor thair entrie. And at thair first entrie within the said chalmer, quhair the

¹ See his Trial, Aug. 22, 1600. ² Mounted, leapt on. ³ Affected, or pretended not to hear.
⁴ Outer gate. ⁵ Enquired, asked. ⁶ Nevertheless, at least. ⁷ The High-gate, or High Street of Perth.
⁸ Red, inflamed. ⁹ Until.

Kingis Majestie wes, the deponar saw findrie halbertis and swordis striking vnder the dure of the chalmer and fydis thairof, be reffone the famin wes na cloise dure ; and knew nane of the strikeris in, except Alexander Ruthven, ane of the defendaris, quha defyrit to speik with this deponar throwch the dure, and sperit at him, ' For Godis saik, my lord, tell me how my lord of Gowrie dois ? ' To quhome this deponar anfuerit, ' He is weill. ' And the said deponar bad the said Alexander to ' gang his away, and that he wes ane foill ; and that he wald gett litill thankis for that labour. ' And in this mentyme, as they, continewand in striking with halbertis vnder the dure, Mekill Johne Murry,¹ seruand to Tullibardin, wes strikin throw the leg. And howfone the said Alexander Ruthven had hard the said lord Duik speik, he and his hail complices past frome the foirsaid dure, and maid na mair trubling thaireftir thairat ; and past down to the cloise and stude thair : And saw nane of the remanent defendaris present at the doing of the violent turnis that day, except be report, bot the said Alexander Ruthven : Bot sayis, that he saw Hew Moncreif, Harie and Alexander Ruthvenis, and Patrik Eviott with the Erle of Gowrie, at the Kingis denner that day, and ofbefoir. And thaireftir, loukand ouer the chalmer window, he saw George Craigingelt and Alexander Ruthvene, and diuerse vtheris of the Erle of Gowreis seruandis, quhome this deponar knew nocht, standand with armes, within the cloise : And alse, saw vtheris perfonis carying ane gest² frome the towne, to the cloise of the Erll of Gowries ludgeing. And declaris, that thair aboad findrie perfonis within the said cloise, and in the Hie-streit, befoir the said Erlis ludgeing, cryand and makand tumult, be the space of tua houris and mair, nixt eftir the death of the said Erle of Gowrie and his brother.

(Sic subscribitur)

LENNOX.

(2.) THE ERLE OF MAR sworne and examinat, deponis conforme to the lord Duk of Lennox Deposition, in all thingis substantiall ; except, his lordschip saw nocht Mr Alexander Ruthven in Falkland, quhill about ten houris, the day libellit ; schortlie befoir the slaying of [the] buke : And alse, ouertuk nocht his Majestie that day, quhill his Majestie wes neir the Brig of Erne : And that eftir thair dennar, my Lord of Mar passit nocht to the zaird, in company with the Erle of Gowrie, bot passit to the chalmer quhair the king dynnit ; and saw nathing of the gest.³

(3.) ANDRO HENDERSOUN, chalmerlan of Scone, sworne, deponis, That he is of the age of threttie aucht yeiris. Declairis, that vpoun Monunday at nicht, the fourt day of August lastbipast, this deponar being, eftir supper, in companie with the Erle of Gowrie (and) Maister Alexander Ruthvene, within my lordis

¹ John Murray of Arbany. ² Joist, beam. ³ The using of the joist or beam to break open the outer gate,—not the ' gest,' ' gist,' or action, according to the old English acceptation of the word.

awin chalmer, the Erle of Gowrie inquirit at this deponar, quhat he had to do the morne? To quhome this deponar anfuerit, that he had to do, to ryd to Ruthven to speik with the tennentis: Than the Erle of Gowrie anfuerit, 'Stay that jorney, 3e man¹ ryd to Falkland, in company with my brother Maifter Alexander, and tak Andro Ruthvene with 3ow: And that 3e be redie to ryde, be four houris in the morning: And haift 3ow bak with anfuer, as my brother directis 3ow, be wrytt or otherwayes: And lett Andro Ruthven remane with my brother.' And the morne, eftir four houris in the morning, they raid all thrie togidder to Falkland; and cummand to Falkland, they lichtit at Johne Balfouris hous: And feing that Colonel Edmond wes thair, they ludgeit in ane Lawes houfe: And the Maifter fend this deponar, about sewin houris in the morning, to fie quhat the Kingis Maieftie wes doand: And as he wes within the Palice, he saw the Kingis Maieftie cummand furth mid-clofe, butit.² And than he returnit bak agane to the Maifter, and said to him, 'Haift 3ow, the Kingis Maieftie is cummand furthe.' And incontinent the Maifter followit his Maieftie and fpak with his Maieftie, foiranent the equirie:³ And the King layit his hand on his fchulder and clappit him; quhair they fpak togidder be the fpace of ane quarter of ane hour. And thaireftir, the Maifter directit this deponar, to 'ryde to Perth, in haift, as he luiffit the Lord Gowreis honour and his; and aduertefe his lordfchip, that his Maieftie will be thair, with ane few number, incontinent; and caufe mak his denner reddie.' Than this deponar anfuerit, 'Sall I ryd presentlie?' The Maifter anfuerit, 'Na, bot stay a quhill, and follow the King and me, quhill I speik with his Maieftie agane.' And as his Maieftie wes rydand throw the flop of the park dyk, the Maifter fpak his Maieftie: And immediatlie thaireftir, the Maifter bad this deponar to 'pas to Sanct Johnestoun, with all poffibill diligence,' according to his former directioun. And at this deponaris cummyng to Perth, quhilk wes fchortlie eftir ten houris in the morning, he enterit in the lord of Gowreis chalmer, quhair he saw his lord speik with George Hay and Maifter Petir Hay: And howfone my lord of Gowrie saw this deponar, he come afyd to this deponar, and inquirit, secreitlie, 'Quhat word he had brocht frome his brother? and gif he had brocht ane letter?' This deponar anfuerit, that 'he had brocht na letter.' 'Quhat anfuer' (than said he) 'haif ye to me?' This deponar anfuerit, that 'the Maifter, his brother, bad tell his lordfchip, that the Kingis Maieftie wald be thair incontinent; and bad haift his denner.' Than the Erle defyrit this deponar to follow his lordfchip to the Cabinat, and fperit at him 'how his Maieftie had tane with his brother?' He anfuerit, that 'he wes weill tane with: And quhan he did his courtesie, the King layd his hand vpon his fchulder.' The Erle fperit, 'Quhat number of perfones

¹ Must.² In boots, prepared for riding.³ Equerry, stables.

wes with the King at the hunting?' Quha anfuerit that ' he knew nocht weil ; bot thair wes findrie of his awin with him, and sum Inglifinen.' And than the Erle fperit, ' Quhat nobillmen wes with him?' He anfuerit, ' Nane ; bot my lord Duik.' And thaireftir, this deponar pafit to his awin houfe, in the towne ; and tuk aff his buttis, and returnit to the Erle within ane hour. And howfone the Erle faw him in his chalmer, he callit vpoun this deponar, and bad him ' put on his fecrete and plate fleiffis.' The deponar inquirit, ' To quhat effect?' The Erle anfuerit, ' I haue ane Heland-man to tak, in the Scho-gait.' And than this deponar paffit to his awin houfe, and put on his fecreitt and plait fleiffis, come bak agane to the Erle of Gowreis houfe : And about half hour to ane, the Erle command this deponar, ' Tak vp my dennar.' And this deponar paffit and tuk vp the firft feruice, be reffone George Craigingelt¹ was feik. And incontinent, the faid Erle paffit to his dennar, accompanyit with Maifter Johne Moncreif laird of Pitcreif, Mr James Drummond, Alexander Peblis barroun of Findowie : And fchortlie eftir the firft feruice wes fett down, my lord fittand at the tabill with the foirfaid company, Andro Ruthven come in frome the Maifter, and roundit to the Erle ; bot hard nocht quhat he faid. And fchortlie thaireftir, this deponar paffing down, to tak vp the fecond feruice, Maifter Alexander Ruthven and Williame Blair come in to the hall, my lord fittand at his dennar : And howfone my lord faw thame, he and his haill companie raife frome the table. And than, this deponar, herand my lord on fute, bade this deponar fend for his steill bonat and gantilat, beleevand that my lord wes going to tak the faid Heland-man : And as the deponar perfavit my lord paffand to the Inche, and nocht to the Scho-gait, he fend hame his steilbonat, and caft his gantilat in the pantrie : And thaireftir followit the Erle to the Inche, quhair he faw the faid Erle meitt his Maieftie, the Duik, and the Erle of Mar, and come in altogidder to the Erlis houfe. And eftir his Maieftie had cum to the Erlis ludgeing, the Maifter of Ruthven fperit at this deponar, ' Quhair the key of the Galry chalmer wes?' Quha anfuerit, that he handlit nocht the faid key fen the Erle come in Scotland. Than the Maifter bad this deponar fpeik to Maifter Williame Rynd, to gif to him the faid key. And the Maifter, paffand vp towardis the galry, Mr Williame Rynd followit him, and gaif to him the faid key. And thaireftir, immediatlie eftir his Maieftieis dounfitting to his dennar, Maifter Thomas Cranftoun come to this deponar, and bad him ' gang to the Erle of Gowrie:' Quhilk this deponar did. And the Erle of Gowrie, in the vtter chalmer, quhair the King dynit, fpak to this deponar fecreitlie, and bad him pas vp to the galry to his brother. Sua he paffand vp, and the Erle followis him : And they beand all thrie togidder, in the galry chalmer, quhair of he had the key fra Maifter Williame Rynd ; the Erle

¹ Craigingelt seems to have been Master of the Household to the Earl of Gowrie.

said to this deponar, 'Tary still with my brother, and do ony thing he biddis 3ow.' Than this deponar turnit to the Maister, and sperit, 'Quhat will 3e do with me, schir?' Than the Maister spak to my lord, 'Lett Andro Henrysfoun gang in to the round of the chalmer, and I will loik him in, and tak the key with me:' Quhair this deponar abaid half an hour or thairby, lokkit his allane, haveand his secrete, plate slewis, sword and quhinger with him, and wantand his steill bonnat. And all this tyme, this deponar, fearand sum ewill to be done, fatt vpoun his kneis and prayit to God. And about the end of the half hour, Maister Alexander oppenis the dure of the round, and enterit first within the samin, haveand the Kingis Maiestie be the arme, and puttis on his hatt on his heid, drawes furth this Andro Henderfoun deponaris quhinger, and sayis to the King, haveand the drawin quhinger in his hand, 'Schir, 3e man be my prifoner! Remember on my fatheris dead!¹ And as he held the quhinger to his Maieftis breift, this deponar threw² the samyn furth of Maister Alexanderis handis. And the tyme that the Maister held the quhinger to his Maieftis breift, the King wes beginnand to speik, the Maister said, 'Hald 3our towng, schir, or be Chryft 3e fall dee.' Than his Maiestie anfuerit, 'Maister Alexander, ye and I wes verie great³ to-gidder: And as tuicheing your fatheris deid, man,⁴ I was bot ane minor; my Counfall nicht haue done ony thing they pleiffit: And forder, man, albeit 3e bereve me of my lyfe, 3e will nocht be King of Scotland, for I haue baith sonnes and dochteris: And thair is men [in] this towne, and freindis, that will nocht leiff it vnrevangeit.' Then Mr Alexander anfwerit, sferand with ane great aith, That 'it was nather his lyfe nor blude that he cravit.' And the King said, 'Quhat rakis,⁵ albeit 3e tak of your hat?' And then Maister Alexander tuk af his hatt. And the King said, 'Quhat is it 3e crave, man, and⁶ 3e crave nocht my lyfe?'⁷ Quha anfuerit, 'Schir, it is bot ane promeis.' The King anfuerit, 'Quhat promeis?' The said Maister Alexander anfuerit, 'Schir, my lord my brother will tell 3ow.' The King said, 'Fetche hither 3our brother.' And syne the said Maister Alexander said to the King, 'Schir, 3e will nocht cry, nor oppin the window, quhill I cum agane?' And the King promeffit sua to do. Then Maister Alexander passit furth and loikkit the dure of the round; and passit

¹ Death. See a succinct and able account of the Raid of Ruthven and Gowrie Conspiracy in Constable's Miscellany, vol. xliii., by John Parker Lawson, M.A., p. 223 to the end. ² Wrenched, twisted by violence; the past tense of the verb *to thraw*. ³ On very familiar terms. ⁴ A familiar and homely phrase used in Scotland, rather expressive, at least in this instance, of a desire to soothe one who is unreasonable, than as indicating any mark of contempt or hauteur, as the mere English reader might naturally imagine. It seems equivalent to 'my lad,' or 'my good fellow.' ⁵ Recks. A reproof for appearing covered in his presence; which shows much greater firmness and presence of mind than could have been expected, even from the most resolute mind, under such circumstances. ⁶ If. ⁷ The King, from the outset of this hazardous parley, assumed very high ground; and in no instance does he seem to have lost his presence of mind and perfect self-possession. See note to Sir John Ramsay's Deposition, No. 7, and the whole Narrative and Examinations.

nocht frome the dure, as he beleves.¹ In the mentyme, the King enterit in conference with this deponar, 'How cam ze in heir, man?' And this deponar anfuerit, 'As God leves, I am schott in heir lyk as ane dog.' His Maieftie anfuerit 'Will my lord of Gowrie do me ony ewill, man?' This deponar anfuerit, 'I wov to God, schir, I fall die firft.' And than the King bad this deponar 'oppin the window:' And he oppinit the window that luikit to the Spey tour. The King anfuerit, 'Fy! the wrong window, man.' And thaireftir this deponar, passing to the vther window, narrest his Maieftie, to oppin the famin, befoir he gat to the window, Maister Alexander oppinit the dure and come in agane, and said to his Maieftie, 'Be God, schir, thair is na remede!' And than he leippis to the King, and gatt him be baith the handis, haveand ane gartane in his handis. Then the King anfwerit, 'I am ane frie Prince, man, I will nocht be bundin.' Sua his Maieftie castis louse his left hand from Maister Alexander; and at that famin time, this deponar drawes away the gartane frome Maister Alexander; and his Maieftie leippis frie frome the said Maister Alexander; and the said Mr Alexander followes his Maieftie, and with his leaft hand about his Maiefteis craig² puttis his richt neiff³ in his Maiefteis mouth. Sua his Maieftie, werfland⁴ to be quit of him, this deponar puttis his hand out of his Maiefteis mouth: And thaireftir, the deponar pat his left hand ouer his Maiefteis leaft schulder, and pullit vp the brod of the windo, quhairvnto the said Maister Alexander had thruſchit⁵ his Maiefteis heid and schulderis; and with the force of the drawing vp of the window, it preiffis his Maiefteis body about his rycht fyd to the window; at the quhilk tyme, his Maieftie cryis furth, 'Treaſſoun! Treaſſoun!' Sua the Maister said to this deponar, 'Is thair na help with thee? Woe worth thee, thow will caus ws all die.' Sua trymling,⁶ the Maister pat his hand on the gaird of his awin fworde; and incontinent the Kingis Maieftie pat his hand on the Maisteris handis, and stayit him frome drawing of his fworde: And this wayes, they baith being glaſpit togidder, cummis furth of the cabinat to the chalmer; And in the mentyme, this deponar threw⁷ about the key, than standing in the dure of the heid of the turnepyk, quhilk enterit to the chalmer, and oppinit the dure thairof, to eschew him self, and to lett his Maiefteis ſeruandis in: And howſone he oppinit the dure, Johne Ramfay cam in at the famin dure,

¹ This circumstance is elsewhere stated. Henderson infers that he did not leave the back of the door, either from his not hearing his retiring footsteps, or from his too precipitate return; which last, alone, would show he had had no conference, on so momentous an occasion. The fact seems to be, that Ruthven was completely abashed by the dignified and collected demeanour of the King; and having become quite unnerved by the desperate situation in which he now felt himself placed, he availed himself of the King's proposal to call for Gowry, to retire and 'screw his courage to the sticking point.' Appalled by the awful circumstances of his Treason, and conceiving that it was now too late to retrace his steps, he seems to have stifled every feeling of reason and religion, and desperately to have rushed forward to the conclusion of his conspiracy, with headlong and insane fury. ² Throat.

³ Fist. ⁴ Wrestling, struggling. ⁵ Forcibly thrust. ⁶ Trembling with emotion, violent passion, and exertion. ⁷ Thrawed, turned.

with ane halk in his hand, and passit to the Kingis Maieftie and zaid about him and drew his quhinger : And as he saw him myntane with the quhinger, this deponar passit furth at the said dure, and passit doun the turnpyik.

(Sic subscribitur) A. HENDERSOUN.

AND as the deponar passit throw the cloife, and come to the foiryett, the deponar saw the Erle of Gowrie standing befor the yett, accompanyit with diuerse persones, of quhome he rememberis nane ; bot rememberis weill, that the Erle had this deponaris knaip[schall]¹ on his heid, and tua swordis drawin in his hand. And immediatlie thaireftir, the deponar passit to his awin ludgeing, quhair he remanit quhill the King passit furth of the towne : And than the deponar passit to the Brig, and walkit vp and doun be the space of ane hour, and returnit nocht agane to the Erlis ludgeing that nicht. And the tymes of his entrie to his house that nicht, this deponaris wyf inquit at this deponar, ' Quhat truble wes with in the place ? ' To quhome he anfuerit, ' Weill is me, of ane thing, that gif I had nocht bene thair, the King had bene twyfe stikit² this nicht ! Bot wais me,³ for the thing that is fallen out ! ' And this deponar, being demandit be Maister Johne Moncreif, eftir his returning from Falkland, ' Quhair haue ye bene with your boittis on ? ' Anfuerit, ' He had bene tua or thrie mylis beyond Erne.' And durst nocht tell him the veritie, be reffone the Erle of Gowrie had dischargit him to tell the erand he send him, to ony bodie. And forder, this deponar declaris, that quhan he saw the Erle of Gowrie standing with his drawin swordis, befor the yette, this deponar spak nocht to the Erle, nather yit the Erle to him at that tyme ; bot he passit to his awin house.

(Sic subscribitur) ANDRO HENDERSOUN.⁴

¹ Steel-bonnet. ² Stabbed. ³ Woe is me ! ⁴ It may here be remarked, that the pusillanimous conduct of Andrew Henderson tended, both at the time, and even now has been considered as strongly fortifying the idea of a plot on the part of the King to put down the family of Gowrie, and to seize upon their estates. But it is obvious that the King would not have chosen so ' weak a vessel' to be the means of effecting so daring a deed. This blockhead seems to have been utterly paralyzed by the novel and difficult situation in which he was placed. When locked up in ' the round of the chalmer,' or turret, by Mr Alexander Ruthven, where the scene of action was to take place, he first craved direction from above, ' and all this tyme (about half an hour) satt vpoun his kneis, and prayit to God.' Notwithstanding, he was little better than a passive spectator of the struggle ; and after ' eschewing him self,' by which means he ' lett his Maieftieis seruandis in,' he passed his ill-fated master, Gowrie, without uttering a word, and ' passit to his awin ludgeing, quhair he remanit quhill the King passit furth of the towne ; ' and then, in a ' quandary,' saunters about on ' the brig, be the space of ane hour ! ' This was not a man to be intrusted with playing a principal part in so hazardous a game. Nor would the King, constitutionally feeble, and unfit by nature for violent muscular exertion, have been so insane as to risk his person, unarmed, and habited merely in a slight hunting suit, without even a dagger or weapon of any sort, to contend with an athletic young man, such as Ruthven was, perfectly skilled in the art of self-defence, armed with a sword and ' pyne-doublet,' or secret coat of mail—and this conflict, too, in a remote tower, out of the probable reach of aid from any others who had been intrusted with this plot. This circumstance, by itself, would go far to disprove the very idea of any Conspiracy on the part of the King against Gowry and his brother. But when one takes into consideration the total ignorance of the whole of the hunting party, the King's sole attendants, who had merely time to send for fresh horses and their side-arms, when they, on the hunting-field, heard, for the first time, of the proposed visit to Perth, such a proposition seems the height of absurdity.

(4.) THE ABBOTT OF INCHECHAFFRAY, sworne and examinat, deponis, That vpoun the fyft day of Auguft lastbipaft, this deponar, being in Falkland, about fevin houris in the mornyng, he mett Maifter Alexander Ruthvene, accompanyit with Andro Ruthvene ; and at that tyme, onlie falutit the faid Maifter Alexander, without ony conference forther at that tyme : And at that tyme, he faw the faid Maifter Alexander enter in conference with his Maieftie, vpoune the grene, betuix the ftabillis and the parke ; quhilk conference, induring for the fpace of ane quarter of ane hour : And the faid Maifter Alexander accompanyit his Maieftie quhill they come to the medow. And at his returning frome his Maieftie, this deponar defyrit Maifter Alexander to difchone¹ with him, be reffoun his awin culd nocht be fafone be preparit. To quhome Mr Alexander anfuerit, ‘ He nicht nocht tarie, be reffone his Maieftie had commandit him to await vpoun him.’ And as this deponar paffit to Falkland, levand Mr Alexander behind him, he mett his horfe with his man cummand frome Falkland to him. And then this deponar, eftir he had difchonit in Falkland, he tuik his jornay the hieway to Inchechaffray : And the deponar, being bot ane mile a north Strameglo, his Maieftie, accompanyit with my lord Duik, Lundoris, the Laird of Vrquhill, John Hammyltoun of the Grange, Finlaw Tailzeour and Maifter Alexander Ruthven cam by this deponar, rydand the hieway to Perth : Than incontinent this deponar horffit and accompanyit his Maieftie to Perth, quhair he faw the Erle of Gowrie meitt his Maieftie in the Inche ; and paffit in company with his Maieftie and his Nobill men and feruandis to the Erle of Gowreis ludgeing, quhair they dynit altogidder. And eftir dennar, this deponar being in the chalmer at the north end of the hall, word paffit throw the hall, that his Maieftie wes paffit away and riddin towardis Falkland : And than this deponar, in company with the Lord of Mar, and remanent prefont for the tyme, paffit to the cloife, and frome that to the Hie-ftreit : And the Erle of Gowrie being prefont with thame, defyrit thame to ftay, quhill he returnit, and advertesit thame of the veritie thair of : And incontinent the Erle of Gowrie paffit vp the ftair, and returnit bak and certefeit the deponar and his collegis of his Maiefties depairture. Than the lord Duik, this deponar, and remanent, cryit for thair horfis, to follow the King. Than, as they wer standand vpoun the Hie-ftreit, they hard ane cry and ane voce : And the Duik firft declarit, ‘ I am affurit yon is his Maiefties voce, be quhair he will him felf.’ And immediatlie thaireftir, this deponar faw his Maieftie loukand furth at ane windo of the round, wantand his hat, and his face reid, eryand ‘ Fy ! Help, my lord of Mar ! Treffoun ! Treaffoun ! I am murderit !’ And at that famyn instant, be his judgement, his Maieftie wes pullit, perforce, in at the famyn window. And incontinent thaireftir, this deponar paffit in haift

¹ To breakfast. Old Fr. *dejeuner*.

vpe with the Erle of Mar and my lord Duik, to the chalmer within the galry ; quhair he saw, hard and did, in all thingis conforme to the Dukis depositioun.

(Sic subscribitur) INCHEAFFRAY.

(5.) THE ABBOTT OF LUNDORIS, sworne and examinat, deponis conforme to the Lord Duik of Lennox, in all thingis : *Addendo*, that eftir dennar, quhan word wes of his Maiesteis depairtour towardis Falkland, and that they had al- togidder cum down to the porter, and had inquirit at him, ‘ Gif the Kingis Maieftie wes gane furth ? ’ The porter anfuerit, ‘ He wes nocht passit furth : ’ And the Erle of Gowrie affirmit that ‘ He wes passit furth at the bak zett : ’ And the porter said to the Erle of Gowrie, ‘ That can nocht be, my lord, becaus I haue the key of the bak zett.’ And eftir that his Maieftie had cryit furth of the windo of the round, ‘ Treassoun ! Treassoun ! ’ &c. this deponar saw James Erskyne incontinent lay handis vpoun the Erle of Gowrie, vpoun the Hie-ftreit. And immediatlie Schir Thomas Erskyne grippit the Erle of Gowrie, ‘ Fy, Tratour, this is thy deid, thou fall die ! ’ Then the Erle of Gowrie anfuerit, ‘ I ken na thing in the mater.’ Than, instantlie, the Erle of Gowreis men ruiggit the said Schir Thomas Erskyne and James Erskyne fra the Erle of Gowrie ; quha incontinent ran the space of half ane pair of butlandis frome thame, towardis Glenvrquhis house, and drew furth his tua swordis,¹ and cryit, ‘ I will ather be at my awin house, or die be the gait.’ And incontinent thaireftir, the said Erle, accompanyit with threttie perones or thairby, passit within the said place, quhair his Maieftie wes for the tyme : And schortlie thaireftir, the deponar, as apperit to him, saw ane multitude of people caryand ane jest towardis the place.

(Sic subscribitur) LUNDORIS.

(6.) SCHIR THOMAS ERSKEYNE, of the age of threttie-sex zeiris, Sworne, deponis conforme to the Lord Incheffray and Lord of Lundoris : *Addendo*, that immediatlie eftir this deponar hard his Maieftie cry furth of the windo of the round, ‘ Fy ! Help ! I am betrefit ! They ar murthering me ! ’ he ran with diligence towardis the place, to haue helpit his Maieftie : And befoir his entrie, feing the Erle of Gowrie, this deponar and his brother grippit him be the nek, and said to him, ‘ Tratour, this is thy deid ! ’ Quhilk Erle anfuerit, ‘ Quhat is the mater ? I ken nathing ! ’ Immediatlie the Erlis feruandis feuerat him frome this deponar and his brother ; and than this deponar enterand within the close, he forgadderit with Schir Hew Hereis, quha demandit of the deponar, ‘ Quhat the mater merit ? ’ And in the mentyme, the deponar hard Schir Johne Ramsay cryand out at the turnepyk heid, ‘ Fy ! Schir Thomas, cum vp this turnepyk,

¹ It appears that these swords were, according to a custom then prevalent in Italy, worn in one scabbard, and served for double defence, as the sword and dagger. The Earl was singularly skilled in the use of arms.

ewin to the heid.' And as this deponer had passit vp fyve stoppis of the turnepyke, he feis and meittis with Mr Alexander Ruthvene, bludit in tua pairtis of his bodie, viz. in his face and in his neck: And incontinent this deponar cryis to Schir Hew Heres and vtheris that wer with him, 'Fy! This is the Tratour! Strik him!' And incontinent he wes strikin be thame and fell: And as he wes fallin, he turnit his face and cryit, 'Allace! I had na wyte of it!' This deponar being standing abone him in the turnepyk. Thaireftir, this deponer past to the heid of the turnepyk, and enterit within the chalmer at the end of the galry, quhair the king and Schir Johne Ramsay wes thair allane present: And at the first meting, this deponar said to his Maieftie, 'I thocht your Maieftie wald haue concredited mair to me, nor¹ to haue commandit me to await your Maieftie at the dure, gif ze thocht it nocht meit to haue tane me with you.' Quhairvpoun his Maieftie anfuert to the deponer, 'Allace! the Tratour disflavit me in that, as he did in the leave;² for I commandit him expresse to bring you to me: Quhilk he promesit to me to do, and returnit bak as I thocht to fetche you; bot he did nathing bot steikit the dure.'³ Schortlie thaireftir, Schir Hew Heres followit this deponar in to the chalmer, and George Wilsoun seruant to James Erskyne: And immediatlie thaireftir Maister Thomas Cranstoun, with his sword drawin in his hand, enterit within the said chalmer; and the Erle of Gowrie followit him within the samin chalmer, with ane drawin sward in euerie ane of his handis, and ane knapsall⁴ on his heid; quha struck at this deponar and his collegis, ane certane space. Lykas, they defendit thame and struk agane: And that samyn tyme, the said deponar wes hurte in the richt hand, be Maister Thomas Cranstoun. And this deponar hard my Lord of Gowrie speik sum wordis at his entrie, bot vnderstandis thame nocht. And last, Schir Johne Ramsay gaif the Erle of Gowrie ane dead straik: And than the Erle leanit him to his sword; and the deponar saw ane man hald him vpe, quhome he knew nocht: And howsone the Erle fell to the ground, Maister Thomas Cranstoun, and the remanent quha accompanyit him, depairtit, and passit down the turnepyk. And the deponar rememberis, that at that tyme, thair wes ma persones in the chalmer with the Erle of Gowrie, by⁵ Mr Thomas Cranstoun; bot knew nane of thame; except he believes, that ane blak man⁶ that wes thair in company within the chalmer, wes Hew Moncreif, brother to the Laird of Moncreif; bot the deponar knawes nocht weill, quhidder or nocht it wes Hew Moncreiff.

(Sic subscribitur)

S^R THOMAS ERSKYNE.

(7.) SCHIR JOHNE RAMSAY, of the age of Tuentie thrie zeiris or thairby, Sworne, deponis, That immediatlie eftir he had dynit, the day libellit, in the

¹ Than. ² *Lave*, the rest. ³ Shut the door. ⁴ A 'steel bonnet,' or defence for the head. ⁵ Besides, *forbye*. ⁶ Dark-complexioned.

Erle of Gowreis housè, he tuk his Maieftis halk¹ fra Johne Murray, to the effect the said Johne nicht haue dynit: And the deponer, missing his Maieftie, and forgaddering² with the Laird of Pittincreif in the Erle of Gowreis hall; and demanding of Pittincreif, 'Quhair his Majestie wes?' The said Laird first convoyit the deponer to the chalmer quhair his Maieftie dynit; thaireftir to the zaird, hoping that his Maieftie had bene thair: And missing his Maieftie in the zaird, the said Laird convoyit the deponer vp to ane fair gallerie, quhair this deponer wes nevir befoir; quhair, haveing remanit ane certane space, behalding the gallerie, they come baith down to the cloise, quhair they mett with Maister Thomas Cranftoun in the middis of the cloise, quha said to thame, that 'His Maieftie wes away vpoun horsbak at the Inche.' Quhairvpoun this deponer and Pittincreif finderit;³ and the deponer passit furth of the zett to his stable, to haue gottin his horse: And being standing at the stable dure, he hard his Maieftie cry, knew his hienes voce, bot vnderstude nocht quhat he spak: Quhairvpone he immediatlie cummis within the cloise, and finding ane turnpyk dure oppine, he enteris within the famin, and rynniss vpe the turnpyk, quhill he cummis to the dure vpoun the heid thair of: And heiring ane strugling and dyn of mennis feitt, he ran with his hail forcè at the dure of the Turnepyke heid, quhilk enteris to the chalmer at the end of the gallerie, the deponer haveing in the mentyme his halk on his hand: And haveing dung⁴ vpe the dure, he seis his Maieftie and Mr Alexander Ruthvene in vtheris armes, stryveing and worflying⁵ togidder, his Maieftie haveing Maister Alexanderis heid vnder his arme, and Maister Alexander being almaist on his kneis, had his hand vpoun his Maieftis face and mouth: And his Maieftie, seing the deponer, said, 'Fy! Strik him laich, becaus he hes ane pyne dowlit⁶ vpoun him!' Quhairvpoun the deponer kaift the halk fra him, and drew his quhinger, quharwith he strak the said Maister Alexander: And immediatlie eftir he was strukin, his Maieftie schoitt⁷ him down the stair, quhairat this deponer had enterit. Thaireftir this deponer adressis him to ane window, and lukand furth thairat, and seand Schir Thomas Erskeyne, the deponer cryit, 'Schir Thomas, cum vp this turnepyke, ewin to the heid.' In this mentyme, his Maieftie pat his fute vpoun the halk leische, and held hir ane lang tyme, quhill the deponer come and tuk hir vp agane:⁸ And than Schir Thomas

¹ This hawk is reported to have been presented to the King this day, by John Murray of Arknay, commonly called 'Meikle John Murray.' ² Meeting. ³ Separated. ⁴ Struck, forced.
⁵ Wrestling, struggling. ⁶ Secret doublet, or chain shirt of mail. ⁷ Forcibly thrust, threw, or pushed.
⁸ In the whole of this prolonged and desperate struggle, the King, although unarmed and defenceless, (being habited in a green hunting-dress, with a hunting-horn suspended round his neck,) exhibited extraordinary presence of mind, and no small share of personal bravery, prowess and dexterity, in parrying off the attacks of an athletic young man, bent upon so deadly an errand, and provided with 'a secret' or 'pyne doublet,' capable of turning the ordinary thrust of a sword or dagger, and besides furnished with necessary weapons. It has become fashionable to ridicule the pusillanimity of

Erskein enteris. And in the rest, deponis conforme to Schir Thomas Erskyne, in all pointis. And forder sayis, that quhan this deponar enterit first within the chalmer, he saw ane man standing behind his Maieftis bak, quhome he nawayes knew; nor rememberis nocht quhat apperrelling he had on; bot eftir that this deponar had strukin Maister Alexander, he saw that man na mair.

(Sic subscribitur)

SR JOHNE RAMSAY.

(8.) JOHNE GRAHAME of Vrquhill, fsworne and examinat, deponis conforme to the Lord Duik of Lennox and Erle of Mar, in all thingis; *Reddens eandem caussum scientie: Addendo*, that this deponer, the tyme that he wes at dennar in the hall, with my lord Duik and the Erle of Mar, he saw the King and Maister Alexander Ruthven pass throw the hall, vp the turnepyke, towardis the gallerie: And as this deponer, Johne Hammyltoun and vtheris wer followand, Maister Alexander cryit bak, 'Gentlemen, stay, for sua it is his hienes will.'

(9.) JOHNE GRAHAME of Balgowne, of the age of fyftie yeiris or thairby, mareit, deponis conforme to the lord Duik, in all thingis; *Addendo*, that this deponer, the day libellit, efter the death of the Erle of Gowrie and his brother, and herand his Maieftie reporte that Maister Alexander preffit to haue bund his hienes handis with ane gartane, this deponer fand ane gartane at the cheik of the round dure, among the bent;¹ and immediatlie thaireftir, this deponer presentit the famin gartane to his hienes, and at the sicht thairof, his Maieftie said, that 'the famin wes the gartane, quhairwith Maister Alexander preffit to haue bound his handis.' And then Schir Thomas Erskyne grippit to the famin gartane, and said, that 'He wald keip it.' Quhilk he hes yit in keeping.

(Sic subscribitur)

J. GRAHAME of Balgowne.

(10.) I MAISTER JOHNE MONCREIF deponis, as eftir followes, to wit. That day, I wes still present with my lord of Gowrie, vnto the tyme I hard his

James VI., but it is hard to conceive how far the bravest man, if unarmed, and placed in similar circumstances, could have surpassed him in courage, or have displayed more coolness, address and self-possession, than did the King, throughout all this perilous transaction. Although constitutionally and habitually timid, and being destitute of the advantage of a healthy or robust frame; these infirmities being likewise aggravated, in no small degree, by the broils and conspiracies in which he found himself incessantly involved, James on many occasions showed, when personally placed in difficult emergencies, that he was not unworthy of the royal blood from which he was descended.

¹ Before carpets were generally used in this country and in England, it was customary, in lieu of this modern luxury, to strew rushes, or withered 'bent,' (a sort of coarse grass, 'hair grass,' growing on muir-lands, sandy grounds, &c.) on the floors of halls, &c. On the arrival of guests of distinction, it was a mark of civility and polite attention to have the floors strewed with fresh bent or rushes. The older English writers, especially the Dramatists and Satirists, inveigh loudly against the filthy odours generated by the stale and rancid straw or rushes on the floors of English halls; owing to the frugality or slovenliness of the landlord. Carpets are, to this day, rarely used in many places of the continent of Europe, to the no small annoyance of British travellers; and, perhaps from this cause, (the recent introduction of carpets into general use,) it is reproachfully remarked, of 'the most polite nation in Europe,' that a Parisian spits without remorse on the finest drawing-room carpet, and this too in presence of ladies.

Maieftie cry, ' Treaffoun !' And faw him put his arme furth at the windo of the round ; and then left him ; for I confavit in my heart, that it wes ane plane Treaffoun confpyrit aganis his Maieftie : And wes inducit heirto, in refpect of the prefumptionis following : Firft, I faw the Kingis Maieftie and vmq¹⁰ Maifter Alexander Ruthvene, my lordis brother, gang furth at the hall dure, thair allanes, quhair as his Maieftie had na wapponis, and Maifter Alexander had ane fworde : Nixt, I faw his Maieftie cum in quiet and sober maner to the towne, quhairthrow apperantlie he wald haue na ewill purpose in his mynd : *Item*, the faid Maifter Alexander rydand to Falkland, in the morning, wes obfcurit¹ fra me and my brother Hew, quhair he wes ; and I haveing inquirit of my brother Hew, ' Quhair he wes riddin to ?' He knew nathing thair of ; fua that nather he nor I culd gett tryell of the famin : *Item*, I haveing inquirit at Andro Henderfoun him felf, quha raid to Falkland with the Maifter, and returnit tua houris befoir hiin, fylit me,² and anfuerit, that he had bene tua or thrie mylis abone the towne : And alse, the faid Andro had ane vther dwblit on him nor he vfit commounlie, and wes mair bukfum ; and, as apperit, micht haue contenit ane fcrete :³ *Item*, that day, being the Counfaill day of the towne, my lord excufit him felf, in refpect of his adois :⁴ *Item*, I haveing preafit him to fubfcryve ane Confirmatioun of ane ladyis, firft ; refufit, in refpect foirfaid ; alwayes⁵ paffit it thaireftir : *Item*, my lord taryit langer fra his denner nor he vfit ; and albeit Andro Ruthven, quha wes with the Maifter, come and roundit to my lord at the burde, he maid him to misknaw all thingis, vnto the tyme the faid Maifter Alexander come him felf ; and than raife from the buird and mett his Maieftie : *Item*, my lord obfcurit altogidder, that he knew the cumming of ony man, quhill the Maifter come : *Item*, Maifter Thomas Crauftoun was the firft that I hard cry, ' The Kingis Maieftie is away !' *Item*, eftir my lord Duik, and my lord of Mar, and his Maiefteis feruandis wes in the clofe, my lord of Gowrie come bak agane to the hall, fayand, ' The King wes away ;' fua that, as I thocht, he wald haue ilk man thinkand fua. And I thocht his Maieftie wes not reffavit with that heartlie intertenement, as becam : *Item*, eftir his Maiefteis ryding away, my brother Hew come to my houfe, and I inquiring of him, ' Quhat he thocht of thir materis ?' Anfuerit, ' Befoir God, fafar as I can perfave, I trow it fall kyth⁶ to be ane plane Treaffoun, one my lordis pairt :' And I fperand at him, ' Gif he knew ony thing thair of ?' Answerit, ' He knew nathing, bot he and Harie Ruthven, eftir all thingis wer endit, fell in conference heiranent ; and he thocht thingis wer lyklic.' *Last*, Andro Henderfonis Lettre moves me maift of all. And, vpoun my faluatioun and condemniatioun, I knaw na forder in this

¹ Hid, concealed. ² Evaded the question ; literally, 'jinked me.' ³ Pyne doublet or secret mail, worn quilted in the dress. ⁴ Business, affairs. ⁵ Yet, notwithstanding. ⁶ Turn out.

mater, nor yit can remember of ony vther circumstance or presumptioun nicht haue inducit me to consave the former Treassoun, quhilk I apprehendit in maner foirfaid.

(Sic subscribitur) MAISTER JOHNE MONCREIF.

(11.) ANDRO RAY, ane of the Bailleis of the burgh of Perth, be thir presentis, testefeis vpoun my conscience and in the sicht of God, as I fall anfuer to him in the great day, That vpoun the fyft day of August I^m and sex hundreth yeiris, I being in the vmq^{le} Erle of Gowreis ludgeing, quhan his Majestie wes thair, saw his Majestie eftir his dennar, accompanyit with the Maister of Gowrie, ryse frome the tabill, and gang furth of the chalmer quhair he had dynit, bot to quhaitt place I knaw nocht; being behalding the said vmq^{le} Erle of Gowreis intertenement of the nobillmen, in drinking of his Majesteis schoill to thame, quhilk his Majestie, befor his ryfing frome the tabill, had commandit him to do: And that eftir that the lordis, viz. my lord Duik, my lord of Mar, my lord Lunderis, and my lord of Inchaffray, with findrie of his Majesteis gentilmen and seruandis, accompanied with the Erle of Gowrie in persone, ane schorte space eftir dennar, had misfit his Majestie and inquit, 'Quhair he suld be?' They went to the foirgaitt, and speirit at the portar, 'Gif he saw the King ga furth at the foir yeitt?' And hard the portar anfuer, that 'His Majestie wes nocht gane furth that way.' Also, That the Erle of Gowrie said to the porter, 'ze lie, knaif! He is furth.' And the porter replyt, that 'he suld gif his heid, in caise his Majestie went furth.' Yit, vpoun the Erle of Gowreis assurance, that 'his Majestie wes furth to the Inche,' the lordis ruscht out in haist at the foiryett, and speiring, 'Quhair the King wes?' I being with thame, I saw ane ding vp the lang scoirit window, in the north syd of the turrett, vpoun the Hiegait; bot quha dang it vp I knaw nocht. And forder, saw cleirly his Majestie, beir heidit, schut¹ furth his head and arme at the foirfaid window; and hard his Majestie crying loudlie, 'Fy! Treassoun! Treassoun!' And, 'Murther! Help! Erle of Mar! Quhairvpoun I, being verie agast and wonderfullie astroyed at that cruell and terribill sicht, and pitiefull and wofull cry, I nocht knawing quhat the mater meinit, bot persaveing his Majestie in extreme and great danger, ran with all possibill diligence throw the streittis, crying loudlie, 'Fy! Treassoun! Treassoun aganis the King! For Goddis saik, all honest men haist and releif the King!' And commandit to ryng the commoun bell, that all men nicht cum in haist to his Majesteis relief. And than I returnit, with all possibill diligence, with ane great number of the people with me, and come afoir the foirfaid turret and window, quhair I saw his Majestie first crye out: And than I cryit out, 'How is the King?' Bot my lord Duik and my lord of Mar answeirit, 'The King is weill, (praifit be God).' Than I cryit agane vp to his Majestie, and schew his Majestie

¹ Shoot, push, thrust.

that the Bailleis and towneschip wes thair cum, in all haift, to supplie and releif his Majestie; and thairfoir, befocht his Majestie to command, 'Quhat wes his Majesties will and best to be done?' And than his Majestie beknit furth his hand to me and to the peopill, commanding me to 'cause the peopill retein thame to thair ludgeing.' Quhilk commandment I incontinent obeyit, and commandit all maner of man to retein thame selffis to thair ludgeings: And elykways, past to the marcat croce, and be oppin proclamatioun, commandit, in his hienes name, that all men fuld retein thame to thair ludgeingis, vnder the pane of Treassoun: Quha obeyit, incontinent eftir my charge. And this I testifie to be of veritie, be the fayth and trewth of my body; safar as I justlie can remember. In witness of the quhilkis, I haue subscriuit thir presentis with my hand, At Perth, the threttene day of October, the yeir of God I^m and sex hundreth yeiris, befoir thir witneffis, Maister Patrik Galloway Minister to his Majestie, James Drummond of Letchill, Oliver goung, Constantyne Mallice, Thomas Johnestoun, Bailleis, Henrie Eldar, clerk, Robert Andersoun, Andro Arnott and Williame Jak, burgeffis of Perth.

(Sic subscribitur)

ANDRO RAY, Baillie, with my hand.

PATRIK GALLOWAY witness,
OLIVEIR GOUNG baillie witness,
ROBERT ANDERSOUN witness,
WILLIAME JAK witness,

JAMES DRUMMOND witness,
THOMAS JOHNSTOUN baillie witness,
ANDRO ARNOTT witness,
HENRIE ELGAR, scribe, witness.

(12.) ROBERT CRYSTIE, porter to v^mq^h Johne Erle of Gowrie, of the age of threttie yeiris, *solutus*, deponis, That he wes porter to the Erle of Gowrie, the fyft day of August, libellit; lyk as, he wes be the space of fyve oukis of befoir: And schortlie eftir the denner, this deponar saw my lord Duik, the Erle of Mar, the Erle of Gowrie cum to the cloise, and my lord Duik speirit at this deponar, 'Gif his Majestie wes passit furth of the cloise?' The deponar anfuerit, that 'he wes nocht furth.' Then the lord of Mar said, 'Billie,¹ tell me the veritie, gif his Majestie be furth or nocht.' And he anfuerit, 'In treuth he is nocht furth.' The Erle of Gowrie, lukand with ane angrie countenance, said, 'Thow leid!² He is furth at the bak yett, and throw the Inche.' Than this deponar anfuerit, 'That can nocht be, my lord, ffor I haue the key of the bak yett, and of all the yettis of the place.' Thaireftir, this deponar hard and saw his Majestie luikand furth of the window of the round, and cryand 'Treassoun! Treassoun! Fy! Help! Help, my lord of Mar!' And incontinent, my lord Duik and Erle of Mar and vtheris ran vp the great turnepyke to the gallerie: And thaireftir, the lord of Gowrie come from the Hie-streitt, within the cloise, haveand ane steil-bonnet

¹ Brother, fellow; a familiar and jocular mode of address; equivalent to 'my lad,' or 'my man.'

² Lied, told a falsehood.

on his heid, and ane drawin sword in ilk hand, accompanyit with Alexander and Harie Ruthvenis, Patrik Eviott and Hew Moncreif, Maister Thomas Cranftoun, all haveand drawin swordis in thair handis; and paffit altogidder, with my lord, vp the auld turnepyk. Bot quhat wes done within the house and place thair-
eftir, kennis nocht, bot be reporte; nether saw he ony gest¹ brocht to the place, be ony of the towne: And kennis na mair in the mater.

(Sic subscribitur) ROBERT CHRYSSTIE.

(13.) ALEXANDER BLAIR, younger of Balthayok, sworne and examinat, deponis *conformis immediate precedenti*, except, that he saw nocht my lord of Gowrie pas with his company and drawin swordis vp the turnepyk: Bot saw Alexander and Harie Ruthvenis and Hew Moncreif cum down the litill turnepyk, quhair they and my lord had ascendit; the saidis thrie personis, haveand drawin swordis in thair handis: Bot saw nocht Patrik Eviott thair. And this deponer sayis, that eftir the tumult wes rissine, and this deponer preffand to enter within the place, he wes a litill stayit² be thame in the place; bot they yeldit attanis,³ and the deponer gat entrie. Lykwayes, he saw ane gest brocht in frome the towne, and fett vp at the wall of the cloife; bot quha brocht the famin in, he kennis nocht.

(Sic subscribitur) A. BLAIR apperand of Balthayok.

(14.) GEORGE HAY, Priour of Charterhouse, of the age of tuentie aucht yeiris or thairby, mareit, deponis *conformis* to the lord Duik of Lennox, in all thingis, eftir his Majesteis entrie in Sanct Johnestoun, the day libellit; *addendo*, that that samyn day, the deponer haveand ado, in Sanct Johnestoun, with the Erle of Gowrie, and speikand with him, in his awin place, he saw Andro Henderfoun cum in, buttit, from Falkland; and hard the said lord Gowrie inquire of the said Andro, 'Quha wes with his Majestie in Falkland?' And thaireftir, the said Erle tuk the said Andro Henderfoun to the cabinet; and eftir ane certane space, the Erle cummand to the chalmer, he gaif this deponer his dispathe, sayand, that he had to do that day, and nicht nocht awaitt on his erand, and bad him cum ony vther day.

(15.) MAISTER PETIR HAY, of the age of threttie yeiris or thairby, mareit, deponis *conformis* to George Hay, in all thingis; the witnes immediatlie preceding.

(16.) ROBERT GRAHAME of Thornik, sworne and examinat, deponis conforme to the Duik of Lennox, eftir that his Majestie enterit in Perth.

(17.) OLIVEIR ZOUNG baillie in Perth, sworne and examinat, deponis, That the day libellit this deponer wes in the Erle of Gowreis ludgeing, quhair he saw the King dyne: And, eftir denner, saw the Kingis Majestie and Mr Alexander Ruthven pas, thair allanes, throw the hall and vp the turnepyk. And immedi-

¹ Joist, beam.

² Delayed, detained.

³ At once.

atlie thaireftir, this deponer paft to his ludgeing in the towne, quhair he abaid quhill the crye and tumult raife. And incontinent, this deponer, rynnand to the place libellit, his Majestie cryit out at the window, and commandit this deponer, be name, to stay the tumult of the people; the quhilk this deponer obeyit and did: And saw Hew Moncreif cummand furth of the place libellit, his face being bludie, and Harie Ruthven, ane of the defendaris, at the mouth of the Wattergait, with ane drawin fworde in his hand. And kennis na mair in the mater.

(18.) JAMES DRUMMOND of Pitcarnis, fworne and examinat, deponis *conformis immediate precedentj, in omnibus; addendo*, That as this deponer, immediatlie eftir the cry rais, wes cummand to the place libellit, he meittis vpoun the Hie-ftreit, Alexander Ruthven, ane of the defendaris, haveand ane drawin fword in his hand, and cryand, 'Fyre and pulder!'¹ And kennis na mair in the mater.

(19.) WILLIAM RYND, fefcheour in Sanct Johnestoun, of the age of threttie yeiris, or thairby, mareit, deponis, That he saw within the cloife of Perth, eftir the frey raife, Patrik Eviott and Hew Moncreif, baith bluidand, haveand drawin fwordis in thair handis.

(20.) HENRIE LEYIS, burges of Perth, fworne and examinat, deponis *conformis* to James Drummond and Williame Rhynd; bot he saw nocht Patrik Eviott thair.

(21.) GEORGE WILSOUN, feruand to James Erkyne, of the age of tuentie four yeiris, or thairby, *solutus*, deponis conforme to Schir Thomas Erkyne, in all thingis; be reffone this deponer wes in company with the faid Schir Thomas, eftir the first time that he and James Erkyne grippit the Erle of Gowrie, and wes findrit fra him be his feruandis. And immediatlie thaireftir, this deponer accompanyit the faid Schir Thomas Erkyne vp to the turnpyk, into the chalmer quhair his Majestie wes; quhair he saw as the faid Schir Thomas hes deponit, in all thingis.

(22.) DAVID RYND, fefcheour in Perth, fworne and examinat, deponis *conformis* to James Drummond; and hard Alexander Ruthven cry for pulder; bot saw nocht Patrik Eviott.

(23.) GILBERT RITCHESTSOUN, in Perth, of the age of tuentie four yeiris or thairby, *solutus*, deponis *conformis* to James Drummond in all thingis, and David Rynd.

(24.) JOHNE MURRAY of Arbany,² of the age of fyftie aucht yeiris or thairby, mareit, deponis: The day libellit, the deponer come to Sanct Johnestoun, eftir dennar; quhair he hard his Majestie cryand furth at the window of the round, 'Fy! Treaffoun! My lord of Mar! Help!' Incontinent thaireftir, my lord of Mar and the Duik ran vpe the broad turnpyk, and the deponer followit

¹ Fire and gunpowder.

² Commonly called 'Meikle Johnie.'

thame in the clofe, quhair he faw the lord of Gowrie, haveand ane steil-bonnet on his heid, and tua drawin fwordis, ane in ilk hand: And faw the faid Erle pas vp the turnepyk, accompanyit with certane his feruandis, haveand drawin fwordis in thair handis, of quhome he knew nane.

(25.) THOMAS BURRELL, burges of Perth, fworne and examinat, deponis conforme to James Drummond; *addendo*, That the tyme of the fray, this deponar, enterand within the cloife of the place libellit, he faw ftanding in the clofe, with drawin fwordis in thair handis, Alexander and Henrie Ruthvenis and Hew Moncreif, bledand in his face. And at that famin tyme, this deponar faw Maifter Thomas Cranftoun cum down the blak turnepyk; and he tuk furth of his hand his fword, and hard the faid Alexander Ruthven cry for 'Fyre and pulder.' And faw nocht Patrik Eviott thair.

(26.) GEORGE¹ FORREST, tailzeour in Perth, of the age of fourtie yeiris or thairby, mareit, deponis; The day libellit, he faw George Craigingelt and Walter Cruikfchank, allakey,² ftanding in the yaird with drawin fwordis.

(27.) WILLIAME ROBERTSOUN, notar in Perth, of the age of threttie four yeiris or thairby, mareit, deponis, The day libellit, this deponar, beand within the clofe of the place libellit, he faw the lord Gowrie ftanding in the clofe, accompanyit with fevin or aucht perfones, of quhome he knew nane; the faid Erle than haveing ane steill-bonnet on his heid, and ane drawin fword in ilk hand; at the quhilk ficht, this deponar being affrayit, pafst furth of the place: And kenis na mair of the mater.

(28.) ROBERT GALBRAITH, feruand to the Kingis Majeftie, of the age of threttie yeiris, deponis *conformis* to the lord Duik of Lennox, in all thingis; be reaffoun this deponer, all that day, wes in company with his Majeftie. And eftir that his Majeftie had cryit out at the window, 'Treaffoun!' this deponer followit the Duik and Earle of Mar vp the turnepyk: And deponis, as they haue deponit.

(29.) ROBERT BROUN, feruand to the Kingis Majeftie, deponis *conformis immediate precedenti, in omnibus*; becaus this deponer, the tyme libellit, accompanyit Johne Hamyltoun, to feche the hammeris vp to the galry: And this deponar pafst vp the litill blak turnepyk, and at his firft entrie within the chalmer, he faw the Erle of Gowrie lyand dead; thair being at that tyme in company with his Majeftie, Schir Thomas Erskene, Schir Hew Heres, Schir Johne Ramfay, and George Wilfoun.

(30.) JAMES BOG, porter to his Majeftie, fworne and examinat, deponis, That he faw the Kingis Majeftie and Maifter Alexander Ruthven pas throwch the

¹ 'Alexander' is deleted and 'George' inserted.

² Old Fr. *Lacquay*, *laquais*, a footman.

hall to the chalmer. And saw, that day, George Cragingelt with ane drawin sword in his hand, accompanyt with certane rascallis. And, *in ceteris*, deponis *conformis* to the lord Duik and Erle of Mar, in all thingis.

(31.) JOHNE BOG, seruant to the Kingis Majestie in the aill cellar, sworne and examinat, deponis *conformis* to James Bog.

(32.) ALEXANDER PEBLIS, burges of Perth, of the age of threttie yeiris or thairby, mareit, deponis, The day libellit, this deponar being within his awin house, foiranent the Erle of Gowres ludgeing, howsone his mother hard the common bell ryng, scho lokkit the dure and held him in all the tyme: And saw at that tyme the Erle of Gowrie enter in at the yett, with tua drawin swordis, ane in ilk hand: And ane allakey¹ put ane steil-bonnet on his heid. And ane certane space thaireftir, the deponar saw Hew Moncreif cum furth of the place, with ane bludie heid, and Patrik Eviottis man, lykwayes bleidand. And also, saw Patrik Eviott cum forth of the yett; bot rememberis nocht gif he had ane sword in his hand. And saw Alexander Ruthven also cum furth, with ane sword drawin in his hand. (Sic subscribitur) ALEXANDER PEBLIS.

No. II.

INTERRAGATORIS² to be demandit of the Witneffes, sworne and admittit, in the actiounes and caus of Foirfaltour persewit aganis Williame Ruthuen, brother, air and successeur of vmq³ Johnne sumtyme Erle of Gowrie, and vmq³ Mr Alexander Ruthuen his brother; Alexander and Harie Ruthuenis, Hew Moncreif and Patrik Eviott.

FIRST to inquire, Geif they knew that the vmq³ Erle directit the said Mr Alexander, Andro Henderfoun and Andro Ruthven to his Maiestie, to Falkland, to persuade him to cwm to Sanct Johnestoune?

Gif thai saw the said Mr Alexander cwm to his Maiestie, to Falkland, vpoun the fyft day of August, lastbypast?

Gif thai knew that the said Mr Alexander directit Andro Henderfoun and Andro Ruthuen, seuellie, to foirwairne Gowrie that the King was cuming to Perth that day?

Gif thay saw the saidis Andro Henderfoun and Andro Ruthuen, befor the Kingis cuming, cum to Gowrie and speik secreitlie withe him? Geif thai knew that Gowrie commandit Andro Henderfoun to put on his armour? Or geif thai knew that the said Andro patt on his secreit the said day?

Gif the said Mr Alexander come to Gowrie, befor the Kingis cuming, and spak with him secreitlie? How the King was accompaneit? And geif his servandis had ony vther armour or vapounes nor³ suordis?

Gif they saw Mr Alexander, Andro Henderfoun and the Erle gang wp to the gallerie chalmer, the tyme of the Kingis denner?

Gif, efter the Kingis denner, they saw the said Mr Alexander, withe his suord about him, convoy the King his allaine, without ony vapounes, to the gallerie chalmer?

¹ This was Walter Crookshanks. He is not known by the Editor to have been brought to Trial, or otherwise punished. ² From an original paper, preserved amongst the Warrants in General Register House. ³ Than.

Gif thai hard vmq^{le} Mr Thomas Cranstoun declair to the nobilmen, and to the Kingis servandis, that his Maieftie was riddin away ?

Gif they hard the said Erle awow the same to thame, with greit aithis ?

Gif they saw his Maieftie schut¹ out bis bair heid and airme out at the windok of the turret aboue the 3ett, and cry ' Treafoun ! Help ! I am Murderit ! ' The said Mr Alexander haifing his hand at his hines faice and his throt ?

Gif they saw Andro Henderfoun, in the turrat, at that tyme ?

Gif they saw the said Mr Allexander treaffonable efforing him self to murder his Maieftie ?

Geife they saw Gowrie, with his tua drawin swordis, accompaneit with ane greit number of his complicis in airmes, twrn aff the calfay of Sanct Johnestoun into his awin cloife, with vmq^{le} Mr Thomas Cranstoun, the saidis Allexander and Harie Ruthuens, Hew Moncreif, Patrik Eviot, and ryn altogidder wpe the Blak turnpyke of the said ludging, feik his Maieftie for his slauchter, and invade and perfew Schir Johnne Ramsay, Schir Thomas Atkin and Schir Hew Heirreis, in his hines defens, and hurtt and wond eweriane of thame ? And geif they saw Georg Craigingelt, Georg Dewar and ane greit number of vtheris of Gowreis servandis and dependaris, besett the foir-3et and bak-3et, and incloife his Maieftie within the said ludging, stay the entrefses and passagis thair of, and affeidg his Maieftie thairin, and cry, ' Greine coittis, 3e fall all die ! 3e fall all be hangit ? '

Gif they saw the saidis defendaris perfew the duris of the chalmeris, quhair his Maieftie and his servandis was, and stryk in thairat, with dravin fuordis, and halbartis, and Jedbrugh staveis ?

Gif they saw Allexander Ruthuen caus bring ane jett, treaffonable to haue brokin wpe the dooris of the saidis chalmeris and ludging ?

And geiue they saw him feik powder in the mairchant buithis, to haue blavin the said ludging in the aire, with his Maieftie and all that was thairin ?

No. III.

REPORT by the BAILIES and TOWN COUNCIL OF PERTH of the EXAMINATIONS and ' DEPOSITIONS OF THE INDUELLERIS OF PERTH,'² taken by them, by command of the KING and PRIVY COUNCIL.

APUD PERTH, *quarto die mensis Septembris, anno Domini millesimo sexcentesimo.*

QUHILK day, the Bailleis, counfall and decanes of craftis of the burcht of Perth, being convenit within the New Kirk of the samin, Comperit Jasper Howp, indueller in Edinburcht, presentit his Maiefteis Missiue, directit to thame, clofit ; quhilk being with all due reverence reffaut and oppnit, the tennour followis :

TRAIST FREINDIS, We greit 3ow hairtly weill. WE haue thocht meit, for diuerse respectis and considerationes, to continew the dyett appointit for 3our comperance befor our Counsell, vpon Tuisday nixt ; and haue directit tua of our Counsell particularlie to acquaint 3ow with our will and plefour in that mater. Quhairvnto, as 3e respect 3our awin suirtie and weill, 3e will conforme 3our selffis. And sua, assuring 3ow that it fall nocht be neidfull to 3ow to kepe the said dyett, We commit 3ow to God. From Striveling, the xij of September, 1600. (Sic subscribitur) JAMES REX. [And writtin on the bak thair of,]

To our traift freindis, the BAILLEIS, Counfall and comunitie of our burt of PERTH.

LYKE AS, vpon the xvij day of September instant, in prefens of the saidis Bailleis, counfall and

¹ Shoot, push, thrust.

² From the Original, preserved in the General Register House, and now printed for the first time.

decanes, siklyke conuenit, within the said New Kirk, Comperit the rycht honorabill Schir Robert Melwill of Murdocardny, kny^t, and Schir Daud Murray of Gosperte, kny^t, Comptroller to his Maieftie, tua of his hienes Counfall, and declarit, that, conforme to his Maieftis General Letter, direct ofbefoir, they wer direct in Commiffioun, to impair to the saidis Bailleis and Counfall his Maieftis mair particular will and plefour, anent the trying of sic within thair said bur^t as misbehavit thame selffis wpon the fyft day of Auguft laft. Quhilk wes, that the Prouest, bailleis and counfell fuld, be thame selffis, try thair awin nyctbouris quha wer amangis thame, ather in word or deid, that kythit¹ buffie wpon the said fyft day of Auguft laft; quhen as the wmq^{te} Erle of Gowrie and the Maifter his broder did that in thame ley, to haue putt in executioun thair intendit Treffoune, aganis his Maieftis perfone; and that thairin they fuld leave na fort of tryell ontane,² as they respectit thair awin fuirtie; quhairby, sic giltie perfones mycht be pwnieft for thair offence according to thair meritt, and innocentis nocht preiudgit: And that, betuix and the . . . day of . . . , they report thair diligence to his Maieftis thairanent. Qubilk defyre, thocht godlie, honest and equitabil, the saidis Bailleis, counfall and decanes, with all faithfullnes and diligence, promittit to obey.

APUD PERTH, vigesimo secundo Septembris, anno Domini Millefimo fexcentesimo. Quhilk day, Prouest, bailleis, counfall and decanes of craftis of the bur^t of Perth, being conuenit within the New Kirk of the famin, efter lang reffonyng haid be thame wpon the forme and maner of the trying of thair awin nyctbouris,³ conforme to the Commiffioun declarit to thame be his Maieftis Commiffionaris, direct to thame for that effect; Ordanit the tryall to be deducit, in maner following, viz. That the Prouest, Mr Johne Malcome and Williame Cowper, Ministeris; Constantine Malice, Andro Ray, Thomas Johnestoun, bailleis; James Drummond of Leithill; James Adamesone, dene of gild; Robert Mathow, thefaurar; Robert Anderfone, Andro Arnot of the Counfall, and Henry Elder, clerk, fall be Examinatouris and reffaueris of the haill townis Depofitiounis.

And becaus it is neceffar, that the Examinatouris depone first thame selffis, thairfoir, that fua mony of thame (except the Prouest) as wes nocht in the toune, wpoun the said fyft day of Auguft laft, viz. the tua Ministeris, Conflantyne Malice, baillie, Robert Anderfone and Andro Arnot, fall reffauie the remanent thair colligis Depofitiones; and thairefter, thay all concurrand togidder, to reffauie the Depofitiones, first of the remanent Counfell and decanes, and thairefter of the haill inhabitantis of the said bur^t, begynnand at the Water-gait quarter, and fua ordourly throw the haill quarteris and fuburbis of the famin bur^t. And for that effect, the saidis perfones appointit for the examinatione foirfaid, to conuene within the said New Kirk, at fevin houris in the morning, to continew till nyne; to meit thairefter at ten, to remane quhill tuelff; to meit at tua efter none, and to diffolue at sex houris at evin; and to follow furth this ordour daylie, quhill the tryell be endit; begynning the morne, at fevin houris in the mornyng. The officiar of everie quarter to be reddy for warnyng of thair quarteris, as they fall be commandit. Everie perfone to compeir wnder the pane of ten pundis. The drum to pas about the toune for that effect; and the Examinatouris, nocht keping the preceife tymes of conventioun, without ane lauchfull excuife, to incur the penaltie of tuentie schillingis, *toties quoties*, vnforgevin.

Everie perfone to be fuorne, to testifie the veretie, wpone thair conscience, and in the ficht of God, and as they fall anfuer to him in the grait day; and to be examinat wpone the hedis and artikles following, viz.

[HEADS and ARTICLES of EXAMINATION.]

Giff they haid ony foirknowledge off the wyld and vnnatural Treffoune, intendit aganes his Maieftis perfone, wpone the fyft day of Auguft laft, be the wmq^{te} Erle of Gowrie and the Maifter his broder?

Giff they com to the ludgeing, with thair armour, to affist that filthie fact?

¹ Showed, or proved themselves.

² Untaken.

³ Neighbours, townsmen.

Giff they thame felfis vterit or hard ony onreverent ſpeches gevin to his Maieſtie, or to any of his hienes feruandis ?

Giff they ſaw ane jeift¹ brocht to the ludgeing ?

Giff they hard ony crying of 'Grene-cottis !' 'Bludie botfcheris !' 'Tratouris !' 'Murderaris !' 'ze fall all die !' 'Giff ws furth our Proueft !' Or ony ſiclyke evill wordis ?

Giff they hard ony cry for 'Fyre,' or 'Powder ?'

Giff they ſaw ony mynt² at any of the Kingis Maieſteis feruandis to ſtrik thame ?

Giff they know ony thing of the ſaid wyld Treffoune that is nocht ſperit at thame ? Or, ony forder nor is contenit in the ſaidis Artiklis ? Or gif, ſen the ſaid fyft day of Auguſt, they hard ony thing, that in ony fort may cleir the ſaid mater ?

AND becaus they ar informit, that he, quha wpone the ſaid fyft day of Auguſt, within the toune of Dundie, ſuld haue vterit thai filthie and vnnatural ſpeches aganes his Maieſtie, quhilkis demerittis extreme pwnement, is **JOHNE LAMB** ſone to Robert Lamb, burges of this bur^t, quha being ſearcit and ſocht, can nocht be apprehendit within this toune :

(1.) The ſaid **ROBERT LAMB**, his father, being ſworne wpone his intelligence, quhair he ſuld be ? Deponit that he paſt out of this bur^t ten dayis ſyne, to quhat pairt he culd nocht tell ; bot as he ſupponit, he wes ather paſt to Striuiling, Glegſow, or to the hieland pairtis of Lorne ; in the quhilkis pairtis the ſaid Johne wſis his pur handling and traffek. Quhairfoir, the ſaidis Bailleis, Counfall and decanes, ordanit Thomas Johnſtounne, baillie, to ſie and conduce ſex abill men, and with all diligence to paſs to the ſaidis pairtis of Striveling and Glegſow, to ſearce, ſeik and apprehend the ſaid Johne Lamb, and as occaſioun beis offerit, to ſend tua and tua of his cumpanie to Lorne and wtheris pairtis quhair beſt knowlege may be haid of the ſaid Johnis being, ay and quhill they apprehend him ; and the theſaurer to ſatiſfie the ſaid Thomas his expenſis to that effect.

23 *Septembris*, 1600. Befoir none.

IN PRESENCE of the ſaidis EXAMINATOURIS, COMPERIT the perſones following ; quha being ſuorne wpone the retro-writtin Artiklis, deponit every ane, as followis.

(2.) **OLIVER GOUNG**, baillie,³ ſuorne, deponit that eſter he wes commanding the pepill hame, at his Maieſteis command, the entres of the foir 3ett was kepit be certane of the Erle of Gowryis ſervandis, with drawin ſwordis ; amangis quhome Thomas Biſſett cordiner wes ; quhilk Thomas, ſua ſone as he wes commandit be the deponer, depairtit fra the 3ett. Saw nor hard na forder, be reſſoune of his biſſynes, in diſpaſcheing of the pepill.

(3.) **THOMAS JOHNSTOUNE**, baillie, deponit, that he cuming thair at the ſound of the bell, ſaw ane tumult befor the Erle of Gowryis ludgeing ; and being deſyrit to gang hame be the Laird of Balthyok and gOUNG Tullybardin, he immediatlie depairtit ; and in the away paſſing, ſaw Alexander Ruthuene yonger ryn throw the Water-gait, with ane drawin fuorde, cryand, 'Falſe Tratouris !' *Ignorat cetera.*

(4.) **JAMES DRUMMOND** deponit, he ſaw Alexander Ruthuene younger wpone the gait⁴ with ane drawin fuord, cryand, 'Fy for powder ! He is deid ! He is ſlane !' Saw ſiclyke, Johne Rentoull ſtanding in the foir 3ett, with ane drawin ſworde, haiffing ane ſteill bonett, ane ſecreit and gantallat. *Ignorat cetera.*

(5.) **JAMES ADAMESONE** deponit, that being in his awin cloſe gadgeing⁵ ane ſalomond barrel, to mak ane miſſour⁶ thairof to wther barrellis, Johne Tenendyſe wyff, officiar, knokit werie loudlie at

¹ Joist, or beam. It is termed a ſingle roof-ſpar in the courſe of the examination.

² Threaten, make attempt to ſtrike.

³ This active and zealous Magiſtrate died Dec. 29, 1603, as is recorded in *Fleming's Chronicle*.

⁴ Street.

⁵ Gauging.

⁶ Measure, ſize, pattern.

his 3ett, cryand, ' Allace ! Thair is mony wapnys about the Kingis hous : And they say the King is schott.' Quha, at the hering thairof, com suddandlie furth, quhair he saw Andro Ray, baillie, cryand, ' Fy ! Treffoune ! Cum and relewe the Kyng.' And immediatlie stoppit doune foirnent the ludgeing ; quhair, how sone he come, saw the Duik and the Erle of Mar, declaring the King wes weill ; and defyryng all men to depairt to thair houffis. Quhairat, and efter he haid sene the Kingis hand putt out at the wyndo, he incontinent depairtit hame. *Ignorat cetera.*

(6.) ROBERT MATHOW deponit, that he, cuming at the found of the bell, hard Violet Ruthvene and Margaret Moncreiff, relict of wmq¹ Thomas Lafreife, cryand, ' Bludie boitfchearis !¹ Depairtit at the command of the Bailleis and clerk. *Ignorat cetera.*

(7.) HENRIE ELDER deponit, being in his awin chalmer quhen the bell wes ringing, quhilk wes ceiffit befor he culd wyn to the South-gait-end, quhair he, heryng the Nobill men that wer aboue, crying for the Bailleis to command the pepill hame, he with the faidis Bailleis dispaschit the pepill : And thaireftir, immediatlie past to the mercat croce, and thair, in his hienes name, commandit all maner of men to pas to thair houffis, wnder the pane of Treffoune : And returnyng thairfra to the ludgeing agane, all the pepill haid removit thame selffis, except sum of the wmq² Erle of Gowryis fervandis, quha wer standing in the foir entrie of the 3ett, with drawin swordis ; amangis quhome, Thomas Biffett, cordiner, wes ; quha, howsone he wes commandit be Oliuer 3oung, bailzie, and the deponer, patt wp his sworde and depairtit. Saw Alexander Ruthuene cuming furth at the foir-3ett with ane drawin fuorde, and sayde to the deponer, ' Theiwis ! 3e ar vnworthie of sic ane Prouest !' And, ' Giff he leiwe, he fall remember on this day.' *Ignorat cetera.*

ALL the Examinatouris concurrand,

(8.) MR HENRIE ANDERSONE deponit, he saw ane fallow, bering ane fingill roiff spar on his schoulder, cuming fornent the foir-3ett of the ludgeing thairwith : Culd nocht difcerne quha buir the famin, for the tumult, and being occupeit, hering the Bailleis cry for his Maiesteis helth and will : And immediatlie thaireftir depairtit. *Ignorat cetera.*

(9.) PATRIK BLAIR deponit, he come thair with the clerk ; and or² he culd win thair, the bell wes rung out, and the Nobill men wes commanding all hame. Quha thairat depairtit, leaving the Bailleis and clerk commanding hame the pepill : And being at the croce, saw Alexander Ruthuene, yonger, first address him to the merchant-buyth of Blais Powrie, and thairefter to the merchant-buyth of Johnne Lawrie. Knew nocht quhat he wes seiking, in respect of the distance betuix thame. *Ignorat cetera.*

(10.) WALTER GRAY deponit, that he wes furth in the South Inche ; and gatt na entrie. *Ignorat.*

(11.) PATRIK GRANT deponit, he come with his armour, at the found of the bell, foirnent the ludgeing. Hard Williame Rynd, flescher, being in the auld brokin house aboue the foir-3ett, cry furth at the wyndo thairof, ' The Prouest is slane !' Saw also Patrik Lamb, sawfter,³ cuming throw the Water-gait, with ane fingill roiff spar on his schowder. Saw Alexander Ruthuene cum furth of the ludgeing, with ane drawin sworde, cryand, ' Fy on 3ow all ! Thair is ane Nobill man tynt⁴ this day.'

(12.) JOHNNE OGILBY, decane, deponit, that at the found of the bell he com thair ; saw ane man cuming to the place with ane jeft on his schowder. Knawis nocht quha it wes. Hard Johnne Rentoull cryand, ' Grene-coittis ! 3e haue committit murther !' And the deponer reprovowg him, he answerit, ' 3e ar nocht gude nyctbouris⁵ in ane towne, that helpis nocht 3our Prouest.' *Ignorat cetera.*

(13.) WILLIAME JAK, decane, deponit he com befor the ludgeing, at the found of the bell, with ane Ros-aix,⁶ or halbert ; and spering be the way, quhat the mater menit ? The pepill cryit, ' The King wes slane !' And he na soner com thair, nor he hard all crying, ' The King wes weill !' And he depairtit. *Ignorat cetera.*

¹ Butchers.

² Ere, before.

³ Sawyer.

⁴ Lost.

⁵ Citizens, townsmen.

⁶ Lochaber-axe.

(14.) DAVID RYND, decane, deponit he com with his armour to the ludgeing, at the found of the bell; and feing wtheris pafs wp the blak turnepyk, he followit wp; quhair he saw Hew Moncreiff ftrikking in wnder the chalmer dur with ane Jedwart staff,¹ and wald nocht be stayit be the deponer. Saw Patrik Lamb, sawster, on his schowder, but ony help, bring in ane roiff spar, foirnent the foir zett of the ludgeing. Hard Alexander Ruthuene cry, 'Fy, bring powder!' *Ignorat cetera.*

(15.) THOMAS BISSETT, decane, deponit, at the found of the bell, he com thair. Confessit he stuid in the entrie of the foir zett, with ane drawin fword; and how sone Oliuer zoung and the clerk commandit him hame, he depairtit. Denyit all the rest.

(16.) ANDRO CUDBERT, decane, deponit, he wes in the Wod of Methuene that day, quhill evid. *Ignorat.*

(17.) WILLIAME MATHIE, decane, deponit he com at the found of the bell. Saw ane man cuming throw the Water-gait, with ane spar on his schowder; bot knawis nocht quhat he wes that bair it. *Ignorat.*

(18.) WILLIAME ROBERTSON, decane, deponit he wes nocht thair.

23 *Septembris*, 1600. Efter none.

THE NAMES OF THE QUARTERIS.

(19.) GILBERT RYCHERDSONE deponit, at the found of the bell, he com foirnent the ludgeing, past wp the Blak turnepyk, quhair he saw . . . Bruce, sone to Williame Bruce, with ane drawin fuorde, cryand in wnder the dur, 'My lord Duik, for Godis saik, tell me how the Kyngis grace is?' And the deponer cryit ower the wyndo, 'Cum wp and help the Kyng and the Prouest!' And being commandit hame, he depairtit to the croce, quhair he saw Alexander Ruthvne, crying at Johne Lawreis merchant-buyth, 'Cum doune and giff us powder!' But nane anfuerit. *Ignorat cetera.*

(20.) WILLIAME RYND, flescher, deponit, that he, being slaying flesche, hering the commoune bell, com doune foirnent the ludgeing, with ane fuord, enterit in at the foir zett and wp the blak turnepyk, quhair he saw Hew Moncreiff with ane Jedwart-staff, Patrik Eviot and his man with drawin fuordis: And being thair, beryng the pepill commandit hame, he cryit ower the wyndo, 'It wes the Kyngis will that all fuld gang hame;' and thairwith cuift ane sklait stane² ower the wyndo among the pepill, quhilk they say fell on ane talzeouris heid: And sua depairtit him self. *Ignorat cetera.*

(21.) THOMAS LAMB deponit, he com nocht thair, quhill all the pepill wes depairting. *Ignorat.*

(22.) THOMAS ROBERTSONE, *alias* DENIS, deponit, that at the begynnyng of the trubill, he wes in the wmq³ Erle of Gowryis kitscheing, helping to mak the denner reddy, with Robert Smythis man, quha wes principall cuik: Being demandit, 'Quha tuik wp my Lordis denner?' Anfuerit, Andro Henderfone, chalmerlane, tuik wp the first seruice; and betuix the first and the secund seruice, Andro Henderfone past furth with my lord, to meit the Kyng. Being siclyke demandit, 'Giff he hard ony word, that the Kyng wes to cum that day to the toune?' Anfuerit, 'Nane, quhill they gaid furth to meit his Maiestie.' Being forder demandit, 'Giff the said Andro Henderfone wes in the kitcheing, the tyme quhen the cry raise?' Deponit, he enterit neuir within the kitscheing, efter his outganging to meit the King; and giff wtherwayis it may be fund that he wes thair, he is content to be hangit.³ Deponit forder, efter the cry, he com furth of the kitscheing, saw the Maister lyand deid, at the Blak turnepye fute; and my lord with ane fuord in everie hand, ane steill-bonet on his heid, accompanyt with certane his servandis, stap ower the Maister, and pas wp the Blak turnepyk; sua the deponer com furth. Knawis na forder.

(23.) MYCHAELL BAXTER, talzeour, deponit, That at the begynnyng of the trubill, he wes

¹ The Jedburgh staff, or pike, was, from its peculiar construction, celebrated in those days, both as a weapon of offence and defence.

² Threw a slate stone.

³ This strange mode of expression is intended as an earnest asseveration of the truth; and was probably made on a second or third repetition of the same question.

and rypit the buyth; quhair, he finding nane, ran away with the keyis, and he keift thame fra him wpon the calfay.

(31.) GEORGE FORREST, talzeour, deponit, that at the ringing of the bell, he com with ane halbert to the ludgeing, past to the garding yearde, quhair he saw George Craiggingelt and Walter Cruikfchank, baith with drawin fuordis, George being ane tua-handit fuorde. Hard George Craiggingelt cry, 'Grene-cottis! Wo worth 3ow, for 3our heir cuming, and the thing 3e haue done this day!' And ane cryit out to Walter Cruikfchank, 'It wes ane evill halff leaff¹ and ane drynk 3e gaiff ws this day; 3e fall hing for it.' Forder, he saw ane bering ane spar to the ludgeing; bot knawis nocht quha buir it. *Ignorat cetera.*

(32.) JAMES MAR, wrycht, deponit, that he being at the dur of his awin buyth, he saw Patrik Lamb, sawfter, bring on his schowder ane single roiff spar to the foir 3ett of the ludgeing. *Ignorat cetera.*

24 Septembris, 1600. Afoir none.

(33.) THOMAS FOULIS, fmyth, deponit, that he wes schoand Robert Brownis horfe; he saw the Erle of Gowry gang in at his awin 3ett, with tua drawin fuordis. Hard Violet Ruthuene cry, 'Bludie boitscharis! Tratouris! Grene-cottis!' He saw Johne Rentoull, Thomas Biffett and wtheris quhome he knew nocht off, the Erlis feruandis, stand in the foir entrie of the foir 3ett, with drawin fuordis; and wald nocht fuffer the Prouest to enter in at the 3ett. *Ignorat cetera.*

(34.) THOMAS GREIG deponit, that he com nocht neir the ludgeing, bot saw Patrik Lamb, sawfter, bring ane spar throw the Water-gait on his awin schowder. *Ignorat cetera.*

(35.) DAVID RONALDSONE, cordiner, deponit, that he com thair with na wappyn, bot he hard Violet Ruthuene cry, 'Fy! Theiwis! Bludie boitscheris! Wo worth 3ow, grene-cottis!' And hard Alexander Ruthuene say, 'Wo worth this day, for euir!' *Ignorat cetera.*

(36.) GEORGE DAUIDSONE, lorymer,² deponit, that for obedience of the bell, he com to the ludgeing, enterit within the clofe, bot taryt nocht. Saw Andro Blair, serwand to the Laird of Balthyok, creave the halbert fra Robert Talzeour, quha refusit; quhairat he tuik him ane kuff.³ Hard na speches bot all cryand, 'How dois the Kyngis Maieftie?' *Ignorat cetera.*

(37.) ARCHIBALD MACBREK deponit, that befor ony cry gevin be the King, he saw the Duik, the Erle of Mar and the Erle of Gowrie standing befor the foir 3ett. Hard ane cry, lyke to the Kingis voce. He than saw Schir Thomas Erkyne enter in grippis with the Erle of Gowrie, quhair the Erle wes putt all moift on his kneis; quhairat the Erle stappit bakward all maift foirnent the deponeris hous, and thair he drew his tua fuordis, bot he culd nocht dignofce⁴ ony perfone that wes with him. The deponer in the meanetyme start in for his fuorde, and cuming furth with his drawin fuorde and dager, the Laird of Glenwrquhay said to him, 'Quhair away and the King in the ludgeing?' Quhairat he layit fra him his fuorde,⁵ and stoppit doune to the place but ony wapyn. Being interro-gat, 'Quhat euill speches he hard vterit aganes his Maieftie, or his hienes servandis?' Deponit, he hard nane, bot all cryand, 'How dois his Maieftie? Lat ws fie his face.' And thairefter, hard thame cry, 'Lat fie our Prouest! How dois our Prouest?' Hard Alexander Ruthuene say, 'It can be na war⁶ nor it is! Latt ws to the houfe.' And thairwith the deponer depairtit. Knawis na forder.

(38.) HENRIE LEISE deponit, that he, at the found of the bell, com to the 3ett, and enterit within the clofe of the Erle of Gowryis ludgeing; quhair he saw Hew Moncreiff bluiding, and Alexander Ruthuene yonger cum doun the Blak turnepyk. Saw Patrik Lamb, sawfter, bring in to the clofe sne roiff spar, and cast it doune thair. Hard Alexander Ruthuene cry, 'Fetche ws powder!' *Ignorat cetera.*

¹ Bad half loaf, &c.; in allusion to the scraps, or shabby fare afforded by Gowry to the King and his attendants.
² A spurrier, or spur-maker; a dealer in horse accoutrements, such as bits, bridles, &c. They were usually saddlers. Old Fr. *lorimier*.
³ A cuff, slap, or slight blow.
⁴ Recognise, distinguish. Lat. *dignoscere*.
⁵ In reference to the Proclamation against bearing arms within a certain distance of the King's person.
⁶ Worse than it is.

(39.) HENRIE BANNEWIS (Balnaves) deponit, wes in the ludgeing befor the tumult. Past furth, at the defyre of Schir Thomas Erkyne, to by him ane pair grene silkin schankis.¹ Befoir his returnyng, the King had dynnit: And haiffing tauld his anfuere, he past wp the gait; and being on the calsfay he hard ane tumult; and luiking behind him, he saw the lord of Gowrie with his fuordis in his handis, and hard all the pepill cryand, 'The King is slane!' And thairwith he passit him² for his wapnis; and cuming doune to the foir zett, he saw Hew Moncreiff cuming furth: Sperit at him, 'Quhair the King wes?' Anfuereit, he knew nocht. Saw nocht the King, nor hard him speak ony thing ower the round: And immediatlie thairefter, depairtit hame. *Ignorat cetera.*

(40.) THOMAS TALZEOUR deponit, he wes but ony wappyn. Saw Johne Rentoull and Thomas Biffett refist the Laird of Balthayok, in the entrie of the foir zett; and wtheris of the Erle of Gowryis fervandis, being than with thame. *Ignorat cetera.*

(41.) ANDRO JAMES deponit, he saw Patrik Lamb bring ane trie on his schowder to the foir zett, and hard ane cry out of the ludgeing, 'Quhair away kneave with that trie?' Mett Hew Moncreiff cuming furth at the zett, bluding. Depairtit at command. *Ignorat cetera.*

(42.) PATRIK QUHYTOK, cordiner, deponit, that he being standing on the calsfay, he saw the v^mq^{le} Erle of Gowrie, besyde Archibald M^cBrekis hous, haiff tua drawin fuordis in his handis; and hard him say, 'He wald forward to his awin ludgeing.' Hard Violet Ruthuene cry wp to the place, 'Bludie boitscheouris! Tratouris! Theiwis!' and siclyke evill speches. *Ignorat cetera.*

(43.) PATRIK BRUCE deponit, he being on the calsfay, he saw the v^mq^{le} Erle of Gowrie, at his awin zett, all maist fall doune to the eird. Hard Violet Ruthuene cryand, 'Tratouris!' &c. *Ignorat cetera.*

(44.) ANDRO POLL deponit, at the found of the bell, he com to the ludgeing, with ane halbert; and being in the clofe, he saw Patrik Lamb, sawfter, bring in on his schowder to the clofe, ane spar of fir, quhilk he sett aff his schowder to the wall, betuix the turnepyke and the feller dur. Saw Mr Thomes Cranftoun cum down the Blak turnepyk, bluding: And sua depairtit hame, at command. *Ignorat cetera.*

(45.) ANTHONE MAXTOUNE deponit, he com doune the gait with the young Laird of Tullybardin, quhen the nobill men wer fitting at thair dennar. Wes wpone the calsfay, quhen ane cryit out off the round; bot knew nocht quhais voce it wes, and, as apperit to him, the cryar wes half braithles. Saw my lord Duik, my lord Mar and the Erle of Gowry cum furth at the foir zett: Efter sum strugling, he saw the Erle of Gowrie gang ane pece wp the gait, quhair he hard the said Erle say, 'He wald gang into his awin hous.' Saw na wapnis in his handis, at the quhilk tyme he past wp the gait, returnyng bak agane at the found of the bell but ony wapnis. He hard Violet Ruthuene, cryand, 'God latt neur ane of 3ow haue sic plantis of 3our awin!' And hard Alexander Ruthuene say, 'Fy on 3ow, Bailleis and haill toun! Is this all the help 3e mak this day to 3our Prouest!' And sua depairtit hame, being commandit. *Ignorat cetera.*

24 Septembris, 1600. Efter none.

(46.) ALEXANDER PEBLIS deponit, that during all the tyme of the tumult, he wes lokkit in his awin hous, and luiking out at the wyndo. Hard Thomas Biffett cryand wp to the round, 'Is my Lord of Gowrie allywe?' 'Giff he be nocht allywe, he fuld haue amendis of all that wes thairin!' And James Bower cryit wp the ellyke speches. Wald nocht depairt, quhill they saw my lord of Gowrie; and ane of thame tua cryit wp, 'Grene-cottis! we fall haue amendis of 3ow!' Vagging thair handis wp, sayand, '3e fall pay for it!' Hard Thomas Elder in Balbuchtie, cry wp, for 'Ane sicht of the Erle of Gowrie.' Hard Robert Talzeour cry, 'Tratouris and theiwis, that hes slane the Erle of

¹ It appears that the whole of the royal party were dressed in green hunting-suits. Balnavis is sent to purchase green-silk stockings for Sir Thomas Erskine's dress suit. ² Perhaps for 'hame,' home.

Gowrie! Saw Johne Rentoull, Thomas Biffett, and wtheris of the Erlis fervandis, stand in the entrie of the foir zett, with fuordis in their handis; and wald nocht cum fra it. Saw ane of the Erle of Gowryis allakeyis,¹ at the entrie of the zett, putt ane steill bonett on the Erlis heid. Hard Violet Ruthuene and wtheris wemen cry, 'Tratouris! Theiwis! The Erle of Gowrie haid anew to tak meit and drynk fra hame,² bot hes nane to revenge his deid!' *Ignorat cetera.*

(47.) PATRIK LAW, talzeour, deponit, he com na forder nor the duelling hous of Archebald M^c-Brek; quhair he, hering the nyctbouris commandit hame, be the Bailleis; he depairtit to his awin hous: And being at the croce, he saw Alexander Ruthuene cum to the merchant-buyth of Blais Powrie and Johne Lawrie, cryand for 'Powder,' bot gatt nane. And thairefter, ane gude space, saw the said Alexander cum wp the calsay, and pas furth at the Hie-gait-port. *Ignorat cetera.*

(48.) THOMAS ZOUNG, talzeour, deponit, he wes bot new cum in to the toune. Hard nor saw nathing, bot all cryand wp, for 'Ane ficht of the Kingis face;' and 'Giff his Maieftie wes weill?' Except, he hard Mr Alexander Bannewis, Redar, cry wp to the round; bot tuik nocht tent quhat he said. *Ignorat cetera.*

(49.) JOHNE HENDERSONE, baxter, deponit, he cuming thair at the found of the bell, and being standing aboue Archibald M^cBrekis hous, he saw ane, bering ane trie on his schowderis, to the ludgeing; bot knawis nocht quha it wes, except be report fenfyne, it wes the man that is in the irnis.

(50.) JOHNE BROUNE, wobfter, deponit, he com at the found of the bell, with ane staff. Hard na thing, bot hard sum cryand, 'God fend ane drap of grace to his Maieftie!' verie pitifullie. Knawis nocht quha it wes. And sua depairtit, being commandit. *Ignorat cetera.*

(51.) JOHNE LAWRIE deponit, he com at the found of the bell. Hard na thing, bot all cryand, 'The King is weill.' And he anfuert, 'God be thankit.' And lykeways deponit, that quhen he cam hame, his wyff tauld him, that in his absence, his buyth-dur being lokkit, Alexander Ruthvene lap in at the buyth-wyndo, and rypit³ all the buyth for powder: Wald nocht depairt, quhill his wyff maid faith⁴ that they had na powder. Siclyke, him self saw ane, bering ane trie to the ludgeing on his schowder; bot knew nocht quha it wes; and hard ane gentill man cry ower the wyndo, 'Quhair away kneawe? Lay doune the trie!' Qubilk trie, the Baillie caufit the man cast down. And swa depairtit hame. *Ignorat cetera.*

(52.) ALEXANDER MACDUFF deponit, he com, at the found of the bell, foirnent the ludgeing; with his wapenis; quhair he saw ane cast furth ane sklait out aff⁵ the heid of the Blak turnepyke, and fell ane talzeour at the foir zett. Saw also ane mekill man bringing ane singill roiff spar to the ludgeing, on his schowder; but knawis nocht quha it wes. Depairtit sua sone as he wes commandit. *Ignorat cetera.*

(53.) GREGOUR MAKREGOUR, skynner, deponit, he saw the Erle of Gowrie gang bak fra his awin ludgeing, foirnent Neill Robertsonis hous, quhair he than drew furth twa fuordis, and Mr Thomas Cranstoune drew ane fuorde, and pass in togidder at the zett. Hard ane cry out at the over⁶ round, 'Tressoun!' Bot knawis nocht quhais voce it wes. Saw Patrik Lamb, sawfter, bring ane spar on his schowder to the hous. *Ignorat cetera.*

(54.) JOHNE BROUNE, notar, deponit, that he saw my lord Duik and my lord of Gowrie cuming furth at the zett; and spering, 'Gif his Maieftie com furth?' And gaiting word that his Maieftie wes nocht cum furth, they wer altogidder at my lord of Gowryis zett; and 'Tressoun!' being cryit furth at ane skoir wyndo, that luikis to the Water-gait, Schir Thomas Erkyne tuik my lord of Gowrie be the gorget, and sayd, 'O Tratour! This is thy deid!' Or the lyke terme. And thairefter, they being finderit, my lord of Gowrie pass wp the gait, and haiffing tua fuordis in his hand, befoir Duncane Robertsonis hous, sayd, 'He wald nocht tary furth of his place, his Maieftie being thair, and Tressoun thairintill!' And thairefter, the deponer depairtit hame to his hous; and com doune agane with ane

¹ A footman, or servant, a lacquey. O. Fr. *lacquais*.

oath, or 'faith and troth.'

³ From, off.

⁶ Upper.

² Him?

⁵ Ransacked.

⁴ He took her



halbert, and staid befor the zett of the place, quhill his Maieftie patt furth hes hand at the fayd wyn-
do, and fayd, ' I am weill.' Thairefter, the said Johne anfuert, ' Praided be God;' and pafst hame.
Ignorat cetera.

(55.) **JOHNE GAW**, merchant, deponit, he com thair at the found of the bell, bot tareyit nocht ane
malmond of ane hour. *Ignorat.*

(56.) **GEORGE HUNTER** deponit, he wes that day in the place of Kynnard. *Ignorat.*

(57.) **PATRIK FLEMING**, merchant, wes nocht that day in the toune. *Ignorat.*

(58.) **WILLIAME HALL** youngar, nocht thair. *Ignorat.*

(59.) **MALCOLME HALL**, baxter, com nocht. *Ignorat.*

(60.) **JAMES BLAIR**, merchant, deponit he com thair, bot tareyit nocht. *Ignorat.*

(61.) **ROBERT EDUARD** deponit, he wes thair, bot tareyit nocht. *Ignorat.*

(62.) **ROBERT BLAKWOD** deponit, he wes all the tyme fleipand. *Ignorat.*

(63.) **JOHNE ROBERTSONE**, merchant, was thair, and departit at command of the Bailleis. *Ignorat.*

(64.) **JOHNE PULLOUR**, merchant, wes nocht thair. *Ignorat.*

(65.) **JAMES LAFREISE** deponit, he wes nocht in the toun that day. *Ignorat.*

(66.) **THOMES CRAMBY**, flesour, wes all that day in Strowyhill. *Ignorat.*

(67.) **JOHNE COVENRIE** com nocht furth of his maisteris hous. *Ignorat.*

(68.) **JAMES IRLAND** com at the found of the bell; bot departit, fa sune as he wes commandit be
the Bailleis. *Ignorat.*

25 *Septembris*, 1600. Befoir none.

THE perfonis following wer examinat wpon the preceeding Artiklis, and fuorne; quha deponit, That
thai that cam to the ludgeing, tareyit nocht thair, bot departit in all haift, at command of the Bailleis
and clerk; and sua knew nathing: And the wther pairt that followis, wes nocht in the toune, as is
heirefter devydit.

(69.) **ANDRO GOW**, talgeour, wes in the toune, bot com nocht.

(70.) **HENRIE TALGEOUR** wes thair, bot tareyit nocht.

(71.) **ALEXANDER MONCREIFF** com befor the ending. *Ignorat.*

(72.) **WILLIAME MERSAR** wes thair. *Ignorat.*

(73.) **ALEXANDER MYCHELL**, nocht thair. *Ignorat.*

(74.) **ALEXANDER CRAIG**, cordiner, thair. *Ignorat.*

(75.) **ADAME ANDERSONE**, nocht thair. *Ignorat.*

(76.) **JAMES GILL**, thair. *Ignorat.*

(77.) **JAMES BLYTH**, nocht thair. *Ignorat.*

(78.) **PATRIK OLYPHANT**, nocht thair. *Ignorat.*

(79.) **ALLANE ROBERTSONE**, nocht thair. *Ignorat.*

(80.) **GEORGE ARCHIBALD**, thair. *Ignorat.*

(81.) **THOMAS GAW** wes nocht thair. *Ignorat.*

(82.) **JOHNE PITCARNE** wes nocht thair, wes feik. *Ignorat.*

(83.) **JOHNE THOMSONE**, flescher, wes in Dunkeld, com nocht hame quhill the morne thairefter.
Ignorat.

(84.) **THOMAS JOHNSTONE**, wobster, cam nocht sua far doune. *Ignorat.*

(85.) **ROBERT LETHAME** wes nocht thair. *Ignorat.*

(86.) **ROBERT THOMESONE**, feik, nocht thair. *Ignorat.*

(87.) **THOMAS RYND** com nocht neir the ludgeing. *Ignorat.*

(88.) **THOMAS ELGYNE** wes flepand. *Ignorat.*

(89.) **SAMPSONE MAR**, nocht thair; except he pafst hame for his fuord and com nocht bak. *Ignorat.*

- (90.) ANDRO THOMESONE, nocht thair. *Ignorat.*
 (91.) PATRIK BONER wes nocht in the toune. *Ignorat.*
 (92.) ROBERT MURRAY wes in Collace. *Ignorat.*
 (93.) MATHO GALGEAR wes thair but ony wapnis. Hard na thing. *Ignorat.*
 (94.) GEORGE GOUNG wes nocht thair. *Ignorat.*
 (95.) JOHNE NEVING wes thair, tareit nocht. *Ignorat.*
 (96.) ALEXANDER ADAMSONE wes in Glesgow. *Ignorat.*
 (97.) ALEXANDER SMYTH com thair at the found of the bell. Paft away at command of the Kingis mouth, and his fervandis. *Ignorat cetera.*
 (98.) PATRIK DRUMMOND wes nocht in the toune. *Ignorat.*
 (99.) JAMES BANNEWIS wes nocht thair. *Ignorat.*
 (100.) GEORGE HORNE deponit, he wes in Faulkland. *Ignorat.*
 (101.) ROBERT STENESONE wes in the Meirnis. *Ignorat.*
 (102.) DUNCANE FORRESTER, nocht thair. *Ignorat.*
 (103.) MATHO CHAIP, nocht thair, nor in the toune.
 (104.) THOMAS WILSONE wes nocht thair. *Ignorat.*
 (105.) ARCHIBALD GOUNG, nocht thair. *Ignorat.*
 (106.) JAMES GOUNG, in the Querrell (*quarry*). *Ignorat.*
 (107.) JOHNE ELDER, nocht thair. *Ignorat.*
 (108.) JOHNE DRUMMOND deponit, he was in the toune; com with ane staff, bot nocht sua far doune as the ludgeing. *Ignorat.*
 (109.) ANDRO RAMSAY, sleping all the tyme. *Ignorat.*
 (110.) ALEXANDER ADAME, seik, nocht thair. *Ignorat.*
 (111.) HENRIE SCHERPE wes nocht thair. *Ignorat.*
 (112.) JOHNE GREIFF, in the malte-barne. *Ignorat.*
 (113.) ALEXANDER CARRINWATH com nocht sa far doune. *Ignorat.*
 (114.) JOHNE ANDERSONE wes in Wigtoun. *Ignorat.*
 (115.) THOMAS CRE com nocht sua far doune, being half deid quhen he hard the King wes slane : Bot heiring his Maieftie wes weill and faiff, he praift God and paft hame. *Ignorat cetera.*
 (116.) ANDRO KEIR com nocht thair. *Ignorat.*
 (117.) JAMES PATTOUN, nocht thair. *Ignorat.*
 (118.) ADAM KELTIE, sleping. *Ignorat.*
 (119.) WILLIAME JOHNSTONE, nocht thair. *Ignorat.*
 (120.) JOHNE RODGIE, nocht thair. *Ignorat.*
 (121.) ALEXANDER MONCREIFF wes in Auchtergavin. *Ignorat.*
 (122.) ADAME WILSONE cam nocht sa far doune. *Ignorat.*
 (123.) PATRIK FLEMING, notar, wes thair; hard na thing bot all men lamenting the Kingis estait hevelie. Had na wapnis. *Ignorat.*
 (124.) PATRIK WILSONE wes thair; hard na thing, bot saw the Magiftratis putting away the pe-pill. *Cetera ignorat.*
 (125.) JOHNE LAMB, wobfler, nocht thair. *Ignorat.*
 (126.) STEVIN BLAK, nocht thair. *Ignorat.*
 (127.) MATHO ALLANE com nocht sua far doune. *Ignorat.*
 (128.) JOHNE RYCHIE, nocht thair. *Ignorat.*
 (129.) ANDRO GELLATLIE, hering the bell, paft to the lit-hous (*dye-house*) quhair his wyffe wes, for the keyis, to get ane wapin; and befoir he com thair all wes stenscht. *Ignorat.*
 (130.) ROBERT NARNE, talzeour, deponit, that he wes in Mukerfie. *Ignorat.*

- (131.) ALEXANDER FARIE, decane of the Walcaris (*fullers*), deponit, he wes in the wod of Methuene. *Ignorat.*
- (132.) ROBERT BROUN deponit, at the found of the bell, he com to the ludgeing with ane sword; quhair he saw Hew Moncreiff cum forth bluiding, with ane drawin fuorde. *Ignorat cetera.*
- (133.) DONALD JOHNSTOUNE deponit, all the pepill wes returning hame befoir he com, and he returnit with the rest. *Ignorat.*
- (134.) WILLIAME DOG deponit, he wes in Cragy. *Ignorat.*
- (135.) THOMAS HALL com nocht neir the ludgeing. *Ignorat.*
- (136.) DONALD CORNELL wes in the Eifter Rynd. *Ignorat.*
- (137.) STEPHANE PHILP deponit, he wes nocht thair quhill the Kingis depairtour. *Ignorat.*
- (138.) ROBERT GRANT hard the bell and com nocht. *Ignorat.*
- (139.) JAMES MAXTOUN wes cumand with his halbert; and meiting Oliuer zougng baillie, he commandit him bak, or than he fuld brek his heid! *Ignorat.*
- (140.) JOHNE DRUMMOND com at command of the bell; and depairtit suddandlie at command. *Ignorat cetera.*
- (141.) GEORGE DIXSOUN wes thair; depairtit at the first command that wes gevin. *Ignorat cetera.*

25 Septembris, 1600. Ethernons.

- (142.) DIONEIS CONQUEROUR elder hard the bell, bot com nocht thair. *Ignorat cetera.*
- (143.) GAVYN DALZELL wes in Dalzell. *Ignorat.*
- (144.) THOMAS LISK, hering the bell, com with ane halbert; and at the first command that wes givin be the baillieis, he depairtit. *Ignorat cetera.*
- (145.) CHARLIS QUHYTE wes in the toune and cam nocht. *Ignorat.*
- (146.) JOHNE SMYTH, maltman, (wes) in the toune, com nocht. *Ignorat.*
- (147.) WILLIAME DUNCANE, skynner, com with ane fuord. *Ignorat.*
- (148.) JOHNE DYKIS com als far as Archibald M^cbrekia, with ane fuord; and at command of Andro Ray baillie, depairtit. Com na forder. *Ignorat cetera.*
- (149.) DAVID GRANT com with Thomas Gaw to Duncane Robertsonis round, quhair they tareit all the tyme. *Ignorat.*
- (150.) PATRIK STEILL, hering the bell, quhen he wes fchering (*reaping*) in the Moirtoun-hauch, com in to the toune, quhen all the tumult wes ceiffit. Cuming foirnent Gabriell Merfaria, saw Oliuer zougng and Andro Ray baillieis, commanding all hame. They commandit him, and he obeyit. Com nocht to the ludgeing of all (*at all, ava*). *Ignorat cetera.*
- (151.) ROBERT ZOUNG cum to the ludgeing; past away at command of the baillieis. *Ignorat cetera.*
- (152.) ADAM GRAY wes at his litt-fat (*dying-vat*); hard the bell; com nocht. *Ignorat.*
- (153.) PETER CRAIGDELIE com nocht thair. *Ignorat.*
- (154.) ROBERT FLEMYNG wes in Gavyne Dalzellis. They lokkit the zettis, and he gat not furth. *Ignorat.*
- (155.) JOHNE BOIG yonger wes in the wod of Methuene. *Ignorat.*
- (156.) THOMAS ARCHER com na forder nor the croce. *Ignorat.*
- (157.) ROBERT RUTHIRFURDE wes in the walk-mylne (*fulling-mill*). *Ignorat.*
- (158.) ALEXANDER MAISSOUN cam na furder nor the Salt mercat. *Ignorat.*
- (159.) WILLIAME RUTHVENE, ane of the maris (*town officers*), wes in Langforgoun, fummonding ane Affyse. Foirknew na thing. *Ignorat.*
- (160.) ALEXANDER MAXTOUN, cuming doune to the ludgeing, be the gait, wes commandit hame, be the baillieis and young Tullybardin. *Ignorat.*
- (161.) JOHNE BURRY cam nocht faa far doune. *Ignorat*; and but armour.

- (162.) ANDRO GRANT wes in the South-ferry of Portincraig. *Ignorat.*
 (163.) HENRY BROUNE, notar, cuming thair, wes commandit hame. *Ignorat.*
 (164.) JOHNE BROUNE, wobster, hard the bell; com nocht furth. *Ignorat.*
 (165.) WILLIAME McBEITH wes in Forgoune at ane brydall. *Ignorat.*
 (166.) JOHNE EDMUND wes in Dundie; and being interrogit 'Gif he saw Johne Lamb sone to Robert Lamb, merchant, thair?' Deponit he saw him thair tua dayis ofbefoir, bot nocht that day.
 (167.) GEORGE DRUMMOND com thair, quhen the bailleis wes difchargeing all away. Hard na evill speches. *Ignorat.*
 (168.) THOMAS COK wes lyand feik. *Ignorat.*
 (169.) JOHNE WENTOUNE wes in the North Inche. Enterit nocht in the toune. *Ignorat.*
 (170.) WALTER BURNEHILL came nocht sua far doune. *Ignorat.*
 (171.) JAMES DONALDSONE com na forder nor the Salt mercat; with armour. *Ignorat.*
 (172.) JAMES LAMB wes reffaving collis (*coals*) in the South Inche. Enterit nocht in the toune. *Ignorat.* And because he culd not gait entres in at the Port, he caufit the horfe leid the collis throw the Inche, throw the Lang-calfay, the New-raw, Leid-lyde, and to his hous.
 (173.) JOHNE COLTE, merchant, com nocht. *Ignorat.*
 (174.) DAVID JAKSONE yonger wes in Aberdalgie. *Ignorat.*
 (175.) ANDRO LYELL come; tareyit nocht. *Ignorat.*
 (176.) DAVID MONCREIFF, baxter; com thair; past way at command of the bailleis. *Ignorat.*
 (177.) JOHNE BROUNE, skynner, wes thair. *Ignorat.*
 (178.) ANDRO CRYSTIE, wobster, wes thair. *Ignorat.*
 (179.) JOHNE HEWAT, talzeour, com nocht. *Ignorat.*
 (180.) JAMES HENDERSONE, baxter, cuming to the end of the Water-gait, he hard the Bailleis commanding the pepill hame; quhilk he obeyit. Com na forder. *Ignorat.*
 (181.) ROBERT BROUNE, maltman, com to the end of the gait, and na forder. *Ignorat.*
 (182.) ROBERT LIDDELL, cordiner, com at the found of the bell. The Duik bidding all, ower the round, to gang hame, he spak up agane to his lordschip, and defyrit to fie the King and the Erle of Gowrie. And his lordschip anfuerit, 'ze fall fie the King.' And sua, the Kingis Maiestie, beiknyng with his hand, and commanding all to departit, he obeyit. *Cetera ignorat.*
 (183.) JAMES SYME, baxter, wes thair; bot departit, sua sone as the bailleis commandit him. *Ignorat cetera.*
 (184.) JOHNE ANDERSONE yonger hard the bell, and com nocht. *Ignorat.*
 (185.) JOHNE COLTE, maiffoun, wes in Innernytie. *Ignorat.*
 (186.) JAMES SANDERIS, merchant, wes in the Stormond. Wes nocht in the toune thre dayis thairefter. *Ignorat.*
 (187.) ROBERT MURRAY yonger wes in the North Inche. *Ignorat.*
 (188.) JOHNE MERTYNE, baxter, wes cuming to the ludgeing at the found of the bell; meiting with the bailleis at the Rattoun-raw, wes commandit hame, and obeyit. *Ignorat.*
 (189.) THOMAS DOG, baxter, com nocht sua far doune. *Ignorat.*
 (190.) THOMAS SYME, talzeour, com nocht sua far doune, be a gude space. *Ignorat.*

26 Septembris, 1600. Befoir none.

- (191.) JOHNE MAISSOUN, nocht thair. *Ignorat.*
 (192.) JOHNE BURNET, nocht in the toun. *Ignorat.*
 (193.) PATRIK RODGIE wes in the Parkhill. *Ignorat.*
 (194.) THOMAS McLAWRENE wes feik. *Ignorat.*
 (195.) JAMES MURRAY wes thair, but ony wapnis. Tareit nocht. *Ignorat.*

- (237.) WILLIAME WILLIAMESONE, baxter, com lang efter the ringing of the bell ; and at his cuming, they wer all departing. *Ignorat.*
- (238.) ALEXANDER ROBERTSONE hard the bell, bot com nocht. *Ignorat.*
- (239.) ARCHIBALD BROUNE, at the found of the fecund ringing of the bell, cuming to the place quhair the tumult wes, saw the bailleis commanding all hame ; he depairtit. *Ignorat cetera.*
- (240.) JOHNE HENDERSONE, baxter, wes in Rait. *Ignorat.*
- (241.) JOHN LAYNG, maltman, being gating collis¹ in the South Inche, at the found of the bell : Tareit na langer at the hous, nor (*than*) he hard his Maieftie say, ' Gang hame all ! I am weill ! ' *Cetera ignorat.*
- (242.) JOHNE LENDELL, baxter, hard the bell ; he and Williame Scherpe, sittand in Gabriell Merfaris laich feller, quhair of they steikit² the dur, and they culd nocht gait furth. *Cetera ignorat.*
- (243.) WALTER ZOUNG, baxter, hering the bell, com to the croce ; and hering the tumult wes at the Erle of Gowryis lodgeing, he com thair ; and meiting all the pepill returning hame, being commandit by the bailleis, he also returnit. *Ignorat cetera.*
- (244.) JOHNE KYNLOCH, talzeour, wes thair at the found of the bell, bot tareit nocht ; haid na wapnis. *Ignorat.*
- (245.) WILLIAME CLERK wes meitting³ collis all the tyme, in the South Inche. *Ignorat.*
- (246.) THOMAS DRUMMOND, skynner, wes in the Moirtoune. *Ignorat.*
- (247.) PATRIK PRIOUR, baxter, hering the bell, com to the ludgeing ; fua sone as the bailleis commandit the pepill hame, he depairtit. *Ignorat.*
- (248.) JAMES FARGUSONE, baxter, com nocht to the ludgeing, quhill all wes departing hame. *Ignorat cetera.*
- (249.) THOMAS NYCOLSOUN, baxter, wes lang in cuming ; mett all the pepill returning hame, and he paf na forder. *Ignorat.*
- (250.) JOHNE JAK, belman, wes nocht neir the ludgeing be ane gude space. *Ignorat.*
- (251.) ANDRO GIB wes fleping. *Ignorat.*
- (252.) THOMAS SMYTH com nocht thair. *Ignorat.*
- (253.) ROBERT CUDBERT, nocht thair. *Ignorat.*
- (254.) ANDRO WILSONE, baxter, hering the bell, hard that thair was ane tumult of pley⁴ at the Erle of Gowryis ludgeing. Cuming thair, wes incontinent commandit hame be the bailleis, quha obeyit. *Ignorat cetera.*
- (255.) ANDRO MALCOLME elder, baxter, wes in the South Inche all the tyme ; ane man of thre-foir ten yeris of age. *Ignorat.*
- (256.) JOANE BEIRNE, skynner, of the ellyke age, wes nocht thair. *Ignorat.*
- (257.) ANDRO DONALDSONE, merchant, hering the bell, wes cuming to the ludgeing ; but mett all pepill returning bak. Paf na forder. *Ignorat.*

26 *Septembris*, 1600. Efter none.

- (258.) JAMES STOBBIER, skynner, com nocht out of his house. *Ignorat.*
- (259.) WILLIAME ROS, at the Charter-hous-zett, wes fchering out of the toune, and culd nocht gait entres at the port. *Ignorat.*
- (260.) JAMES TYRIE, com thair, immediatlie befor the ceiffing of the tumult, and na soner. *Ignorat.*
- (261.) JOHNE KEMPIE, talzeour, com nocht thair. *Ignorat.*
- (262.) GEORGE LAMB, baxter, deponit he wes in Dundie, all the nycht of befor ; bot come to the toune befor xij houris at none : Com nocht out of his hous to the ludgeing, at na tyme of the tumult. Being interrogat, ' Giff he saw John Lamb, sone to Robert Lamb in Perth, in the toune of Dundie

¹ Getting coals.

² Shut, locked.

³ Measuring.

⁴ A tumultous broil or quarrel.

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| (311.) George Wod, | (321.) Williame Souter, | (331.) Williame Roddome, |
| (312.) George Adamfone, | (322.) Wm. Smythe, cordiner, | (332.) Patrik Malcome, |
| (313.) James Roberfone, skynner, | (323.) Thomas Stobie, | (333.) Wm. Robertfone elder, |
| (314.) Johne Monypenny, cuper, | (324.) Andro Scherpe, wobfter, | (334.) Andro Luffrent, |
| (315.) Archibald Smyth, | (325.) Thomas Souter, | (335.) Dougell M ^c Lawrene, |
| (316.) Edmund Finlafone, | (326.) Thomas M ^c Ky, | (336.) Patrik Mug, |
| (317.) Williame Ruffell, wobfter, | (327.) Andro Lowdoune, | (337.) Williame Aleifter, |
| (318.) David Donaldfone, | (328.) Luik Reid, | (338.) Henry Hall, baxter, |
| (319.) Johne Marfchell, skynner, | (329.) Walter Cudbert, | (339.) Johne Henryfoun, merch ^t , |
| (320.) David Cryftie, wobfter, | (330.) Patrik Quhyte, | (340.) Williame Myller. |

THIR perfones following wer nocht in the toune of Perth, vpon the fyft day of Auguft, 1600, viz.

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| (341.) Alexander Wychtounne, | (346.) James Berne, | (351.) Williame Walcare, |
| (342.) James Nycoll, ftaibler, | (347.) Alexander Drummond, | (352.) James Haggart elder, |
| (343.) Andro Mathow, | (348.) Finla M ^c inneis, | (353.) Alexander Merfer, |
| (344.) Angous Cardny, | (349.) Robert Muglie, | (354.) George Quhattene, |
| (345.) Johne Conqueriour, mer-
chand, | (350.) Johne Robertfone, mer-
chand, | (355.) Andro Fifcher. |

WE, wnder fubfcryveand, TESTIFEIS, That it is of veritie, we hard euerie thing writtin ofbefoir in this buik, according to the fingular Depofitiones of everie perfone contenit thairinto ; quhilkis wer particularie fuorne and examinat, in our prefensses, in the strateft maner as we culd devyfe, wpone everie artikill contenit in this buik. Subfcryuit with our handis, At PERTH, the ellevint day of October, the yeir of God J^m. and fex hundred yeiris.

OLIPHER ZOUNG, Bailze,

A. RAY, Balinus,

M. P. GALLOUAY.

THOMAS JHONESTOUNE, bailze,

JAMES DRUMMOND,

ROBERT ANDERSON,

ANDRO ARNET, w^t my hand,

ROBERT MATHOW, w^t my hand,

} Witnes to pe 24, 25 and 26 dayes
Examinatioun.

WALTER GRAY, w^t my hande,

M. WILLIAM COWPER,

HENRICUS ELDER, Notarius,

Scriba communitatis burgi

de Perth, manu fua.

No. IV.

THE EARLE OF GOWRIES CONSPIRACIE againft the Kingis Maieftie of Scotland, At Saint John-ftoun, vpon Tuesday the fift of Auguft, 1600.

LONDON. Printed by Valentine Simmes, dwelling on Adling-hill, at the Signe of the White Swanne, 1600.¹

[The prefent Reprint of what has been termed ‘ The King’s Narrative,’ and ‘ The Account published by authority,’ has been made from the Earliest Eng-

¹ Preserved in the Library of the Faculty of Advocates. Simmes printed another Edition in 1603, after King James ascended the English throne, small quarto, pp. 32, in Roman letters, a copy of which the Editor saw, *penes* David Laing, Esquire.

lish Edition, of 32 pages small quarto, Black Letter. There were likely at least two Editions printed at Edinburgh, by Robert Waldegrave and by Robert Charteris, immediately after the Trials for the Conspiracy took place; in order to quiet, as well as to satisfy the public mind, which had been much inflamed by Mr Robert Bruce and the other refractory Ministers of Edinburgh; who greedily availed themselves of this opportunity of expressing their incredulity, by way of avenging themselves against the King, for his obstinate adherence to Episcopacy, &c. In Herbert's Edition of *Ames's Typographical Antiquities*, p. 1521, notice is taken of an Octavo (mistake for small Quarto) Edition, at Edinburgh, printed by Robert Charteris 1600, 'cum privilegio Regio;' three sheets and a half. As Ames quotes *Harl. Miscel.* III. 76, where this Tract is inserted, it is likely that he never saw the original, which is so extremely scarce, that a copy cannot now be traced. Lord Hailes reprinted this Tract, as the first number of an intended series of Papers relative to the Gowrie Conspiracy; but either he did not live to finish this work, or, more probably, he abandoned the undertaking, owing to the want of proper materials. His lordship says, 'This Account was published by authority, at Edinburgh, about the beginning of September 1600; for Nicolson, Queen Elizabeth's agent in Scotland, sent it to Sir Robert Cecil, on the 3d of September 1600. *Paper Office.*' He also remarks, that 'it appears by a Letter from Sir John Carey, Governor of Berwick, to Cecil, 4th of September 1600, that some TREATISE had been published in Scotland, IN VINDICATION OF GOWRIE. *Paper Office.*' This last-mentioned Treatise must have been privately circulated in MS., or, if printed, the impression had been seized at press. Not a vestige of the Tract remains. Even the Title, or an abstract of the facts and arguments, is unnoticed by any of the numerous contemporaneous writers who profess to espouse the cause of the Earl of Gowrie. The Rev. James Scott, in his *History*, 8vo, Edinburgh, 1818, p. 5, quotes a MS., in the Library of the Society of Antiquaries, Perth, which he terms 'Stewart's Collections,' in which it is stated, that 'after the Earl of Gowrie's death, a small Treatise was published in his Vindication, but was suppressed. Some copies of it were, however, preserved; and Sir Robert Douglas has said, that his brother Sir William had seen one of these Vindications, and that also several old gentlemen in Perthshire had owned that they had seen it.' On this subject, it shall only farther be noticed, that among the Correspondence of the indefatigable George Paton, one of the profoundest and most meritorious of our Scottish Collectors, (a pretty large portion of which has fortunately been recovered and preserved by the Faculty of Advocates, Edinburgh,) a Letter occurs, addressed by Mr Paton to the eminent Antiquary, Richard Gough, Esquire, 27th May 1782, from which the following passage is extracted. 'Did you ever see the counter-

part or answer to K. James's Account of E. Gowrie's Conspiracy, or that published by authority? The answer I am assured was printed, but suppressed; altho' a copy or so may be preserved; which, if discovered, might throw some light on that dark passage of our Scots History. E. Cromarty's credulity and weakness of judgment is conspicuous in his account of that Tragedy, by his narrating the influence of spells, and notice of a few pretended magic characters, written on parchment or paper, found in the unhappy Lord's pocket; which were nothing else than a few *chymical* characters, known to every practitioner now-a-days in that art; which science both the brothers acquired in their travels thro' Italy. It is almost unnecessary to add, that even Mr Gough could not afford any information on the subject.]

A DISCOURSE of the vnnaturall and vile Conspiracie, attempted against his Maiesties person, at Saint Johnstoun, vpon the fift day of August, being Tuesday, 1600.

His Maiestie hauing his residence at Falkland, and being daily at the buck-hunting (as his use is in that season) vpon the fifth day of August, being Tuesday, hee raide out to the parke, betweene fixe and seuen of the clocke in the morning, the weather beeing wonderfull pleafant and seasonable. But, before his Majesty could leape on horse back, his Highnesse being now come downe by the equerie; all the huntmen, with the hownds, attending his Maiestie on the green, and the Court making to their horses, as his Highnesse selfe was, Master Alexander Ruthwen, second brother to the late Earle of Gowrie, being then lighted in the town of Falkland, hafted him fast downe to overtake his Maiestie before his on-leaping, as hee did. Where meeting his Highnesse, after a very lowe curtesie, bowing his head vnder his Maiesties knee, (although hee was neuer wont to make so lowe courtesie) drawing his Maiestie aparte, hee beginnes to discourse vnto him (but with a very dejected countenance, his eyes ever fixed vpon the earth) howe that it chaunced him, in the euening before, to be walking abroad about the fields, taking the ayre solitarie alone, without the towne of Saint Johnstoun, where his present dwelling with the Lorde his brother was, and there, by accident, affirmed to have recounted a base like fellow, vnknowne to him, with a cloke cast about his mouth; whom, as hee inquired his name, and what his errand was, to be passing in so solitarie a part, being from all waies: the fellow became on a sodaine so amazed, and his tongue so faltered in his mouth, that, vpon his suspitious behaviour, hee begonne more narrowly to look vnto him and examine him; and perceiving that there appeared something to be hid vnder his cloke, hee did cast by the lappes of it, and so finds a great wide pot to be vnder his arme, all full of coyned gold in great peeces; affuring his Maiestie, that it was in very great quantity. Vpon the sight whereof (as he affirmed) hee tooke backe the fellow, with his burthen, to the towne, where hee, priuatly, without the knowledge of any man, tooke the fellow, and bound him in a priuy derved house; and after locked many doores vpon him, and left him there and his pot with him, and had hafted himselfe out of Saint Johnstoun that day, by foure howers in the morning, to make his Maiestie advertised thereof, according to his bound dutie; earnestly requesting his Maiestie, with all diligence and secrecie, that his Maiestie might take order therewith, before any know therof; swearing and protesting that he had yet concealed it from all men, yea from the Earle his own brother. His Maiesties first answer was (after thanking him for his good will) that it could not become his Maiestie to meddle any waies in that matter, since no mans treasure that is a free and law-

ful subject can, by the law, appertain unto the King, except it be found hid under the earth, as this was not. Wherevnto he answered, that the fellow confessed unto him, that he was going to have hid it under the ground; but could not take leasure, at that time, to enquire any further of him. Wherevnto his Maieftie replied, that there was great difference betwixt a deede and the intention of a deede; his intention to haue hid it, not being alike as if it had bene found already hidde. Maifter Alexanders answere was, that hee thought his Maieftie ouer scrupulous in fuch a matter, tending fo greatly to his Maiefties profite; and that, if his Maieftie deferred to meddle with it, that it might be, that the Lord his brother, and other great men, might meddle with it, and make his Maieftie the more adoe. Whereupon the King, beginning to fufpect that it had bene fome forraine gold, brought home by fome Iefuites for practifing Papiftes, (therewith to firre up fome new fedition, as they haue oftentimes done before,) inquired of the faid Maifter Alexander, what kinde of coyne it was, and what a fellow he was that carried it? His anfuere was, that fo farre as hee could take lefure to fee of them, that they feemed to be forraine ftrokes of coyne; and although the fellowe, both by his language and fafhions, feemd to be a Scots felow, yet he could neuer remember that he had feene him before. Thefe fpeeches increafed his Maiefties fufpition, that it was forraine coyne brought in by fome practifing Papiftes, and to be diftributed into the countrie, as is before fayd; and that the fellow that carryed it, was fome Scots Prieft, or Seminarie fo difguifed, for the more fure transporting thereof.

Whereupon his Maieftie refolued that he would fend backe with the faid Maifter Alexander a feruant of his owne, with a warrant to the Prouoft and Bailiffes of Saint Johnfton to receiue both the fellow and the money at Maifter Alexanders hand; and, after they had examined the fellow, to retaine him and the treafure till his Maiefties further pleafure was knowne.

Whereat the fayd Maifter Alexander ftirred marueloufly; affirming and protefting, that if eyther the Lorde his brother, or the Bailiffes of the towne were put on the counsaile thairof, his Maieftie would gette a verie badde count made to him of that treafure; fwearing, that the great loue and affection hee bare unto his Maieftie, had made him to preferre his Maieftie, in this cafe, both vnto him felfe and his brother. For the which fervice, hee humbly craued that recompence, that his Maieftie would take the paines once to ride thither, that he might be the firft feerer thereof himfelfe; which being done, hee woulde remit to his Maiefties owne honourable difcretion, how farre it would pleafe his Maieftie to confider upon him for that fervice.

His Highneffe being fticken in great admiration, both of the vncouthneffe of the tale, and of the ftrange and ftupide behauiour of the reporter; and the Court being already horfed, wondring at his Maiefties fo long ftay with that Gentleman, the morning being fo faire, the game already found, and the huntfmen fo long ftaying in the fields on his Maieftie; he was forced to breake off, only with thefe wordes, that hee could not now ftay any longer from his fport, but that hee would confider of the matter, and, at the end of his chafe, give him a refolute anfwere, what order hee would take therein. Wherevpon his Maieftie parted in hafte from him, towards the place where the game was.

Maifter Alexander parting from his Maieftie very discontent, that indelayedly he raide not to Saint Johnftoun, as hee defired him; protefting that his Maieftie would not find every day fuch a choife of hunting as he had offered to him; and that he feared that his Maiefties long delay and flowenefs of refolution would breede leasure to the fellow, who was lying bound, to cry, or make fuch dinne, as would difappoynt the fecrecie of that whole purpofe, and make both the fellow and the treafure to bee medled with, before any word could come from his Maieftie; as alfo, that his brother wold miffe him, in refpect of his abfence that morning, which, if his Maieftie had pleased to hafte, he might haue prevented, arriving there in the time of his brothers and the whole townes being at the fermon; whereby his Maieftie might have taken fuch fecret order with that matter as he pleased, before their out-coming from the church. But his Maieftie, without any further answering him, leaping on horfe backe, and riding to the dogs, where they were beginning to hunt, the faid Maifter Alexander ftayed ftill in

that place, where hee left his Maieftie; and hauing two men with him, appointed by the Earle his brother, to carry backe vnto him the certayne newes, in all hafte, of his Majesties comming (as heer-after more particularly fhall in this fame difcourfe be declared.)

He directed the one of them, called Andrew Henderson, Chamberlaine to the faide Earle, to ride in all hafte to the Earle, commanding him, as he loued his brothers honour, that he fhould not spare for fpillling of his horfe, and that hee fhould advertife the Earle, that he hoped to moone his Maieftie to come thither; and that he fhould not yet looke for hym, the fpace of three houres thereafter, becaufe of his Maiefties hunting; adding thefe wordes, ' Pray my Lorde my brother to prepare the dinner for us.' But his Maieftie was no fooner ridden vppe to a little hill above the little woodde, where the dogges were layde on in hunting, but that, notwithstanding the pleafant beginning of the chafe, he could not ftay from musing and wondering vpon the newes. Wherevpon, without making any body acquainted with this purpofe, finding John Nefmith, Chirurgian, by chance riding befide him, his Maieftie directed him backe to bring Mafter Alexander with him; who being brought unto his Maieftie, and hauing newly directed, as faid is, one of his men that was with him backe to my Lord his brother, his Majestie vnknowing or fufpecting that any man living had come with him; then tolde him that he had bene aduifing with himfelfe, and in respect of his laft wordes, fo earnest with him, he refolued to ride thither for that errand in his owne perfon, how foone the chafe was ended, which was already begunne. Like as his Majestie, vpon the very ending of thefe wordes, did ride away in the chafe, the faid Mafter Alexander following him at his backe; no other creature being with his Highnes bot he and John Hamilton of Grange, one of his Maiefties mafter-ftablers, the reft of the Court being all before in the chafe, his Maieftie onely being caft back, vpon the ftaying to fpeake with Mafter Alexander, as is before faid.

The chafe lafted from about feauen of the clocke in the morning, vntill eleuen and more, being one of the greateft and foreft chafes that euer his Maiefty was at: all which time, the fayde Mafter Alexander was (for the moft part) euer at his Maiefties backe, as is fayd. But there neuer was any ftop in the chafe, or fo fmall a delay, that the fayde Mafter Alexander omitted to round his Majestie, earnestly requesting him to haften the end of the hunting, that he might ride the fooner to Saint Johnftoun. So as, at the death of the bucke, his Maiefty, not ftaying upon the curry of the diere (as his ufe is) fcarcely took time to alight, awayting vpon the comming of a frefh horfe to ride on, the greatnes of the chafe hauing wearied his horfe.

But the faid Mafter Alexander would not fuffer the King to ftay in the parke where the bucke was killed, while his frefh horfe, which was already fent for, was brought out of the equerie to him, (although it was not two flight-hot off betwixt the parte where the bucke was killed and his Maiefties equerie); but with very importunity forced his Majestie to leap on agayne upon that fame horfe, that he had hunted all the day vpon, his frefh horfe being made to gallop a mile of the way to ouertake him; his Maieftie not ftaying fo much as vpon his fword, nor while the Duke and the Earle of Mar, with diuerfe other Gentlemen in his company, had changed their horfe; onely faying vnto them, that hee was to ride to Saint Johnftoun to fpeake with the Earle of Gowry, and that he would be prefently backe againe before euen.

Wherevpon fome of the Court galopped backe to Falkeland as faft as they coulde, to change theyr horfe, but could not ouertake his Maieftie, vntill hee came within foure miles of Saint Johnftoun. Others rid forward with their horfes, wearied as they were, whereof fome were compelled to alight by the way: and, had they not both refreshed their horfes, fed them, and given them fome graffe by the way, they had not caried them to S. Johnftoun: the caufe of his Maiefties feruants folowing fo faft, vndefired by him, being only grounded vpon a fufpition they had conceiued, that his Maiefties intention of riding, was for the apprehenfion of the Mafter of Oliphant, one who had late laid downe a vile

and proud oppression in Angus. For repairing of the which, they thought that his Maieftie had some purpose for his apprehension.

But the sayde Master Alexander, seeing the Duke and the Earle of Mar, with diuerse of the Court, getting fresh horse for following of his Maieftie, earnestly desired him that hee wold publish to his whole traine, that since he was to returne the same euening, as is afore said, they needed not to follow him; especially, that he thought it meetest his Maieftie should stay the Duke and the Earle of Mar to follow him, and that he should only take three or foure of his own seruants with him; affirming, that if any Nobleman followed him, hee could not aunswere for it, but that they would marre that whole purpose. Whereuppon his Maieftie, halfe angry, replied, that hee would not mistrust the Duke nor the Earle of Mar in a greater purpose than that, and that hee could not vnderstand what hinderance any man could make in that errand.

But these last speeches of Maister Alexanders made the King beginne to suspect what it should meane; whereuppon many and sundry thoughts beganne to enter into the Kings mind; yet his Maieftie could neuer suspect any harme to be intended against his Highnesse by that yong Gentleman, with whom his Maieftie had beene so well acquainted, as he had not long before bin in suite to be one of the Gentlemen of his chamber: so as, the farthest that the Kings suspition could reach to, was, that it might be that the Earle his brother had handled him so hardly, that the young Gentleman, being of a his spirit, had taken such displeasure, as hee was become somewhat beside himselfe, which his Maieftie coniectured, as well by his raised and vnouth staring, and continual pensiuenes all the time of the hunting, as likewise by such strange sorte of vnlikely discourfes as are already mentioned.

Whereuppon the King tooke occasion to make the Duke of Lennox acquainted with the whole purpose, enquiring of him very earnestly what he knew of that yong Gentlemans nature, being his brother in law, and if he had perceiued him to be subiect to any high apprehension? His Maieftie declaring his suspition plainly to the said Lord Duke, that he thought him not well fetled in his wits; alwayes desiring my Lorde Duke not to faile to accompany him into that house, where the alleadged fellow and treasure was.

The Lord Duke wondered much at that purpose, and thought it very vnlikely; yet hee affirmed, that he could neuer perceiue any such appeerance in that Gentlemans inclination. But Maister Alexander perceiuing his Maiefties priue conference with the Duke, and suspecting the purpose as it appeared, came to the King, requesting his Maieftie very earnestly he should make none liuing acquainted with that purpose, nor suffer none to goe with his Maieftie where hee should convoy him, but himselfe only, vntill his Maieftie had once seene the fellow and the treasure; whereunto his Maieftie, half laughing, gaue answere, that he was no good teller of money, and behooued therefore to have some to helpe him in that errand. His reply was, that he would suffer none to see it but his Maiefties self at the first, but afterwardes he might call in whom hee pleased.

These speeches did so increase his suspition, that then hee beganne directly to suspect some treasonable deuise. Yet many suspitions and thoughts ouerwhelming one, euery one another in his mind, his Maieftie could resolue upon no certain thing, but rode further on his iourney, betwixt trust and distrust, being ashamed to seem to suspect, in respect of the cleannesse of his Maiefties own conscience, except he had found some greater ground. Maister Alexander still presing the King to ride faster, though his owne horse was scarcely able to keepe company with the King for wearines, hauing ridden with him all the chafe before. The King being come two mile from Falkland, Maister Alexander stayed a little behinde the King in the way, and posted away the other seruant Andrew Ruthuen to the Earle his brother, aduertising him how farre the King was on his way to come thither. Then how soone soeuer the King came within a mile of (Saint) Johnstoun, he sayde to his Maieftie that he would post in before, to aduertise the Erle his brother of his Maiefties comming: who, at his incomming to him, was sitting at the midst of his dinner, neuer seeming to take knowledge of the Kings comming

til his brother told it him, notwithstanding that two of his seruants had aduertised him thereof before. And, immediatly vpon his brothers report, rising in haste from the boord, and warning all the seruants and friendes to accompany him to meete his Maieftie; who met him with three or foure score men, at the end of the Infhe, his Maiefties whole traine, not exceeding the number of fiftene perfons, and all wythout any kinde of armour, except fwordes, no not fo much as daggers or whingears; his Maieftie stayed an houre after his comming to the sayd Erles lodging to Saint Johnstoun before his dinner came in. The longfomenes of preparing the same, and badnes of the cheere, being excused vpon the foudaine comming of his Maieftie, vnlooked for there.

During which time, his Maiefty enquired of Maister Alexander, when it was time for him to goe to that priuate house, about that matter whereof he had informed him; who answered, that all was sure enough, but that there was no haste yet for an houre, til the King had dined at leifure; praying his Maiefty to leaue him, and not to be seene to round with him before his brother, who, hauing missed him that morning, might thereupon suspect what the matter should meane. Therefore his Maiefty addressed him to the Earle, and discoursed with him vpon fundry matters; but could get no direct answer of him, but halfe wordes, and imperfect sentences.

His Maiefty being set downe to his dinner, the said Earle stooode very pensive, and with a dejected countenance, at th' end of his Maiefties table, oft rounding ouer his shoulder, one while to one of his seruants, and another while to another; and oft times went out and in to the chamber. Which forme of behauiour he likewise kept before the Kings sitting downe to dinner; but without any welcoming of his Maieftie, or any other hearty forme of entertainment. The Noblemen and Gentlemen of the Court that were with his Maieftie standing about the table, and not desired to dine (as the use is when his Maiefty is once set downe, and his first seruice brought up) vntill his Maiefty had almost dined. At which time, the Earle conueyed them forth to their dinner, but sate not downe with them himselfe (as the common maner is), but came back, and stood silent at the end of the Kings table, as he did before; which his Maiefty perceiuing, beganne to entertayne the Earle in a homely manner, wondring hee had not remayned to dyne with his ghests, and entertayne them there.

His Maieftie being ready to rise from the table, and al his seruants in the hall at their dinner, Maister Alexander standing behinde his Maiefties backe, pulled quietly vpon him, rounding in his Maiefties eare, that it was time to goe, but that he would faine haue benee quit of the Earle his brother, wishing the King to send him out into the hall to entertayne his ghests. Whereupon the King called for drinke, and, in a merie and homely maner, sayd to the Earle, that although the Earle had seene the fashion of entertainment in other countries, yet he would teach him the Scottish fashion, seeing hee was a Scottish man; and therefore, since he had forgotten to drinke to his Maiefty, or sit with his ghests and entertayne them, his Maiefty would drinke to him his owne welcome, desiring him to take it forth and drinke to the rest of the company, and in his Maiefties name, to make them welcome. Whereupon, as he went forth, his Maiefty rose from the table, and desired Maister Alexander to bring Sir Thomas Erkinne with him; who desiring the King to goe forward with him, and promising that hee should make any one or two followe him that hee pleased to call for, desiring his Maiefty to commaund publikely that none should followe him. Thus the King, accompanied onely with the sayd Maister Alexander, comes forth of the chamber, passeth through the ende of the hall, where the Noblemen and his Maiefties seruantes were sitting at theyr dinner, vp a turnepecke, and through three or foure chambers, the sayde Maister Alexander euer locking behind him euery doore as he passed; and then, with a more smiling countenance than he had all the day before, euer saying he had hym sure and safe enough kept; vntill at the last, his Maiefty passing through three or foure fundry houses, and all the doores locked behind hym, his Maiefty entred into a little study, where hee sawe standing, wyth a very abased countenance, not a bondman, but a freeman, with a dagger at his girdle. But his Maiefty had no sooner entred into that little study, and Maister Alexander with him, but Maister Alexan-

der locked to the study doore behinde him ; and at that instant, changing his countenance, putting his hatte on his head, and drawing the dagger from that other mans girdle, held the poynt of it to the Kings breast, avowing now that the King behoooued to be in his will, and vsed as he list ; swearing many bloody othe, that if the King cryed one word, or opened a window to looke out, that dagger should presently go to his heart ; affirming, that he was sure that now the Kings conscience was burthened, for murdering his father. His Maiefty, wondring at so sodaine an alteration, and standing naked, wythout any kinde of armour but his hunting horne, which he had not gotten leysure to lay from him, betwixt these two traytors which had conspyred his life, the sayd Maister Alexander standing (as is sayd) wyth a dagger in his hand, and his sworde at his side ; but the other trembling and quaking rather like one condemned, than an executioner of such an enterprife.

His Maieftie begunne then to dilate to the faide Maister Alexander, how horrible a thing it was for him to meddle with his Maiefties innocent bloud ; assuring him, it would not be left vnreuenged, since God had giuen him children and good subiects ; and if they neither, yet God would raise vpp stocks and stoncs to punish so vile a deede.

Protesting before God, that he had no burthen in his conscience for the execution of his father ; both in respect that, at the time of his fathers execution, his Maiefty was but a minor of age, and guyded at that time by a faction which ouerruled both his Maieftie, and the rest of the cuntry ; as also, that whatsoever was done to his father, it was done by the ordinarie course of law and justice.

Appealing the faide Maister Alexander vpon his conscience, how well he at al times since had deserued at the hands of al his race, not only hauing restored them to al their lands and dignities, but also in nourishing and bringing vp of two or three of his sisters as it were in his owne bosome, by a continual attendance vpon his Maiefties deereft bedfellow in her priuy-chamber.

Laying also before him the terrors of his conscience, especialy that he made profession, according to his education, of the same religion which his Maieftie had ever professed : and namely, his Maiefty remembred him of that holy man, Maister Robert Rollocke, whose scholler he was, assuring him, that one day the said Maister Roberts soul would accuse him, that he had neuer learned of him to practise such vnnatural cruelty : his Maiefty promising to him, on the word of a Prince, that if he would spare his life, and suffer him to go out again, he would neuer reueale to any flesh liuing what was betwixt them at the time, nor neuer suffer him to incur any harm or punishment for the same.

But his Maiefties fear was, that he could hope for no sparing at his hands, hauing such crueltie in his looks, and standing so irreuerently couered with his hat on, which form of rigorous behaviour could prognosticate nothing to his Maieftie but present extremity. But, at his Maiefties perswasive language, he appeared to be somewhat amazed ; and, vncouering his head againe, fwore, and protested that his Maiefties life should be safe, if he would behaue hymselfe quietly, wythout making noyse or crying ; and that he would onely bring in the Earle his brother to speake wyth his Maieftie. Wherevpon, his Maiefty, enquiring what the Earle would doe with him, since (if his Maiefties life were safe, according to promise,) they could gayne little in keeping such a prisoner. His answer only was, that he could tell his Maiefty no more, but that his life should be safe, in case he behaued hymselfe quietly ; the rest, the Earle his brother, whome he was going for, would tel his Maiefty at his comming. With that, as he was going foorth for his brother, as he affirmed, he turnd hym about to the other man, saying these wordes vnto him, ‘ I make you here the Kings keeper till I come backe agayne, and see that you keepe him vpon your owne perill ;’ and therewithal sayd to his Maieftie, ‘ You must content yourselfe to haue this man now your keeper, vntill my comming backe.’

With these wordes, he passeth foorth, locking the doore after him, leauing his Maiefty with that man he found there before him. Of whome his Maiefty then enquired, ‘ If he were appoynted to be the murderer of him at that time, and howe farre he was vpon the counsell of that Conspiracie ?’ Whose answer, with a trembling and astonished voyce and behavior, was, that, ‘ as the Lord should iudge him,

he was neuer made acquainted with that purpose, but that he was put in there perforce, and the doore lockt vpon him, a little space before his Maiesties comming: as indeede, all the time of the sayd Maister Alexanders menacing his Maiefty, he was euer trembling, requesting him for Gods sake, and with many other attestations, not to meddle with his Maiefty, nor to do him any harme. But because M. Alexander had, before his going foorth, made the King sweare he should not cry, nor open any window, his Maiefty commanded the said fellow to open the window on his right hand, which he readily did: so that, although he was put in there to use violence on the King, yet God so turnd his heart, as he became a slaue to his prisoner.

While his Maiefty was in this dangerous estate, and none of his owne seruantes nor traine knowing where hee was, and as his Maiesties traine was arising in the hall from their dinner, the Earle of Gowrie being present wyth them, one of the Earle of Gowries seruants comes hastily in, assuring the Earle his Maister, that his Maiefty was horsed, and away through the Infhe; which the Earle reporting to the Noblemen, and the rest of his Maiesties traine that was there present, they all rushed out together at the gate, in great haste: and some of his Maiesties seruants enquiring of the Porter, 'When his Maiefty went foorth?' the Porter affirmed, that the King was not yet gone foorth. Wherevpon the Earle looked very angerly vpon him, and sayd he was but a liar: yet turning him to the Duke, and to the Earle of Mar, said, he should presently get them sure worde where his Maiefty was; and with that, ranne through the close, and vppe the staires. But his purpose indeede was, to speake with his brother, as appeared very well by the circumstance of time; his brother hauing, at that same instant, left the King in the litle study, and ranne downe the staires in great haste.

Immediately after, the Earle commeth backe, running agayne to the gate, where the Noblemen and the rest were standing in a maze, assuring them that the King was gone, long since, out at the backe gate; and if they hasted them not the sooner, they would not ouertake him; and, with that, called for his horse; whereat they rusht all together out at the gate, and made toward the Infhe, crying all for theyr horses: passing all (as it was the providence of God) vnder one of the windows of that study wherein his Maiefty was. To whom Maister Alexander very speedily returned, and, at his incomming to his Maiefty, casting his handes abroade in a desperate manner, saide, he could not mend it, his Maiefty behoued to die: and, with that, offered a garter to bind his Maiesties hands, with swearing he behoued to be bound. His Maiefty, at that word of binding, said, he was borne a free King, and should die a free King. Wherevpon, he griping his Maiefty by the wrest of the hand, to haue bound him, his Maiefty releued himselfe sodainely of his gripes: wherevpon, as hee putte his right hand to his sword, his Maiefty with his right hand seazed vpon both his hand and his sword, and with his left hand clasped him by the throat, like as he with his left hand claspt the King by the throat, with two or three of his fingers in his Maiesties mouth, to haue staied him from crying. In this maner of wrestling, his Maiefty perforce drew him to the window, which he had caused the other man before to open vnto him, and vnder the which was passing by at the same time the Kings traine, and the Earle of Gowrie with them, as is saide, and holding out the right side of his head and right elbow, cryed, that they were murthering him there, in that treasonable forme: whose voice being instantly heard and knowne by the Duke of Lennox, the Earle of Marre, and the rest of his Maiesties traine there, the saide Earle of Gowrie euer asking 'what it meant?' and neuer seeming any waies to haue seen his Maiefty, or heard his voyce; they all rushed in at the gate together, the Duke and the Earle of Marre running about to come by that passage his Maiefty came in at. But the Earle of Gowrie and his seruants made them for another way up a quiet turnepeck, which was euer condemned before, and was only then left open, (as appeared) for that purpose.

And in this meane time, his Maiefty, with struggling and wrastling with the said Maister Alexander, had brought him perforce out of that study, the doore whereof, for haste, he had left open, at his last incomming; and his Maiefty having gotten, (with long strugling) the sayde Maister Alex-

anders head under his arme, and himselfe on his knees, his Maieftie droue him backe, perforce, hard to the doore of the fame turne-pike; and as his Maieftie was throwing his fworde out of his hand, thinking to haue stricken him therewith, and then to haue shotte him ouer the staire, the other fellow standing behinde the Kinges backe, and dooing nothing but trembling all the time, Sir John Ramfay, not knowing what way first to enter, after hee had heard the Kinges cry, by chance findes that turne-peck door open, and, folowing it vp to the head, enters in into the chamber, and findes his Maieftie and Maifter Alexander strugling in that forme, as is before sayde: and after he had twife or thrife stricken Maifter Alexander with his dagger, the other man withdrew himselfe, his Maieftie still keeping his gripees, and holding him clofe to him: immediatly thereafter, he tooke the sayd Maifter Alexander by the shoulders, and flotte him downe the staire: who was no sooner shotte out at the doore, but hee was met by Sir Thomas Erskine and Sir Hew Hereis, who there, vpon the staire, ended him; the sayde Sir Thomas Erskine being cast behind the Duke and the Earle of Mar, that ran about the other way, by the occasion of his meddling with the sayde late Earle in the streete, after the hearing of his Maiefties crie. For vpon the hearing thereof, hee had clasped the Earle of Gowrie by the gorget, and casting him under his feete, and wanting a dagger to haue stricken him with, the sayd Earle men rid the Earle their Maifter out of his handes; whereby hee was cast behinde the rest, as is sayd: and missing the companie, and hearing the sayde Sir John Ramfayes voyce vpon the turn-peck head, ran vp to the sayd chamber, and cryed vpon the sayd Sir Hew Hereis and another seruant to follow him: where, meeting with the sayd Maifter Alexander in the turne-peck, he ended him there, as is sayd: the sayd Maifter Alexander crying, for his last wordes, 'Alas! I had not the weight of it.' But no sooner could the sayde Sir Thomas, Sir Hew, and another seruant, winne into the chamber where his Maieftie was, but that the sayde Earle of Gowrie, before they could gette the doore shut, followed them in at the backe, hauing cast him directly to come vp that priuy passage, as is before said: who, at his first entrie, hauing a drawne fworde in euery hand, and a steele bonet on his head, accompanied with feuen of his seruants, euery one of them hauing in like maner a drawn fworde, cried out with a great oath, that they should al die as traitors! Al the which time, his Maieftie was still in the chamber; who, seeing the Earle of Gowrie come in, with his swordes in his hands, sought for Maifter Alexanders sword, which had fallen from him at his out-shutting at the doore; hauing no forte of weapons of his owne, as is sayde: but then was shut backe by his owne seruants that were there into the litle studie, and the doore shut vpon him: who, hauing put his Maiefty in safaty, re-encountred the faide Earle and his seruants, his Maiefties seruants being onely in number foure, to wit, Sir Hew Hereis, Sir John Ramfay, and one Wilfon a seruant of James Erkins, a brother of the sayd Sir Thomas, the sayde Earle hauing feuen of his owne seruants with him: yet it pleased God, after many strokes on all handes, to gine his Maiefties seruants the victorie; the sayde Earle of Gowrie being striken dead with a stroke through the heart, which the said Sir John Ramfay gaue him, without once crying vpon God, and the rest of his seruants dung over the staires with many hurtes, as in like maner the sayde Sir Thomas Erskine, Sir Hew Hereis, and Sir John Ramfay, were al three very fore hurt and wounded.

But al the time of this fight, the Duke of Lennox, the Earle of Mar, and the rest of his Maiefties traine, were striking with great hammers at the vtter doore whereby his Maiefty passd vp to the chamber with the said Maifter Alexander, which also he had lockt in his by-comming with his Maieftie to the chamber; but, by reason of the strength of the said double doore, the whole wall being likewise of boordes, and yeelding with the strokes, it did bide them the space of halfe an houre and more, before they could get it broken, and haue entresse: who hauing met with his Maiefty, found (beyond their expectation) his Maieftie deliuered from so imminent a perill, and the sayde late Earle the principall conspirator lying dead at his Maiefties feete. Immediatly thereafter, his Maieftie kneeling downe on his knees in the midst of his owne seruants, and they all kneeling rounde about him, his Maiefty, out of his owne mouth, thanked God of that miraculous deliuerance and victory, assuring

himselfe, that God had preferred him from so dispaired a perill, for the performing of some greater work behind, to his glorie, and for procuring by him the weale of his people, that God had committed to his charge. After this, the tumult of the towne hearing of the slaughter of the sayde Earle of Gowrie their Prouost, and not knowing the manner thereof, nor being on the counsell of his treasonable attempt, continued for the space of two or three houres thereafter, vntill his Maiestie, by oft speaking out to them at the windowes, and beckoning to them with his owne hand, pacifying them, causing the Bailies and the rest of the honest men of the towne to be brought into the chamber; to whome hauing declared the whole forme of that strange accident, he committed the house and bodies of the said traitorous brethren to their keeping, vntill his Maiesties further pleasure were knowne. His Maiestie hauing, before his parting out of that towne, caused to search the said Earle of Gowries pockets, in case any letters, that might further the discovery of that Conspiracy, might bee founde therein. But nothing was founde in them, but a little close parchment bag, full of magicall characters, and wordes of enchantment, wherein it seemed that hee had put his confidence, thinking himselfe neuer safe without them, and therefore euer caried them about with him: Being also obserued, that while they were vpon him, his wound, whereof he died, bled not; but, incontinent after the taking of them away, the blood gushed out in great abundance, to the great admiration of all the beholders; an infamy which hath followed and spotted the race of this house for many discents, as is notoriously knowne to the whole cuntrie. Thus, the night was farre spent, being neere eight houres at euening, before his Maiestie could (for the great tumult that was in the towne) depart out of the same. But, before his Maiesty had ridden foure myles out of the same towards Falkland, although the night was very darke and rainy, the whole way was clad with all sort of people, both horse and foote, meeting him with great ioy and acclamation. The frequencie and concourse of personnes of all degrees to Falkland the rest of the weeke, and to Edenburgh the next, from all the quarters of the cuntrie, the testimony of the subiectes hearty affection and ioy for his Maiesties deliuerie, expressed euery where, by ringing of bells, bonifiers, shooting off guns of all sorts, both by sea and land, &c. with all other things ensuing thereupon, I haue of set purpose pretermitted, as well knowne to all men, and impertinent to this discourse; contenting myselfe with this plaine and simple narration; adding onely, for explanation and confirmation thereof, the Depositions of certaine persons, who were either actors and eie-witnesse, or immediate hearers of those thinges that they declare and testifie; wherein, if the reader shall find any thing differing from this narration, either in substance or circumstance, he may vnderstand the same to be vttered by the deponer in his owne behoofe, for obtaining of his Maiesties princely grace and fauor.

APUD FALKLAND, 9th August 1600. *In presence of the Lord Chancellor, Lord Treasurer, Lorde Secretary, Lord Comptroller, Lord Aduocate, the Lord Incheffray, and Sir George Home of Spot, Knights.*

JAMES WEIMIS of BOGY, of the age of 26 yeere, or therby, sworne and examined vpon the forme and maner of behaiour of late Johne Earle of Gowrye, the time of his being with him at Strabran; or if he had heard the sayd Earle make any motion of the Treason intended against his Royall Maiestie? Depones, that he neither heard, nor saw, any appearance of any such intention in the said Earle.¹

Demaunded, 'If he was in any purpose with the said Earle, anent any matters of curiositie?' Depones, that at their being in Strabran, some of their company found an edder, which being killed, and knowledge thereof comming to the Earle, the Earle sayde to this deponer, Bogy, 'If the edder had not beene slaine, yee should haue seene a good sport; for I should haue caused her stand still,² and shee should

¹ This evidence is inserted with the view of proving, not the traitorous purposes, but the sorceries of Gowrie. How far this end has been attained, the reader is left to decide.—*Hailes.*

² It was an ancient superstitious notion, and which had not ceased in the days of Gowrie, that serpents might be rendered innocuous by means of certain charms and incantations. The writers, who treat of Magic, insist on this among other fooleries. *Delrius, Disqui-*

not have pressed away, by pronouncing of an Hebrew word, which in Scottish is called holiness; but the Hebrew word the deponer remembers not of: and that the Earle sayde, hee had put the same in practise oft before. And this deponer inquiring of the Earle 'where he get the Hebrew word?' The Earle answered, 'In a cabbalist of the Jewes, and that it was by tradition:' And the deponer inquiring, 'what a cabbalist meant?' The Earle answered, 'It was some wordes which the Jewes had by tradition, which wordes were spoken by God to Adam in Paradise; and therefore, were of greater efficacie and force than any wordes which were excogitate since, by Prophets and Apostles.' The deponer inquiring 'If there were no more requisite but the word?' The Earle answered, 'That a firme faith in God was requisite and necessary; and that this was no matter of maruel amongst schollers, but that al these things were naturall.' And that the Earle shewed to this deponer, that he had spoken with a man in Italie, and first hearing, by report, that he was a nigromancer, and thereafter being informed that he was a very learned man, and a deep theologue, he entered in further dealing with him, anent the curiositie of nature.

Depones further, that the saide Earle reported to him, that he being at musicke, he fell in company with an other man, who staring in the Earles face, spake to the rest of the companie thinges of him, which he could neuer attaine unto, nor be worthy of:¹ and therefore that the Earle reproached him, and desired him to forbear these speeches. And that he met againe with the saide man in a like company, who did begin with the same language which hee had spoken before: and that the Earle sayd to him, 'My friend, in case yee will not hold your peace from speaking lies of me, I will make you hold your peace, by speaking truth of you;' and said vnto him, within such a space he should be hanged for such a crime; and so it came to passe. This deponer, inquiring of the Earle, 'who told him that?' He answered merrily, 'That he spake it by guesse, and it fell out so.' And that the Earle sayd further, that 'it was nothing to make an herbe fleshe, which would dissolve into flies;² and that likewise it was possible that the seed of man and woman might be brought to perfection otherwise than by the matrix of the woman.'³ And that this deponer counselled the Earle to 'beware with whom hee did communicate such speeches:' who answered, that 'hee would speak them to none, but to great schollers; and that he would not have spoken them to this deponer, if he had not knowne him to bee a fauorer of him, and a friend of his house, and would not reveale the same againe, seeing hee knewe they would be euill interpreted amongst the common forte.' (Sic subscribitur) J. WEIMYS of BOGIE.

APUD FALKLAND, 20th August 1600. In presence of the Lordes Chancellor, Treasurer, Advocate; Sir George Home of Spot, Sir Robert Meluill, and Sir James Meluill, Knights.

MAISTER WILLIAM RYND, s'worne and examined, and demaunded, 'where he first did see the characters which were found upon my Lord?' Depones, that he, having remained a space in Venice, at *sic. Magic. l. 2, q. 13, p. 147, 148*, speaks of it with much seriousness. The form of the incantation may be found at length in *Wierus, De Præstigiis Dæmonum*, lib. 5, c. 4, 5, 10. Perhaps all the learning of Gowrie did not exempt him from believing that such incantations were possible, and even lawful; but from this circumstance, to assert that he was a magician, may seem too hasty a conclusion.—*Hailes.*

¹ 'One Colvil hath sent the King the collection of the fortune to befall Gowrie, upon his nativity, written with the Earle's hand, in French, at Orleans, and there found, containing that he should return, be in great credit, seek for a wife, and yet dye with his sword in his hand, before he should be married.' Nicolson to Cecil, 12th November 1600. *Paper Office.* It would seem that the sorcerers with whom Gowrie conversed, differed in their opinion of his future fortunes.—*Hailes.*

² While the doctrine of equivocal generation prevailed, this absurdity found credit, *Augustin. lib. 3, d. Trinitate. c. 7*, says that magicians can speedily produce 'animalia imperfecta, muscas, vermes, ranas, et hujusmodi insecta, et alia quæ ex putrefactione nascuntur, non creando, sed activa passivis applicando.' This opinion is followed by the rabble of schoolmen; and perhaps Gowrie might have attempted to produce so imperfect an animal as a file, by the proper application of actives to passives.—*Hailes.*

³ Of this Paracelsus speaks: 'Non parva dubitatio et quæstio inter aliquos ex antiquis philosophis fuerit, an naturæ et arti possibile esset hominem gigni extra corpus muliebri et matricem naturalem? Ad hoc respondeo, quod id arti *pygriæ*, (i. e. *chemicæ*) et naturæ nullo modo repugnat, immo autem possibile sit!' He subjoins the receipt at length, but it is so licentious and so absurd, that I must be excused from inserting it in this work. It may, however, be observed, that, according to Paracelsus, men formed by this receipt need to learn nothing; for that, as they are made by art, they know every thing; an advantage which persons who come into the world in the natural way, never enjoy.—*Hailes.*

his returning to Padua, did find in my Lordes pocket the characters which were found vpon him at his death: and the deponer inquiring of my lord, 'Where he had gotten them?' My lord answered, that 'by chance he had copied them himfelfe:' and that the deponer knowes that the characters in Latine are my lords owne hand-writing; but he knowes not if the Hebrew characters were written by my lord. Depones further, that when my lord would change his clothes, the deponer would take the characters out of my lords pocket, and would say to my lord, 'Wherefore serues these?' And my lord would answer, 'Can you not let them be? they do you no euill.' And further, the deponer declares, that sometimes my lord would forget them, vntil he were out of his chamber, and would turne backe as he were in an anger, vntil hee found them, and put them in his owne pocket: Depones further, that he was fundry tymes purposed to haue burnt the characters, were it not that he feared my lordes wrath and anger; seeing, when the deponer would purposely leave them sometimes out of my lordes pocket, my lord would be in such anger with the deponer, that for a certayne space he would not speake with hym, nor could not finde his good countenance. And that (to this deponers opinion) my lord would neuer be content to want the characters off hymfelfe, from the first time that the deponer sawe them in Padua, to the houre of my lords death. Being demaunded, 'For what cause my lord kept the characters so well?' Depones, that, to his opinion, it was for no good; because he heard, that, in those partes where my lord was, they would give fundry folkes breeues.¹ Depones further, that Maister Patricke Galloway lette this deponer see the characters, since that hee came to this towne of Falkland, and that he knowes them to be the very same characters which my lord had. Depones also, that, on Monday the fourth of August, the Maister, Andrew Henderfon, and the deponer remained in my lords chamber, till about ten houres at euen, and after a long conference betwixt the lord and the Maister, my lord called for Andrew Henderfon, and after some speeches with him, dismissed them. Denies that he knew of the Masters or Andrew Henderfons riding to Falkland; and after Andrews returne from Falkland upon the morrow, howbeit he did see him booted, yet he knew not that he was come from Falkland. Depones, that my Lord being at dinner when the Master came in, the deponer heard my Lord say to the Master, 'Is the King in the Infhe?' and with that he did rise, and saide, 'Let vs goe.' But the deponer knowes not what the Maister said to my Lord. Being demaunded, if he did see any kind of armour or weapons, except swords, in the Kings companie? Depones that he did see none. It being demaunded, how the deponer was satisfied with my lords answer made to him, concerning the Kings coming to Saint Johnstoun, saying that hee knew not how he came? Declares that he thought my lord had dissembled with him, and that he behoued to haue knowne it, seeing his brother was come with his Maiestie before that he demanded of him, and that he had conferred with my Lorde prouide. Depones that he knew not that the Master was ridden to Falkland, vntil after his Maiesties coming to Saint Johnstoun, that Andrew Ruthven told him; because the deponer inquired of Andrew Ruthven, 'where the Master and he had bin?' And that Andrew answered, 'they had been in Falkland:' And that the Maister hauing spoken with the King, his Maiesty came forward with them: and that this conference betwixt the deponer and Andrew Ruthven was in the yard, when my lord was there. And Andrew Ruthven shewed to the deponer, that Andrew Henderfon was directed by the Maister, to shew my lord that his Maiestie was comming. Depones also, that, in his opinion, the Master could not haue drawne the King to my lordes house, without my lordes knowledge: and that, when hee heard the tumult, he was resolved in his heart the Maister had done his Maiestie wrong; and that no true Christian can thinke otherwise,² but that it was an high treason,

¹ Epistles, schedules, or small treatises. The word here means magical writings, amulets, &c. ² To this narrative the following expressions, in a letter from Nicolson to Cecil, 21st of August 1600, may be properly subjoined: 'Mr William Rynd, the pedagogue, hath been extremely booted, but confesseth nothing of that matter against the Earl or his brother.' *Paper Office.—Hailes.* He could not confess any fore-knowledge; for it is evident, that he had purposely been kept in profound ignorance of the Plot, which was known to Gowrie and his brother alone. Rynd's firm adherence to Henderfon's Deposition, is a very strong fact, and deserving of the utmost credit.

attempted against his Highness by the Master and the Lord. Depones also, that, to his opinion, the Kings whole company was within a dozen of men. (Sic subscribitur) M. W. RYND.

22d August 1600.—Master WILLIAM RIND sworn and re-examined, if euer he heard the Earle of Gowrie utter his opinion, anent the duetie of a wife man in the execution of an high enterprife? Declares, that, being out of the countrey, he had diuerse times heard him reason in that matter, and that he was euer of that opinion, that ‘ he was not a wife man, that hauing intended the execution of a high and dangerous purpose, communicate the same to any but to himselfe;’ because keeping it to himselfe, it could not be discovered nor disappointed:’ which the deponer declared before, vnrequired, to the Controller, and Master William Cowper Minister at Perth: And hearing the depositions of Andrew Henderfoun read, and being enquired, vpon his conscience, what he thought of the fact that was committed against his Majestie? Declares, that upon his saluation, that he beleeves Andrew Henderfoun has declared the circumstances truly. (Sic subscribitur) M. W. RYND.

APUD FALKLAND, 20th August 1600. *In presence of the Lordes Chancellour, Tresurer, Advocate, Controller, Sir George Home of Spot, and Sir James Meluill, Knights.*

ANDREW HENDERSOUN sworn and examined, and demanded, ‘ What purpose was betwixt him and the Earle of Gowrie vpon Monday at night, the fourth of this instant, in the said Earles chamber?’ Depones, that the Earle inquired of him, what he would be doing upon the morne? And he answered, that he was to ride to Ruthwen: The Earle said to him, ‘ You must ride to Falkland with Master Alexander my brother, and when he directs you backe, see that ye returne with all diligence, if he send a letter or any other advertisement with you.’ Depones, that the Master directed him to send for Andrew Ruthven to be in readinesse, to ride with them the morrow, at foure houres in the morning. Declares, that they comming to Falkland, about seuen houres in the morning, the Master staid in a lodging beside the pallace, and directed the deponer to see what the King was doing; and the deponer finding his Majestie in the clofe comming forth, he passd backe, and told the Master, who immediatly addressed himself to his Highness, and spake with his Maiestie a good space, beneth the equirie: and after his Maieftie was on horsebacke, the Maister commeth to the deponer and commaunds him to fetch their horses, and bade him haste him, as he loued my lordes honour and his, and aduertise my lord, that his Maieftie and he would be there incontinent, and that his Maieftie would be quiet: And the deponer inquiring of the Master, ‘ if he should go presently?’ He did bid him leape on and follow him, and not to goe away vntil he spake with the King: And the Maister having spoken with the King, at a breach of the park wall, he turned backe, and bade the deponer ride away; and the deponer

¹ It was natural for the King and his Ministers to enquire, who were the accomplices of Gowrie and his brother; and when no accomplices could be discovered, to impute this to the caution of Gowrie. This appears to be the reason of the question put to Rynd. *Spotiswood* says, *History of the Church of Scotland*, b. 6, p. 461. ‘ I remember myself, that meeting with Mr William Couper, then Minister at Perth, the third day after, in Falkland, he shewed me that, not many days before that accident, visiting by occasion the Earl at his own house, he found him reading a book intitled *De Conjuracionibus adversus Principes*; and having asked him, ‘ what book it was?’ he answered, That it was a collection of the Conspiracies made against Princes, which, he said, were foolishly contrived, all of them, and faulty either in one point or other; for he that goeth about such a business should not, said he, put any man on his counsel.’ From the title and contents of this book, Lord Hailes was inclined to think that it was the Latin translation of Machiavel’s discourses on Livy, b. 3, c. 6. Gowrie might very innocently read that discourse. *Machiavel* thus explains his intentions in writing it: ‘ E non mi è parso da lasciare indietro il ragionare delle congiure, essendo cosa tanto pericolosa à i principi et à i privati, perche si vede per quelle molti piu principi haver perduta la vita et lo stato, che per guerra aperta: perche il poter fare aperta guerra con un principe è conceduto à pochi, il poterli conglular contra, è conceduto a ciascuno. Dall’ altera parte, gli huomini privati non entrano in impresa piu pericolosa ne piu temeraria di questa: perche la è difficile et pericolosissima in ogni sua parte. Donde ne nasce che molte se ne tentano, e pochissime hanno il fine desiderato. Accioche adunque i principi imparino a guardarsi da questi pericoli, e che i privati piu timidamente vi si mettino, anzi imparino ad esser contenti à vivere sotto quello imperio che dalla sorte è stato loro preposto, io ne parlero diffusamente non lasciando in dietro alcun caso notabile in documento dell uno e dell’ altro.’ It may be observed, that the conjectures which the King and his Ministers formed, were afterwards fully disproved, in their own opinion, when Logan of Restalrig and Bour appeared to have been conscious of the purposes of Gowrie.—*Hailes*.

making his returne, in al possible haste, to Saint Johnstoun, he found my lord in his chamber, about ten houres, who left the companie he was speaking with, and came to the deponer, and asked, 'Hath my brother sent a letter with you?' The deponer answered, 'No: but they will be all here incontinent, and bade the deponer desire my lord to cause prepare the dinner.' Immediately thereafter, my lord took the deponer to the cabinet, and asked at him, 'how his Maiestie took with the Maister his brother?' The deponer answered, 'Very well! and that his Maiestie laide his hand ouer the Maisters shoulder.' Thereafter my lord inquired, 'if there were many at the hunting with the King?' The deponer answered, that he 'tooke no heede, but they who were accustomed to ride with his Maiestie, and some Englishmen were there;' and that my lorde inquired, 'what speciall men were with his Maiestie?' And that the deponer answered, he did see none but my Lord Duke. And within an houre thereafter, when the deponer came in from his owne house, the Earle bade him putte on his secreet, and plaitte sleeues, for he had an Hyland man to take; which the deponer did incontinent. And about twelve houres, when the deponer was going out to his owne house to his dinner, the steward came to him and told him, that George Cragingelt was not wel, and was laine downe; desired him to tarry and take up my lordes dinner: and about halfe an houre after twelue, my lord commanded him to take up the first seruice. And when the deponer was commaunded to take up the second seruice, the Maister and William Blaire came into the hall to my lord. The deponer remembereth himselfe, that Andrew Ruthven came before the Maister a certain space, and spake with my lorde quietly at the table; but heard not the particular purpose that was amongst them. And so soone as the Maister came to the hall, my lorde and the whole company rose from the table: And the deponer hearing the noyse of their forthgoing, supposed they were going to make breakes for Macconilduy:¹ And the deponer sent his boy for his gantlet and steil-bonnet; and seeing my lorde passe to the Inshe, and not to the shoe-gate, the deponer did cast the gauntlet in the pantry, and caused his boy to take his steele-bonnet to his owne house: And he followed my lord to the Inshe, and returning backe with his Maiestie to the lodging, beeing directed to get drinke. And the Maister came to the deponer, and did bid him cause Maister William Rynde to sende him vp the keye of the gallerie chamber; who past vp and delivered the key to the Maister: And immediately my lorde followed vp, and did speake with the Maister, and came downe againe, and directed Maister Thomas Cranstone to the deponer, to come to his lordship in his Maiesties chamber. And that my lord directed him to go vp to the gallery to his brother; and immediately my lord followed vp, and commanded the deponer to bide there with his brother, and to do any thing that he bade him: The deponer inquired at the Maister, 'What have ye to do, sir?' The Maister answered, 'Ye must go in heere, and tarry untill I come backe; for I will take the key with me.' So he locked the deponer in the round, within the chamber, and tooke the key with him. Shortly thereafter, the Maister returned, and the Kings Maiestie with him, to the said cabinet in the rounde; and the Maister opening the doore, entered with the King into the said rounde: And, at his verie entrie, couering his head, pulled out the deponers dagger, and held the same to his Maiesties breast, saying, 'Remember ye of my fathers Murder? Yee shall now die for it:' And minting to his Highnes heart with the dagger, the deponer threw the same out of the Maisters hand: And swore, that as God shall iudge his soule, if the Maister had retained the dagger in his hand the space that a may goe fixe steps, he would have stricken the King to the hiltes with it: But wanting the dagger, and the Kinges Maiestie giuing him a gentle answer, he said to the Kinges Maiestie, with abominable oathes, that, if he would keepe silence, nothing shoulde aile him, if he would make such promise to his brother, as they would craue of him: And the Kinges Maiestie inquiring, 'What promise they would craue?' He answered, that he would bring his brother.

¹ This expression is obscure. Henderson, in his evidence at the trial, says, that he believed Gowrie was going to take the Highlandman. The expression here has probably the same meaning. *To make breakes for Macconilduy, i. e. to make breeches for the son of black Donald*, may signify, to secure the Highlandman and commit him to prison. Thus, *stone-doublet* is a vulgar English phrase for a prison.—*Hailes*.

So he goes forth, and lockes the doore of the round vpon his Maiefty and the deponer; hauing first taken oath of the King, that he should not crie, nor open the windowe. And his Majesty inquiring of the deponer, 'What he was?' He answered, 'A seruant of my lords.' And his Majesty asking of the deponer, 'If my lord would doe any euill to him?' The deponer answered, 'As God shal iudge my soul, I shal die first.' And the deponer pressing to haue opened the windoe, the Maister entred, and said, 'Sir, there is no remedie; by God, you must die:' and having a loose garter in his hand, pressed to haue bound his Maiesties hands; and the deponer pulled the garter out of Maister Alexander his hand. And then the Maister did put one of his hands in his Maiesties mouth, to haue stayed him to speake, and helde his other arme about his Highnesse necke: and that this deponer pulled the Maisters hand from his Highnesse mouth, and opened the windowe: And then his Maiestie cryed out thereat; wherevpon his Highnesse seruants came in at the gate; and this deponer did runne and open the doore of the turnepecke head, whereat John Ramfay entered: and the deponer stoode in the chamber, vntill he did see John Ramfay giue the Maister a stroke; and thereafter, priuily conueyed himselfe downe the turnepecke to his owne house: and the deponers wife inquiring of him, 'What the fray meant?' The deponer answered, 'That the Kings Maiestie would haue bene twice sticked, had not hee releued him.'

(Sic subscribitur)

ANDREW HENDERSOUN with my hand.

FURTHER, the sayde Andrew Henderfoun depones, that after his returning from Falkland, on the first of this instant, Maister John Moncrief inquiring of him, 'Where he had bene?' He answered, That he had bene 'beyond the bridge of Erne;' and sayes, that he gaue that answer to Maister John, because my lord commanded him to 'let no man know that he was to ride to Falkland:' And that my lordes direction to him was, to 'come backe with his brother Maister Alexanders answer, and to leave Andrew Rathwen to awaite upon the Maister.'

(Sic subscribitur)

ANDREW HENDERSOUN with my hand.

FURTHER, the sayde Andrew Henderfoun depones, that, when he had taken the Maisters hand out of the Kings Maiesties mouth, and was opening the windoe, Maister Alexander sayde to him, 'Wilt thou not helpe? Woe betyde thee, thou wilt make vs all die!'

(Sic subscribitur)

ANDREW HENDERSOUN with my hand.

 NO. V.

DE EXECRABILI ET NEFANDA FRATRVM RVVENORVM in serenissimi SCOTORUM REGIS caput CONJURATIONE,¹ apud Perthum, Augusto mensē, an. 1600, Vera ac dilucida NARRATIO. Cui præmissa est, Prefationis loco, velitatio cum Lectore in fide et assensu commodando paulo religiosiore. His accessere ad Regem Soteria Carmine Heroico.

Ecce improbi tendunt arcum, aptant sagittas suas nervo ad jaculandum in caligine contra rectos corde. Atqui istis propofitis destruentur: Iustus enim quid operatus est?—*Psal.* 11, vers. 2 et 3.

EDINBURGI excudebat ROBERTUS CHARTERIS, Typographus. 1601. Cum privilegio Regio.

¹ From a copy in the Library of the University of Edinburgh, having the signature of Sir James Balfour at the foot of the Title-page, 'Ja: Balfourius Kynardie Miles, Leo Armorum Rex. 1629.' The Editor is indebted to Mr David Laing for the following curious abstracts from the Records of Aberdeen:—'1601. The inhabitants ordered to accompany the Magistrates through the town, singing Psalms and praising God. The Cross to be decked; wine to be drunk with spiceries, and glasses broke.' Vol. xl. pp. 104 and 106.—'Mr Thomas Cargill to be paid £20 for his Latin Treatise, congratulating the King on his deliverance from Gowrie's Conspiracy.' *Ibid.* p. 179.—'See also, under the year 1619, ordered to be celebrated.' Vol. xlix. p. 329.

AD LECTOREM pro intemerata Narrationis huius fide.

PRÆSCRIPTIO.

EN tibi, Lector, narrationem, quam Tragicis siue prodigiosis, per me licet, hactenus inferas, vt de intemerata narrantis fide nihil addubites. Narrationem quidem certe, quæ ordinem, euentumque pessime facinoris puriter simpliciterque proponit: at consilia, causas, finesque rerum, quarum pleraque in ambiguo, aut incomperta, nec exponit vbertim, nec (quod Historiæ est proprium) de rebus ipsis iudicat. Et Narrationem nudam adeo simplicemque, vt in ea verborum apparatus, orationisue ornamenta magnopere si desideres, frustra sis. Res enim per se nimis atrox ac inuidiosa, lenocinium et quæsitos arte colores circumponi sibi non patiebatur, quo fucō comptior et calamiftris, eo maiorem forsitan Lectori scrupulum iniectura. *Veritatis* enim, ait ille, *simplex est oratio*. Atque adeo prodigiosis adscribere non dubitavi: Tum ex meo ipsius sensu, qui consilium, et modum, atque euentum facinoris, et vniuersam rei gestæ rationem, omnia certe agnosco miraculo proxima. Tum multo magis, mi Lector, ex tuo: quem ego audio in præcipuis Tragoediæ huius actoribus duo potissimum admirari: Vnum in Rege, qui infidijs appetitus: alterum in proditore, qui istiusmodi fraudem architectatus. Nam et affine prodigio tibi videtur, Principem admirabili solertia ingenij, singulari iudicij acumine, maximo rerum vsu, ab homine adolescente, puluerem scholasticum non ita multo ante egresso, tum occasione leuicula ac prope futili in fraudem inductum: tum etiam cum fraudem vel maxime suspectaretur, summi discriminis incuriosum. Nec rursus miraculo carere videtur, hominem adolescentem (hic mihi comitem ipsum intellige, qui calciamentum confuit, non fratrem fraudis ministrum qui confutum modo induit) vix duos supra viginti annos natum, ampliter a natura, vberius a doctrina informatum, in magna domi re, bona foris fama, summa apud omnes gratia, in caput Principis sui ob singulares virtutes omnibus carissimi, et de illo imprimis optime meriti, sine probabili aliqua causa conspirare. Et tamen si voti compos factus esset curiosus alieni operis arbiter Momus, ac fuissent illæ in pectore fenestræ per quas daretur aditus ad introspiciendum in adyta mentis vtriusque: foret hic, opinor,

Nil adeo magnum, neque tam mirabile quicquam,

Quod non paulatim minuant mirarier omnes.

Vidisses enim in Rege præter alias dotes Regias, niueam puramque mentem, in solventem malarum artium, vt fraudes frueri, ita metuere nesciam: vidisses fidem *Sanctissimum humani pectoris bonum*. Contra in proditore malam mentem, impurum animum, simulandi dissimulandique artificem, *Astutam vapido sub pectore Vulpem*: hominem quam foris inanis tectorij fulgore visendum, introrsum tam turpem, luridum, virulentum. Neque fraudem ipsam capitalem habes nunc clarius oculis subiectam, quam cogitati facinoris causas, consilia, finem, tum sensibus animoque comprehensa teneres: adeo quid ille tanto flagitio volebat, quid captabat, aut meditabatur, liquido dignosceres. Verum vtcunque vota non fruatur suo Momus, si tibi otium humani ingenij lubricum et defultoriam fortunæ vicissitudinem æqua iudicij lance mecum expendere: simul animis rationem reuocare ad veritatem: nihil opinor, reperietur etiam in istis quæ miraculo proxima videbantur, adeo fidei absonum quod tuum, vel mediocriter sapientis assensum debeat remorari. Nam si quos stupor, aut liuor, aut alius quispiam adfectus ita præpedit: vt obstinauerint animo ad illustrissimum veritatis Solem mero meridie caligare, ad horum ego aures pro cymbalo non sum futurus. Te tantum, Lector benignior, qui in omni negotio intentus ac suspensus ambulare cupis: in fide autem et assensu potissimum tardus lentusque esse amas, cum eo, vt semitam qua eatur in viam paratus sis ingredi: te inquam, pro virili iuuare est animus: et scrupulum istum vnum aut alterum, qui te sollicitum habet eximere: ne si inani credulitate iam tempore ipso prope satis confutata, hæere aut fluctuare porro pergas, cum isthac tua religione (vt parcissime loquar) dignus esse odio videare. Atque vt id magis fiat ordine: de Principis fiducia primum paucis: dein de sceleris instinctore pluribus differam. Nam quod tibi videtur parum dignum regio fastigio, nec principi satis decorum, pro auri olla caput in discrimen mittere: equidem non repugnarem, si vero vinceris vel aurum Regi tantum in mente fuisse: vel de infidijs et vitæ periculo saltem iudicio cuiusquam illi con-

stitisse. De discrimine concepta magis quam iniecta suspitio, fecit aliquantisper animi pendulum : sed dum rectoris vir spiritus religioni habet, absque manifestis indicibus alienam virtutem suspitione violare, quid mirum si ea sollicitudo mox vertit in fiduciam ? Quod si auri cupidine velut inescatam ipsius simplicitatem putas, quam vellem præstantissimi Regis ingenium iuxta mecum exploratum haberes. Neque enim modo quibus ille intime notus, sed et communiter omnes qui e vulgo id sciunt, splendens hoc aurum, quod aliis mortalibus præstringit oculos, illum plane negligere, atque oculo (vt poeta loquitur) irretorto adspicere. Ille ne vt salutem suam et publicam auro contra charam non habeat : cui tam amplæ, tamque frequentes pecuniarum conquirendarum rationes, salua et vita et existimatione, curæ cordine impendio nunquam fuerunt ? Basileiam graphice admodum et magnifice (vti decebat et Deam et Iove prognatam) in oratione de regno depingit Dion Chrysostomus. Aurum quidem copiosam habentem iuxta pedes cumulatum, sed cuius aspectu nihil afficiatur : magis omnigenis quæ folium ipsius circumiecta sint, animalibus delectetur. Et tu audebis credere Regem clarissimum expressissimam mercede Basileias Ideam : quippe quem venationis auocamentum mirifice capit et rapit, aurum nec capit nec tenet, relicta ferarum confectione, speratam auri prædam vel periculo capitis persequitur ? Imo contra, hoc vnum in eo populares desideramus, maiore ad rem attentionem, in opibus congerendis, thesauris accumulandis, fisci vtilitatibus promouendis studium vehementius. Sed nimirum Herculem vnicum vitæ ad virtutem instituendæ exemplar ille sibi proposuit ad imitandum. Quem quod memorant nudum incessisse Leonis duntaxat exuvias indutum, id eo sensu viri rerum intelligentes accipiunt : quod neque aurum neque argentum, neque vestimenta pretiosa in magno pretio habuerit, omnia nisi vt exercendæ liberalitatis essent, nullo loco numeraverit. Ad eundem modum Rex noster aurum, argentum, altaque in fortunæ ditione posita, quæ miseri mortales misere capiunt, in postremis ducit : ea non appetens nisi ad vnicam gratificandi facultatem : in subditorum benevolentia, amicorumque fide firmissimum regni præsidium, et maximum Imperij instrumentum positum existimans : hunc thesaurum etiam Regiæ Perfarum gazæ anteponeus. Quare meo quidem animo, quidlibet causæ comminiscere potius, quam vt auri cupiditatem principi munificentissimo obrudas. Ego magis adducor vt credam rei novitate inductum, aut incolumitatis publicæ studio, dum ab auro extraneo non iniuria metuit rerum domi turbandarum materiam. Et quanquam auri inspiciendi provinciam vni e purpuratis suis poterat demandare, et nullo suo discrimine ad se deferendum curare : tamen qui morum in eo candorem, et promptam suis omnibus humanitatem reputabit, etiam hic antiquum obtinere nihil mirabitur. Quid est enim Rege humanissimo familiaris, quam comiter invitatum in nobilium virorum sædes cum lubentia itare : idque quantum potest rarissimo comitatu ? Nempe quia moderata ac pacifica multorum annorum gubernatione id se consecutum arbitrabatur, vt amore civium et benevolentia septus, munimento alio non egeret : innocentis suæ præsidio contra vim omnem satis firmiter munitus. At enim, inquires, hominis erat parum considerati, postquam suboluisse illi infidiæ, non cogitare tum sæculum quo viveret in quo nusquam tuta fides : quam ipse personam sustineret. Certe quidem nec æuam ignorabat ad fraudem, perfidiam et veteratorias artes affabre factum : neque illud nesciebat, cum qui multorum se custodem profiteatur ex sapientum scito, *Sui primum capitis custodem esse oportere ; sed cogitabat rursus nihil esse causæ, cur adversus ipsum fallaciam intenderent, eoque Magnum animum decere magnam fortunam.* Imo, vt est historiarum omnis æui exequentissimus, non fugiebant eum exempla illustrium virorum, qui etiam tum, cum cædes et venena suspicarentur, maioribus animis quam successibus in vitæ periculum incurrisset. Meminerat capitale fuisse Dioni, cum infidias a Calippo opinione præcepisset, quod amicum et hospitem formidare nollet. Nec minus funestum Antipatro Cassandri filio, qui ad cœnam vocatus a Demetrio, qui cum ipso pridie cœnasset, non recusavit vna ire, licet sibi valde metueret, ne videretur ei diffidere, qui ipsi filius fuisset. Meminerat Herculem Alexandri ex Barsine filium, a Polyperchonte ad cœnam invitatum, cum et suspectam haberet eam invitationem, et excusasset incommodam valetudinem, subdola hominis versipellis oratione vt in suam ipsius exitium vna proficisceretur, adductum. Quæ quidem et alia eiusdem modi exempla quanquam eum admonebant, quantum posset adire periculi : tamen

animo interritus cœptum vrgebat : quod amoris fiducia suspiciones non admitteret : et animus recte factorum conscientia erectus ancipitem fidei metum, et periculorum cogitationem averfaretur ac diffelleret. Fecit igitur vt decebat virum fortem : fecit quod ante eum excelso plerique animo : fecit quod aliquando ille Regum invictiffimus Alexander, qui iniecto a purpuratis suis metu de perfidia medici pro medicata potione venenum propinaturi, postquam secreta æstimatione expendisset quid in vtramque partem spes aut metus subiecerant, tandem satius iudicavit (ait Curtius) *alieno mori scelere, quam metu suo*. Nam et Sereniffimus noster Princeps, cum aliquandiu animum in diversa versasset, decrevit tandem cuiuslibet discriminis euentum potius expectare, quam eius hominis, que sperabat amiciffimum, et sciebat multis magnisque beneficijs sibi pigneratum, fidem prædamnare. Itaque quamvis Dioni, Antipatro, et alijs, qui suorum insidijs circumventi, eiusmodi confidentia magno constiterit : certe vt olim Alexandro (referente Curtio) *Sua temeritas cessit in gloriam* : ita, Deo immortalis haud dubie totius huius actionis clauum moderante, isthæc siue fiducia, siue temeritas est, Regi mitiffimo non in gloriam modo cedere debet, sed et in securitatem. Ercquis enim erit ille tam male volente Genio natus, qui in posterum audebit attentare adversus eum, cui Deum nullo loco deesse animaduerterit : et extremis præsertim temporibus videt opem adferre præsentiffimam ? Iniurium fit, imo vero impium, non eius charitate flagrare ardentius : admiratione plus teneri, magis ac magis venerandum sacrosanctumque habere eum, qui Numini eximie charum esse, valentiffimæ in desperatiffimis rebus suppetiæ clare testificantur. Et enim qui in hoc negotio sola rationum humanarum momenta intuetur, næ ille non solum tota via, sed et toto aberrat cælo. A cælo enim et provida illa mente, quæ serie nobis incognita, supra inferaque moderatur ac gubernat, vniverfa huiusce negotij dispensatio est. Vidit nimirum æterna illa mens regem pium, probum, beneficum comitate et morum facilitate nulli homini secundum, eo natum seculo, cuius hæc labes, virtuti et innocentia invidere velle : atque nihil ignominiosius credere, modesta simplicitate, et probitate in summa fortuna. Ideo visum illi in clariffimo Principe rarum ac singulare exemplum prodere, *fidiffimam esse custodiam Principis ipsius innocentiam* : periclitari eam posse, et oppugnari : at nec expugnari nec opprimi. Vidit itidem periculum esse, ne a Divinæ opis civique amoris fiducia, securior esset quam tutior : eoque eum qui amoris excubijs septum sese putabat, paullo momento terrore suorum succinxit : vt in loco admodum lubrico temperamentum adhibere meminere : integritatem quidem confertis (vt aiunt) manibus retentam, sed simul, generose cautus, et citra ignavia circumspectus. Vidit denique in ea incidisse tempora, quibus, ipso auspice ac duce, magna illi mouenda moliendaque essent. Itaque placitum benigniffimo Parenti in Principe eius Auspicijs ductuque magna ausuro, præter superiora, permulta quidem et prælustria fauoris sui experimenta, vnum insignitiffimum paternæ benignitatis documentum edere : tum ad iungenda et efficacius hominum studia, tum ad animum ipsi hac veluti amoris tessera, in omnem deinceps vitam firmiter obfigillandum. Vt in periculis obeundis, aut laboribus pro Nominis sui gloria, Regni ornamento, dignitatis amplitudinisque Regiæ incremento fuscipiendis nunquam fatiscat, aut deficiat animo, sed post acceptum Diuini præsidij tam certum arrhabonem, auxiliares Numinis copias in rebus quamlibet arduis perpetuo sibi spondeat cum poeta : *Dii me tueantur, diis pietas mea curæ est*. Nam si summus Ille rerum arbiter, Scotorum Regi fecisset opinionem quo maxime vellet modo bonitatem suam experiri, quanquam profecto nescio an alio aliquo maluisset, hoc vnum scio certiore quam expertus est, ne optasset quidem. Quamobrem, mi Lector, desine ingenij tui acumine non tam Regis optimi, quam Dei ipsius consilium, sollicitare : vana cogitationum mittens, Providentiæ decreto te permitte : quod Deo placuit, idem vt tibi non displiceat æquum cense, atque in Trismegisti Solomonis veriverbio acquiesce. *Cor Regis in manu Dei ad inclinandum illud quocunque vult*. Item. *Vt Cæli altitudo aut profunditas terræ inperscrutabilis est, ita inperuestigabilis est Regis animus*.

Iam altera parte admirandum ac prope incredendum tibi videbatur, iuvenem, natalibus clarum, opibus florentem, domestica externaque disciplina liberaliter institutum, prudentiæ doctrinæque opinione apud omnes ordines gratiosum, pessimo post homines natos flagitio omnium expectationes ludificari,

seque cum illustri familia in probri nunquam intermoritari præcipitium pessum dare. At ego contra tristem ac miserabilem fortasse casum vt agnosco, certo novum aut incredibile nihil video: nisi quemadmodum de parricidio, declamat. 377. loquitur Quintil. *Quædam esse crimina, quæ ipsa magnitudine fidem non impetrant.* Neque enim negabo meum ipsius affectum, principio imperare sibi non potuisse, vt non aspectu primo doleret et miseraretur sortem hominis, qui facinore infando se cum familia indignissime perditum iuisset. Sed cum discussa vulgarium opinionum nebula rectæ Rationis Sol mihi face sua pectus illustravit, adeo mirari desij: vt prope sortem hominis vltra nihil miserarer. Ecquid enim perspicere hic nimiopere novum aut incredendum? Nempe quod homo adolescens, opibus, ingenio, doctrina præstans, dum animo suo plus satis obsequitur, nefario scelere se obstrinxerit. Atqui memineram scripsisse Platonem, *In magnis ingeniis vt magnas virtutes, ita insignia vitia inesse consuevisse.* Et si audimus Senecam, *Nullum esse magnum ingenium sine mixtura dementiæ.* Itaque qua homo non impossibile, qua adolescens credibile: qua vel fortis fortunæ turgidus, vel doctrinæ ingenijque fiducia ferox, vero non absimile mihi videbatur. Vulgi imperiti ad obliquos inopinatosque eventus attoniti et obtupescentis solet hæc esse querimonia. Qui potuit accidere? Quis putasset? At qui sapientia supra vulgum, et exploratos habent modice casus humanos, eos improvisus istiusmodi fortunæ ictus nihil percellit: neque digitum transuersum de recti iudicij gradu dimovebit. Illi enim flectentes oculos ad communem sortem, ad varios et reciprocos rerum humanarum fluxus, humani nihil se alienum putant: post primogeniam principum parentum noxam, quemque nostrum hæc et deteriora (si quid est improbia) posse admittere satis intelligunt: quando verum nimis et illud verbi,

Cuius potest accidere, quod cuiquam potest.

At proba educatio, ais, et eruditio multa, non sinebant hominem concipere animo tantum nefas. Fateor equidem in bona institutione ad vitam recte instituendam non exiguum esse momentum, cum ad naturæ commoda accedit probæ educationis disciplina. Verum

Multa est opera opus factura, qui se factorem probum

Vitæ esse agendæ expetit.

Atque vt de domestica parricidæ huius educatione mihi cauere fortasse vt non nolis: an exoticam pariter et transmarinam audebis præstare disciplinam? Eam tu pariter mecum non ignoras Polyopidis capiti perfimilem, in quo bona et mala: aut certe hortis Ægyptiorum, vbi *Φάρμακα μμιγμένα λυγρὰ καὶ ἰσθλὰ.* Venenata salutaribus permixta. Et quam vellem illa vt non præponderassent. Sed vt fuerit vtraque non omnino mala, quis nescit, perinde ac res omnes humanæ natæ sunt volvi, mutari, verti: ita adolescentis indolem, vel pravis consultoribus obrepentibus, vel malarum cupiditatum illecebris obiectis corrumpi depravarique facilem? Certe non temporum magis, quibus nihil fluxius, quam morum in hominibus vicissitudinem agnoscit idoneus æstimator Tacitus, *Rebus, inquit, cunctis inest quidam velut orbis, vt quemadmodum temporum vices ita et morum vertantur.* Et exempla si requiris, millena aliquot aut ego proferre, aut tute tibi possis subijcere, qui paullo momento ab honesto in prauum abstracti. Vnum modo Neronem mihi vide. Cui elogium hoc tribuit, qui inter Imperatores cognomentum meruit Optimi. *Optimos quosque Principes longe absuisse a quinquennio Neronis.* At ille idem post bipedum omnium nequissimus, et nullo non scelere infamis. Itaque si lubet hominem sua et iusta æstimatione censere, disce a Platone cenfore æquissimo et scientissimo. Qui cum Heliconi Cyziceno daret literas ad Dyonisium, commendavit quidem hominem, vti humanum et permodestum. Sed in calce commendatitiarum adscripsit, laudare se hominem, hoc est, vt ille interpretabatur, *animantem natura mutabilem.* Atque ita profecto se res habet. Solus ipse mundi Rector æternum in benignitate sua perseverat immobilis et immutabilis: alia omnia stare loco nescia: homo maxime, non in dies solum, sed et in horas versatilis.

Quod petiit, spernit: repetit, quod nuper omisit:

Æstuat, et vitæ disconvenit ordine toto.

Vt meritissimo Poetarum optimi bullæ, somnio, vmbra, frondibus ac folijs humanum genus æquiparaverint: adeo volubili sunt homines ingenio, leves, mobiles, atque foliorum instar, ad quamvis auru-

lam instabiles. Neque novum mirumue sit, eum hominem quem æternus Parens faburra bonæ mentis, aut rationis subsidio contra æstus turbidiorum affectuum non stabiliverit, in scopulos offensæ plus quam tragicæ cupiditatis vento abripi. Sed enim, inquires, eruditio multiplex et interior animi cultus retinaculi vice esse debebant, ne illum affectuum æstus transtuerfam abriperet. Certe quidem si legitimum literarum vsum confectatus fuisset, et culturæ patientem accommodasset aurem. Sed, prout sunt tempora, vereor vt rectum studiorum finem aut sequutus ille fuerit, aut assecutus. Videas alium literarum peritia frui ad oblectationem : alium ad dignitatis et famæ incrementum : non neminem ad memoriam sui post exactum vitæ curriculum in ævum prorogandum. At quotusquisque eas vult esse instrumentum vitæ per virtutem ac decus agitantæ ? Ecquis præstantis doctrinæ adminiculis subnixus, discit affectus magis ac magis habere in potestate ? Ecquis sensus animi suapte natura contumaces ad obsequium rationis redigere ? Ecquis contra temerarios fortunæ casus celsior et erectior stare ? Cum tamen verus ac genuinus iste sit studiorum finis, quo firmior adversum fortuita Rempublicam capessas. Atqui adolescens hic litteras, credo, magis illecebram ad peccandum esse voluit. E Platonis schola multi tyranni exiisse dicuntur, neque Philosophiæ, neque magistri ipsius culpa : sed scientiæ opinione præferoces, solos se dignos existimarent qui alijs dominarentur. Quid si isthic vitium compar ? Fecit saltem vt solent qui animo subdoli ac perfidiosi. Literarum velo pessimarum cupiditatum scenam inumbravit, quo tectius atque occultius se putabat delicturum, eo laxiores habenas ad quidvis audendum animo suo permittens. Quid ? quod animum scientiæ studio flagrantem non coercuit ? quid si literarum intemperantia laborans modum non tenuit ? quid si nimis multa scire voluit ? et ea nec bona, nec fructuosa, nec legibus concessa.

*Musus animus dum mollior instet,
Et quæ mox imitere legas : nec desinat vnquam
Tecum Graia loqui, tecum Romana vetustas.*

Hoc studium in quod incumbere, stadium quod decurrere illustres adolescentes decet. At illum multifaria ingenij dote, et versatili solertia vsum ad naturæ recondita inquirenda, et ea quæ supra nos, ad magicas et illicitas artes addiscendas nimis multa loquuntur, de quibus mox dicemus. Vis igitur scire, Lector, quid de multiplice huius hominis cognitione existimandum habeas ? En tibi viam ad censendum, præibit Philosophus non ignobilis. Diogenem memorant, cum in hominum vita Præfides provinciarum, Consultos iuris, Philosophos, Medicos considerabat, dicere solitum, se nihil invenire homine solertius et sapientius : sed cum oculos deflecteret ad somniorum Interpretes, divinos, coniectores, ariolos, nihil ineptius et stolidius. Idem hic in pari causa cense. Quamdiu bonis disciplinis iste animus excoluit, fuerit sapiens, eruditus et adprobus. At postquam Servatoris sui desertor ad dæmonem velut inducijs factis transijt, curiositate non ferenda illusionum diabolicarum socius ac particeps esse fatagens, sit tibi ille idem improbus, insipiens et execrabilis. Et miraberis deinceps, sive se noxio illi Genio mancipaverit, sive cum salutis suæ hoste acerrimo quasi colludere sustinuerit, iam superis animum illi lymphantibus, in pessima facinorum præcipitasse. Itaque non est quod de causa qua impulsus, controversiam vltra mihi facias. Nam quod ais magnum aliquid spe devorasse, quia verum sit illud Arbitri : *Sicut muta animalia cibo inescantur, sic homines non caperentur, nisi spe aliquid morderent.* En tibi viam maxime compendiarium, quæ elatioris animi adolescentes agat in præceps, curiositatis nimix et magicorum ludibriorum studium. Quis est enim in rebus æstimandis tam frutex, cui ex subiecta narratione cælo clarius non appareat, vanitatis magicæ fuisse confectatorem ? Qui illi perpetuus itineris comes, idem characteres perpetim circumgestasse testis est. At characteres eos Magicos fuisse, et modus servandi loquitur, et eorundem voces nefandæ clamant ita manifesto, vt ridiculi sint, si qui cum ineptis suis interpretamentis reclamant. Scribit Athenæus literas Ephesias (ita vocabant antiquitus notulas, siue voces Magicas) *ἰν σκουταρίοις χαρτοῖσι*, id est, in consutilibus pelliculis olim a Magis cum cura adseruatas. Et notulas itidem Govvrius suas libellulo inscriptas in pellicula consutilli custodiebat. Quod si nescis quam efficaci crediderit eas esse virtute, id ex ipsis notularum verbis percipe. Quibus si fides, omnes potentes ad bonos Spiritus attrahendum, et malos propulsan-

dum. Huic vim adscribit perficiendi mirabilia, et indubitatae in praelijs victoriae comparandae: illi vim optata impetrandi. Nonnullas etiam efficaces esse voluit adversus adversas hominum valetudines et molestias: ab alijs contra ipsam divinarum legum inevitabilem potestatem (horresco verba referens) promptissima remedia pollicetur. Quid? quod pro ariolo ac futurorum praecio haberi se discipiebat, et suam in rebus Magicis solertiam apud familiares non dissimulabat. Sed quod apud notos praedicabat Italum quemdam qui apud vulgum maleficus audiebat familiariter sibi cognitum, hinc credo esse fundi nostri calamitatem. Quis est enim in noscendis adolescentum nostri aevi ingenijs adeo peregrinus, qui non continuo subodoretur Govvrium haereditaria ea scabie pravæ curiositatis prurientem, atque in patris ac sui mores institutaque euntem, consuluisse Magum hunc, quæ fors maneret eum, aut quo fato esset periturus: et veteratoris spiritus astu (ita vt fit) ambigua aliqua responsione fucum illi factum. Quemadmodum enim hedera proceram arborem complexa non dimittit, priusquam eam ad tabem nexu suo perduxerit, ita novum non est etiam praeclearissima ingenia, quæ se vanitati Magicæ semel addixerunt, ab eius contubernio non ante explicari, quam in inextricabiles malorum casses praecipitaverint. Habes igitur, Lector, ab aliqua dictione Magica, quæ illi commeritum ab Rege exitium praenuntiaverit, vnam haud dubie infelicitis suscepti causam. Quod si tentas descendere in temetipsum, reperies cuique nostrum suas etiam esse et internas, vt pereundi, ita et in furias et quodvis scelus quamlibet chothurnatum ruendi causas. Habemus enim in nobis tres adversarias potestates, *Ambitionem, Cupiditatem, et Voluptatem*, quarum ministerio impostor ille Genius, omnia sapientiae praecipita salutariaque monita ex animo expectorans, solertissimum quemque impellit in fraudem. Neque magis solens est ferrum consumi sua rubigine, aut exedi lignum sua teredine, quam homines etiam existimatissimos intercutibus his vitijs laborantes, ad miserabilem exitum perducere. Ergo vt nullum Govvrium characterem circumgestaverit, at vero, hunc vere tergeminum humani generis hostem in pectore, in venis, inque medullis circumferebat. Neque opinor de vindictæ cupiditate mecum pugnabis, quando ipse minister sceleris hoc mantelo celandæ fratris perfidiæ est usus: cum dicitaret se paternum supplicium cæde patris patriæ vltum ire. At ego ambitionem magis suspectam habeo, quæ, vt tu scis, fortunatorum: vt ille ait, *Commune est nobilitatis malum*. Quod si instabis non esse credibile vt per Regis interitum ille regnum affectaverit. Qua enim spe potiundi? quibus copijs? aut qua virium fiducia? tam alieno tempore, Rege ipso iam tum tribus liberis felici, atque vno horum masculo, puero supra quam credi possit in ea ætate et animi et corporis viribus inclito: Nobilitate vero reliqua et Principi suo, vt cum maxime addictissima, et tranquillitatis cupientissima. Agnosco equidem si quam ille animi mentem habuisset, nunquam fuisse processurum eo vecordiae, vt flagitio tam pudendo augmentum Imperij verticem violare, se sacraque Christiana quæ profitebatur, conscelerare non timeret. Sed nimirum stultis ac fallacibus cupiditatum delenimentis deceptus, et imaginariæ felicitatis velut fulguris animi oculos illi praestringentibus, verum videre non potuit: neque futura satis praevidere.

An æger animus falsa pro veris videt?

Namque (ait ab ævo recentiori scriptor) *Ambitio et cupiditas oculorum meræ suffusiones, veras rerum species nos videre non sinunt, imagines ludibundas oculis obtendentes, visus ludificatriculas*. Scilicet titulosæ amplitudines, stipatorum frequentia, opes, cognitiones, affinitates: salutantium, deducentium, imo assentantium turba, populi applausus, iveni harum rerum insolenti tantos animos fecerant, vt neque satis se cogitaret, neque pericula expenderet, quæ erat aditurus: dum animo obsequitur suo, res cavendas et admittendas iuxta despiciens. Neque mirum id cuiquam videbitur lucifugi Spiritus artes versutasque edocto. Qui impostor solertissimus, non alios cupiditatum quas dixi praestigijs magis sibi mancipat, quam quos fortunatos, temeritatis alumnos, natalibus, opibus, clientelis, inflatos, aut prudentiæ scientiæque opinione nimium sibi confidentes, deprehendit id genus homines suo arbitrio imprimis permittente Providentia. Quamobrem, mi Lector, cum probe cognita atque explorata habeas tum isthæc humanarum cupiditatum blandimenta, tum illa veteratoris Spiritus commenta, putidum sit conurbationis consilium deinceps quaerere: pene improbum, si illud non capis, de scelere ipso amplius ambi-

gere. Rem factam habes, coniurationem aëre ipso liquidiozem, facinus inter ea quæ ab ævo condito infidiosissimum, atrocissimum, periculosissimum. Et tu etiamnum quæres et cuntabere de causâ? Quid si fortasse eam non expedio? Illud scio, si de causâ liquido constaret et sine, mehercle et parricidas magis oderis, et scelus damnare vehementius. Sed quaecumque fuerit in patrandò consilium, saltem noxam illi luculentam nocuisse noscuntur: et pleræque fraudis circumstantiæ in narratione subiecta tanquam in tabella syncere, puriter et ex fide tibi exhibentur. Per quas singulas tecum ire fuadet animus, iubet studium veritatis, flagitat meus in te amor, sed ne defundar coerret, et habenas amori ultra permittere vetat, tum acumen tuum qui isthæc per te melius potes et debes, tum verbum illud vetus, *Non debet enormior esse prologus quam fabula*. Itaque quisquis es explica tantum atque excute tuam ipsius intelligentiam, ego spondebo neque rem ipsam in obscuro, neque te diutius in vado hæsitatiois versaturum. Ait Romanus ille Sophus: *Vnius sententiam sequi non esse vitæ, sed factionis*. Tu igitur quo meliorem civem, et Regis rei que publicæ amantiorem, quo a factione factiosisque alienior rem probare te studes, eo magis decet te bonis accredere, et de suo Principe pie recteque sententiam coronæ populariter suffragatorem accedere. Si suspiciosus esse pergis, *Nunquam deerit suspicioni argumentatio*, ait Seneca: *Sed simplicitate opus, et benigna rerum æstimatione*. Imo si audis eundem sapientem: *In quibusdam rebus satius est decipi, quam diffidere*. Vbi vero id tolerabilius, quam vbi salus existimatioque Principis vertitur? Audi non me, sed consiliarios magni Regis apud Curtium. *In suo quemque periculo magnum animum habere, cum de salute Regis timetur credulos esse debere, vana quoque deferentem admittere*: et tamen an tibi vllum a fraude periculum, hic, vbi nihil supra fidem, nihil ex vano haustum, vbi tam fidi auctores, vbi viri partim illustres et spectabiles, partim parricidarum amicissimi et intimi, testes sunt, et cognitores, fidi, locupletes, omnique exceptione maiores?

Quare nimio satius est, vt opu'st te ita esse, quam vt animo lubet,

Qui animum vincunt, quam quos animus, semper probiores cluent.

Quod si fortasse nonnulli qui omnem fortunarum suarum spem in hoc homine collocaverant, a destinatione sua longe iacentes, malevolentia cæstro perciti, non deerunt oppedere veritati: at vos saltem ex hypophetarum ordine, Divino, vti par est, nomine instructos, veritatis emissarios, æquissimum est tam obviam tamque manifestam veritatem obvijs vnius amplexari. Et quanquam consilio valetis plurimum, tamen quando etiam summi gubernatores in tempestatibus a vectoribus admoneri solent: hoc ab homine amico vobis instillari finite. Sicuti vos decet arbitros esse et prætores omnium officiorum ad pietatem religionemque pertinentium: ita vos omnium subditorum maxime convenit Pitharchicos esse, et Principalibus edictis æquanimiter obsecundare. Quo intentius ad Dei opera speculanda animi aciem dirigitis, eo liquidius quam nos e vulgo Deum adspicitis, in Regis optimi periculo discutiendo sese sensibus nostris ingerentem et inferentem. Eapropter vos decet cum primis et istam impietatem execrari, et eius auctorem, quo magis vana quadam simulata pietatis specie vobis imponere studebat, hoc lubentius suis verisque coloribus depictum populo spectandum propinare: vtrumque tam strenue atque sublimiter: quam clare atque exaudilibiter damnare. Interest enim exempli in vniversum, vestrum ordinem hic recte sentire, cuius omnia dicta, facta, significata magnopere pertinent ad exemplum. Neque hic modo, vt facitis vos officiosos exhibete: sed, si me auditis, etiam alias, tum in accipiendis, tum in obeundi non illicitis Religiosissimi benignissimique Principis imperijs non scupulosam obedientiam, sed obsequiosam alacritatem adferte. *Ambigua laudis civis est*, ait vetus scriptor, *qui debitis reipublicæ officiis non sua sponte, sed iussus, fungitur*. *Quicquid enim imperio cogitur, exigenti magis quam præstanti acceptum refertur*. Vt deforme obsequium in isto ordine nemini bono probatur: ita abruptam contumaciam ecquis satis sanus non damnabit? Sicuti adulari imperanti non fas, sic nec vltro irritare et siue libertatis, siue incautæ pietatis obtentu pericula provocare. Si Principum ingenia non nostro modulo metiri: sed ad æqui bonique regulam æstimare possemus, est certe cur Deo maximas referamus gratias, quod imperamur ab eo Principe, qui (vt parcissime dicam) modestam loquendi viuendique libertatem a subditis vsurpari æquissime ferat. Verum quia et non immemores moneo, et opinione mea longius

isthæc pronexit oratio, vt iam tandem præfari definam, nec sit, quod dicitur Το πικρόγυμα μιλζον τῷ θυλάκῳ, infratam sacco maius, ad te a quo cœperam redeo, Lector, Epicharmæ sapientiæ nervo olim nimis inhærentem : at nunc in compertissima veritate neque diffidentem vt opinor, neque hesitantem, imo prope non vltra admirantem. Et profecto, vt sunt Divina, humanaque, quid est cur magno opere mireris, vel iuvenem adspirante inconfulto popularis auræ fauonio, et fortuna veluti succollante in cogitationes erraticas et impias vanescentem, infolentiæ fastusque sui Deo pœnas pendere ? Vel Regem optimum ac piissimum, non ab euanidis bonis in mancipio fortune positus estimationem captantem, sed ab animo bene composito et fiducia in Deum firmiter subnixo, veram solidamque gloriam petessentem, eiusdem Dei benignitate eminentissimum transmittere discrimen ? Si quid est in his exemplis insolens aut mirum, inde ad vitam recte instituendam documenta potius tibi fume. Ergo qua vides iustitiæ Divinæ seueritatem prodigiosis eventibus in facinorosos destrectam, hinc disce inter obsequia Fortunæ cautus incedere : nec scelere cothurnato in offensioem Numinis a quo provocatio non expectanda, sciens prudensque impingere. Rursum qua vides æternam illam mentem pro Rege excubantem, et hostium in caput ipsius iuratissimorum siue animum obnubilantem, siue consilia corrupentem, siue conatus eludentem : quem Deo vnice charum vides hunc tu quoque disce in oculis ferre, magis magisque charum, venerabilem ac sacrosanctum habere : at neque facto violare, neque verbo ledere, neque suspicione offendere : imo vt rectori huic parentique nostro Magnus ille mundi Arbiter ac Rector perpetuus Adites, Præstes, ac Sospitator fiet, mecum ex animo precare.

No. VI.

‘ A SHORT DISCOVERSE of the good ends of the higher Prouidence, in the late attemptat against his Maiesties person. Printed by ROBERT WALDEGRAVE, 1600.’

[THIS Tract, which is in duodecimo, pp. 28, is in the valuable Collection of Mr David Laing, by whom it was purchased at a sale of the Library of the late Mr Archibald Constable, who considered the book to be *unique*. Of the author nothing is known ; but it may be conjectured to be one of the compositions of Mr Patrick Galloway, who so zealously defended his Majesty’s character, in his Sermons, &c. It is to be hoped that Mr Laing will soon reprint this rare little volume, and add one more to the many Tracts illustrative of this most mysterious subject. The following extracts may be taken as a fair specimen of this interesting little volume.]

‘ THE ETERNALL Prouidence hauing giuen many markes, euen from the firste conception of his Maiestie, that he is appoynted for great thinges : and willing at last, before his approches to his destined right, now in the good age of his sister of England (whome he hartilye wilheth long to liue, and who hath euer had him in the deare account of hir owne sonne) that he should be encouraged, be a speciall signe of his high protection and hand with him, and therewith also, haue a further triall, both of his owne and his peoples hearts, invred him first with a dangerous (I must say it) excesse in a Prince ; for clemencie, goodnes and truste, howsoeuer of their nature good, may haue also their owne excessis ; whilk, in the fortune and happs of many potentats, haue so often redounded to their perrell and overthrowe, that Princes haue greater cause to feare sick persons as they haue saued, restored, or made vp, then where they haue done ane iniurie. And though sick benignitie worketh euer to good, in the honest and acknowledging hearte, (as his Maiestie hath had good tryall in manie,) yet when it meeteth with ambitious and vngrate persons, it lyeth oppen to sik requytales, as he hath also found in the traytor of GOWRIE and his brother the MAISTER, his destined hangman of his Princis life. But God would so haue it, and that his Maiestie also should abandon him selfe in the armes of their treacherie, and measuring others be his owne sinceritie, shoulde neither suspect fraude and false measure, neither remoueo

his trust from the place where hee had heaped vp so many benefites : But, in the simpleness of his purest hearte, being so few, should come in their reach, and being sole and vnarmed, should be brought in the place of death.'

' Our excellent Princis vnattainted hearte was of sick purenes in the behalfe of the tratore, the newe Angel of Italie, (whose vncertaine maner of port, over popular showes, with certaine his motions to his Maiesties selfe, might haue well ynough shewen the armes of his hearte,) that leauing the small tryne whilk he had at the chafe, accompanied only with his cousings, the Duke and the Earle of Marre (whome God would haue to be witnessis of that whilk should happin,) hauing no other than his hunting horne, he came in their towne, in their house, and the verie snare prepared for his death ; where they, beeing ayded with his single heart, and repose in themselues, vnder deceaueable showes, fand best to inuite him ; and violating, vnder sick trust, the naturall and publicke faith, attempted the same, he neuer hauing done them anie outrage, but contrarily, with all good fauors, honors and digniteis, euen courted them in a fort, and their whole house. O moste wicked treacherie ! to thirste the dropes of the innocent blood of their King, who hath so farr restored, prefered and honored them ! For to lay to his charge the death of their father,' &c.

' Yea, and in these essayes, that we heere speake of (so little commerce haue sick designs with Gods assistance, or their own wit) their hart may fayle them, their resolution may wauer, the partie may dash them, or his humanity mease¹ them : a dread, a suspect, a word, or a looke may alter the case : and finally, the protection of God may intercede, withstand, or confounde them. The Earle was ouer wise, the Maister ouer foolish, the other² ouer timide : his Maiesties prefence, his resolute heart, his matching the one, his threatning the other, his gayning of time, and calling for ayde, haue their owne regards. But that he leeued, and venged himselfe like a good knight, it was of the protection, mercie and influence of Him, bee whose good ordour Kings do rule,' &c.

No. VII.

EXTRACTS from the RECORDS OF THE PRIVY COUNCIL.

PROCLAMATIOUN of Thankisgeving, for his Maiesteis delyuerie.

APUD EDINBURGH, sexto die mensis Augusti, anno 1600.

SEDERUNT.—Cancellarius, Fyvie, Thesaurarius, Secretarius,
Aduocatus, Comptroller, Collector, Clericus Regiftri, Spot.

FORSAMEKLE AS it is laitlie cum to the knowlege of the Lordis of his heynes Preuey Counsale, of ane lait intendit Treasoun be vmq³ JOHNNE ERL OF GOWRIE, and MR ALEXANDER RUTHVEN his brother germane, aganis the persone of his Maiestie, quhome God preserue ; and becaus his heynes, praisit be God, be his mychtie hand, by² all expectatioun, is sauit and preferuit : THAIRFOIR, willing that thankis be gevin to Almichtie God, the onlie instrument of that preseruation : And in consideratioun of the small boundis of any of the Perroche Kirkis, within this burgh, to contein the multitude, the saidis Lordis hes thairfoir thocht meetest, be oppin Proclamatioun at the mercat croce of this burgh, to notifie the said happie deliuerance of oure souerane lord fra the said perrill and danger, with the death of the saidis traitouris, sua worthelie deseruit : And thairfore, requireing thame, as it is the pairt of all his deutifull subiectis, to rander thankis to God, for his said deliuerie ; and in talkin of thair joy, caus the haill bellis within the burgh to be rung ; and at nycht caus mak banefyreis, allweill within this burgh as within the Cannoin-gate and village of Leyth, efter the accustumat forme obseruit in the lyke caiffis, for the vttering of the joy of his Maiesteis happie deliuerance : And bes Ordanit Mr Dauid Lindfay to prais God, within the Kirk for the same ; and Ordainis the people to accompany him to that effect.

¹ Maze, bewilder.

² Andrew Henderson.

³ Contrary to, against.

CHARGE, for keiping of the CORPIS of vmq^{le} the Erll of Gowrie and his bruither.

Aug. 1600.

APUD FALKLAND, *septimo die mensis Augusti, anno 1600.*

SEDERUNT.—Lennox, Cancellarius, Mar, Thesaurarius,
Secretarius, Computorum Rotulator, Spot, Kinlofs.

FORSAMEKILL AS vmq^{hill} JOHN ERLL OF GOWRIE and MR ALEXANDER RUTHVEN, his brother, being in the actual execution of a maist horrible and traterous Conspiracie aganis the Kingis Maiesteis royall persone, within the said Erllis awin ludgeing, within the burgh of Perth, it hes pleisfit God, maist miracoulouslie to deliuer his Maieftie fra thair intendit Treasoun, and to turne thair traterous practizeis vpoun thame selfis, quha hes worthelie sufferit death, as they wer in the actual perfute of his Maiesteis persone. Quhairfore, necessar it is, that the corpis of the saidis vmq^{hill} Erll and Mr Alexander be keipit and preferuit, quhill forder ordoure be tane on this mater, as appertenis. AND thairfore, Ordanis Letteris to be direct to officeris of airmes, schereffis in that pairt, chargeing thame to pas, command and charge the bailleis of the burgh of Perth, to preferue and keip the corpis and bodyis of the saidis vmq^{hill} Erll and Mr Alexander, vnbureyit; ay and quhill they vnderstand forder of his heynes will and pleasour thairanent. As they will anfuer to his Maieftie, vpoun thair obedience, at thair heicheft charge and perrell.

(*Eodem die.*)—LETTERIS, for arreisting the Rentis of vmq^{le} the Earl of Gowrie.

(*Eodem die.*)—CHARGE, that nane of the name of RUTHVEN repair towardis thair Maiesteis.

(*Eodem die.*)—CHARGE, for randereng the said vmq^{le} Erllis castellis, touris and fortaliceis of Ruthven, Strabrane, and ludgeing within the burgh of Perth, with the guidis and geir being thairintill, vpoun Inuentair, to his Maiesteis Thesaurair, &c.

(*Eodem die.*)—ACT, that na thing be dispoit of the Erldome of Gowrie, bot be auise of the Lordis of his Maiesteis Preuey Counsale.

(Aug. 12. *Apud Halvruidhous.*)—ACT, mortifeing L.1000 yeirlie to the Pair, furth of the reddieft of the fruitis, rentis and dewteis of the Abbay of Scone; in perpetuall memorie of the said happie deliuerie.

(*Eodem die.*)—ACT, aganis the passing of Giftis of the Erldome of Gowrie.

(*Eodem die.*)—ACT, aganis the MINISTERIS OF EDINBURGH.—FORSAMEKILL as vmq^{hill} Johnne Erll of Gowry and Mr Alexander Ruthven, his brother, haueing maist traterouslie divisit and conspirit the death and distructioun of the Kingis Maieftie, oure souerane lord, be sic a detestable and horrible manner, as hes not bene hard of in ony kingdome or age; it pleisfit Almichtie God, quha euir hes had a cair of his heynes persone, maist miracoulouslie and wounerfullie to deliuer his Maieftie of that detestable Treasoun; efter the quhilk happie deliuerie, and thankis gevin thairfore be his heynes to God, his Maieftie immediatlie, be writ, acquentit the Lordis of his heynes Preuey Counsale, alfwel of the said intendit Treasoun as of the said happie deliuerie, and desyrit thame to command the Ministers of Edinburgh to haue conuenit thair seuerall flokis in thair awin kirkis; and thair, publictlie to haue intimat to the people the said Treasoun, and to haue gevin thankis to God for the said deliuerie of his Maiesteis noble persone. Lyke as, the saidis Lordis, haueing conuenit befor thame Maisteris Robert Bruce, James Balfoure, Mr William Watfoun and Mr Johnne Hall, Ministeris of Edinburgh, vpoun the sext day of August instant; and the saidis Lordis haueing at lenth oppynnit vp vnto thame the hail forme, maner and circumstanceis of the said Treasoun, quhilk wes alsua affermit in thair prefence be a honnest and famous gentilman quha wes present, and a ey witnes at Perth with his Maieftie: And for thair farther satisfioun, the saidis Lordis haueing produceit and schawin to thame his heynes awin Missiue and write in this matter; and thairfoir, according to his heynes directioun, haueing instantlie delt and travellit with the saidis Ministeris, and haueing commandit thame to haue repairit to thair pulpettis and kirkis, and to haue certifiat the people of the said Treasoun, and to haue thankit God for the said

Aug. 1600. happie deliuerie; the saidis Ministeris, maist vndewtifullie untrusting¹ his Maieftie and the vndoubtit treuth of this horrible Treafoun, refusit to obey his heynes and the saidis Lordis: For quhilk, they and Mr Waltir Balcanquell, Minister, quha wes absent the said first day be reffoun of his feiknes, being now callit, and compeirand befor his Maieftie and a grete nowmer of his heynes Preuey Counfale; and his Maieftie and his Counfale haueing hard thair pretendit excuiffes, and finding thame still constant in thair distrust and doubt, be thair wilfull and obstinat refusall, 3it to affuir and certifie the people of the said intendit Treafoun aganis his Maieftie, nochtwithftanding the constant and trew reporte and declaratioun quhilk thay haue hard, alsweill of certane of his Maiefteis Nobilitie, quha wes present with his Maieftie at Perth, as be the Lordis of his heynes Prewey Counfale, and be his heynes awin Minister.² THE KINGIS MAIESTIE and Lordis of Secrete Counfale, thairfore Findis, decernis and declairis, that the saidis *Mr Robert Bruce, Mr Walter Balcanquell, Mr James Balsfoure, Mr Williame Watfoun* and *Mr Johne Hall*, hes maist vndentifullie behait thame felfis to his Maieftie, in the mater aboue writtin; and that they ar not worthie to be sufferit to speik or preiche publictly to his heynes peopill, at any tyme heirefter: And thairfore, his Maieftie and the saidis Lordis hes dischargit, and be thir presentis dischargeis the saidis fyve Ministeris of all preiching, or speiking publictly to his hienes subiectis, in ony pairt of this realme, at any tyme heirefter, vnder the pane of deid: And forder, Ordanis thame to remove and depairt furth of the burgh of Edinburgh, within fourty-aucht houris efter the dait heirof; and onnawysse to reforte or repair, in ony pairt, within the space of ten myllis to the said burgh of Edinburgh, heirefter, vnder the said pane of deid. And Ordanis intimatioun to be made heirof, be oppin Proclamatoun at the mercat croce of Edinburgh; quhairthrow nane pretend ignorance of the fame.

(*Eodem die.*)—‘GEORGE CRAGINGELT, HEW MONCREIFF, ANDRO HENDIRSOUN chalmersone of Scone, PATRIK EVIOT brother to the Laird of Bowfie (Balhouffie), HARY and ALEXANDER RUTHVENIS brether to Mr William Ruthven,’ were ordained to be denounced rebels, for non-appearance before the King and Council, ‘to haue ansuerit to sic thingis as sould haue bene inquirit of thame at thair comeing, and layd to thair charge, tuiching the lait treafounable CONSPIRACIE divisit aganis his heynes royall persone, be vmquhill JOHNNE ERLLOF GOWRY, and Mr Alexander Ruthven, his brother.

(Aug. 13.)—CHARGE issued againt ‘the remanent of the MINISTERIE OF EDINBURGH quha ar not dischairgit, with the hail *Deaconis and Elders of the Sessiois* of the Kirkis of Edinburgh, that they keip thair ordinar tymes of meiting in thair said Sessiois, &c. and gif thay failzie, or do in the contrair, that incontinent thairefter the said Herauld, mafer or officer denunce them rebellis,’ &c.

(*Eodem die.*)—‘ACT, anent the suppleing of the vacand placeis of the Ministeris of Edinburgh.’

(Aug. 19. *Apud Falkland.*)—ANDROW JOHNSTOUN, bvrge of Perth, ordained to be denounced rebel, for failing to appear before the King and Council, ‘to haue ansuerit to sic thingis as sould haue bene inquirit of him, at his cumming, and layd to his charge, tuicheing the lait trefonable CONSPIRACIE,’ &c.

(Aug. 21.)—‘ACT, anent ane solempne THANKISGEVING for his Maiefteis deliuerie;’ with ‘adayse of the Commiffioneris of the Generall Assamble, to be maid and keipit, in all the Kirkis of this realme, vpoun the last Tuyfday of September nixt, and the Sabbothe nixt and immediatly following thairefter.

(Aug. 22.)—WILLIAM MONCRIEF of that ilk fined in the sum of 100 crowns of the fun, and SIR JOHN MELUILL, ‘apperand’ of Carnebie, Kn’. in the sum of 50 crowns, for ‘thair mutuall geving of leyis to vtheris, in presence of the Lordis of Secreit Counfale, sittand in judgement for the tyme, vpoun the tuentie-ane day of August instant.’ And RAMSAY, younger of Balmonthe, was also ordained to pay 60 crowns to the Treasurer, for ‘the perfuit and invasioun of Ballenden,

¹ Distrusting, doubting.

² Mr Patrick Galloway.

vpoun the Hie-freit of the burgh of Edinburghe vpoun the fourtein day of Auguft instant, his Maieftie being, for the tyme, within the Palice of Halyruidhous; and for the fame, is becum in his Maieftie's will.' Aug. 1600.

(*Eodem die.*)—JOHN ERLL OF ATHOLL, *Alexander Lord of Spynie*, . . . *Rynd Laird of Kerfs*, *Gairdin elder of Leyis*, and *Gairdin younger of Leyis*, on the one part; and JAMES MASTER OF OGILUY and *Sir John Ogiluy of Craig, kn^t*, on the other part, were charged 'to subferyue and delyuer to the officeris executouris of the faidis Letteris, sic forme of Affuranceis as falbe presentit vnto them, within sex howris nixtefter the chaarge, under the pane of rebelloun,' &c.

(Aug. 31. *apud Glasgw.*)—'CHARGE, aganis the AULD MINISTERIS OF EDINBURGH.' It is stated that 'his Maieftie is credebelle informed, the faidis perfonis, not onlie still continewis in thair infidelitie and blindnes, maliciouſlie and wilfullie refuifing to acknowleg the certane treuth of this mater; bot, to his Maieftie's forder contempt, they hant and reforte in all pairtis of this cuntrie, difperſing mony vntrew bruitis and rumouris aganis his hienes, practifing be all meanis to fofter and interteny his Maieftie's ſubiectis in the lyk wilfull errour and blindnes with thame ſelffis, and to lay vpoun his Maieftie, the burding of that, quhilk maift traiterouſlie wes denyfit and intendit aganis his hienes awin perſoun.' The Miniſters are therefore ordained to appear before the King and Secret Council 'at Striviling, or where it fall happin his Maieftie to be for the tyme, Mr William Watſon on Sep. 9, Mr Walter Balcanquall and Mr John Hall on Sep. 10, Mr Robert Bruce and Mr James Balfour on Sep. 11; 'to vnderly ſic forder puniſchment, as his Maieftie and lordis of his hienes Counſell fall inioyne vnto them; vnder the pane of rebelloun,' &c.

(Sept. 10, *apud Striviling.*)—MR WALTER BALCANQUELL, MR WILLIAM WATSON and MR JOHN HALL, appeared in preſence of his Maieſty and the Lords of his Secret Council, 'and of thair awin frie motive, confeſſit and declairit, that they wer now fullie and throuchlie perſuadit and affurit of the treuth of the Treafonable and vnnaturall CONSPIRACIE, denyfit and intendit to haue been execut aganis his hienes at Perth, vpoun the fyft of Auguſt laſt, be vmq^{le} JOHNE ERLE OF GOWRIE and Mr Alexander Ruthven his brother; and that, ſein thair remouing fra the brughe of Edinburgh, thay had not directlie nor indirectlie delt nor traueilit, be publict reaſoning or priuat conference, to put ony of his hienes ſubiectis in diſtruſt or doubt of that mater; and that they wald, in publict, ma-niſt and declair thair ſaid perſuaſioun and affurance of this mater, and move his Maieſty's ſubiectis to do the lyk, and gif thankis to God for the fame.'—This declaration having been gratiouſly received, Mr Walter Balcanquell was ordained to 'repair and adreſ himſelf with all guidlie diligence to Tra-nent, Dalkeithe and Muſſilburgh; the ſaid Mr Williame Watſon to Dumbar and Dunce; and the ſaid Mr Johne Hall to Dumfermling, Sanct Androis and Perth; and thair, in the ordiner Kirkis thairof, and upon ordinar preiching dayis, that thay preich to the people; and, in thair Sermonis, that thay mak ane publict and ma-niſt Declaratioun of thair awin affurance and perſuaſioun of the treuth of the ſaid Treafoun, intendit be the ſaid vmq^{le} Earl and his Brother; and craue God and his Maieſty's pardoun for thair ouer lang ſlawnes and doubting thairof; and thairwithall to moue all men to gif thankis to God for his Maieſty's delyuerie; and ſchairplie to rebuik all ſic perſonis quha continewis doutfull heirin: And that thay report to his Maieſty's ane Teſtimoniall of the Miniſter and eldaris of the townis and Kirkis foirfaidis of thair conformitie to the premiſſes; that thairefter, his Maieſty may tak forder ordour with thame, as falbe thoct expedient.'

(*Eodem die.*)—'THE BAILZEIS of the burgh of PERTH, repreſenting the hail bodie of the ſame,' are charged 'to compeir perſonallie, befor his Maieſty and his Counſell at Linlithgow, vpoun the ſaxtene day of September instant, to anſuer to the contempt and indignitie done to his Maieſty,' in regard that, after the King's delivery from the Treafon deviſed by the Earl of Gowry and his brother, 'his hienes luiking for na forder danger or inuaſioun at that tyme; nochtwithſtanding, it is of treuth, that his hienes wes of new aſſailzeit and perſewit be a grit nowmer of the communitie and inhabitantis

Sep. 1600. of the burgh of Perth, all in armes, quha environed his Maiefties hous on all pairtis, affeigit and perfewit his hienes within the fame, vttering maift irreuerent and vndeutifull fpeiches aganis his Maieftie; his Nobilitie, and certane of his feruandis and guid fubiectis, quha accompaneit his hienes for the tyme, and could nawayis be moved to forbeir thair tumultuous and infolent behauiour; bot did quhat in them lay, be crying for fyre and poulder, and rynnng with jettis at the zettis of the faid hous, to haue blawin vp the zettis of the faid houfe, and to haue exponed in hafard the lyfes of his Maieftie and his guid fubiectis.¹

(Sep. 11.)—MR ROBERT BRUCE appeared before the King and Council, and obtinately ‘contnewit doubtfull and nocht throuchlie refoluit of the trefounable and vnnaturall Conſpiracie,’ &c. He is ordained ‘to remove and depairt furth of this realme, betuix and the aucht day of October nixtocum, and onnawysis to returne agane within the fame; nor yit repair within the realme of England, without his hienes licence had and obtenit to that effect, vnder the pane of deid: And in the meantyme, quhill his depairtur, that he remane in the Place of Airthe, for making of his prouifioun and furnifching; and that he addres him felf to the faid place, this preſent day. And ordanis the Maſter of Counſell to pas and mak intimatioun heirop to the faid Mr Robert, that he pretend na ignorance thairof.’

(*Eodem die.*)—MR JAMES BALFOUR, having declared himſelf perfectly ſatiſfied with the truth of Gowrie’s Conſpiracy, &c. he is ordained ‘for ane prouif of his amendement and dewtifull behauiour in tyme commeing, and for ſatiſfactioun of his hienes ſubiectis, quha be his errour and blindnes hes bein careit with ony ſiniſter opinioun or doubt of the faid mater, fall repair and addres him felf with all guidlie diligence to the townis of Dundie, Montrois, Arbroith and Brechin; and thair, in the ordinar Kirkis thairof, and vpoun ordinar preiching dayis, that he preich to the people, and in his Sermoun, that he mak ane publict and maniſt declaratioun of his awin affurance,’² &c.

(Oct. 18, *apud Halyrudhou.*)—MR JOHN HALL is ‘reſtoirit, redintegratt and reponed to his full libertie, baith to repair againe to the faid toun (Edinburgh), and to diſchairg his former functioun and calling.’

(Nov. 3.)—HIS MAJESTY’S ‘Maifter Porteris and the Ifchearis of his Maiefties chalmeris’ are ordained ‘diligentlie to ſearch all ſik perſones entering within his Maiefties Palice, quhome thay fall ſuſpect to be armed with ſecretis, jakis, corſlettis or ony vther offensive armour, ſauffing³ thair fuerdis and quhinzearis,’ &c.

(*Eodem die.*)—FORSAMEKILL as the grit and monſtrous bavis⁴ and cumpanies commonlie awaiting vpoun Noblemen and Baronis at Parliament and Conuentionis, and repairing within his Maiefties Palice, and to his hienes awin preſence, is not onlie offensive and diſpleaſant to his Maieftie, bot werie diſhonourable to the natioun,’ &c.; ‘the Capitane of his Maiefties Gaird and houſe, and his hienes Maifter Porteris,’ are ordained to gif diligent attendance, and ſee this preſent Act reſſaue the dew effect and executioun in all pointis; and for this effect, to debar all ſic perſonis as fall preſent thame ſelfis, and craue entrie within his Maiefties zettis, with ony ma nowmeris nor is heirin particularlie preſcryuit and inoyned vnto thame: That is to ſay, euerie ERLE with tuelf perſonis; euerie LORD with aucht perſonis; and euerie BARROUN with four perſonis, gif he be allane, or gif he be in cumpany with ony Nobleman, with his page and him ſelf. And that the faid Noblemen and Baronis conforme them ſelfis to this preſent ordour, vnder the pane of incurring of his hienes wraith and indignatioun.’

¹ This ſmells very ſtrongly of a counter Conſpiracy, on the part of his ſapient Maieſty, againſt the well-lined purſes of the citizens of Perth!—For never was a more pitiful attempt made, to extort a fine from unoffending and loyal citizens. The wonder is, that theſe brave burghers, hurrying to the ſpot, and merely hearing that ‘the Green-coats’ had ſlain the Earl of Gowrie, their Provost, and the Maſter of Ruthven, (who were both greatly beloved,) ſhould have diſperſed ſo peaceably, on the bare aſſertion of the Bailies, that the King was ſafe; without any explanation being afforded them of the cauſe of this bloodſhed and uproar! ² In the ſame terms with the other Act, dated Sep. 10. See May 21, 1601, of theſe Extracts. ³ Saving, or excepting, their ſwords, &c. ⁴ Beviſes.

(Nov. 12.)—ACT, against refetting of JESUITES, or supplying them 'with meit, drink, house or herborie,' under the pain of Treason. Nov. 1600.

(May 21, 1601.)—THE ACT of Council, dated Aug. 12, 1600, dispenfed with, fo far as regarded Mr James Balfour, Mr Walter Balcanquell and Mr William Watsoun.¹

(Jun. 16.)—'ACT, anent the fyft day of Auguft.' The liegis are commanded 'to keip the faid fyft day of Auguft zeirlie, folemne fra all fort of handy labour, wark, and ferious occupatioun, quhilk onnywyife may diftract thame fra the foirfaid exercife of thankifgeving to God;' 'and reioyfyng for his hienes happie preferuatioun, wrocht fa meraculoullie be Goddis divyne Prouidence.'

NO. VIII.

EXTRACTS from the ACCOUNT BOOKS of THE LORD HIGH TREASURER OF SCOTLAND.

Item, be his Ma ^{ties} speciall command, to Robert Ker, paige of honour, thrie ellis grene freis, to be his hunting claithis, at xliij f. the elne, <i>inde</i> ,	vj li. xij f.	Jul. 1600.
Item, vj quarteris of lining, to lyne his breikis, at vij f. the eln, <i>inde</i> ,	x f. vj d.	
Item, ane quarter vnce of filk thairto,	vij f. vj d.	
Item, half ane elne and ane quarter grene fteming, to be him ane pair of fokis,	xliij f. ix d.	
Item, lykwayis be his Ma ^{ties} directioun, to Johnne Ramsay, Johnne Murray, George Murray and Johnne Auchmowtie, auchtene ell greine freis, to be thair hunting garmentis, at xliij f. the elne, <i>inde</i> ,	xxxix li. xij f.	
Item, thre ell grene fteming to be thair hunting fokis, at iij li. v f. the elne, <i>inde</i> ,	xliij li.	
Item, to Finlaw Tailzeour four elles grene fteming, to be his hunting claithis, at iij li. x f. the eln, <i>inde</i> ,	xliij li.	
Item, lykwayis to Johnne Achefoun, James Cokburne and Robert Walker, huntifmen, to be garmentis, nyne ellis grene fteming, at iij li. x f. the ell, <i>inde</i> ,	xxxj li. x f.	
Item, be his Ma ^{ties} speciall command, to Williame Colquhoun, in drinkfiluer of ane cairt that wes presentit to his hienes,	x li. xij f. iij d.	
Item, lykwayis be command, to George Murray, to be gevin to ane boy in drinkfiluer, at the prefenting of ane halk to his Ma ^{tie} ,	v li. vj viij d.	
Item, for mending and repairing of hir Maieftis litter-geir, faidillis, harnessing, brasfis, and all vtheris necessaris thairto, as the particular, subfcrinit be Robert Stewart, Maifter stabular, productit, beiris,	xij li. xij f.	
Item, delyuerit to his Maieftis selff, to play at the cairtis, in the moneth of Feb ^r 1600, the tyme his Maieftie wes in the cunzie-houfe of Ed ^r , at the mariages of the Erle of Sutherland and Mr of Forbes, sex fyve-pund-peces, being omittit in the preceeding compt, <i>inde</i> ,	xxxij li.	
Item, to his Ma ^{ties} fyve ordiner paiges, for thair allowance in schone and vther fmall necessaris, the month, comptit,	vij li. x f.	
Item, to Johnne Achefoun, James Cokburne and Robert Walker, huntifmen, for thair ordiner allowance the faid moneth,	lx li.	
Item, to Alex ^r Moncreiff, Falconer, for his ordiner allowance this moneth,	j ^c li.	
Item, to ane boy paffand of Ed ^r with clois Letteris to the Erles of Athoill and Gowrie,	xxxii f.	
Item, to ane boy paffand of Falkland, of new, with clois Letteris to my Lord Incheaffray and Mr Ruthven,	xxiiij f.	

¹ See Sep. 11, 1600, &c. of these Extracts.

Aug. 1600. Item, the furnitour following, delyuerit to James Inglis, tailzeour, to be twa pair of buittis and tua pair of fokis to his Ma^{tie} for the buk-hunting,

Item, fyve quarteris of grene Inglis fleming, to be ane pair of fokis, at iij li. x f. the eln, *inde*,
iiij li. vij f. vj d.

Item, fyve vnces and tua drop-wecht of filuer pafmentis, to put vpoun the saidis fokis, at v li. vi f.
vij d. the vnce, *inde*, xxvij li. vj f. viij d.

Item, ane quarter and ane half of taffatie thairto, iij li.

Item, half ane vnce of filk, xv f.

Item, for ane pair of buittis to his Ma^{tie}, vj li. xij f. iij d.

Item, ane quarter and ane half quarter veluet, to the heidis thairof, v li. xij f.

Item, ane vnce of braid pafmentis, to put thairon, xxx f.

Item, half ane vnce of filk, xij f.

Item, tua pair of gartanis, liij f. iij d.

Item, ane eln of broun Frenche fleming, to be ane vther pair of ryding fokis to his Ma^{tie}, vij li. x f.

Item, fyve vnces and tua drop wecht of golden pafmentis, to put vpoun the heidis thairof,
xxvij li. vi f. viij d.

Item, ane quarter and ane half of taffatie thairto, iij li.

Item, half ane vnce of filk, xv f.

Item, for ane vther pair of buittis, vj li. xij f. iij d.

Item, ane quarter and ane half quarter veluet, to the heidis thairof, v li. xij f.

Item, vnce of braid pafmentis thairto, xxx f.

Item, half ane vnce of filk, xij f.

Item, tua pair of filkin gartanis, liij f. iij d.

Item, lykways be command of his hienes Precept, to William Elphingstoun, for the price of ane horfe; as the said Precept producet testifies, with acquittance, iij^{xxxiij} li. vj f. viij d.

Item, be his hienes Precept, to Andro Lord Stewart of Vchiltre, I^{li}.

Item, lykways be command foirfaid, for ane cheinzie and ane belt of goldfmyth work, fet with pearle, with ane pair of garniffingis in the lyk wark, fet with pearle, propynit, in his Maieftis name, to Sir George Elphinstounes wyffe, the day of hir mariage, v^{lxxx} li.

Item, be command of his Maieftis Precept, to Peter Brambill, Frenche pavier;¹ as the said Precept, with his acquittance, producet vpoun compt, proportis, iij^{xxxiij} li. vj f. viij d.

Item, to the herauldis, trumpetouris and officeris, passand with displayit coittis, to divulgat, at the marcat croce of Edinburgh, the Treadfoun intendit aganis his Maieftis persoun at Perth, x li.

Item, to certane warkmen that handillit the artailzerie of the Castell of Edinburgh, that wer fshot, on the fest of Auguft, iij li. iij f.

Item, for hay to be furrage to the cannones, the said day, and the vther day that his Maieftie come to Edinburgh, xxxij f.

¹ Perhaps this may be the Rope-dancer, who is alluded to by Melville, in his MS. Diary, as follows: 'At that tyme, (the end of August 1600) being in Falkland, I saw a fuscambulus Frenchman play strang and incredible pratticks, upon stented (*stretched*) takell, in the Palace-clos, befor the King, Quein and haill Court. This was politikkie done, to mitigat the Quein and peple for Gowrie's slauchter.—Even then was Hendersone tryed befor us; and Gowrie's pedagog, wha haid bein buted.'—*Melville's Diary*.—A most amusing account is also given of another mountebank, an Englishman, who performed in Edinburgh two years before. 'The 10 of Julii, (1598,) ane man, sume callit him a Juglar, playit sick sowpill trikis vpone ane tow (*rope*) quhillk wes festnit betuix the tope of St Geillis Kirk stipill and ane stair benethe the Croce callit Josias cloise held; the lyik wes neur sene in this contrie, as he raid doun the tow and playit sa many pavies on it.'—*Birrel's Diary*, MS. Adv. Library. This person was very liberally rewarded for his '*sowpill tricks*' by his Majesty, besides the contributions he would doubtless obtain from the Magistrates and citizens. 'IREM, be his hienes speciall command, to an Inglis sportour, that come doun upon ane tow fra the cok of the stepill of Edinburgh, xx li.' Another entry, in the same month (Sept. 1598), probably refers to the same person: 'IREM, lykways to David Weir, sportour, be command, vj li. xij s. 4 d.'—*Lord Treasurer's Accounts*, General Register House. The name is likely to have been *Vere*.

- Item, for carying of the Poulder to the Castell, and of ane barrell of fewintene flane wecht to the trone, to be weyit, quhilk his Maieftie ordanit to be fend to Dunbartane Castell, . . . xxv f. iiij d. Aug. 1600.
- Item, be his Maieftieis command, to the trumpetouris, that day that his Maieftie came to the croce of Edinburgh to declair the maner of the Treaſoun intendit aganis his hienes perfone, v li. vj f. viij d.
- Item, to William Leſlie, being direct of Falkland in greit haift, to bring the Juſtice and his clerkis to Court, iij li. vj f. viij. d.
- Item, to Robert Logane, being direct on horſbak, to bring fra Mr Williame Fullartoun, the Depoſitiones of Mr Thomas Cranſtoun and George Craigengelt, to be preſentit to the Juſtice at Perth, iij li.
- Item, delyuerit to Johnne Achefoun, huntifman, four d^o (dozen?) of couppillis, and ane lyoun to ilk d^o for his Maieftieis houndis, xli.
- Item, for furniſhing to his Maieftieis luck-hunting, of colleris and lyounis of all fortis, ſtincht and faffit, lx li.
- Item, to ane boy paſſand of Edinburgh with clois Letteris, from the Counfall to his Maieftie, being in Falkland, xvj f.
- Item, to ane boy paſſand of Falkland with a clois Letter to my Lord Chancellor, being in Edinburgh, xv f.
- Item, to a boy paſſand of (Edinburgh?) with a clois Lettre, fra the Chancellor to his Maieftie, being in Falkland, xvj f.
- Item, to ane boy paſſand of Edinburgh, with ſome directions to David Moyſie, being at Falkland, xiiij f.
- Item, to ane boy paſſand of Edinburgh with clois Letteris to my Lord Newbotill, Juſtice Clerk and Mr David M^cGill, xxiiij f.
- Item, to Ar^d Dowglas maifer, paſſand with ane Act of Secret Counfall to the croce of Edinburgh, and thair, efter found of trumpet, diſchargit M^{rs} Robert Bruce, James Balfour, Walter Balcanquell, Williame Watfoun and Johnne Hall, of all forder preiching, in priue or in publict, within ony pairt of this realme, xxj f. iiij d.
- Item, to the ſaid Archibald, paſſand with ane vther Act of Secret Counfall, to the ſaid marcat croce, and thair, efter found of trumpet, commandit M^{rs} Peter Hewat and George Robertſoun, and the Elderis and Deaconis of all the four Kirkis, to conuene at thair ordinar dyetis, for obſerving thair accuſtummat diſcipline in the Kirk, xxj f. iiij d.
- Item, to William Forſyth, meſſinger, paſſand with Letteris to the marcat croce of Edinburgh, and thair, eftir found of trumpet, diſchargit baith men and wemen bruikand the ſurname of Ruthven (not) to cum neir his Maieftieis perfoun, within ten mylis, xxj f. iiij d.
- Item, to William Forſyth meſſenger, paſſand with ane Warrant of the Secret Counfall, to charge Mr Andro Lamb to preiche in the Hie Kirk of Edinburgh, on Sondag the fewintene of Auguſt infant, xij f. iiij d.
- Item, to Ar^d Dowglas maifer, paſſand with Letteris to charge the Miniſtrie of the Preſbiterie of Edinburgh, that thai, at the nixt exerceis, on Tyiſday the nyntene of this infant, take ſum gude ordour among thame ſelfis, how the vacand places of the Miniſterie of Edinburgh may be ſuppleit and ſeruit, vnto the tyme ordour be tane for planting of new Miniſteris at the ſaid Kirk, xxj f. iiij d.
- Item, to ane boy paſſand of Edinburgh with a clois Letter to the Bailleis of Edinburgh, xvj f.
- Item, to ane boy paſſand of Edinburgh with a clois Letter to Mr James Meluill, Miniſter at Anſruther, Mr Robert Wilkie, Rectour of St Androis, Mr George Gledſtanis, Miniſter thair,¹ xxiiij f.

¹ Similar entries occur of 'clois Letteris' to Mr Robert Howie, Miniſter at Dundie; Mr James Nicolſoun, Miniſter at Megill; Mr Johnne Caldcleuch, Miniſter at Newburgh; Mr Andro Lamb, Miniſter at Leith; Mr James Law, Miniſter at Kirkliſtoun; Mr James Spottiswood, Perſoun of Calder; Johnne Clappertoun, Miniſter at Chirreſide; Mr William Row; Mr David Lindesay, for the Synode of Edinburgh; Mr William Couper for Perth; Mr James Nicolſoun, for Anguſs; Mr Robert Wilkie, for Fyiff; Mr James Bryſone, Miniſter at Durisdeir, for the Synode of Nythdaill; Mr Johnne Welsche, Miniſter at Kirkcowbrycht, for Galloway, &c. &c.

- Aug. 1600. Item, to Robert Elder, messinger, passand of Edinburgh, with Letteris, to charge Ramfay, younger of Balmonth, Johnne Ramfay callit the gunner, to compeir befor the Counfall at Falkland, the xix of this instant; to heir and sie thame decernit to haue incurrit the pane contenit in the Act, maid for the restraint of the fechting, within a myle to his Maiesteis persone, iiij li.
- Item, to William Forfyth, messinger, passand of Edinburgh, with Letteris, to charge David and Johnne Ramfayis, brether to the Laird of Dalhouffy, and Hew Brawnden, to compeir the said day, for the famin purpois; and for summondng of certane witnesses to preiff quhilk of thir pairteis wes onfetteris, xxxij f.
- [Letters are also sent to the Lord President, Lord Advocate, Johnne Oliphant, Register to the Compter, &c.]
- Item, to Robert Elder, messinger, passand of Falkland, with Letteris, to charge Mr William Row, Minister at Forgoundynie, and sextene of his parochineris, to compeir befor the Counfall, the xxj of this instant, liij f. iiij d.
- Item, to Johnne Bennet, messinger, passand with Letteris, to the marcat-croce of Falkland and Cowper in Fyiff, and a trumpetour with him, discharging baith men and wemen of the surname of Ruthven, not to cum neir his Maieftie within ten mylis, xl f.
- Item, to William Forfyth, messinger, passand with Letteris to the marcat-croce of Edinburgh, and thair, efter sound of trumpet, charging the haill Ministeris within this realme, to keip thair Provinciaill Assembleis, the thrid day of September nixt, for publick thankif-gevin, for his Maiesteis preserva-tioun, xxj f. iiij d.
- Item, to Johnne Blenscheillis, Ilay Herald, passand with twa feuerall Summondis of Treafone to the marcat-croce of Edinburgh, peir of Leith, with croces of Hadingtoun, Kinrofs, Perth, Scone, and feuerall duelling-houffis of Dirltoun, Ruthven, Perth, and Scone, and vther duelling-houffis of the personis following; and thair, efter displayit coit and sound of trumpet, lawfullie summonit, warnit and chargit William Ruthven, brother and air to vmq^{le} Jobne Erle of Gowrie, and Mr Alexander Ruthven, his brother, Harie and Alexander Ruthvenis, sonis to vmq^{le} Alexander Ruthven of Frieland, Hew Moncreiff, brother to the Laird of Moncreif, Patrik Eviot, brother to the Laird of Bonfie, and Andro Henderfoun, chalmerlane of Scone, to compeir (befoir) our souerane lord and his Justice, the fourt of November nixt, in his Parliament, &c. xx li.
- Item, to William Ramfay, trumpetour, passand to accompany the said Herald, to the pairtis aboue writtin, viij li.
- Item, to the witnesses, &c. vj li.
- Item, for aughtene copeis to the said Summondis of Treafoun, v li.
- Item, for translating of the twa summondis out of Latin in Inglis, v li. vj f. viij d.
- Item, to William Forfyth, messenger, passand of Edinburgh with Preceptis of Parliament, to be de-lyuerit to the Erle of Mortoun, the Lordis Seytoun, gester, Newbotill, Home, the Lairdis of Rosling, Bas, Wedderburne, Cesfurde, Traquair, Robert Scot of Haning, the Commendateris of Melrose and Halieruidhous, the Bailleis of Tynninghame, Lauderdaill, the Sherefis of Edinburgh principall, Edin-burgh within the constabularie of Hadingtoun, Berwik, Jedburgh, Selkirk, Peblis, the Proneft and Bailleis of Edinburgh, Hadingtoun, Cokkany, North Beruik, Dunbar, Lauder, Jedburgh, Selkirk and Peblis; and with Lettres to be publifchit at the marcat-croces of Hadingtoun, Dunse, Jedburgh, Selkirk and Peblis; charging the Ministeris, within thais boundis, to keip thair Provinciaill Assembleis, the thrid Tyifday of this instant, for publick thankif-geving for his Maiesteis delyuerie,¹ vij li.
- Item, to ane boy passand of Glasgou to Edinburgh with Letteris, to caus charge the ffyve Minif-

¹ Similar entries occur for payments to other Messengers for delivering Precepts and publishing Letters at the market-crosses of the various burghs, &c. throughout Scotland.

teris of Edinburgh to compeir afoir his Maieftie and Counfall, the nynt, tent and ellevint dayis of this Sept. 1600.
 infant, xxvj f. viij d.

Item, to James Furde, meffinger, paffand of Edinburgh to execute the famin Letteris, at the saidis fyve Ministeris dwelling-houffis, and at the marcat-croces of Edinburgh, Hadingtoun, and Couper in Fyiff, v li. vj f. viij d.

Item, to Andro Home meffinger, paffand to the marcat croce of Edinburgh, and thair, eftir found Oct.
 of trumpet, inhibit the reffait or intercomoning with Henrie and Alexander Ruthvenis brether to Mr William Ruthven of Frieland, and Hew Moncreiff brother to the Laird of Moncreiff, and Patrik Eviot brother to the Laird of Balhouffy, xxj f. iiij d.

Item, to ane boy paffand of Edinburgh, with a clois Lettre to my Ladie Gowrie, xij f.

Item, to William Forfyth meffinger, paffand of Edinburgh with Lettres to charge Mr Richart Ogill Minister at Innerveik, and Gibfoun brother to James Gibfoun Minister, with certane witnessis in the toun of Dalkeith and Eist Lowthiane, to the number of xiiij perfonis, to compeir afoir the Counfall, the penult of this instant, to anfuer vpoun fum vnperntinent aplicatiounes maid in thair Sermones, v li. vj f. viij d.

Item, to ane boy paffand of Edinburgh, with a clois Lettre and fum directiones; with a clois Lettre and fum vther directiones to zoung Tullibardin, for tranfporting of the corpis of Gowrie and his brother, xxxij f.

Item, to ane boy paffand of Edinburgh, with a clois Lettre to my Lord Aduocat, xvj f.

Item, to Johnne Blynfcheillis Ylay Herauld, paffand of Edinburgh, with Lettres, to fummond Mr Johnne Moncreiff, Alexander Blair younger of Bathiok,¹ &c. to compeir befoir our fouerane lord and his Justice, at the approaching Parliament; to beir witnessing, in the actioun and cause of Treafoun, intentit and perfewit aganis William Ruthven, brother to vmq^{la} Johnne Erle of Gowrie, and certane vtheris, that ar to be convenit for the fame Treafoun, xvj li.

Item, to Johnne Blenfcheillis Yla Herauld, Robert Elder meffinger, William Forfyth meffinger, Nov.
 William Ramsay trumpetour, William Baxter, Thomas Wallis and David Young, being sewin in number, for support of thair expensis in attending fra the first of November, that the Parliament wes fenfit, to the ellevint thair of, that the Lordis of Articlis wes chofin, for uerifeing of the executioun of the fummondis of Treafoun intentit aganis Johnne fumtyme Erle of Gowrie, xiiij li. vj f. viij d.

Item, for the armes² of the perfonis that wes foirfaltit, xvj li.

Item, to the painteris for Schir Johnne Ramsayis pinfell, xx li.

Item, for carying the quarteris of the lait Erle of Gowrie and his brother, to be affixt on the maift eminent places of Striuiling, Perth and Dundie; and for a creill,³ hay, and falt, viij li. vij f.

Item, to ane boy paffand with his Maieftis Warrantis, to be delyuerit to the Magiftrattis of the saidis burghis, for this effect, iiij li.

Item, to Andro Home meffinger, paffand with Lettres to the marcat croce of Edinburgh, and thair, eftir found of Trumpet, commandit and charget all and findrie Erlis, Lordis, Prelattis, Commiffioneris of barrones and burrowis, that thai, and ilk ane of thame, ryding on horfbak, cled with fute mantillis, and vther abuilzementis, requifit for the honour of the present Parliament, repair, attend and accompanie his Maieftie, everie ane in thair awin rankis, at lenth fet dona in the saidis Lettres, xxj f. iiij d.

Item, to William Forfyth meffinger, paffand with Lettres to the marcat croce of Edinburgh, and thair, eftir found of trumpet, commandit and charget all and findrie Nobill men and Barrounes quhilkie ar repairit to the Parliament, that nane of thame refort within the Palice, with ony ma companie nor is particularlie prescryuit to thame, xxj f. iiij d.

¹ Here follow the names of the other witnesses.

² In token of degradation, the armorial bearings of the Traitor were torn in pieces and trampled upon, at the time of execution of the sentence.

³ A kind of basket.

- Nov. 1600. Item, to Alexander Stobo messinger, passand with Lettres to the marcat croce of Edinburgh and Cannongait, and thair, efter found of trumpet, inhibit all his hienes liegis, that nane of thame suld repair towardis ony places of his Maiesteis residence, armit with secreitis, jakis, plait-slevis, or ony vther hid armour, xlf.
- Item, to Robert Elder messinger, passand with ane Act of Secreit Counfall to the marcat croce of Edinburgh and Cannongait, and thair inhibit all his Maiesteis lieges, that nane of thame suld repair within the rankis of the perfonis keiping gaird, vpoun the hie streit of the calfayis of Edinburgh and Cannongait, except sic perfonas as falbe appointit to await vpoun his hienes Nobilitie and estaitie, vnder the pane of deid, xlf.
- Item, to Andro Home messinger, passand with Letteris to the marcat croce of Edinburgh, and thair, efter found of trumpet, inhibit the ressett, supplie or intercommoning with Jefuittis, xxjf. iiijd.
- Item, to Andro Home, messinger, passand with Lettres¹ to the marcat croce of Edinburgh, and thair, efter found of trumpett, requirit that quhafoewer of his hienes liegis will bring to him twa of his houndis that ar rakit away, suld be gratifeit with a horse worth, j^{li}. xxjf. iiijd.

No. IX.

EXTRACTS FROM THE RECORDS OF THE BURGH OF PERTH, and from THE COURT BOOKS OF THE SHERIFF OF PERTHSHIRE.

[THE EDITOR, having been impressed with the conviction that much interesting information might still be gleaned among the Records of the Burgh of Perth, relative to the Gowrie Conspiracy, applied for leave to examine the Books and papers of that ancient City. Immediate access was most liberally granted by the Lord Provost; and the Town Clerks readily afforded every facility, for this purpose; but, owing to the very neglected state of ancient Records, common to almost all the Burghs of Scotland during the last and preceding century, the greatest part of the old Papers, such as Royal Letters, &c. (with the exception only of Title-Deeds and other important writings) had been allowed to be destroyed, as useless lumber. The Council Records and Court Books were, according to the usual custom of Scotland, at the commencement of the seventeenth century, kept very briefly. What follows, is all that bears upon this question, of any general interest. The same facilities were politely afforded, towards examining the Records of the Sheriff's Court. These, however, only notice the appointment of the new Sheriff and his deputy, an abstract of which also follows.]

(1.)

CURIA CAPITALIS BURGI DE PERTH, tenta in pretorio ejusdem, sexto die mensis Octobris, anno domini millesimo sexcentesimo, per Alexandrum Blair juniorem apparentem de Balthiok, Prepositum dicti burghi, Oliuerum zoung, Constantinum Malice, Andream Ray et Thomam Johnestoun, balliuos eiusdem; affirmata.

Quhilk day, conuenit within the Counfall (house) of the burch of Perth, the auld Counfall of the famin, viz. James Drummond, Robert Anderfon, Patrick Blair, Mr Henrie Anderfone, Walter Gray, Williame Hall elder, Patrik Grant, Gabriell Marfar. DECANES of craftis, Johnne Ogilbie, Williame Jak, the said Patrick Grant, Andro Cudbert, Williame Mathie, David Rynd, Williame Robertfone, Alexander Farie. Quhilkis perfonas aboue writtin, being conuenit for electing of thair Magistratis, according to the ordour; Comperit the said Oliuer zoung, baillie, and producit his Maiesteis cloist Letter; of the quhilk the tennour followis.

¹ There are other two entries; one payment of L.5, 6s. 8d. to proclaim the Letters at Linlithgow, Stirling and Glasgow, and another of L.3, 6s. 8d. for proclaiming at Couper in Fife and Dundee. Other payments are made in January 1601, declaring, that whoever should detain any of the King's hounds 'rakit away,' should 'incur his Maiesteis indignatioun.'

RES,

TRUSTIE freindis, We greit 3ou hartlie weill. Haiffing pruiff and experience of the loyaltie, affectionn and gude service of 3ow, the present Prouest, Bailleis and Counsale of pat our bur^t of Perth, We are nawayis myndit that 3e fall be alterit, at pis tyme of 3our electioun approcheing: And thairfoir, haif thocht gude to will and desire 3ou, with sic of 3our nichtbouris as hes wote in electioun of Magistratis within our said bur^t, to continew 3ou and euerie ane of 3ou in 3our particular offices within pe same, without alteratioun or change; quharby We may haue a forder testimony of 3our gud will, honest dewiteis and service. Sua We commit 3ou to God. Frome Brechin, this xxviij day of September, 1600.

(Sic subscribitur)

JAMES R.

(Indorsed) To our trusty friendis, The Prouest, Bailleis, counsell, decanes of craftis, and vtheris haiffand wote in the Electioun of Magistratis, within our bur^t of Perth.

Quhilk being red, the saidis Prouest, counsell and decanes, all in an voce, bot wariance, obeyit his Majesteis Lettir, with all hartie gud will; And thairfoir, continewis the present Prouest, baillies and Counsell, for the 3eir to cum. And becaus of the departour of Oliuer Peblis and of Andro Henderfone, quha is registrat at the horne and fummond for Treasoun, the Counsell, be moniest woittis, hes electit and chofin Adame Anderfone and Gawyn Dalzell to be in thair places, for filling of the Counsellis number.

(2.)

(1601, Sept. 14.)—ORDANIS the Bailleis to ward Andro Henderfone, Chalmerlane, as cautionn for Thomas Broune, for x li. money of Bludie-wytt, committit be the said Thomas to James Stirling, wpon the fyft of September instant.

(1601, Nov. 2.)—Allowis of the spyce and wyne gyffin be the Deane of gild to my Lord and Lady Athollis, quhilk extendis to four pundis xj s. iiij d.: and to pay himself of the first casualities in his hand. Allowis also to Andro Arnot baillie, of the spyce and wyne giffin be him to Mr Patrik Galloway, Alexander Peblis and Oliuer Colt, quhilkis extendis to sewin pundis sex schillingis; and ordanis the thesaurar to repay to him agane.

(1608, Aug. 4.)—The Counsell hes ordanit, that the fyft day of August¹ and the fyft day of November, be perpetuallie keptit heireftir, for his Maiesteis preferuatioun, according to his Maiesteis desire; because thir tua dayis are preceillie keptit in England and Scotland.

(1611, Jul. 23.)—PROCLAMATIOUN *anent the v day of August*. Ordanis the fyft day of August to be solemlie keptit; and the proclamatioun to pas about the toun, viz. 'FORAMEKILL as, seing it pleisit God, of his great mercie, to gewe deliuerance to our souerane lord the Kingis Maieftie, frome that conspyred Treffoun, within this burch, aganes his Maiesteis maist sacred persone; it becumis ws thairfoir and his gude subiectis to reioyce and be thankfull thairfoir. I thairfoir command and charge, that all the inhabitantis within this burch and suburbis thairof, this day, as being that day of the moneth quhairon his hienes wes deliuerit, giff testificatioun of thair joyfull hartis, by resorting to the heiring of Godis word, at the ringing of the bellis, by setting out of bonfyris, and all wther godlie declaratioun of thair willing and contentit hartis.'

(3.)

CURIA CAPITALIS VICECOMITATUS DE PERTH, *tenta in prætorio ejusdem, ultimo die mensis Septembris, anno domini millesimo sexcentesimo, per honorabilem Guilielmum Murray apparatus de Tullibardyn, Vicecomitem principalem dict. vicecomitatus. Sectis vocatis, Curia legitime affirmata; idque virtute literarum Commissionis, s. d. n. Regis, quorum tenores sequuntur.*

JAMES, be the grace of God, King of Scottis, to all and findrie our leigis and subiectis, quhome it cōcernis, to quhais knowlege thir our Letteris fall cum, greting: Foramekill as, pe office of our sche-

¹ Previous orders exist, in these Books, relative to the observance of the day. The present was selected, as showing the continuance of the custom for a number of years.

refschip of our scherefdome of Perthe presentlie vaikis, be deceis of vmq^{le} Johne Erll of Gowrie, quha vorthelie sufferit deathe, in pe actual execution of ane horribill and vnnaturall Conspiracie, intendit aganis our awin persone be him; and seing, pat our leigis and subiectis, inhabitantis within our said scherefdome, and vpairis hawing enteres to sult justice, befor our schereff of Perthe, ar graillie preiudgit, throw pe want of an schereff to minister justice vnto pame: As also, seing pat pe heid Court of our said scherefdome now schortlie approcheis: And We, willing pat pe samyn Court salbe haldin, and all thingis proper to be handlit and done in pat judgement, at that tyme, salbe formalie and dewlie profequute and followit furth, as accordis: Thairfor, We have maid, constituit and ordanit, and be pe tennour heirof, makis, constituitis and ordanis our veil-belouit Williame Murray, appeirand of Tullibardin, our Schereff of our scherefdome of Perthe, &c. &c. Gewin vndir our signet, and subscryuit with our hand, at Dundie, pe tuentie-sewiat day of September, and of our regne pe threttie-four zeir, 1600.

(Sic subscribitur) JAMES REX.

LENOX. HUNTLE. MAR. COMPTROILLER.
SECRETAR. JO. PRESTOUN. MR ALMUSER.¹

THE Schereff foirfaid, hes nominat and creat Mr Johne Moncreiff of Eifter Moncreiff schereff-deput of pe said scherefdome of Perth,² Alexander Campbell and Johne Murray, officearis; quha being present, hes gewin thair aithes for dew and lawchfull adminiftratioun of thair offices, ay and quhill thai be dischairgit.

No. X.

EXTRACTS from the RECORDS of the CITY OF EDINBURGH.

Sexto Augusti, 1^o. VJ.—THE quhilk day, ALEXANDER LORD FYVIE, President, Proveist of this bur^t, Williame Maull, Richerd Doby, Thomas Fischer and Thomas Geddes, bailzeis; David Williamfone, deyne of gild; Johne Jakfone, thesaurer; Henrie Nesbit, Roger McNacht, Johnne Morie-foun, Williame Hammiltoun, Robert Hereis, Williame Speir, Archibald Adiefoun, David Hammiltoun saidler, Robert Cokkie goldfmyth, Patrik Sandilandis deacone of the tailzeouris, Robert Bannatyne deacone of the skynneris, David Heriot deacone of the goldfmythis, and Andro Scott deacone of the chirurganes. My Lord Prouest exhibit and caufet be red before thame, and in presens of Mr Robert Bruce, Mr James Balfour, and Ministeris of this bur^t, ane Lettre Misfue direct from Falkland to his lordschip, be David Moyfes writter, declaying, at lenth, the forme and maner the treffonabill Conspiracie intendet be vmq^{le} Erle of Gowrie and Mr Alexander his brother, for mvrthoring of his Maiestie in the said lordis hous, yifterday, at afternone, the fyft of this moneth; and how his Maiestie, be the Prouidence of God, escaippet the samyn. And als, producet ane vther Lettre, presentet be Sir Patrik Mvrray, direct be his M. to my Lord Chancellare, anent the sam mater; and bering ane command to the Ministrie, to conveyne thair flokis, and pray to God for his Maieftis delyuerie; and als, that the Castell suld schwitt thair haill ordinance; and the haill bellis of this bur^t suld regne, for joy of his Maieftis preservatioun. QUHILK being red and publikt to the said Ministeris, beand personallie present, thay tuik thame to thair advysement; and the said Prouest, Baillies and Counsell, for thair pairtis, thanket God for his Maieftis preseruatioun; and ordanet that the haill bellis of this bur^t suld be rung, and bayne-fyris fet furth. And appoyntes Thomas Fyschear and Thomas Geddes to pas to the Secreitt Counfall, and declair to thame the tounis mynd; and to inquyre quhen the said bellis fall ryng, and quhow lang.

(Aug. 6.)—THE said Prouest, Baillies and Counfall, beand convenit, at afternone, fyndis expedient,

¹ The Master Almoner.

² The preceding entry is dated Aug. 2, Mr Johne Moncreiff being Sheriff-depute. His reappointment is of course dated Sept. 30, 1600.

and ordanis, that Thomas Fyfehear and Androw Scott be direct to Falkland, to his Maieftie, with thair Lettre Miſſiue, to congratulat his Maiefteis delyuerie, requyre his Maiefteis owercoming, and to offer the tounis ſeruice.

(Aug. 8.)—The Baillies, deyne of gild, theſaurer, and maift pairt of the Counfall, beand conuenit, vnderſtanding that his Maieftie is to cum ower the watter on Monunday nixt.¹ Thairfore, fyndis expedient, that the haill Counfall meitt his Maieftie the ſaid day, in thair beſt armour; and ordanis at the nichtbouris be wayrnet to that effect, ilk perfoun vnder the payne of xx li.

(Aug. 15.)—The Baillies, theſaurer and maift pairt of the Counfall beand conuenit, ordanis Johne Jakfoun theſaurer, to pay to Thomas Fyfehear baillie, the ſowme of twenty-ane pundis xj f. for the expenſſis deburfet be him and Andro Scott to Falkland to his M. be directioun of the Counfall, and for thair expenſſis maid at his Maiefteis landing at Leyth.

(Oct. 3.)—Item, to pay to the lokman,² xlvj f. viii d. deburfet be him for tranſporting of the buittis fra Falkland to this bur.³

(Nov. 28.)—Ordanes Patrick Eleiſ theſaurer to pay to the pephereris and tua extraordiner drummeris nyne merk, and to the townes twa ſwaſcheris, ſax li. fyve f. for thair ſeruice at this laſt Parliament; quhilk falbe allowit to him in his comptis.

NO. XI.

EXTRACTS FROM ROBERT BIRREL'S 'DIAREY.'⁴

' The 5 day of Auguſte, his M. the King, being inuittit be the Earle of Gowrie to bankit with him, in the ſaid Earle his hous at St Johnſtoun; the ſaid Earle and his brother bearing, or haueing malice and deidlie hatred in thair hairtis, aganis the King, thair naturall Prince; thair haid devyfit a way to haue tane his lyiff: Bot the Lord preventit ther intentionne. The maner of the Conſpiracie was—Quhen they fund occationne that his M. haill Nobillis and courteouris wer gone furthe, the twa brether deſyrit his M. to goe and ſie thair cabinet. His M., a bliſt ſoull! thinking of no ewill, went with thame, quhair they enterit in grips with him, with dageris, to haue ſlaine him. The King of Kingis, the great God, gaue him ſtrenthe, ſua that he cuift the M^r of Gowrie vnder his feit; and befor the Lord his brother come to his M. he cryit ouir ane window, 'Treaſone! Treaſone!' In the mane tyme, the foirſaid twa brether had ane mane, ſtanding behind the tapeſtrie, in armes, with ane twa-handit ſword in his hand; quha wes ordeinit, giue thair ſould come any helpe, he ſould come furthe and keipe the doir till the Murder ſould be done. Bot it pleaſit God that he wes maid powerles, and could not ſteir out of the place quhair he ſtuid. In the meine tyme, that hes M. and the twa brether are at the wriffelling, Thomas Erſkein and Johne Ramſay, hes Ma. Page of honour for the tyme, come rining vpe to the cabinet, quhair thair preſentlie wes hand payment. At the leiſt, the twa brether, Conſpyreris of his M. baithe wer ſtikit; and the Lord preferuit the holy, innocent Prince.

(Aug. 6.)—The newis come to Edinburgh, the 6 day of Auguſt, that his M. had eſcappit ſic ane danger; quhairat, thair wes ſic joy, that the cannonis ſchott, the bellis range, the trumpettis foundit, the drumes ſtrak. The toune raiſe in armes, with ſchutting of muſkettis, caſting of fyir-workis and baill-fyirs ſet furthe, in ſic maner, the lyik wes nevir ſene in Scotland, ther wes ſic daunceing and mirines all the nicht.

(Eodem die.)—The ſame 6 day, in lyik maner, the Earle of Montrois being chanſeller, the Maſter

¹ 'The morne' deleted, and theſe words interlined.

² The public executioner. Down to a pretty recent date, this officer had a right to his *lock*, or diſhful of meal, out of every ſack expoſed for ſale in the market of Edinburgh. This odious tax was afterwards commuted.

³ This functionary is again ſent for, with the buittis, on Apr. 16, 1602, by warrant from his Maieſty. They are ordered to be ſent at the town's expenſes; and accordingly the Treasuſer is deſired to defray the Lockman's charges, until his return with his infernal instrument. The puniſhment of 'the buittis,' therefore, can ſcarcely be ſuppoſed to have been very frequent, when the pair belonging to the City of Edinburgh was the only pair to be had. Other entries, in the Town Council Records, prove this fact clearly.

⁴ From Original MS. Adv. Lib. Edinburgh.

of Elphinstoune thefaurer, Sir David Morray comptrower, Sir James Elphinstoune secretar, Sir John Prestoune collectour, with fundrie wtheris Nobellis, went to the Croce of Edinburgh; and thair, hard Mr David Lyndefay mak ane orifone, and the hail peiple sett doune on thair kneis, gifing thankis to God for the Kingis deliuerance out of sic ane grait danger.

(Aug. 11.)—The 11 day of August, being Monday, the King came owir the watter. The toune, with the hail suburbis, met him vpon the Sandis of Leithe, in armes, with grait ioy and schutting of muscattis and shaking of pickis. He went to the Kirk of Leithe, to Mr David Lyndefayis orifone. Thairefter, the toune of Edinburgh haueing commit vpe to Edinburgh, and standing at the His-gait, his M. pass to the Croce, the Croce being hung with tapestrie, and went vpe thairon, with his Nobillis. Mr Patrick Galloway, being thair, made ane Sermon vpon the 124 Psalm. He declairit the hail circumstance of the Trefone proposit by the Erle of Gowrie and his brother: Quhilk, the King testefeit be hes awine mouth, sitting vpon the Croce all the tyme of the Sermon.

(Aug. 12.)—The next day following, at 6 houris at evine, the ffywe Ministeris of Edinburgh banischit, be oppine Proclamatioune and found of trumpet, at the Croce; for not affirmit the Kingis wordis, quhilk he ratifiet at the Croce: Thair names, Mr Robert Bruce, Mr James Balfour, Mr William Watfone, Mr Walter Mackankwell, Mr John Hall; and chairget thame, that thair com not within tene myllis to his M. nor within ten myllis to Edinburgh; and chairging thame not to teiche and preiche, wnder the pane of daithe.

(Aug. 13.)—The 13 day, ane Proclamatioun, dischairging the Seffioune of the Kirk to fitt with the Elders and deakinis, wnder the pane of horneing and denunceing thame hes M. rebellis.

(*Eodem die.*)—The 13 day, ane wther Proclamatioune, chairging the hail name of Ruthen not to come neir the King, within tene myllis, wnder the pane of Treassone.

(Aug. 22.)—The 22 of August, thair wes execut in Perth 3 of my Lord Gowreis seruantis, viz. Mr Thomas Cranftoune, George Craigingelt and ane callit Barroune.

(Aug. 28.)—The 28 of August, the hail freindis, tutouris and curatouris, and bairnis, pretending any richt to the Earldome of Gowrie, summoned to compeir to the Parlement, the first day of Nouember.

(Sep. 10, 11.)—The 10 and 11 dayis of September, the Minister(is) accusit before the King and Counsell, in Stirling; at quhilk tyme, thair got leiwe to come hame, bot not to preache within the toune.

Mr Robert Bruce commandit to remane in Earth (Airth.) Thaireftir, the said Mr Robert Bruce commandit aff the countrie, yitt he remanit the space of 4 dayis; and thene he wes chairgit, that he come nather in Scotland, England nor Ireland.

(Sep. 30.)—The last of September, the King commandit that the fyft day of August sould be keipit as ane soleme day, with preiching and pryer, and thankifgivinge, for hes preservatioune from the Treassone of Gowrie, and his brother and his compleffis.

(Oct. 9.)—The nynt of October, ane Proclamatioune, chairging all thame of the name of Ruthane to pas out of the cuntrie; in speciall, Alexander, father brother to the said Earle, and the said Earle his twa brether.

(Nov. 3.)—The 3 of November, Mr Robert Bruce tuik sea and maid saill at 10 houris at evine, efter he had gotten fundrie chairges to pas out of the cuntrie, wnder the pane of Treassone.

(Nov. 15.)—The 15 of November, being the ryding-day of Parliament, the Earle Gowrie and his brether, and his fathers brother, with twa other and his muncreis¹ of their dependers all forfaulted.

(*Eodem die.*)—The same day, Sir Thomas Erskene maid Lord of Dirltounne, John Ramfay and Hew Hares knychtit, and Sir Thomas Erkenis man made gentleman.

(Nov. 19.)—The 19 of November, the Earle of Gowrie and his brother haulit² to the gibbit and

¹ This seems unintelligible. The other MS., in Advocates' Library, reads 'mantles,' which by no means clears the matter. The scroll from which the MS. was copied, probably read 'hev muncreif;' (Hew Moncrief,) which had been written so indistinctly as to puzzle the transcriber.

² Hauled, dragged in a hurdle.

hangit and quarterit: And thairefter, thair twa headis fet vpoun the haid of the prifone-hous; thair to stand quhill the wind blaw thame away.

(Dec. 19.)—The 19 of December, thair wes banifchit of the Miniftrie Mr Williame Vatsone, Mr James Balfour, Mr Valter Balcanquell.

(Aug. 5, 1601.)—The 5 day of Auguft, keipit holy day, with pretching baith befor none and efter noon in all the Kirks of Edr. Bail-fyris fet out: Graitt merthe and joyfulnes, for hes M. prefervatione frome sic ane danger, as the Lord preferue him fra the lyik.

(Nov. 18.)—The 18 day, ane Proclamatioune maid, that all thame of the name of Ruthane fould change thair names; and that thair come not neir the King be 10 mylles, wnder the pane of Treffone.

No. XII.

EXTRACTS from FLEMING'S CHRONICLE.—MS. Advocates' Library.

(May 20.)—The Erll of Gowrie come to Perth, efter sewin 3eiris peregrinatioun in wther cuntreis.

(Jun. 28.)—The executioun of Dauid Drummond, for the slauchter of George Ramfayis man; the first Justice Court that ewer Johne Erll of Gowrie held, efter his returne.

(Aug. 5.)—The Slauchter of Johne Erll of Gowrie, and Mr Alexander his brother, in the Erllis awin ludging in Perth, be Johne Ramfay and Doctour Heres, his Maiefteis feruandis. Praifit be God! the King wes faiff fra thair intendit Treafone aganes his sacred perfone. The toun knew nothing till the commonn bell rang.

()—The Toun of Dundie being aduerteifit, come all wp in armes to haive spoilzeit the burch of Perth; bot praifit be God, the King knew the toun of Perthis part to be frie.

()—Mr Thomas Cranftoun, George Craingelt and Johne Barroun, feruantis to the Erll of Gowrie, wer hangit at the croce of Perth, for art and part of the Conspiracie.

(Sep. 29.)—Thair wes bonefyres fett furth in Perth, and all pairtis of the cuntrie, for his Maiefteis deliuerie from that Treafone; and preiching appointit ewerie Tuifday in ewerie burch.

(Oct. 30.)—The coirpis of the Erll of Gowrie and his brother wer transportit to Edr, to the Parliament, to be hauldin the first of November; and wer foirfaltit, the xj of November.

()—Johne Ramfay wes knychtit of West Barnes, and Hew Heres of Cowland.—Sir Thomas Erskyne maid Lord Dirltoun.

()—Andro Henderfone fett to libertie, and receivit his office of Chalmerlanrie.

(15 Aprilis, 1601.)—The Kingis Maieftie come to Perth, and wes maid burges at the mercat croce. Thair wes aucht punfcheonis of wyne fett thair, and all druckin out. He reffanit the banquet fra the toun, and fubfcriuit the Gilde-buik, with his awin hand, 'JACOBUS REX, parcere fubiectis et debellare superbos.'

No. XIII.

MEMORIALS of DISCOURSES, SERMONS, and ORATIONS, delivered immediately after the Occurrence of GOWRIE'S CONSPIRACY.

[A GREAT variety of Orations, &c. delivered on the occasion of the Conspiracy, have been printed, both in Scotland and in England, on the recurrence of the anniversary. It has been thought of considerable importance, towards elucidating this subject, to print such of those memorandums of Original and

unpublished Discourses, as have been preserved by the indefatigable Calderwood and Wodrow, in their MS. Collections. They undoubtedly contain the very expressions made use of by various of the orators, who then addressed the people, so recently after the occurrence took place. The intrinsic curiosity and value of these specimens of popular oratory, cannot fail to be appreciated, independently of their connexion with the immediate object of their introduction in the present Collection.]

(1.) DISCOURSE ON PSALM CXXIV. BY MR PATRICK GALLOWAY, *one of the Ministers of the King's Household.*

[THIS Discourse was delivered at the Cross of Edinburgh, in presence of King James, on Monday 11th August, 1600. On that day, his Majesty crossed the Firth, and landed at Leith; when, to use the words of a contemporary writer, 'The citizens of Edinburgh were attending upon him in their armes. Mr David Lindsay, minister at Leith, takes him to the kirk, exhorteth him after thanksgiving to performe his vow, made before times, of performance of justice; at which words he smyled, and talked with these that were about him, after his unreverent manner of behaviour at sermons. Thereafter, he went up to Edinburgh, and sat upon the merk-at-croce, cloathed with tapestry, accompanied with some of the Nobility, where Mr Patrick Galloway made a sermon to the people convened about the cross and the King, in harangue, both tending to persuade the people that Gowrie and his brother had verily conspired the Kings death, and were slain in the execution of the interprise.'—*Calderwood's History*, MS. Adv. Library, Vol. V. p. 393.—This and the other Discourse by Galloway have been often referred to, by writers on the subject of the Gowrie Conspiracy. It is probable that the first of them contains all that was delivered at the time; and the Sermon, to which the other 'harangue' served as the Application, does not seem to have been preserved.—See *Bannatyne Club Miscellany*, Vol. I. p. 141.]

DAVID, the King, composit this psalme, efter that he had bein freed fra the grit danger of his deedlie enemies. In it, he dois thrie thingis especiallie,—[he] settis doune his danger, his delyuerie fra the danger, and his thanckfulnes to God for his delyuerie; and in sick sort, that almost all the thrie in-cludit in euerie verse. His danger was this, that he had fallin into the handis of men, and men onlie, naturall men, that had not ane spunk of grace, or of that spreit; and the thing that agregis¹ his danger, is the properties of thir men, crueltie and craft; quhilk becomes rather bruit beiftis then men. Their crueltie is sett doune be tua comparifounes, ane taine fra beiftis, ane other taine fra the watteris;² fluidis, proud and fuallein, that with thair force caries with them euerie thing that is objected to thair force. Thair craft is sett doune, be ane similitude, tane fra the fouller, quha be his craft ourcoueris the poore foull with his nett and catchis it. This is the danger David was in! Or I gang foruard, I obserue ane leffoune, and that for your Majesties vse. Sir! I sie this is not the first tyme that kingis, good kingis, euen kingis quhome the Lord hes chofin according to his auin hert, hes fallin be Godis permissioun, vnto the handis of men, men cruell and craftie, and hes bein delyuert also fra thame. But quhairto? Not to the end, they suld leif according to the fassoune of the warld, bot that they suld be new men, and schau ther gratitude to God, as David did; heirof, quhilk we fall speick heirefter. As to his delyuerie, it wes not fra man bot fra God, and therfor he opinlie proclames, that excep the Lord had bein with vs, men had fuallout him vp, according to the fassoune of beiftis; and therfor, he

¹ Aggravates. ² In the manuscript the letter *v* is generally substituted for *w*; thus, 'vatteris,' for 'watteris,' &c. 'vith,' for 'with,' &c.; a peculiarity, which it is not thought necessary should be here adopted.

tackis him to God, quhilk is his gratitude, and ascryves his delyuerie halie to him, quhil he sayis, 'our help is in the name of the Lord.'

This, schortlie, concerning the danger that Daud was in; his delyuerie, and his thanckfulnes for his delyuerie. The lyck caus we haue in hand, presentlie. Our King, our Daud, our Anointed, has bein in danger deedlie, and is delyuerit, praised be God! For the quhilk, baith he, and ye, and we, hes occasionne to be grate and thanckfull to the Majestie of God, the delyuerer. As to his danger, it is lyck Daudis, he fell in the handis of men, and men onlie: For, as to that man GAURIE, let nane thinck, that be this tratourous fact of his, our Religioune hes ressaunt onie blot; ffor ane of our religioune was he not, bot a deip diffimulat hipocreit! Ane profound Atheist! Ane incarnall deuill, in the cot of ane Angel! As is maist eident, bayth be this tratourous fact, quhilk he had attemptit; and also, be findrie other things, quhilk we haue receaut be his familiaris, and the maist deir and neir of his freindis; as the bookes quhilk he uset, quhilk preiffes him, plainlie, to haue bein ane studier of magick, and a conjurer of deuillis, and to haue had sua monie at his command. His maner of liuing out of the countrie, in hanting with papistis, yea the Pape himself; with quhom he had not conferance onlie, bot farder, hes maid couenand and bandis with him: As appeiris verie weill; for sen his hame comming, he has treuellit maist eirneftlie with the King, and his Majestie hes receaued fra him the hardest affalt, that euer he did, fra him; I say, to reuolt fra Religioune; at leift, in inuard sinceritie, to interteine purpose with the Pape, and he himself promeisit to furneis intelligence!—Wes sick ane man of the religioune? Or can onie man say that our religioune is stained, be the doingis of sick ane man? Na not! He wes nothing but ane man; and our Daudis danger wes, that he had fallin in the handis of men. Nou, that ye may knau the danger the better, I fall receite the historie to you; euen as it wes befor my God, quha ane day falbe my Judge, as he fal beir me record, and befor my Prince and Soweraine, and befor yow all, quha ane day fall stand vp and beir witness agans me, in cais, in ony point, I lie.

On Twysday last was, Alexander Ruthven cam to Facland to his Majestie, and fand him at his pastyme, and desyrit him to ga to St Jonstoune; and sua, he leidis him fra Facland to Perth, as ane maist innocent lamb, fra his palice to the slauchter-hous. Thair he gettis his denner, ane cauld denner, yea, ane veri cauld denner! as they kend quha was thair. Ester denner, Alexander Ruthven leidis his Majestie up ane turnpeyk, and through ane trans, the dore quhairof, sa sone as they had enterit in, chekit to with ane lok; then throw ane galery, quhais dore also cheket to; throw ane chalmer, and the dore thair of cheket to also; and, last of all, bringis him to ane rounde, skairs sax feit breid, and sax feit weyd, and the dore thair of he lokkit also; in the quhilk, their was standing ane armit man, with ane drawin dagger in his hand, to haue done this filthie turne, the maist unnaturallie, and contraire that dutie quhilk we aw to Princes. Then Alexander coweris his heid, and says, 'I am fuir thy hairt accusis thé now! Thow was the deid of my father; and heir is ane dager to be awengit upon the for that deid!' Now, judg ye, guid people, quhat danger your Daud was in! quhen, as ane innocent lamb, he wes clofit wp betuix twa hungerie lyounis, thrifing for his blud; and four lokke betuix him and his freindis, and his fervandis; sua that they nicht neither heir nor harkin him. This was his danger! But quhat sort of delyverie gat he? It was holy miraculous, altogether to be ascrywit to God, and no part to man! And amang mony that occurrit, I fall poynt out unto you fyue or sax circumstances, quhilk ye will all call and accknawleg to be miraculous! And first, his Majestie, standing betuix twa armit men, without all kynd of armour, hawing nathing on but his hunting-horne about his neck; quhen he, at his entry, fuld have bein astonisshit at the sicht of ane armit man to tak his lyf, yeit, on the contrair part, this man was sa astonisshit at his sicht, that he nicht nether moue fute nor hand: Was not this miraculous? But yeit, farder, quhen Alexander had tane him be thegorget, and had haldin the dager to his breift, not twa vnce (*inch*) fra it, sua that their was skers twa vnce betwix his deid and his lyf; yeit, ewin then, be his gracious, christiane, and maist lowing wordis, he ouercame,

the traitour. The wordis wes this: 'Mafter! confider that ye ar ane Christiane; and farder, that hitherto ye haue bein tranit wp in the principallis and groundis of Christianitie! And then confidder, Mafter, how ye wes brocht up in the schuill, quhilk hes fend fo mony noble and haly youth, the Coledge of Edinburgh, vnder Mr Robert Rollok, that haly man, and maift worthy of all gud memory, quha wald never have teichit yow to put hand in your Prince! And laft of all, Mafter, fuppois ye taik my lyf, nether ye nor your brother will be King efter me; ye (yea), the subjects of Scotland will ruit yow out, and all your name!' Thir wordis fua movit the hart of the traitour, that he beguith to enter in conditionis with the King, and maid him fueir (quhilk he alfo did) that all theis thingis fould be forzeit; and that efter, he fuld ever be faworable to him and his brother: And fua, he gaid forth to his brother, fra quhom he refavit commiffiounne to difpach him haftely. He then coming wp agane, brings ane pair of filk gartanis in his hand, and efter he had lokkit the door, fays, 'Tratour, show maun die! And thairfor lay thy handis together, that I may bind thé.' To the intent, na doubt, that he being bund, thei nicht haue stranglit him, and caftin him in a coif, or pit, quhilk thei had preparit for that vfe; that na blud being found, his freindis nicht mifs him without fufpiciounne, and not witt quhair to feik him. Now heir is the thrid miracle! The King anfueris the traitour, 'I was borne ane frie Prince! I have lifit hetherto ane frie Prince! I fal never die bund!' With this, every ane of them greips to vtheris gorgetis, quhill in warfling the King ouercome, and getis him under him. Now is not this miraculous? Will ony confider it? The Mafter of Gourie, ane able young man, in compe-rifounne with the King, I am affurit had strenth doubill, yea and threfald greiter nor the King, and yeit is ouercome and caftin vnder. Quhill thei ar thus worfling, up comes John Ramsay, be the black turnpyk, and at the Kings command, gives the Mafter ane deid ftraik. Now yeit ane miracle! My Lord being in the clofe, quhen he hard that the Mafter was flayne, fa he had bewicht the hartis of thir people of Parth, be the counterfeit vertews he had begun to kyth amang them, that gif he had cryit, 'My brother is murtherit!' the fame people had faikit that fame hail hous: Bot yeit, fa the Lord directis be his Providence, that he come vp the feir, immediatlie, with aucht with him: And mark, how that fame word quhilk thei had preparit to be ane word for the keiping clos of thair knavrie, God vfit as ane mein for the prefervatiounne of the Prince: For thei had appointit this for their watch-word, 'The King is gane to the Vnce!'¹ Quhilk word his fervandis heiring, ran about to meit his Majestie in the Vnce; and going by the window, quhair the King and the Mafter was worfling, hard the Kings fkreichs and cryis; quhilk hes tane fic impreffionne in their hairt, that, fa long as they leif, will never gang out of them, and is heir fitting to beir witnefs to it. The cry was, 'Treafoune! Fy! Help, Yearle of Marr! I am murderit!' The Kingis fervandis heiring his cryis, incontinent come vp this black turnpyk: Now yeit ane miracle! Into the chamber with the King is only four; twa ladis and twa men, and ane of the men mutilate:² My Lord, ane man weill exerceifit in his arms, come vp, and aucht with him; and at the firft, calt vp all thir four in ane nuik;³ and never stayis, quhill Jone Ramsay chancit to cry, 'Fy upon the, cruel Tratour! Hes thou not done evil anuch ells? Thou hes gotten the Kingis lyf ells, and wald thou have ouris to?' At quhilk fpeiche, he drew ane lytle bak; and in bak-going, he gat the ftraik quhair of he deid.

This is the vary [trewth] of the fact, quhilk I haue refavit, (not be the Kingis Majestie,) bot be him quha fuld have bein the doar of the turne. He is livand yeit; he is not flaine; ane man weill anuch knavne to this toune; Andro Henderfounne, chamberlane to my Lord of Gourie. This day I refavit ane letter fra him, wrytin be his awin hand, fufcryvit be his awin hand: Ony man that wald fie it, come to me, and fie gif thei can knaw his hand-wryt, for their fatisfactionne. The tennour of the letter is this: 'It is of treuth, that on Twyfsday laft, I was commandit be my Lord of Gourie, to ryd with his brother to Falkland; fra the quhilk he fend me bak againe to tell my Lord, that the King

¹ The South Inch of Perth. ² 'Dr Herries.' Sir Hugh Herries of Cousland had a club foot, which would of course impede his motions in fencing. ³ At the first onset or assault, forces or drives them up into a corner.

was comming, and to bid prepair for his comming. My Lord commandit me to put on my secreit, and my plait fleif, and to wayt on the Mafter, and do quahatever he bad me. At the Mafteris lichting, I went to him, and tauld him of my Lordis command, quhilk I had refawit. He taks me with him up a turnepyk, throw ane trans, ane galrie, and chamber, and loks me into the round that gois aff the chamber: at quhilk doing, I beguith to grow fleit, and suspect fum evil agans the King; and then I tuik me to my kneis to pray, that it wald pleis his Majestie never to suffer me to be imployit to fick ane turne: And quhill I was fetting on my kneis, Mr Alexauder come into the round [with the King in his hand.] The rest of his narration differs almost nothing from this¹] quhilk ye have hard, according to the Kingis informatioun: This only, he schew the maner how he chappit² to have bein thus: Quhen the King and the Mafter war worling, he opnit the dore and gaid doune be the black turnepyka,—be the quhilk the Kingis servands came up, and faifit him.

This is the verity, quhilk will satisfy ony gude subject; for as for thir romuris that gois, that the King was ane doar, and not ane sufferer; ane persewar, and not persewit, it is not true, nor lickly:—For think ye, hawin sick ane turne in his hand, he wald go to thair towne, in quhilk he was fa meikle esteimit, accompanyit with sic few folks, only ten perfouns; and sic men, quha as I am affurit wald have bein content to have bled their hail blud with my Lord of Gourie, and it had not bein in ane actioun agans the King! The Duik his good brother, the Yearle of Mar his good father, quha, at that unhappie and curfit tyme he was baptizit, gave him the name. As for sik as will not be satisfieit with this, let them perisch in their incredulitie: Their is evidencis anach of the verity. Now, quhat am I that speikis thir thingis? Ane, (as I will protest befor God,) quha lowit the Yearle of Gourie better nor ony flesch in the eirth, acceptis his Majestie.³

(2.) EXTRACT from a SERMON on the Conversion of Zaccheus, Luke, cap. xix.
By MR WILLIAM COWPER, one of the Ministers of Perth.

[THIS Discourse was preached in St Giles's Church, Edinburgh, Sunday, August 24, 1600. Cowper had been sent for, to preach in one of the vacant churches of Edinburgh, after the Ministers there had been banished from the town; as stated in Mr Bruce's Account of his Troubles at that time. The Application only of Cowper's Sermon has been copied, as being all that relates to this transaction. The MS. volume containing it, along with other of his Sermons, supposed to be in his handwriting, at one time belonged to the late Mr Scott, one of the Ministers of Perth, who has made particular mention of it in his History of John Earl of Gowrie. It had formerly been the property of George Adamson, and subsequently belonged to Mr James Cant, the well-known Editor and annotator of an old Historical Poem by Mr Henry Adamson, from whom Mr Scott obtained the MS.]

QUHAT fall we doe then, bot haue our recourse to that grace of Jesus Christ, that onlie is able to change vs? And especiallie, let vs seek it at this tyme, that now we abyde not in the hardnes of our heart, quhen the Lord, both by his word and works, is fa fast calling for our repentance; and I think, amongst all the works of God that seruis to humble us, this last miserable euent is one of the first.

I know there is mony of yow bot thinks of it as I did my self quhen I heard first of it: I thought, indeid, he had sufferit as ane innocent; and quhat greif then it wrought in me, my owne conscience beareth me record! The lose of an earthlie cretur went neuer so neir my heart. And the first thing

¹ In the MS., which is in a contemporary hand, with a few corrections, apparently by the author, some words are illegible; but are supplied from Calderwood who has inserted both of the Discourses by Galloway in his History.—MS. Hist. vol. v. ² Escaped. ³ Calderwood, mentions, that after the foregoing 'harrangue' was ended, they sung the 124th psalme; and makes the following remark: 'Mr Patrick Galloway his harangue did not perswade many, partly, because he was a flattering preacher, and partly, because others were named before Henderson to be the armed man in the studie; to wit, Oliphant, Leslie, and Younger, who was slaine.' Henderson is described as 'a man of low stature, rudie countenance, and brown bearded,' and the King himself being asked 'by the Goodman of Pitmillie, "whether Henderson was the man?"' Answered, That "it was not he, he [the King] knew that smaick well enough."

that ever chiled my affectioun toward him, wes ane appeirance that he had gone without the compas of godlines;¹ quhilk maid me then to say thir words vnto my people; 'I know,' said I, 'it is light that first mon satisfie your discontentit myndis; and, thairfore, the Father of Light send light! Bot I am forrowfull from myne heart, that the light that is, maks against him quhom we loued; and if this light break out as it is begunne, we will find our selues difappoyntit of our hope!' And that quhilk I spake than vnto thame, I speake presently vnto yow: 'The light, that hitherto God hes discoverit in that matter, enclynes to the cleiring of his Majesties innocencie, and layis ane blame on the other.' And if ye craue my reffoun, I say, it is the testimony of his seruant, that presentlie is in prifoun;² quhilk, in my judgment, is mekle to be regairdit: For I haue knowen him now this four or fyue yeiris bygane, and can give him no other witnes, bot that quhilk both toune and countrie will giue vnto him; that is, the testimonie of a man that feareth God, and delt vpryghtlie with all men. And quhair as, some of yow thinks that he is bot ane suppositius man, and that his Depositioun is rather a policie then any veritie; that is mair incredible to me, nor any other thing of this action vnto yow; and if my testimonie can haue ony credit with yow, I will beare to yow record, that it is verifeit vnto me by honest men of our toune, that he wes seene come down the stair from that chalmer quhairin the King wes, before ony of the Kingis seruants enterit vp, except only John Ramsay, or before my Lord enterit in. And quhat his Depositioun is, I will tell yow shortlie,³ &c. Now, [before] I leaue this, there is thrie thingis I will touch shortlie: The ane is concerning the bretherin of the Ministrie: This doing of myne may seeme to condampne thame in a fault; bot I hope no wise man will thinck so, quhen he considereth, that ane preachour may speake that with ane warrand, quhilk ane other may not. The nixt thing concernis his Majestie: We are to craue of God, that this wairning may work amendement in him, and a great caire to purge the countrie of the great contempt of the Gospell, and of the innocent blud, quhairwith it is defyled: For I saw neuer yet thir great temporall delyuerances fra danger, quhair they wrought not a turning of the heart vnto God, bot they were ay for-rinners of ane greater temporal judgement. And the last concernis yow that are his People: I exhort yow, in the name of God, to thinke reverentlie of your Prince; remembring, that Salomon binds your consciences not to speake ill of him, even in your secreit chalmers.

(3.) *The APPLICATION of the XXX PSALME, Precht be MR PATRIK GALLOWAY, the last of August, 1600, befor his Majestie, in Glasgou.*

Now I suld end, gif I had not to let you sie, in the Applicatioun of this Psalme, that as Daid and his pepill had than just occasioun to prais God, sa our Daid and we haif now just occasioun to prais God: Daid than in danger, our Daid has now bene in danger; Daid than delyuerit in the heich mercie of God, our Daid now delyuerit in the heich mercie of God. Now, the Lord of Hevin, that is present with us, as he has gevin us proif of the ane, sa mot he gif us the proif of the wther, that we may be thankfull for this great grace; for, concerning the danger, Daid was neuer in gretar danger nor our Daid; his delyuerance, neuer mair magnificent than the delyuerance of our Daid; and thairfoir, we haif as just occasioun, as euer Daid had, to prais God. Tak tent then; I think thair is heir na small number that neuer hes hard the danger quhairin the Kings Majestie has bene in; or gif thai haif hard, than haif thai hard a poyfonit wntreuth. Thairfoir, to cleir the treuth, I will shaw yow the storie trewlie.

His Majestie, be persuasioun of the Master of Gaurie, was led fra his pastyme to Sanct Jhonestoun, (tak tent that ye may eschew fals informatioun!) Quhen he comis thair, and enteris in my Lordis

¹ This, Mr Scott, in another place, asserts to be 'the Earl's being infected with the weak and criminal credulity of those times, with regard to pretended Prophecies and use of Enchantments. That he was so infected seems to be incontestable.' ² Alluding to the evidence of Andrew Henderson. ³ The Deposition of Henderson is not contained in the Manuscript, but it had been read to the people at this place; at least an abstract of it would be recited.

ludging, efter ane cauld denner, and ane far caulder welcome, his Majestie is tane be the hand be the Master of Gaurie, and led wp ane stair, thre or four durris all lokit on his bak, nather friend nor servant with him; and thair is sitting a man, preparit to joyne with the wther, to the tressonabill murdering of his Majestie! Quhen he is set betnixt these twa, the Master of Gaurie, a vyll tratour! na soner cumis the King in, but to testifie that all reuerence of a Christian to his God, and of a subject to his prince, was strampit wnder fute, he puttis on his hat, drawis his dager,¹ and sayis, 'I fall now be avengit on thé for my fatheris slauchter.' But the Lord stayit the dager, that he ducht not stryk with it. Quhen the ire of this tratour was sumthing mitigat, be the Kingis modest language, he gois out, leifing the wther man to keip him; appeirandlie, to get funder resolution of his brother. Agane he cumis in, as a wod lyoun, and enteris wpon his Majestie, with his gartanis to bind him. Nobill men, and citicens of St Jhonestoun, hard his Majestie cry, 'Tressoun! I am murdreiffit!' as the voyce of ane half deid man. Let vyle knavis say athort the cuntrie quhat they will, this is the treuth! I ken weill thair is mony furmifes of the pepill castin in withal, to breid ane evill consait of the Kingis Majestie, in the hairtis of the pepill. I will tell pairt of thame. This is ane: 'How can it be sik a nobill man as the Erle of Gaurie, sa weill brocht up, culd haif fosterit sik a tressoun?' This wald appear to carie sumthing with it; but, in very deid, hes na probabilitie. If the Erle had bidden still in Scotland, and keipit that education quhilk he gat wnder that worthie man, Mr Robert Rollok, he mycht perchance not haif attemptit sik ane tressoun. But quhen he zeid to Padua, thair he studieit Nigromancie: his awin pedagog, Mr William Rin, testifies that he had these characters ay upone him, quhilk he luifit sa, that gif he had forgot to put thame in his breikis, he wald rin up and down lyk a mad man; and he had thame wpon him quhen he was slain: And as thai testifie that saw it, he culd not bleid sa lang as thai war wpon him. He that this wyse castis of all reuerence to his God, quhat reuerence can he haif to ane eirthlie king? Ane wther questioun, I ken, wilbe muifit. Sum will say, 'Sall we trew² that he culd haif devyfit, his allane, sik a tressoun?' 'Culd he haif enterpryfit sik a work without a bak?' I dout not bot he had ane bak! The Lord discouer it! And I am assurit he fall at last discouer it! And, as I haif said befor to your Majestie, I say yet, and ye try it not out, ye fall yit sum day mak us all ane forrowfull morning; if ye rype not wp the fontaine thairof, it is a manifest tempting of God! And I exhort your Majestie and Counfall to do it, as thai will anfuere to God, befoir quhom thai salbe countit tratouris, one day, if thai keip up the leif chope of it, quhilk they can try out. But to meit the questioun, It is na meruell, suppois it be hid, for the Erle of Gawrie was a man of exceiding great secrecie; thair was not ane man he wald reueil it to. His awin pedagog, Mr William Rin, said, that the Erle, talking of tressoun against Princes, said, that 'gif the rycht hand wifit quhat the left hand was doeand, he was not to be compted a man:' and thairfoir, I trow indeid, thair was none wpon the foreknowledge of the executioun but the Erle, and his brother, and the Deuill, that led thame bayth. I ken thair wilbe a third question, 'Is thair nane can beir witnes to it?' God forgiue thame that say, 'the King is a pairtie, he can not be beleuit;' and thow war a guid Christian, thow sould rys up and say, I am ane pairtie, and the King, that neuer hes bene a lyar, suld be beleuit him self, and not sik suspicious furmifes spred abrod. But I go on: Thair was thair nobill men, his Majesties seruandis, and citicens of Sanct Jhonestoun, quha saw his Majestie carieit thair

¹ Calderwood, who strenuously professes disbelief of the whole matter, makes this observation:—'In this harangue Mr Patrick saith, that Mr Alexander "drew his dagger," which would seem to be his own dagger, and not the armed man's standing in the study, as is related in the discourse. But it is certain that Mr Alexander had no dagger. But leaving this speech as ambiguous, it is to be considered, That Mr Patrick doubteth not but he had a back to the enterprize, and prayeth the Lord to discover it, exhorts the King and Counsel to try out the fountain of it: And yet, forgetting himself, he saith immediately after, That the Erle was a man of exceiding great secrecie; and there was no man to whom he would reveal it; and that he believed there was none upon the foreknowledge of the execution, but the Erle, and his brother, and the Devil. The circumstances that are most unlikely, Mr Patrick turnes all into miracles; but here is need of a true and seen miracle indeed, to make unseen miracles to be believed.'—*Calderwood's Hist. MS. Advocates' Library.*

² Trow, believe.

without ony wapin, but his hunting horne about his craig; fowr durris all lokkit wpon him; my Lord Duke, the Erle of Mar, baillieis and burgesfes, saw his handis in the Kingis face and throt. If they will not beleue thame, quhom will thai beleif? Fy wpon wncredulous and malicious hairtis! I fay mair for the treuth: Andro Henderfoun, a man to that hour approuit guid and zealous, and without spot all the dayis of his lyf; this man, perforce, is put into the rowme, without ony foreknowledge; this man yit liveth; euerie man hes acces to him; this man, as befoir he was maid be God ane instrument to saif the King, fa now he is maid ane instrument of the Kingis honour, to tell the treuth. I must speir heir, becaus sum sayis, 'Quhill we sie him die on the scaffald for it, we will neuer beleif it!' Fy on it! that his Maieftie fould execut him that sauit his lyf, for thair plesour! I man fay, in my conscience, that man is rather worthie of rewarid nor of punishment; and I trow, not a man that feiris God, but he will consent to it. But he was put in, be the prouidence of God, to be ane instrument of your delyuerance. Now, as ye haif hard the danger, tak tent also how he was delyuerit. As Dauid said, 'Lord, thow hes exalted me, and not maid my fois to rejoyis ouer me,' justlie may your Maieftie say, 'I was in deidlie danger, and thow, Lord, hes luikit on me.' Quhen I confidder his Maiefties delyuerance, I man fay, thair was not ane circumstance of that action, but ilkane is a wonderfull preferuatioun! First, quhen the Erle of Gaurie and his brother takis that man, and puttis him in, and sayis to him simplie, 'Do quhat my brother commandis thé,' they thought he fuld haif put to his hand to do the turne; but God cumis down fra hevin, and alteris the man. Na soner cumis the King in, but he cryis, 'Allace! allace! wo is me!' Is not this ane great work of God? He that fuld haif slane his Maieftie, is maid ane instrument of his safetie! And quhen the Master of Gawrie is bringand down, to slay his Maieftie, he withhaldis his hand. Thridlie, quhen the master of ane cruel tiger is maid as it war ane dow, saying, 'I will promeis yow your lyf, fir, gif ye will hald your twng.' Fy, tratour! Quhat had he to do with his Maiefties lyf? But he is mitigat be the Kingis modest wordis! 'Ye and I cum in wnder freindship; ye ar a Christian, brocht wp under that guid man, Mr Robert Rollok; quhy wald ye put handis in your Prince?' With this he gangis out, and shortlie cumis in agane, and as a tiger enteris upon his Maieftie. This is a mervell! He was far beyond the King in strenth; and yit the leving God fa strenthened his Maieftie, that he gat him wnder his fute. And laft, quhen the Erle of Gawrie caufit cry, 'The King is away!' they, running out to follow his Maieftie, heir his voyce. Agane, quhen the Erle, and fevin men with him, cumis in against fowr, he himself is slane be these fowr, and the rest of his cumpanie hurt and put to slicht. Yea, had Gawrie bidden still on the calsfay, and said, 'The tratouris about the King hes slane my brother,' all the men of Sanct Jhonestoun had rushit in with him. But the Lord wrocht wtherwys! And thairfor, as Dauid said, fa fuld your Maieftie say, 'O Lord, I will magnifie thee, becaus thow hes exalted me.'

Now, becaus it is said, als fallie as 'the sone shynis not,' the King zeid to Sanct Jhonestoun to slay the Erle of Gawrie, (sic is the spreitis of malicious hairtis!) I wald now haif you, indifferent pepill, quhen the Master of Gawrie cumis to Falkland, and muifis him to come to Perth, I think not threttens in his companie, Judge gif he wald have come to Sanct Jhonestoun, quhilk was Gawries Londoun, thair to haif slane him? Agane, if he wald haif brocht my Lord Duke, the Erles guid brother, and the Erle of Marr his godfather, with him, gif he had bene myndit to slay him? Judge laft of this, quhen his Maieftie is led be the Master of Gaurie, and seperat fra all his folkis, put in ane lytill round, haifing nathing but a hunting horne about him! Let indifferent pepill judge heir, whether his Maieftie wald haif bene myndit to slay the Erle of Gaurie or not? Now, quhen I haif shawin yow the danger, and Devyne delyuerance, sie quhidder our Dauid fuld not say, 'I will magnifie thé, O Lord, becaus thou hes exalted me!' Quhair he sayis, 'Sanctis sing praisis for me!' Sie gif we have not just occasioun to prais God for the delyuerance of our Dauid; for wofull had bene the estait of Scotland, yea wofull darknes, if the Lord had not wrocht this delyuerance! The Lord gif your Maieftie a thankfull hairt, and to ws, your subjectis thankfull hairtis, for your delyuerance!

(4.) 'ANE ORISOUN,' *delivered before the King in Glasgow.*

[THE following curious paper is taken from *Calderwood's MSS.*, preserved in Wodrow's Collections, Vol. xliii. No. 59, Advocates' Library. Calderwood records, in his Church History, that when the King arrived in Glasgow, there was likewise 'an ORATION made to him, be one, in name of the Town; congratulating him for the delivery out of the late danger; with a commemoration of their service to him and his progenitors.'—*Cald. Church Hist. MS. V. 420.* This concludes all the Original MSS. known to the Editor, which preserve notices of popular Addresses of this description, on the subject of the Gowrie Conspiracy. The Editor has again to acknowledge the attention of Mr David Laing, who obligingly communicated his transcript of this paper, which agrees with another copy made by the Editor; and has also been collated with the original Manuscript.]

ALTHOCHT, maift gracious Sovereigne, it hes bein breiffie, in the Latine tung, declairit, quhat is the dewtifull luif of your Hienes subjectis towardis your Majestie, and grit rejoicing for that happie delyverie of your Majesties maift noble persoune, fra that tresfunabill and detestabill attempt and Conspiracie aganes your Majestie, at Saint Jhonstoun, yit, please your Majestie, let it not seame tedious, in few wordis, for the satisfioun of the present auditour, tuiching the fume of the mater spokin, quhilk I tak up be this. That albeit, we haue had oftintymes ane joyfull sicht of your Hienes presence, praying for your Majestie preservatioun and prosperous reigne; becaus our dewtie, prescryvit be God and rewle of nature did so requyre: For nane thair is fa ignorant, misknawing materis of estait, quaha may not knaw, that in your Hienes preservatioun standis his awin; and that vpon his Majesties lyf dependis the lyf of all. Nevertheles, seing laitlie God, of his mercie vnderfull towardis your Hienes and ws your Maiesties subjectis, hes delyverit your Majestie fra the detestabill, cruell, and maift barbarous Conspiracie, attemptit be vmquhill Jhone Ruthven, Erle of Gowrie, and Mr Alexander his brother, we haif grit mater of joy and glaidnes of heart, and gritter then can be expreffit be outvart signes. For glorious and happie vas that day quhairin your Hienes subjectis did sie your Majestie delyverit out of that feirfull danger, and present perrel of your Hienes lyf, for thair is na man quaha may not sie, quhen your Hienes, the father of the commoun veill vas preservit, that the hail estait, lyklye to decay, vas preservit frome ane feirfull defolatioun and wofull miserie, quhilk had ensewit vpon the hail inhabitants of your Hienes realm. Therefoir, your Hienes subjectis, of ane naturall and inteir luif towardis your Majestie, acknawledgis, vith the thankfull hartis, the presence of Almichtie God, vatching at all tymes ower your Maiestie; and in speciall, this vnderfull benefeit of your hienes preservatioun; rejoicing gladly for the same, and vissing maift earnestlie that your grace may enjoy ane long lyf, beautifeit vith the all bliffingis of the Almichtie God. Your Maiestie beholdis how the faces and countenance of all men are fet vpon your hienes, quhat manifest signes and evident taikinis apeiris of that exceiding glaidnes and joy, quhilk, conceavit in hart, burftis furthe in tung, vord and countenance! Behold! the citie of Glesgw, quhilk honoris and reverencis your Maiestie, thair supreme lord and King, vith the dewtifull honour and singular obeyfance, as it var raifit out of the place, comes furthe as becomes, maift humblie presenting thair service to your hienes, rejoicing for that happie delyverance, and praying to the michtie God, that all thingis may befall happelie and prosperoullie vnto your Maiestie. It is not vnknawin to yow, maift gracious Sovereigne, quhat affectioun, luif and honour, the citizenis of Glesgw hes born and done vnto your Maiesteis maift nobill progenitouris, not spairing to sched thair bluid and hafert all they had; vith quhat dewties and all kynd of guid affectioun thair haue honourit your Maiestie; and how oft your grace hes had a proif of thair maift villing obedience in your Maiesties service: It fowld not seame strang, gif be quhat meane thair can be abill, thair schaw plainlie, maift evident signes of thair guid vill and maift invart luif quhilk thair beir towardis your Maiestie. Quhairfoir, nocht staying your grace vith longe speiche, ve mak ane end; praying the eternall and everlasting God to preserve your hienes, multiplie his grace, sheane above vpon yow; gif vnto your

Maifestie ane long lyf, vithe ane happie and prosperous reigne ; and last, that croun of eternall felicitie, throw the rychteous meritis of the Lord Jefus. AMEN.

No. XIV.

THE TRIAL OF GEORGE SPROT, Notary in Eyemouth, his DYING CONFES-
SION upon the scaffold, together with various ILLUSTRATIVE DOCUMENTS.

[ALTHOUGH the proceedings against SPROT took place, so late as the month of August 1608, (being *eight years* after the Conspiracy of John Earl of Gowrie and his brother,) and though the consequent Forfeiture of ROBERT LOGAN of RESTALRIG, in the year 1609, ought each to be inserted, according to the strict chronological order laid down at the commencement of this work ; the Editor considers it necessary, in these instances, to depart from this rule ; so as to give a connected and comprehensive view of the entire evidence which our Public Records afford, of this most extraordinary transaction. The value and interest of these Papers, it is trusted, will be considerably enhanced by this arrangement ; and to avoid confusion or mistakes, as to dates, &c. they shall be carefully noted on the margins. The sources from which the Editor has procured these materials, are in every instance mentioned ; but wherever this circumstance is not taken notice of, they must be considered as taken from the Records of the Court of Justiciary.]

(1.) *Mr Williame Hairt, Justice-Depute.*

Aug. 1608. **High Treason — Concealment of Gowrie's Conspiracy, &c.**

(Aug. 12, 1608.)—GEORGE SPROTE, Notter (notary) in Haymouth (Eyemouth.)

Dilaitit, accuset and perfewit be Sir Thomas Hammiltoun of Bynnies, of certane treffonable crymes, contenit in his DITTAY following.

GEORGE SPROTE notter in Eymouth, Ye ar indytit and accuset, fforfamekill as vmq^{le} Johnne sumtyme Erle of Gowrie, haifing maift crewallie, detaiftabillie and treffonabillie conspyrit, in the moneth of July or thairby, the yeir of God I^m.Vj^c. yeiris, to Murther our deir and most gracious souerane, the Kingis most sacred Maifestie ; and haifing impairtit that devillisch purpois to vmq^{le} Robert Logane of Restalrig, quha allowit of the samyn, and maift willinglie and reddelie vnder-tuik to be pairtaker thairof ; the samyn cuming to your knowlege, at the tymes and in maner perticulerlie eftir specifit, ye maift vnnaturallic, malicioufflie and treffonablie conceillit the samyn ; and was airt and pairt thairof, in maner following. IN the first, in the said moneth of Julij, the yeir of God I^m.Vj^c. yeiris, eftir that ye had perfauet and knawin that dyuerse Letteris and messages had past betuix the said sumtyme Erle and the said Laird of Restalrig, ye being in the place of Falst-Castell, ye saw and red the begynning of ane Letter writtin with the said vmq^{le} Robert Logane of Restalrig his awin hand to the said vmq^{le} Johnne sumtyme Erle of Gowrie, of the tennour following :

Aug. 1608.

‘ MY LORD,¹

‘ MY maist humbill dentie and seruice hertlie rememberit : Att the ressalt of your lordschipis letteris, I am so confortit, that I can naper vtter my joy, nor find my self sufficientlie abill to requyte your lordschip with dew thankis, and persuaid your lordschip, in that matter, I fall be als fordward for your lordschipis honour, as gif it war my awin caus ; and I think pair is na leving Christiane that wald nocht be content to revenge that Machevelians massacre of our deir freindis, 3e,² howbeit, it sould be to ventour and haizaird lyfe, landis, and all vther thingis ellis my heart can bind me to tak pairt in that mater, as you fall find bettir prouif pair of : Bot ane thing wald be done, that your lordschip sould be circumspect and be earnest with your broper, that he be nocht rasche in ony speiches touching pe purpois of Padua.³

And ane certane space eftir the executioun of the foirsaid Treffone, the said vmq⁴ Robert Logane of Restalrig, haifing desyrit Laird Bowre to delyuer to him the foirsaid Lettre, or ellis burne it ; and Boure haifing gevin to yow all tickettis and letteris quhilk he than had, ather concerning Restalrig or vtheris, to ficht⁴ the samyn, becaus he could nocht reid him self ; ye abstractit the aboue writtin lettre, and retenit the samyn in your awin handis, and dyuersé tymes red it ; contening forder in substance nor⁵ is formerlie sett down, according (to) thi⁶ woirdis following.

‘ MY LORD,

‘ YE may easilie vnderstand, that sic ane purpois as your lordschip intendis, can nocht be done raschlie, bot with deliberatioun ; and I think, for my self, it war maist meit to haif pe men your lordschip spak of, reddie in ane boit or bark, and address pame as thay war takand pastyme vpon pe sie, in sic fair somer time :⁷ And gif your lordschip could think guid, aper to cum your self to my house of False-Castell, be sie, or send your lordschipis broper, I sould haif pe place verrie quyet and weill provydit, eftir your lordschipis adverteiment ; and persuaid your lordschip, 3e sould be als sure and quyet heir, quhill we had settillit our plat,⁸ as gif 3e war in your awin chamber ; ffor I trow, and I am affisrit, we fall heir woird within few days, fra thame your lordschip knawis of ; for I haif cair to sie quhat schipis cumis by. your lordschip knawis I haif keipit my Lord Bothwell quyettie in this hous, in his grittest extremities, say the King and his Counfall quhat thay lykit : And I hoip, gif all thingis cum to pas, as I trust thay fall, to haif baithe your lordschip and his lordschip at ane guid dyner afoir I die ; *et hoc jocoſe*, to animat your lordschip : And dout nocht, my lord, bot all thingis fall be weill, and I am resoluēt, quhairof your lordschip fall nocht doubt of ony thing of my pairt, 3e,⁹ to perrell lyfe, land, honour and guidis ; 3e, the haizaird of liell fall nocht effray me fra pat ; 3ea, thocht pe skaffold war alreddie set vp ! The soner pe matter war done it war pe better ; for pe Kingis buk-hunting will be schortlie, and I hoip it fall prepar sum dantie cheir for ws to dyne aganis pe nixt 3eir. I remember weill, my lord, and I will nevir forzet sa lang as I leve, that mirrie spoirt your lordschipis broper tauld me of ane noble man at Padua, for I think that ane parasteue¹⁰ to this purpois. My lord, think na thing that I commit the secrecie heirof and credeit to this beirar ; for I dar nocht only ventour my life ; land and all vther thing I haif in his credeit, bot I durst haizaird my faull in his keiping, gif it war possible, in earthlie men ; ffor I am sa persuaidit of his treuth and fidelitie, and I trow, as your lord-

¹ It will readily be observed, that a mere *abstract* of part only of these treasonable Letters had been considered, by the public prosecutor, as necessary to be engrossed in the ‘ Dittay’ of Sprot. Proper transcripts of these epistles will be found in the following Article, under No. XV. Restalrig’s Forfeiture, Jun. 24, 1609, where they were produced in evidence, and recorded in the Books of Parliament. ² Yea. ³ See another allusion to this ‘ purpois’ in the next-quoted letter. ⁴ View, inspect. ⁵ Than. ⁶ These. ⁷ Summer time. ⁸ Plot, conspiracy. ⁹ Yea. ¹⁰ From *παράστειος* ? *quis a latere stat* ; a parallel instance, a ‘ preparatiue.’

Aug. 1608. fchip may ask him, gif it be trew he wald ryde to Hellis 3ettis¹ for me? And he is nocht begylit of my pairt to him. And pairfoir, I dout nocht bot pis will perfuaid 3our lordfchip to geve him trust, in this matter, as to my self. Bot I pray 3owre lordfchip direct him hame with all possible haift; and geve him strait command, that he tak nocht ane wink sleip quhill he sie me agane, eftir he cum frome 3our lordfchip. And, my lord, as 3our lordfchip desyres in 3our Letter to me, aper ryve and burne,² or ellis send bak agane with pe beirar; for sa is the fasionne, I grant.'

Quhilk Letter, writtin everie woird with the said vmq^{le} Robert Logane his awin hand, was subfcryuit be him efter his accuftomet maner, with this woird 'Restalrig.'³ AND albeit, be the contentis of the foirfaid Letter, ye knew perfytlie, the treuth of the said maift treffonable Conspiracie, and the said vmq^{le} Robert Logane of Restalrig his foirknowledge, allowance, and giltienes thairof; lyk as, ye was affurit thairof, by his reffauing of dyuerse Litteris send to Gowrie for the said purpois, and be findrie conferences betuix the said vmq^{le} Robert Logane of Restalrig and vmq^{le} James Bour alias callit *Laird Bour*, in your prefence and heiring, concerning the said Treffoun, alfweill in the said moneth of July, immediatlie preceeding the said Treffone, as at dyuerse vtheris tymes, fchoirtlie thaireftir; as lykways, be the reveilling thairof to yow be the said vmq^{le} James Bour alias callit *Laird Bour*, quha was vpon the knowlege and devyse of the said Treffone, and was imployit as ordiner meffinger be the said vmq^{le} Robert Logane of Restalrig to the said vmq^{le} Erle of Gowrie, in the trafique of the said damnable Treffone; quhairby, your knowlege, conceilling and giltines of the said treffoun was vdenyable: 3IT, for forder manifestatioun thairof, about gule,⁴ in the yeir of God I^m.Vj^c. and tua yeiris, the said vmq^{le} Robert Logane of Restalrig him self fchew to yow, that Bour had tauld him, that he had bene fumquhat rafche to let yow sie ane Letter quhilk come fra the Erle of Gowrie to the said Laird of Restalrig, quha than vrget yow to tell, quhat ye vnderftuid be that Letter! To quhome ye anfuerit, that ye 'tuik the meaneing of it to be, that he had bene on the purpois and counfall of Gowreis Conspiracie:' And he anfuering to yow, that 'quhat evir he had done, ye war his awin; bot gif ye wald fueir to him, that ye fould nevir reveill any thing to ony perfone, he fould be the best ficht that evir ye faw:' And in taikin of forder recompance, he than gaif to yow tuelf pundis of filuer. NEUERTHELES, albeit ye perfytlie knew the haill practeis and progres of the said Treffone, frome the begynning thairof, as faid is, alfweill be your ficht of the faidis Letteris, as also be your conferences with the faidis vmq^{le} James Bour and vmq^{le} Robert Logane of Restalrig; yit, during all the dayis of the lyftymes of the faidis vmq^{le} Robert Logane of Restalrig, and of the said vmq^{le} James Bour, quha bayth levit quhill⁵ the yeir of

¹ The gates of Hell.

² Tear and burn.

³ It was at this time usual for the lesser Barons to take the name of their lands as their common title; and they subscribed their Letters, &c. in the same manner, as is now customary with the Nobility.

⁴ Christmas.

⁵ Till.

God I^m.Vj^c. and sax yeiris, or thairby, be the space of sax yeiris efter that ye Aug. 1608.
 knew thair giltines of the treffonabill Conspiracie foirsaid, ye maist treffonabillie
 conceillit the samyn : And sua, ye was and is airt and pairt of the said maist
 haynous, detestabill and treffonable Conspiracie : And thairfoir, ye aucht and
 fould incur, vnderly and suffer the sentence and pane of Heich Treadone. To
 the taikin¹ that ye haif nocht only be your Depositiones, solempnelie maid and
 subscryuit with your hand, in presens of many of the Lordis of his Maiesteis
 Counfall, and of the Ministeris of this toun, of the dait the fyft, fyvetene and
 xvj of July lastbypast, and tent day of August, confessit everie heid, poynt and
 article of the Dittay ; bot also, by dyuerse vtheris your Depositiones subscryuit
 with your hand, ye haif Ratifeit the samyn, and swoir constantlie to abyde thair-
 at, and to seill the same with your bluid : Quhilk ye can nocht deny.

ASSISA.

Williame Trumbill of Airdrie, Harbert Maxwell of Cavenfe, James Tennent of Lynhous.²

Quhilkis perfonos of Affyse being chosin, sworne and admittit, eftir accusa-
 tioune of the said George Sprote befoir thame of the saidis treffonabill, haynous
 and detestabill crymes, contenit in the Dittay foirsaid, and reiding of the said
 Dittay of new agane, in his and thair presens, the said George Sprote, of new,
 agane confessit, in the said Affyse presence and audience, the foirsaid Dittay, and
 everie poynt thairof to be trew and of veritie. Quhairvpone my lord Aduocat,
 as ofbefoir, askit actis and instrumentis ; and in respect thairof Protestit, in cais
 the said Affyse clange him of the said cryme, for Wilfull and manifest Errour.

VERDICT. The said Affyse haveing with grit deliberatioun gravelie confid-
 drit the tennour and haill circumstances of the said Dittay, and constant Judi-
 ciall Confessioun thairof be the pannell, alsweill in presens of the Justice and
 Affessouris,³ as thaireftir, in presens of the saidis Affysouris thame selfis ;⁴ thay
 all voittit, vpone the haill tennour of the said Dittay ; and being ryplie and weill
 advyset thairwith, thay all in ane voce, be the mouth of the said Harbert Max-
 wall chancellor, ffand, pronuncet and declairit the said George Sprote, according
 to his awin Confessioun, Judiciallie maid in thair presence and audience, to be
 ffylet, Culpable and Convict of airt and pairt of the said maist haynous, detest-
 abill and treffonabill Conspiracie contenit in his Dittay aboue writtin, and of the
 knowlege and conceilling thairof.

SENTENCE. For the quhilk caus, the said Justice-Depute, be the mouth of
 George Cheillie, dempster of Court, be his sentence and dome, decernit and or-

¹ In proof, token, or testimony. ² The rest are 'mercheand burgeffis' of Edinburgh, being per-
 sons in the same rank of life with the pannell. ³ The Assessors are not inserted in the Record.

⁴ That is, while the Jury had retired to consider their Verdict, Sprot had once more solemnly affirmed
 the truth of his previous Confessions and Depositions.

Aug. 1608. danit the said George Sprote to be tane to the mercait croce of the bur^t of Edinburgh, and thair to be hangit vpone ane gibbet, quhill he be deid ; and thair-eftir, his heid to be strukin frome his body ; and his body to be quarterit and demanit as ane tratour ; and his heid to be put vp vpone ane prik of irne abone the Tolbuth of Edinburgh, quhair the rest of the Conspiratouris heidis standis : And his haill landis, heritages, takis, steidingis, rowmes, possessiounes, guidis and geir, to be forfaitit and escheit to our souerane lordis vsf, as culpable and convict of airt and pairt of the treasonable and detaistable crymes aboue specifeit, and conceilling thairof. Quhilk was pronuncet for dome.

(2) SPROTTIS DEPOSITIOUN *vpoun the skalfolde.*¹

AT EDINBURGH, the xij day of August 1608, GEORGE SPROTT, notar in Eymouth, being brocht to the scaffold and place of executioun, he, in publict audience of the haill people, at the foure nvkeis² of the scaffold, ratified his former Depositiouns, anent his knowledge and concealing of Restalrigis guyltines of Gouryis Treasoun ; ffor the w^{ch} he humblie craved God and his Maiestie (humblie) forgifnes ; being most forie and grievit that he had offended God and the Kingis Maiestie, in concealing fuche a vylde, detestable and vnnatural Treasoun, interpretit be the Erl of Gowry and Laird of Restalrig aganis his natural King, so goode and so godly a Prince, who hes evir bene sa gracious to his subiectis and to this haill Yland ; protesting, that yf he had a thousand lyveys to rander, and wer able to suffer ten thousand deathis, it is not sufficient satisfioun and recompence for his sa foull and horrible offens ; and that God had preservit him frome mony great perellis, when his lyffe wes in extreame danger, to bring him to this publict declaratioun of that detestable and horrible fact, in testifeing of the treuth, as he said publictly, in presence of all the people, in thir wordis following. To my owne schame, the schame of the Devill, and (the) glorie of God, for satisfioun³ of the consciences of all these, yf ony be, that hes or can mak ony doubt of the treuth of this so cleir a mater. And he acknowlegeis, that his hanting with Restalrig, who wes a man without Religioun, and subiect to mony other vyceis, and his ingyreing⁴ of himself in thir materis, efter the first sicht of Restalrigis Lettres writtin to Goury : And his continuall beiring of company with Restalrig and Laird Bour, who wes irreligious and without feir of God, brocht him frome one syn to another ; and consequentlie, vpoun this grevous (fine,) ffor the whiche most iustlie, worthelie and willinglie, he is now to rander

¹ From the Original, preserved in the General Register House. On the back of the paper is marked 'Bookit,' which shows that this was the copy from which the authentic Register kept of this extraordinary investigation was filled up. The copy preserved in the Records of Parliament, which was taken from this paper, is less accurate than the present Official 'Extract ;' on which account the Editor has preferred retaining the orthography of James Prymrois, who was Clerk to the Privy Council. The principal variations are marked by parentheses. ² Nooks, corners. ³ 'Satisfeing,' in Parliamentary Record. ⁴ B. Lat. *Ingyro*, to encircle or entangle, as with the folds of a serpent.

his lyffe: And he defirit all the people (present) to be war of evill company, and namelie, of the company of these who ar voyd of Religioun: And he desyrit that this his Declaratioun mycht be infert in his proces: As alſua, he defirit the Ministeris of Godis worde to publifche this his Declaratioun to thair flokis frome thair pulpettis; and tooke euery one of thame who wer present be the hand, with thair promeis to do the fame, ſaying vnto thame, that ‘ this wes the moſt glorious day that evir his eyis did ſie;’ and, with these wordis, he proſtratis him ſelf and fallis vpon his kneis, in preſence of the haill people, and maid a verie pithie prayer, beginning in this forme, as followis. ‘ O fader! how ſould I call thé fader that am ſo vnworthie to be callit thy ſone! I haiff wanderit aſtray lyke a loſt ſcheepe, and thow of thy mercy hes brocht me home (vn)to thé, and hes preſervit my lyfe frome mony dangeris vntill this day, that I mycht reveill these hid¹ and ſecreit miſteries, to my awne ſhame and thy glorie; and thow hes promiffit, that whenſoeuir a finner, frome his hairt, will repent and call to thé with vnſenzeit repentance, that thow will heir him and giff him mercy!’ And ſo he continewit a goode ſpace, in a moſt fervent prayer, to the great admiratioun and reioffing of all the people, and in a better forme and maner nor² ony of the beholdaris and heiraris can be able to ſett doun in wryte; the fame not being writtin in the present tyme, becaus thair wes no place of writting vpoun the ſcaffold, in reſpect of the preaſe and multitude of people. And, going vp the ledder, he defirit libertie to ſing the ſext Pſalme, and requerit the people to accompany him in ſinging thairof: Whiche being grantit, and he being at the ladder-head, the fame wes tane vp and ſoung be him ſelf, with a very loud and myghtie voce; and wes aſſiſted with above the number of fyve hundreth perſonis, who, with tearis, accompanied him in ſinging (of) that Pſalme: After the ending wherof, he repeitit and ratefeit his ſaid former Depoſitioun: And with that, recommending his ſoule to God, he wes caſſin over, and ſo endit his mortall lyffe. In witness quhairof, we, vnder-ſubſcryvaris, who, for the moſt parte, wer all of ws vpoun the ſcaffold with him, and remanit with him vntill þe tyme of his death, and otheris of ws in ſo convenient placeis neir to the ſcaffold, that we did heir all that wes ſpokin be him, haif ſubſcryvit thir presentis with our handis.

(Sic ſubſcribitur.) GLASGU.³ B. Galloway.⁴ A. Brechin.⁵ Balfour of Burley. Haliroodhouſe.⁶ Jo. Preſtounne, Cl^r Reg^d. Pa. Schairp. M. P. Galloway.⁷ Jo. Hall. Walter Balcanquell. M. P. Hewat. M. H. Blyith. Charlis Lummifden. Richard Dobie, baillie of Edinburghe. William Speir, baillie. James Anniffie, baillie of Edinburghe.

TENET *cum principali*, J. PRYMROIS.

¹ ‘ Hye,’ in Parliamentary Record. ² Than. ³ Archbishop Spottiswood. ⁴ Gavin Hamilton, Bishop of Galloway and Abbot of Dundrennan. ⁵ Andrew Lamb, Bishop of Brechin. ⁶ John (Bothwell) Lord Holyroodhouse. ⁷ ‘ Maister Patrik Gallouay, Minister to the King.’

Aug. 1608. (3.) THE ARCHBISHOP OF CANTERBURY'S ACCOUNT *of the Examinations, Trial and Execution of GEORGE SPROTT, &c.*

[THE following scarce Tract was published by DR GEORGE ABBOT, then Dean of Winchester, who was an eye-witness of the facts he has narrated. This very eminent person was the second of the eight Divines of Oxford who were appointed to translate a large portion of our present version of the New Testament, in the year 1604. He accompanied the Earl of Dunbar to Scotland, in the year this Tract was published, (1608,) to assist in effecting the establishment of an Union between the Churches of England and Scotland; and conducted himself with so much moderation, as thereby to lay the foundation of his future preferments. Previous to that period, Dr Abbot had been three times Vice-Chancellor of Oxford; and in December 1609, was elected Bishop of Litchfield and Coventry. A few weeks afterwards, he was translated to the See of London; and was, on November 2d, 1609, elevated to the exalted station of Archbishop of Canterbury, the Primate of all England.

Sir William Hart's Report of the Trial and Examinations, &c. is printed here, only in so far as it contains additional matter. His attested copy of the proceedings had been taken by Dr Abbot to England, when he returned; and being personally so much impressed with the extraordinary circumstances which he had witnessed, he readily complied with the desire of his friends to publish it, accompanied by an original preliminary Dissertation of his own, explanatory of the remarkable facts narrated in the Report.]

THE EXAMINATIONS, ARRAIGNMENT and CONVICTION of GEORGE SPROT, Notary in Aye-mouth: Together with his constant and extraordinary behaviour, at his death, in Edenborough, Aug. 12, 1608: Written and set forth by Sir William Hairt Knight, L. Justice of Scotland. Whereby appeareth the Treasonable device betwixt John late Earle of Gowry and Robert Logan of Restalrig, (commonly called Lefterig,) plotted by them, for the cruell MURDERING of our most gracious SOVEREIGNE. Before which Treatise is prefixed also, A PREFACE, written by G. ABBOT, Doctour of Divinitie and Deane of Winchester, who was present at the sayd Sprot's Execution.

LONDON: Printed by Melch. Bradewood for William Aspley. 1608.

A PREFACE TO THE READER.

AMONG those troubles and crosses, wherewithall our heauenlie Father is pleased to exercise his best children, while they remaine in this tabernacle of their flesh, there is no one more frequent, than such euil and slanderous reports, as the virulent tongues of malicious persons, out of a hatred to their virtues, are desirous to lay vpon them. For there was neuer age nor countrey, wherein either man or woman was adorned with rare and eminent qualities, for the seruice of God, and aduancement of true

religion, but immediatly such as were ill-affected began to imploy their wits, and beat their braines, **Aug. 1608.** how by calumination and forged imputations, they might obscure the lustre of those singular parts, which their quicke but envious eye had discovered in them. That worthy Moyfes, the meekest¹ man vpon earth, is reproched as ambitious, and charged by Core, to² take too much vpon him. That admirable Daniel was³ accused to the King as a contemner of his greatnesse, and violater of his lawes. It was objected to zealous and iust Nehemiah by⁴ Sanballat, that himselfe and the people of Iuda intended a rebellion. Paul and Silas, two great instruments of Gods glory, were complained vpon as seditious persons, and⁵ disturbers of the peace and quietnesse of the city. The old Christians, men no doubt of vertuous behauiour, yet because, in time of persecution, they assembled themselues together in the night, for the worship of their God, and profession of their faith, were reported by the Gentiles to haue the Feasts of⁶ Thyestes, (that is, to eat the flesh of children,) and to do as Oedipus did, that is, promiscuously to commit fornication with their mothers, sisters and daughters. Yea, their owne⁷ seruants were brought by the terrours of the Infidels to accuse them of such crimes. Tertullian complaineth of this, declaring that it was objected to the Christians,⁸ that they killed a babe new borne, and in the blood thereof did dip their Eucharist, and so eat it; as also, that suffering their dogs of purpose to ouerturne their lights, they in the darke committed incest with their mothers and daughters. Hence it grew as a kind of proverbe, That it was the part of the Christians to doe good, and yet to be ill spoken of. So⁹ Euagrius reporteth, touching that holy and blessed Emperour Constantine the Great, that the Ethnicks laded him with many false criminations, because he tooke away their Heathenish superstitions, and in place thereof aduanced the seruice of Christ Iesus.

In all which accusations, and other of like nature, (if we looke aduisedly into them,) we shall perceiue, that both Sathan hath his worke, and euill men haue a part, yea that God himselfe hath a finger. Sathan hath his worke, because, (as Cyprian, writing of Cornelius, saith,) It is¹⁰ euermore the worke of the Diuell, that he may with lies teare the seruants of God, and, by false opinions spread concerning them, may defame their glorious name; that such as are bright in the light of their owne conscience may be fordidated, or dimmed, by the reports of other. Euill men haue their part, either because, with Zoilus, when they¹¹ can do no hurt to the good and vertuous, at least they will speake ill of them; or els, because, (as Hierome writeth,) ¹² It is the solace of euill men to carpe at the good, thinking that by the great number of offenders, the guilt of their faults is diminished and abated. Nay, God hath a finger in it, to trie and sharpen men, and by that meanes to fit them to himselfe. For slanders haue that force in them, as Gregory well noteth, speaking thus: ¹³ Going thorow almost all examples, we finde, that there hath not bene one good man whom the naughtinesse of euill men hath not tried: for, that I may so speake, the sword of oure soule is not brought to the exactnesse of sharpnesse, if the file of other mens naughtinesse hath not rubbed and fretted it. Againe, in as much as we should grow into deepe and dangerous securitie, if it were not for such remembrances, our heauenly Father is contented that by such calumniationes we should be rowzed from the sleepeinesse and drowzinesse of the world. ¹⁴ Pliny writeth, that the Lion is subiect to no sicknesse, but only a fastidium, or fulnesse of stomacke: wherewithall when hee is oppressed, the way to cure him is to offer him some contumely; which is by tying an Ape neere him: for the Lion is so moued and vexed for the time, with the tricks which the Ape plaieth, that he riddeth and putteth ouer that, which so much before offended him. Euen so God vseth the contumelies of base persons, and the reproches of the vilest, to rowze vp men of excellent spirits, that they surfet not in voluptuousnesse, and so consequently be lulled asleepe in idle securitie, to their owne harme and peraduenture ruine.

But be it for one or all these reasons, certaine it is, that in our age, as well as in times by-past, the

¹ Num. xii. 3. ² Num. xvi. 3. ³ Dan. vi. 13. ⁴ Neh. vi. 6. ⁵ Act. xvi. 20. ⁶ Euseb. Eccl. Hist. lib. iv. 7. ⁷ Lib. v. 1. ⁸ Tertull. Apolog. cap. ii. ⁹ Euagrius, Eccl. Hist. lib. iii. 40. ¹⁰ Cyprian, Epist. ad Antonian. lib. iv. 2. ¹¹ Aelian, Hist. lib. xi. 10. ¹² Hieron. Epist. x. ad Furiam. ¹³ Gregor. Hom. 33. in 40. Hom. ¹⁴ Plin. Nat. Hist. lib. viii. 16.

Aug. 1608. deereft children of God haue tafted of this triall, and hauē been forced to endure very horrible imputations and ftaining afperfions, which the venomous tongues of vngodly men haue ftried to caft vpon them. It were no very hard matter to name ftrange calumniationes, which haue been inuented by the vaffals of Antichrift, and published by the adores of the beaft in diuers books, (which are no better than defamatory libels,) againft Gods feruants of the higheft ranke vpon earth, becaufe they ouerturned the ftrongholds of idolatry, and gaue free paffage to the Goppell of Chrift Iefus. But I forbear to giue fuch particular inftances, and rather leaue to the confideration of the wife, whether it may euer be hoped, that fuch irreligious creatures (who haue folde themfelues to Sathan the accufer of the brethren) will make fpare to lafh and fcouge fuch fingle perfons as ftand in their way, and hinder their defignes; when they make no confcience to brand our holy faith, and the generalitie of our profeflion, with reports moft odious, and fuch as muft needs be acknowledged for abominable, if they fhould be true: but in foote are, in the fight of God, of angels and men, before heauen and earth, but plaine fictions and forgeries, conteining in them no parcell of veritie. Of which fort are thofe defamations, which a countryman of ours, without all fhame, auoucheth in a ¹ Pamphlet not long fince put out, and published to the world; That the Proteftants are bound in confcience, neuer to afke God forgiuenesse of their finnes: That the Proteftants are bound in confcience to auoid all good works: That the Proteftants make God the author of finne; the only caufe of finne: That man finneth not: That God is worfe than the Deuill. And that of ² Roffeus, writing againft the French King now reigning: *Hominum animas cum corporibus interire, et homines a brutis pecoribus nihil differre. Euangelicorum infinita millia credunt.* Infinite thoufands of Proteftants do beleue that the fouls of men die together with their bodies, and that men do nothing differ from brute beafts.

Such truthleffe, fhameleffe, and graceleffe assertions, they haue not flicked to proclame openly in the face of the funne. The knowledge whereof fhould caufe all men indifferently affected, not to be credulous or light of beleefe, when they finde gall and bitterneffe caft out of the mouth or penne of an enemy of the Goppell againft any contending for the truth, though it be but a priuate man; but efppecially to fufpend their iudgements, when perfons of higheft quality, for maintaining Gods caufe, are traduced by an enemy, or defamed by fome vile one, whose tongue and pen indeed is no flander, as we commonly fpeake. For thefe great ones are the fpecial marke whereat malice doth aime; and as poifon ordinarily hafteneth to the heart, fo doth enuie let driue at the head, at thofe who be moft eminent in the State and Commonwealth. When Cato the elder liued, there was not in all Rome fo woorthy a man as he: for (as ³ Pliny noteth) he was the beft orator, the beft leader or generall in the field, the beft fenatour or counfeller that was in that citie: yet was he fo intreated as neuer man was, being publikely called to his anfwer foure and fortie feterall times, whereby one while his fame was hazard-ed, another while his life: and yet alwayes he was honorably, or, as the yoonger Pliny hath it, ⁴ gloriously abfolued and acquitted. Doubtleffe there was againft him a great deale of spleene, a very great deale of malice. From the touch whereof, euen Kings and Princes are fo farre from being free, that they are more fubiect to it than any other perfons: which made ⁵ Antifthenes to fay, That it was a kingly thing, when thou haft done wel, to be ill fpoken of for thy labor. And if we be defirous to fee a famous example of this, there is no one more notable than that of holy Dauid, who being firft a Prophet, and afterwards a King, (but in both moft vnspotted touching the crimes layd againft him,) yea being a man after Gods own heart, yet was accused and charged with many hainous iniquities: which caufed him to complaine both before and after his comming to the crowne: as vnto Saul: ⁶ Wherefore giueft thou an eare vnto mens words, that fay, Beholde, Dauid feeketh euill againft thee? And to God himfelfe: ⁷ O Lord my God, if I haue done this thing, meaning, which they layd vnto

¹ Certaine Articles or forcible reasons printed at Antwerpe 1600. ² Ross. contra Henric. Gallum. cap. iv. v.
³ Plin. Nat. Hist. lib. vii. 27. ⁴ Plin. de viris illustrib. ⁵ Diog. Laert. in Antisth. ⁶ 1 Sam. xxiv. 10.
⁷ Psal. vii. 3.

him: if there be any wickedness in my hands, intending, such as they would fasten upon him, then let Aug. 1608. the enemy persecute my soul and take it. And in another place, speaking to the slandering adversary, ¹ Thy tongue imagineth mischief, and is like a sharp razor that cutteth deceitfully. And yet further: ² The proud have imagined a lie against me. So in the next Psalm: ³ Deliver my soul, O Lord, from lying lips, and from a deceitful tongue. These things, and that the ⁴ drunkards did make songs upon him, did many times exceedingly grieve him, that he who laboured to seeme innocent, should be reproched as nocent: that he who was but the patient, should be held for the agent; that the man wronged, should be reported to do wrong unto other; that he whose life was sought, should be termed by Shimei, ⁵ a man of blood, and a murderer. This troubled and grieved him about measure. For it is the property of innocency and integrity, that if it may finde no other reward, yet it would gladly shine in the simplicitie and sinceritie of it selfe. But when there was no other helpe to be freed from those slanders, Dauid had one assured remedie; that was, to retire himselfe to the Lord, and commend his cause to his Maker: As he excellently doth in the three and fortieth Psalm; where, being oppressed by the malice of his adversaries, and complaining of it in the first verse: ⁶ Iudge me, O God, and defend my cause against the unmercifull people: deliver me from the deceitful and wicked man; he helpeth himselfe in the last verse, rebuking the impatiency which he found in his owne soul, and directing his affections unto another course, ⁷ Why art thou cast downe, my soul? and why art thou disquieted within me? Wait on God: for I will yet give him thanks: he is my present helpe and my God.

Many men have been desirous to have their fame cleared from the reproches of their enemies, and have sought meanes to have their hearts eased from the disturbances and distempers whereinto false accusations have put them. Zeno is much commended, that with such calmnesse he could turne aside those bitter taunts which some bestowed on him; for being asked, how he did bear himselfe against evil speeches: ⁸ I do, saith he, as if an Embassadour should be sent unto me, and I should returne him without an answer. This for a philosopher, who was but an heathen man, was an excellent resolution. But in these words of Dauid, there is a way more noble than Zeno could conceive; that is, to looke up to our great God, and commit all to him, expecting his good pleasure. It is not enough when a man, being priuie to his owne innocencie, doth not boile within himselfe, or fret against the wicked (which are things ⁹ forbidden unto vs), but he must goe a step farther, and propose to his owne heart some more notable example. And in this case, who is rather to be imitated by a Christian than our Saviour Christ? Concerning whom S. Chrysostome said well: That ¹⁰ when he cast out devils, and did innumerable good things, and yet was ill spoken of; against those men who said, that he had the Diuell, he did not send any thunderbolt, he did not overthrow those blasphemous mouthes, he consumed not with fire those vnchaste, vngratefull, vnworthie tongues of theirs: but only with these words put aside those euill speeches; I have not the Diuell, but I honour him who sent me. This is most truly related of our Saviour; but there was in him somewhat els, which is better obserued by S. Peter: ¹¹ When he was reuiled, he reuiled not againe; when he suffered, he threatened not, but committed it to him that iudgeth righteously. And this, committing it to him that iudgeth righteously, was the course which Dauid vsed: to wait patiently on the Lord, to cast up his eyes to heauen, and commending to God the integrity of his waies, to leaue all to his disposing. And this is the very lesson which hee teacheth both himselfe and other. For in the seuen and twentieth Psalm, hauing spoken of his ¹² adversaries, of false witnesses which rose up against him, and such as speak cruelly, he concludeth with this document, Hope in the Lord; be strong, and hee shall comfort thine heart, and trust in the Lord. Which is the most sound instruction, that any creature can haue: to looke up to his Creator (to whom all hearts are open, and no priuie

¹ Psal. lii. 2. ² Psal. cxix. 69. ³ Psal. cxx. 2. ⁴ Psal. lxxix. 12. ⁵ 2 Sam. xvi. 7. ⁶ Psal. xliii. 1. ⁷ Verse 5.
⁸ Dialog. Laert. in Zenon. ⁹ Psal. xxxvii. 1. ¹⁰ Chrysa. Homil. 1. de incompreh. Dei natura. ¹¹ 1 Pet. ii. 23.
¹² Psal. xxxvii. 12, 14.

Aug. 1608. thing can be secret) and to commend to his prouidence, to his fatherly care and wifedome, the vnspottednesse of his waies, and the simplicitie of his conuersation. And assuredly that God who is the God of truth, will bee the patron and protectour of innocencie in his seruants. It is a strong consolation which Dauid giueth in this case: ¹ Commit thy way vnto the Lord, and trust in him, and he shall bring it to passe. And hee shall bring forth thy righteoufnesse as the light, and thy iudgement as the noone day. But it followeth: Wait patiently vpon the Lord, and hope in him: As if that must bee the meanes to attaine thy desire; not to run before thy Maker, and appoint him the time when thy integrity shall bee cleared, and the dimming clouds of obloquy shall be blowen from thy estimation; but to leaue that to his managing, to his dispose and direction. For as S. Chryostome telleth us; ² If it be in the power of God to giue vnto vs, it is also in his power to giue when himselfe pleaseth. It is said of him, that hee doth all things ³ in measure, number and waight. But if before the number bee full, or the measure be vp, thou wilt limit him the time when thy innocencie must appeare: thou takest on thee to be wiser than the Lord, and in a fort mounting vp into his throne in heauen, thou doest iuffle him out of his seat of maiesty and eternity. If thou wilt set downe the decree for time or place, or the manner of purging thy selfe, or how the wickednes of thine enemies must be displaied, thou makest thy selfe the Iudge, and the Lord of heauen and earth shall be but thy executioner. Leaueth then to him (which doth not fore-closeth thee, but that thou mayst vse all honest meanes to lay open thy vnspottednesse) and thou shalt haue reason with Dauid to thanke him, and say: ⁴ He is my present helpe and my God.

And in truth it is strange to see the Lords worke in this behalfe, how, when the fame of his seruants hath bene vniustly denigrated by false accusations, hee taking the matter into his hands hath, in his good time, dispelled all mists of slander. Heereof Dauid himselfe had singular experience. For when Saul was informed that Dauid fought his life, and by the often ingeminations of malicious men this was taken for a truth, and Dauid was accordingly persecuted, and in danger to be murdered, God put Saul ⁵ two feuerall times into the hands of Dauid, that easily hee might haue slaine him: which being entertained as an inuincible argument of Dauids fidelity, Saul himselfe, by the irrefragable euidence of truth, was forced to cry out, ⁶ Thou art more righteous than I: for thou hast rendered me good, and I haue rendered thee euill. And a second time: ⁷ I haue sinned: come againe, my sonne Dauid, for I will doe thee no more harme, because my soul was precious in thine eies this day: behold I haue done foolishly, and haue erred exceedingly. Eusebius hath such another example, of ⁸ Narcissus the Bishop of Ierusalem, who was a vertuous and worthy man, and yet by three persons was accused of a hainous crime. The story doth not cleerely deliuer what it was; but by circumstances it may be gathered to bee incontinency. These three, to giue the more reputation to that accusation wherewithall they charged him, did vse diuers imprecations and execrations on themselves, if those things were not true which they objected against him. As the one wished that himselfe might be burnt, the second that he might die of a loathsome disease, the third that he might lose the sight of his eyes. This constant and consenting crimination so affected Narcissus, though priuily to his own vprightnesse, that he withdrew himselfe from his abode, and liuing priuately, commended his righteous cause to God; which had such effect, that not very long after, the first of his accusers was indeed consumed with fire, the house being burnt in which he remained: the second died of the same disease which he wished vpon himselfe: and the third being much affrighted with the punishment of his fellows, had remorse of his sinne, and came and openly acknowledged the conspiracy of them three against innocent Narcissus; but withall, he had such feeling of his owne iniquity, that powring out continuall teares, hee lost the sight of his eyes with the rheume that descended. A most memorable narration to their comfort, who, being wronged by men in their fame or good name, commend their cause to God. Like to which is that of Theodoret, ⁹

¹ Psal. xxxvii. 5, 6. ² Chrys. in Psal. cxxix. ³ Sapient. xi, 17. ⁴ Psal. xliii. 5. ⁵ 1 Sam. xxiv. 4, c. xxvi. 7. ⁶ 1 Sam. xxiv. 18. ⁷ 1 Sam. xxvi. 21. ⁸ Euseb. Eccl. Hist, lib. vi. 8. ⁹ Theodor. Eccl. Hist. lib. i. 20, 21.

who reporteth, that Eufathius the Patriarke of Antioch had many combats with the Arrians for defence of Christs truth : and when he still preuailed against them, they, out of their malice, suborned a harlot to accuse him of fornication, and openly to maintaine, that a childe was his which she held in her armes : by which meanes hee was constrained to flie to the same succour that Narcissus formerly had done ; which had such force with Almighty God, that within a while after, the harlot was stricken with a grieuous sicknesse, which wrought in her so powerfully, that shee freely confessed the combination of the Arrians against the holy man : and how shee was suborned to accuse him wrongfully, whereof she was now sorry. But whereas she had said that Eufathius was the father of her childe ; that indeed was true of another Eufathius, but not of the Bishop of Antioch. Wherein we may behold, that euen so long agoe equiuocation was in vse, but it was with leand¹ persons, as heretikes and harlots : but withall Gods worke appeareth, that he will not euermore suffer innocencie to be oppressed, and truth to be wronged ; but at the last veritie shall breake forth, as the Sunne which was darkned with a cloud. And this mercifull fauor of God to his seruants was not onely in the ages past, but our dayes haue experiments of the very like occurrences ; as in a famous case lately acted at Edinborough may easily be discovered : whereof, because I was an eye-witnesse, at my late being there by the commandement of his Maiestie, I haue thought it my dutie, in honour to God and loue to his truth, to declare what I saw and heard ; that this following Treatise, penned by an honourable personage of Northe Britaine, might not goe forth vnaccompanied with the Declaration of one of South-Britaine, for so much as hee beheld.

THERE are few in this Iland of any vnderstanding, but haue heard of the traiterous and bloodie attempt of the EARLE GOWRIE and his brother against the person and life of our most blessed Souereigne. Wherein, albeit there were such euidences and arguments, as that any man who would haue taken notice thereof, might haue been sufficiently informed therein, euen at the very first ; and afterward by the cleere depositions (for most pregnant circumstances) and ample attestations of many persons of honour and qualitie, the Parliament of that Kingdome tooke full knowledge thereof ; and accordingly proceeded to the forfeiting of the whole Estate of that Earle, and of his heires for euer ; yet some humorous men, whom in that respect I may iustly terme unthankfull vnto God, and vndutifull to their King, out of fond imaginations, or rather, if you will, seditious suppositions of their owne, did both at home and abroad, by whisperings and secret buzzings into the eares of the people (who were better persuaded of them than indeed there was cause) employ their wits and tongues to obscure the trueth of that matter, and to cast an imputation where it was least deserued. Which when God had permitted for the space of some yeeres to ranckle and fester in the bowels of those who were the authors of it ; the same God, in his wisdom, at last meaning to cure them, if they would be cured, of that maladie, discovered, that in the same treason, although carried neuer so secretly, there were other confederates, of whom hitherto the world had taken no kinde of knowledge. And albeit two of the persons interested in that businesse were lately dead, and departed vnto far greater torment than all the earth could lay vpon them (vnlesse they died repentant), yet it was apprehended that a third partie remained, who had fore-knowledge of that conspiracie, and was able to vtter much of the secrets of it : one GEORGE SPROTT, a Notarie, inhabiting at Ayme-mouth, a place well-knowen in that country. Which matter, or some part thereof, being made knowen to an² honourable person, a most faithfull seruant to his Maiestie, first by some words that fell from Sprott himselfe, and afterwards by some papers found vpon him, it was so wisely caried, and so prudently brought about, by the great care and diligence of that noble man (God Almighty blessing the businesse) that so much was reueiled, as followeth in this Treatise, vpon the acts to be seene ; which are heere set downe at large, word for word, as they agree with the processe originall, and other examinations, that such as haue bene auerse may at last receaue satisfaction. Touching all which, I shall say nothing, but only report that which befell vpon the day of his

¹ Lewd.² The Earle of Dunbar.

Aug. 1608. death, when hee suffered for that treason. Having then the sentence passed on him, vpon Friday the twelfth of August 1608, in the fore-noone, and publikely being warned to prepare himselfe to his end, which must be that after-dinner, he most willingly submitted himselfe vnto that punishment, which (as he then acknowledged) he had iustly deserued. And being left to himselfe til diner-time was expired, then came to him, into that priuate place where hee remained, some of the ¹ reuerend Bishops, diuers LL. of the Session, two of the English Ministers there imploied by his Maiestie, with diuers other Ministers of the towne of Edenborough. Before whom, he first acknowledged and auouched his former confession to be true, and that he would die in the same; and then falling on his knees in a corner of that roome, where he and they then were, in a prayer to God vttered aloud, he so passionately deplored his former wickednesses, but especially that sinne of his for which he was to die; that a man may iustly say, hee did in a fort deiect and cast downe himselfe to the gates of hell, as if he should there haue bene swallowed vp in the gulfe of desperation: yet presently laying holde vpon the mercies of God in Christ, he raised himselfe, and strangely lifted vp his soule vnto the Throne of Grace, applying ioy and comfort to his owne heart so effectually, as can not well be described. In the admitting of this consolation into his inward man, he burst out into teares, so plentifully flowing from him, that for a time they stopped his voice. The sight and hearing whereof, wrought so forcible an impression in those persons of honour and learned men who beheld him, that there was scant any one of them, who could re-fraine teares in the place, as diuers of themselues that day did witnesse vnto me. The effect of his prayer, was the aggrauating of his crime, in concealing the treason against the Kings Maiestie; into which hee said, God did most iustly suffer him to fall, by reason of his former wickednesse, which he had so desperately multiplied, in despight of God and his holy Word. And thereupon, going on with many sensible speeches and most feeling comparisons, hee insisted on the fearefull and dreadfull danger wherein hee was, if the Lord in iudgement should looke vpon him. Notwithstanding, at last he proceeded: 'Yet most mercifull father,' whereat he made a stay, and repeating the word father with a marvellous loud and shrill voice, he added, 'why should I call thee father, that haue so many wayes and so horribly transgressed thy commandments, in all the course of my life, but especially in concealing this vile, fearefull and diuellish treason against my most gracious Soueraigne? Lord, Lord, there is nothing belongeth to me but wrath and confusion!' And so went on in a strange vnaffected current of words, liuely expressing the sorrow of his heart. Yet there he stayd not, but spake forward to this purpose: 'Notwithstanding, Lord, thou hast left me this comfort in thy Word, that thou hast sayd, Come vnto me all ye that are weary and laden, and I will refresh you. Lord, I am weary, Lord I am heauily laden with my sinnes, which are innumerable: I am ready to sincke, Lord, euen to hell, without thou, in thy mercy, put to thy hand and deliuer me. Lord, thou hast promised by thine owne word, out of thine owne mouth, that thou wilt refresh the weary soul.' And with that he thrust out one of his hands, and reaching as high as hee could, with a louder voice and a strained, cried, 'I challenge thee, Lord, by that word, and by that promise which thou hast made, that thou performe and make it good to mee, that call for ease and mercie at thy hands. Lord heare mee, Lord pardon mee, Lord comfort me by thy holy spirit: assure my conscience of the forgiuenesse of my sinnes, and say to my soule, that thou art reconciled.' And so after many zealous petitions vttered to the like effect, he applied to himselfe the mercies of God in Christ Iesus, in whom he assured himselfe of God's fauour, with earnest request, that he might continue in that assurance to the end, wherof he nothing doubted.

Afterward, being brought to the scaffold, where he was to die, he vttered many things, among which I obserued these: He acknowledged to the people, that he was come thither to suffer most deseruedly: That hee had bene an offender against Almighty God, in very many respects; but that none of his sinnes was so grienous vnto him, as that for which he must die: wherein, notwithstanding, he was not an actor, but a concealer only. That he was ingyred in it by the Laird of Rastalrig and his seruant

¹ Archb. of Glasc., Bis. of Brechin, L. Halyrudeh., Lord Collector, Lord Register, Lord Justice, D. Maxey, M. Hodson, M. P. Galoway, M. I. Hall, N. Ch. Lumsden, with others.

the Laird of Bour, both which, hee sayd, were men that professed not religion. Whereupon he ex- Aug. 1608.
 horted men to take heed how they accompanied with such as are not religious ; because, sayd he, with
 such as make not profession of religion, there is no faith, no trueth, no holding of their word, as him-
 selfe had tried and found. But touching the treason, for the concealing whereof he was condemned, he
 added, That he was preferred aliue to open that secret mysterie which so long had layen hidde ; That
 God had kept him since that attempt of the Earle Gowrie from verie manie dangers, but notably from
 one, when being in apparent hazzard of drowning, he was strangely deliuered ; ‘ which,’ said he, ‘ was
 Gods worke, that I might remaine aliue vnto this happie and blessed day, that the trueth might be made
 knowen. And now I confesse my fault to the shame of my selfe, and to the shame of the Diuell ; but
 to the glorie of God. And I doe it not either for feare of death, or for any hope of life, (for I haue
 deferred to die, and am vnworthie to liue) but because it is the trueth, which I shall seale with my
 blood. My fault,’ sayth hee, ‘ is so great, that if I had a thousand liues, and could die ten thousand
 deaths, yet I might not make satisfaction, that I should conceale such a treason against so gracious a
 King.’ These and the like words, when hee had spoken vpon one side of the scaffold, hee turned him
 to the second side, and afterward to the third, (that all the people might heare) where he spake to the
 same purpose as formerly he had done. And here it may not be forgotten, that in the vttering of these
 things his tongue serued him verie well, with words readie and significant ; his memorie was perfect ;
 his countenance reasonably erect and full of alacritie, without all feare of death ; his voice was loud and
 audible on euery part ; which was the more strange, because at the times of his examination, as also
 that very fore-noone, at the houre of his arraignment, his speech was low and weake ; but now so
 strong, as if God of purpose had giuen him power to deliuer his words in such a manner, that all the
 people might heare and vnderstand.

When this aboue-mentioned declaration had bene made, Sprot returned to that part of the scaffold
 where he first began to speake, and there falling on his knees, he vttered a prayer to the same purpose,
 as is set down in this ensuing Treatise. And hauing ended the same, one of the Ministers praied
 againe, and the prisoner ioyned with him, That God would forgieue his sinnes, and receiue his soule to
 mercie. After which, Sprot, standing vp, made diuers requests : First, that what he had deliuered by
 this Confession on the scaffold, might be put into his Proesse, that the world might take notice of it.
 Secondly, that such as were present (as they might haue opportunity) would be futers vnto the King,
 that his Maiestie would forgieue him this offence, for the which, he sayd, he craued pardon of God, of
 his Soueraigne, and the world. And thirdly, hee desired those of the Ministerie which were present,
 that wherefoener they came, they would proclame in the pulpit his confession of his crime, his forow
 for the same, and his full hope that God would pardon him. And to the end that this might be per-
 formed, hee tooke the hands of such Ministers as stood neere about him, so binding a promise on them.
 And heere, being told by the said Ministers and other persons of qualitie, that being so neere his de-
 parture out of the world, it concerned him to speake nothing but the trueth, and that vpon the perill
 of his soule : he answered, that to the end that they should know, that hee had spoken nothing but the
 veritie, and that his Confession was true in euerie respect, hee would (at the last gasp) giue them some
 apparent token, for the confirmation of the same. Then fitting himselfe to the ladder, the Executioner
 commeth to him, and, as the manner is, asking forgiuenesse of him ; ‘ With all my heart,’ faith hee, ‘ for
 you doe but your office, and it is the thing I desire ; because suffering in my bodie, I shall in my soule
 be ioyned vnto my Sauour.’ Ascending vp to the ladder, he desired the people to sing a Psalme with
 him, which they did with many a weeping eye. Hee named the sixt Psalme, and beginning it or ta-
 king it vp himselfe, in euerie verse or line thereof hee went before the people, singing both lowd and
 tunably vnto the very end. Then once againe confirming and auowing his former confessioun, he co-
 uered his owne face, and commending his soule to God, hee was turned off the ladder ; where hang-
 ing by the necke some little while, hee three seuerall times gaue a lowd clap with his hands, that all

Aug. 1608. the standers by might heare : which was the signe or token (as it seemeth) which he a little before had sayd that hee would giue at his last gaspe, for the ratification and anowing of those things, which by his confession hee had so many times declared and deliuered. These things were done in the open sight of the funne, in the Kings Capitall towne, at the Market-crosse in Edenborough, in the presence of diuers thousands of all sorts ; of the Nobilitie, of the Clergie, of the Gentry, of the Burgeses, of women and children, my selfe, with the rest of the English Ministers, standing by and looking on, and giuing God the glorie, that after so long a space as eight yeeres and eight dayes (for so it was by iust computation after the attempt of Gowrie) he was pleased to giue so noble a testimonie vnto that, which by some maligners had bene secretly called in question, without any ground or reason. I haue reported at length those particulars, which I heard and saw ; which that honourable personage who wrote this Treatise following doth somewhat more briefly deliuer, but yet both of vs very truly, as thousand can witnesse.

Out of both these narrations there may diuers obseruations be gathered. As first, how hainous a thing it is in the sight of God himselfe, for subiects of what nature or qualitie soeuer to enter into conspiracie against the life and person of the Lords Anointed ; for Almighty God hath threatened to discouer these traiterous enterprises ; and if no other way, yet by some strange and miraculous fashion. Hee who spake against cruell imaginations of the heart,¹ Curse not the King, no not in thy thought ; for the fowle of the heauen shall carie the voice, and that which hath wings shall declare the matter ; what will he do, when acts of hostilitie in rebellious maner shall be entred into ? And doth his Diuine Maiestie disclose it, and will he not also punish it ? The example of that Earle Gowrie, among thousands of others, may be a sufficient instruction in this behalfe, who, for his Soueraignes loue and gracious fauor, testified in many respects, and intended many more wayes vnto him, returning nothing but vngratefulness and traiterous resolutions, digged a pit for another, but by Gods iudgement fell into it himselfe : and did not only lose in one day his fidelitie, estimation and life, but ouerthrew his house and all the honour of his familie, thorow succeeding generations. Therefore farre be at all times from any noble heart to walke in his wayes, or vpon any occasion to entertaine such discontentment as may grow to vndutifulnesse ; for when the wrath of God shall ouertake men offending in this kinde, and the iustice of a King shall once proceed against them, what horror must there needs be in their bowels and conscience ? what trembling and affrighting in their very soule ? If this poore man Sprot, for concealing that odious combination, found such touches in himselfe, and such remorse in his heart, what quaking and dreadfulness, may we thinke, will fall on him who is guiltie of the highest act of treason and rebellion ?

Secondly, wee heere may see the Lords protection ouer Christian Kings and Princes ; whom, as hee placeth next himselfe in maiestie and authoritie, and calleth them by his owne name, I haue said,² Ye are Gods ; so he blessing and vpholdeth them, as his Deputies and Vice-gerents, men representing himselfe, especially if sincerely they serue and feare and loue him. He is a God of order, and loneth subordination in all kingdomes and countreys, where if hee grace, countenance, and protect inferiour Magistrates, what will hee doe to the heads and chiefe gouernours of his people, who are next to his owne greatnesse ? Hee hath set them aboue other in honour and glorie, which causeth them to be more obserued according to their state : but withall, the prayers of their subiects are powred out for their welfare, day and night, and at all times ; which concurring with their owne requests to God, do find acceptance with the Highest, to their noted prosperitie and eminent felicitie. It preferueth from many perils, to haue at all houres and seasons the prayers and supplications of faithfull men and women hovering ouer their heads, which may be perpetuall remembrancers for them to their heavenly Father, if by human fragilitie and vnauidable imperfections they should forget themselues.

Thirdly, we may note, more particularly, the sauing health of God upon our gracious Souereigne ; to

¹ Eccl. x. 20.

² Psal. lxxxii. 6.

whom as the Lord hath giuen many blessings and much happinesse beyond all his progenitours, so hee Aug. 1608.
hath maintained and protected his person in a marvellous and strange maner, not onely from his cradle vnto this day, but (as it is very well knowen) from before his coming into the world. And how did the Lord free his seruant euen from the brincke of the pit, and from the gates of the graue at the time of Gowries attempt? As also since that day, when those wicked sonnes of Belial, the staine of the land and countrey wherin they were borne, intended that Powder-treafon? Which, as on the one side, it expecteth at the hands of his Maiestie a greater thankfulnesse to God the King of kings; so, on the other side, it calleth for vs who sit peaceably vnder his shadow, eueralting tokens of gratefulnesse to so mercifull a Lord, and heartie obedience to our Souereigne, whom God hath raised vp, defended, protected, maintained, vpheld with his extraordinarie fauour to no common end; but to the enlarging of his Church, to the further ruine of Antichrist; to the vniting of Kingdomes, to the comfort of all the godly disperfed thorow Europe. And happy is hee, not who can finde deuices, and cast imaginarie perils to hinder such a worke, but who in his poore place can with a faithfull heart giue furtherance to the same.

Fourthly, as many blessings from heauen haue been powred on the head of his Maiestie, so it is not the least, that *tanquam e postliminio*, after so many yeeres, and that as from the bones of a dead man, when liuing men would not beleue it, God hath giuen farther light to the opening of the Conspiracie of that vngodly Earle Gowrie, which some few persons, affected more to a rebell that is dead, than to their liuing Souereigne, did endeouour to disguise and maske at their owne pleasure. The strange conceits of whome I can neuer sufficiently woonder at; that men professing conscience and zeale to the trueth, should, vpon no kind of ground or shew of probabilitie, suffer such vnreuerent thoughts to enter into their hearts, especially against his sacred person, whose life hath bene so immaculate and vnspotted in the world, so free from all touch of vicioufnesse and staining imputation, that euen malice it selfe (which leaueth nothing vnsearched) could neuer finde true blemish in it, nor cast any probable aspersi- on on it. Against his sacred person, whom as they must acknowledge to be zealous as Dauid, learned and wise as the Salomon of our age, religious as Iofias, carefull of spreading Christs faith as Constantine the Great; so if they will speake trueth, they must confesse to be iust as Moses, vndefiled in all his wayes as Iehesaphat or Hezechias, full of clemencie as another Theodosius, farre from spilling the blood of any of his Nobilitie, but rather sparing those who haue lift vp their hand against him. Notwithstanding, when preposterous affection had so blinded these men, that they would not see this truth, the Lord hath giuen light yet once more, to the rectifying of their iudgements. A singular example of Gods vnlimited and vnbounded wisdome, who will doe things as he liketh. That when as S. Iohn sayth, ¹ *Qui sordescit, sordescat adhuc*, He that list to be peeuissh, and refractarie, and selfe-conceited, did thinke hee might haue persisted and died in that peeuisshnesse and refractarie conceit, and supposed that neuer any thing in this world should haue been able to reforme him, may see before his face so illustrious a testimony of his misconceited fancie, and almost vnfatisfiable vndutifulnesse, that vnlesse his face be hardened and his heart obdurate against both heauen and earth, he must cease to be peruerse. God is the God of truth; and he who is the protectour of innocency in the poorest, will certainly be the maintainer and defender of integritie and sinceritie in his noblest and dearest seruant. It is fit that he should haue his owne will, to put off and prolong his mercies till the time which seemeth good to himselfe, that men may wait vpon him, and patiently expect, and still tarie the Lords leifure: yea, that his power may be knowen, who can bring light out of darknesse, an good out of euill, and truth out of treafon; who can giue hope beyond hope. But when hee is once resolued that things acted in secret shall be preached vpon the house top, that iniquitie shall be opened, that simplicitie shall be cleared, and innocencie disburdened of scandalous imputations, if men would not speake, or children found out the trueth in the streets, ² yet the verie stones shall crie, as our Sauour once answered to the

¹ Apoc. xxii. 11.² Luc. xix. 40.

Aug. 1608. maligning Pharisees. Blessed be the God of iustice, who cleareth vp the fame of his holy ones, when malice would obscure it.

Lastly, heere may be a warning to men of mine own profession, I meane the Ministers of the Gospell, that in cases of highest nature between a King and his rebell, they conceiue not things to the woorst, and (because they will be opposite to him whom most of all they should honor) by buzzings and whisperings, and secret suggestions, without all ground of trueth, labour to sow sedition in the eares of women and children, or in the mindes of men either weake or ill disposed.¹ For as the² lips of the Priest should alwayes preferue knowledge, so should they preferue trueth. And we are to go before our flocks and congregations, in obedience and obsequiousnesse vnto the Christian Magistrate, not in sowing sedition, or making of mutinies, to the disturbance of the State. Who should sticke closer to Moyse, welding so huge a charge, than Aaron and his tribe? And who should rather labour to doe his Prince all right, than the Minister of the Gospell, who, next after teaching men their dutie to God, is made to teach obedience and respectiuenesse vnto Kings? And who more deserueth to be chastised than he, if he wilfully transgresseth?

These things I thought not amisse to obserue to thee, Christian Reader, before thou come to the perusing of this plaine and true narration, touching the examination, arraignment and death of the person here described. God Almightye bleesse the Kings Majestie, grant vnto him many dayes full of pietie and felicitie; and after this mortall life expired, send him an euerlasting crown of glorie, through Iesus Christ our Lord. Amen.

Thine in the Lord,

GEORGE ABBOT.

THE EXAMINATIONS, &c. of GEORGE SPROT, *Notary in Aye-mouth.*



THOUGHT good (gentle Reader) for satisfaction of the true hearted and well-affected subjects to their gracious Souereigne, and closing of the mouthes of his malicious enemies, to spend a little time in discourse of a strange and almost miraculous accident, that fell out of late, anent the revealing of the practises of GOWREIS treasonable CONSPIRACIE, intended against his Highnesse royall person. Which purpose was hidden and concealed, vntill the time it pleased God to moue one GEORGE SPROT (who was priue thereto) to manifest and confesse the same, as by this that followeth may appeare.

This Sprot, after diuers examinations, being moued with remorse of conscience, for the long concealing of the fore-knowledge of this treasonable conspiracie, confesseth, declareth and deponeth, with the perill of his own life, That he knew perfectly, that ROBERT LOGANE, late OF RESTALRIG, was priue and vpon the foreknowledge of Gowreis treasonable conspiracie. And for the greater assurance of his knowledge, deponeth, That he knew there wer diuers Letters interchanged betwixt them, anent the treasonable purpose aforefayd, in the beginning of the moneth of Iuly, 1600. Which Letters James Bour, called Laird Bour, seruitor to Restalrig, (who was employed mediatour betwixt them, and priuy to all that errand) had in keeping, and shewed the same to Sprot, in the place of Fast-Castle. The first of Gowreis Letters, containing in effect, as followeth:

GOOD LAIRD OF RESTALRIG,

YOU vnderstand what conditions should haue beene betwixt vs, ofbefoir. Indeed, I purposed to haue come by your house; but vnderstanding of your absence in Lothiane, I came not. Alwayes, I wish you either your selfe to come West, or els to send some sure messenger, who may conferre with mee, anent the purpose you know. But rather would I wish your selfe to come, not only for that errand, but for some other thing that I haue to aduise with you.

¹ This is an evident allusion to the blind obstinacy of Mr Robert Bruce.

² Mal. ii. 7.

To the which Letter Restalrig wrote an answer, and sent the same to the Earle of Gowrie, by the Aug. 1608. said James Bour, of the tenure following: [The Letter is here inserted.¹]

Which letter, written every word with Restalrigs owne hand, was subscribed by him after his accustomed maner, 'Restalrig:' And was sent to the Earle Gowrie by the sayd James Bour. After whose returne within five dayes, with a new letter from Gowrie, he stayed all night with Restalrig in Gunnes-greene:² and Restalrig rode to Lothiane, the morne thereafter; where he stayed five or six dayes. Then, after his returning, past to Fast-Castle; where he remained a certeine short space. And farther deponeth, that he saw and heard Restalrig reade the last letter, which Bour brought backe to him from Gowrie, and their conference thereanent. And heard Bour say, 'Sir, if ye thinke to make any comeditie by this dealing, lay your hand to your heart.' And Restalrig answered, that he would do as he thought best. And farther sayd to Bour, 'Howbeit he should sell all his owne land that he had in the world, he would passe thorow with the Earle of Gowrie; for that matter would giue him greater contentment, nor if he had the whole kingdome: and rather or hee should falsifie his promise, and recall his vow that hee had vowed to the Earle of Gowrie, hee should spend all that hee had in the world, and hazard his life with his Lordship.' To whom Bour answered: 'You may doe as you please, Sir, but it is not my counsell, that you should be so fudden, in that other matter. But for the condition of Dirlton, I would like very well of it.' To whom Restalrig answered, 'Content your selfe, I am at my wits end.' And farther Sprot deponeth, that he entred him selfe, there-after, in conference with Bour, and demanded, 'what was done betwixt the Laird and the Earle of Gowrie?' And Bour answered, 'that hee beleued that the Laird should get Dirlton, without either golde or siluer; but feared that it should be as deare vnto him.' And Sprot inquiring 'how that could be?' Bour sayd, 'They had another pie in hand nor the felling of any land:' But prayed Sprot, for God's sake, that hee would let be, and not trouble himselfe with the Laird's bufinesse; for he feared, within few dayes, the Laird would either be landlesse or lifelesse. And the said George Sprot being demanded, 'If this his deposition was true, as he would answer vpoun the saluation and condemnation of his foule; and if hee will go to death with it, seeing he knoweth the time and the houre of his death to approch very neere?' Deponeth for answer, that hee hath not a desire to liue; and that he knowes the time to be short, hauing care of no earthly thing, but only for clearing of his conscience, in the truth of all these things, to his owne shame before the world, and to the honour of God, and safetie of his owne foule; that all the former points and circumstances contained in this his deposition, with the deposition made by him the fift day of Iuly last, and the whole remanent depositions made by him sen that day, are true; which hee will take on his conscience, and as hee hopeth to be faued of God, and that he would seale the same with his blood. And farther, being demanded where this aboue written letter, written by Restalrig to the Earle of Gowrie, which was returned againe by James Bour, is now? Deponeth, that hee abstracted it quietly from Bour, in looking ouer and reading Bours letters, which he had in keeping of Restalrigs; and that he left the aboue written letter in his chest among his writings, when hee was taken and brought away, and that it is clofed and folded within a piece of paper.

This foresaid deposition was made by him the tenth of August 1608, written by James Primerose, Clerke of his Maiesties Priuie Counsell, and subscribed with the sayd George Sprot's owne hand, in the presence of the Earle of Dunbar, the Earle of Lothiane, the Bishop of Rosse, the L. Schune, the L. Halyrudehoufe, the L. Blantyre, Sir William Hart, his Maiesties Iustice, Mr John Hall, Mr Patrick Galloway, Mr Peter Hewart, Ministers of the Kirkes of Edenborough. Subscribed with all their hands.

And also, the eleuenth day of the foresaid moneth and yeere, the said George Sprot being re-examined, in the presence of a number of the Counsell and Ministers aforesaid, and it being declared to

¹ As the Letters are inserted at length, from the Originals, preserved in the General Register House, Edinburgh, it has been thought unnecessary to reprint them here, in abstract. ² A house of Restalrig's.

Aug. 1608. him, that the time of his death now verie neere approached, and that therefore they desired him to cleere his conscience with an vpright declaration of the trueth; and that he would not abuse the holy name of God, to make him, as it were, a witnesse to vntrueths: and specially, being desired that he would not take vpon him the innocent blood of any person, dead or quick, by making and forging lies and vntruths against them: Deponeth, that he acknowledgeth his grieuous offences to God (who hath made him a reasonable creature) in abusing his holy name with many vntrueths, sen the beginning of this proceffe: but now being resolved to die, and attending the houre and time when it shall please God to call him, he deponeth, with many attestations, and as he wisheth to be participant of the kingdome of heauen, where he may be countable and answerable, upon the saluation and condemnation of his soule, for all his doings and speeches in this earth; that all that he hath deponed sen the fifth day of Iuly last, in all his feuerall depositions, were true, in euery point and circumstance of the same; and that there is no vntrueth in any point thereof. And hauing desired Mr Patricke Galoway to make a prayer, whereby he might be comforted now in his trouble; which was done: The said deponer, with many teares, after the prayer, affirmed this his deposition to be true: and for the confirmation thereof, declared, that he would seale the same with his blood.

And the next day thereafter, being the twelfth of the foresaid moneth of August, the said George was brought forth and presented in iudgment vpon pannell, within the Towlebewth of Edenborough, before Sir William Hart of Preston, his Maiestis Iustice; and there, in a fenced Court holden by him that day, assisted by the honourable persons following, his Assessors in that errand: They are to say,

Alexander Earle of Dumfermling,	Dauid Earle of Crawford,	Michael L. Burley,
L. Chancellor,	Marke Earle of Lothiane,	Sir Richard Cokburne of Clark-
George Earle of Dunbar, Treasur-	John L. Abernethy of Saltoun,	intoun, Knight,
urer,	James L. of Balmerinoth, Secre-	Mr Iohn Preston of Fenton Barnes,
John Archbishop of Glascow,	tarie,	Collector Generall,
Dauid Bishop of Rosse,	Walter L. Blantyre,	Sir Iohn Skeyne of Currhill,
Gawin Bishop of Galloway,	Iohn L. Halrudehouse,	Knight, Clerke of Register;
Andrew Bishop of Brechine,		

was delated, accused, and pursued by Sir Thomas Hamilton of Binning, Knight, Aduocate to our Souereigne Lord, for his Highnesse Entries, of the crimes contained in his Inditement, produced by the said Aduocate; whereof the tenure followeth. [Here follow the Dittay and proceedings in the Court of Justiciary, in terms similar to those recorded in the Books of Adjournal.]

The doome being pronounced, the said George was conuoyed to a priuie house; where he remained at his secret meditation, and afterwards in conference with the Ministers and others, vnto the time all things was provided necessarie for his execution: and being brought to the place where he was to die, he, in publike audience of the whole people, at the three sides of the scaffold, ratified the former depositions made by him concerning the treasonable practices intended and deuised betwixt Gowrie and Restalrig, for the murdering of our most gracious Souereigne, and bereauing his Highnesse of his life, and his owne knowledge and concealing of their guiltinesse. [Here a copy of Sprot's Confession is inserted. See a correct transcript of this extraordinary paper, p. 260.]

By this Narration aforegoing, each man may learne, that the contriuing and plotting of treason against Kings and Princes, is a thing odious in the sight of God, and therefore ordinarily is disclosed by him, at first or at last, by one meanes or another: and that it is not good to conceale any such Conspiracie intended byemie or friend, because the life and safetie of a Christian King, who is the common Father of the Countrey, ought to be dearer to all good men, than the lone or acquaintance of any whatsoeuer: who howbeit hee make shew of manie faire things in him, yet in this alone, That hee purposed euill against the Lords Anointed, sufficiently declareth himselfe to be of a rebellious and

vagodyly disposition. And how wofull the fruit is either of such traitourous resolutions, or of the concealing of them, may be seene (as in a glaffe) both in the fudden end of the Earle Gowrie, and in the execution of this George Sprot with more deliberation. Aug. 1608.

(4.) NARRATIVE OF SPROTT'S EXECUTION, &c.

[IN the course of pursuing the researches necessary to be made, owing to the task which the Editor had imposed upon himself, of collecting such original and authentic information, bearing upon all the facts connected with Gowrie's Conspiracy, as could now be procured, he discovered the following curious fragment, among the voluminous MS. Collections of Wodrow, preserved in the Library of the Faculty of Advocates, in an anonymous MS. marked 'Hist. of Church of Scotland.' Rob. III. 2, 9. It is evidently written by some person who entertained ideas unfavourable to the reality of the Conspiracy; but, notwithstanding the turn he attempts to give to the declarations of Sprott, and certain gratuitous assertions occasionally introduced by him, on the whole, it unquestionably establishes the author's belief of the veracity of Sprott, and the truth of his dying Confessions; and being written by a professed partisan of the family of Gowrie, this paper becomes more important than had it contained a fulsome detail, and concluded with a panegyric on the King.]

UPOUN the xij day of August 1608, thair wes ane man hangit at the Croce of Edinburgh, for conceiling of the Treffoun committit be the vmq^{te} Erle of Gowrie, in maner aforwrittin. The manis name wes callit George Sprott, nottar in Eymouth. The maner of his reueiling of the said Treffoun, wes in this forme. The said George wes apprehendit in the moneth of Aprile, or thairby, 1608, vpoun sum informatioun that he had maid of the said Treassoun of before: And being brocht to Edinburgh, and thairefter examinat be the Lordis of Secrete Counfall, thair wer productit Letteris quhilkis wer fund in his hous, writtin be the vmq^{te} Laird of Restalrig that laft deceffit, ane godles drunken deboschit man in his tyme, direct to certane personis, quhais names culd not be maid knawin, feing the Letteris were not direct on the bak; making mentioun of the proceeding of the said Erle of Gowreis Treffoun, and about sum meiting thairanent, to have bene betuix the Erle and his brother and the said Laird of Restalrig, in his hous of Fafcastell: And being particularlie examinat, he clerit many thingis to the Counfall, and caufit findrie men of rank to be suspectit. And to the effect he micht the better declare the mater, he reffaut sum choppis (*strokes*) in the buittis, and abyding, that thay Letteris wer writtin be the Laird of Restalrig, and be his Depositionis that he had deponit. It wes thocht very strange be mony, that the Erle of Gowry and his brother fuld have communicate sic ane hich turne, to the knowledge of sic ane deboschit drunken man as the Laird of Restalrig; and yit, all that saw the writtis and knew the Laird of Restalrigis handwritt, affirmit it wes the same. And thairefter, the said George being vrgit to depone quhat forder he knew in the said mater, to the forder satisfacioun of the Counfall, and being buittit to that effect, he than with grite and solemne aithis declairit that all wes fals that he had writtin or said in the said mater; and willit thame that wer his auditouris, that gif euir at ony tyme thairefter he fuld say or write

Aug. 1608. vtherwayis, that thair fuld be na credit gevin thairto.¹ And sua, the mater lying over till my Lord of Dumbaris cuming into this cuntrey, he than caufit tak the said George Sprot furth of waird, and caufit cure his leggis, quhilkis wer very ewill woundit with the buittis ; and thairefter caufit present him before the Counfall ; quhan he ratifeit all that euir he had said first in the said mater, and declairit, that albeit the Letteris wer writtin and deuyfit be him self,² yit the subiect quhairupoun he wrait thame wes trew ; and declairit that he wes preuy to the knowlege of the said Tressoun, and dilatit all the particular circumstances of his knowlege. And thairefter, vpoun the day foirsaid, being put to the knowlege of ane Assyse, he planelie confessit him self to haue bene preuy to the knowlege of the said Tressoun, and that thairfore, he deseruit maist worthelie to die. And thaireftir, being brocht to the place of execution, quhair thair wes present with him findrie of the Counfall and findrie of the Ministrie, with grite nowmer of people ; and being posfit, as he sould be partaker of lyf eternall, that he sould declare the veritie, maist planlie confessit, that he had nather promise of lyf, nather rewaird to his wyf and bairns efter his deceas, nor ony vther thing that movit him, bot simple the grudge of his awin conscience. And sua, declairit that quhat he had deponit in the said mater wes trew ; and that he wes preuy to the knowlege of the said Treassoun, and cravit God pardoun thairfore ; and besocht the pepill to pray for him ; and sua deit very penitent. And thairefter, his body wes brokin and quarterit, and his heid putt vp befyd the Erle of Gowreis.

No. XV.

Forfeiture for High Treason—Gowrie's Conspiracy.

ROBERT LOGAN, eldest sone to vmq¹ ROBERT LOGANE of RESTALRIG.

[It is not the purpose of the Editor, here, to enter into any vindication of the conduct of the Lord High Commissioner and the Parliament of Scotland, for their insisting so rigidly on the Forfeiture of the heir of the deceased traitor Restalrig. Such were then considered to be the Laws of this country, in

¹ It seems clear, that this retraction of his former voluntary Confessions, was only extorted from Sprott by the extremity of the torture suffered by him in 'the buittis.' For no sooner is he rid of them, and patiently examined on oath before the Privy Council, than he explicitly declares the truth of his previous Declarations ; and these he, with unswerving confidence, continued to repeat, until the moment of his death. The administration of the torture to this person to so exquisite a degree (however reprehensible the practice unquestionably was), proves the extreme anxiety of his examiners to draw out *the truth* from this person, even though this should be to the discredit of the King's repeated attestations. Their integrity, therefore, is deserving of the highest praise—for had they been acting as mere time-servers, it would have been enough for them to have encouraged Sprott in his repeated asseverations.

² This assertion is entirely gratuitous on the part of the anonymous writer, and is disproved by the Declarations, so fervently emitted by Sprott, as a dying man, attested by many respectable and unexceptionable witnesses, such as Archbishop Spottiswood, several members of the Privy Council of Scotland, the Ministers of Edinburgh, the Bishop of Galloway, and the Bailies of Edinburgh, &c. In addition to this, the testimony of such a host of witnesses, at the Forfeiture of Logan of Restalrig, proves the authenticity of these Letters beyond the shadow of a doubt ; if any effect is to be given to human testimony, in such a matter.

aggravated cases of High Treason ; and it is by no means unnatural that this Parliament should have pressed for their most rigorous enforcement, immediately after the occurrence of so unexpected a discovery. The extraordinary disclosures of the real facts and circumstances attending the origin and progress of the Conspiracy, which had been so long concealed by Spratt, and his unswerving adherence to his Confessions, had an irresistible effect upon the opinions of such portions of the community, as had, till then, remained in their incredulity. These doubts unquestionably originated with the perverse conduct of Mr Robert Bruce, whose talents and integrity were universally respected by the Presbyterian party, and had placed him in the situation of leader and organ of that body. The injudicious attempts which were made by the King and Council, to concuss him into a public profession of implicit reliance on every item of 'the Account published by authority,' and to force upon him, not only the subscription of a certain *formula*, but besides publicly to recite this paper, and to preach upon the subject, in the exact terms pointed out to him, from the pulpit all over the kingdom, tended much to rouse the suspicions of the doubting. His stubborn and bold spirit, which had in it much of the intrepidity of John Knox, could by no means brook such indignity, and accordingly he went into the banishment which was awarded him. The particulars of his extraordinary correspondence, and the conferences he had with the King, shall be given in the present Collection.

One remarkable circumstance attended these Cases of Logan and Gowrie.¹ The dead bodies of the traitors were actually produced in Court ; and, in the latter case, sentence was pronounced against the corpses of the Earl of Gowrie and Mr Alexander Ruthven. In Logan's case, his bones, which had been buried for several years, were dug up and produced at the bar ; but no warrant for burning or public exposure is contained in the doom of Forfeiture ; and the Editor does not find that such was resorted to, although the matter excited the strongest feelings and the utmost detestation of his memory. On this subject, it may be interesting to many, to notice some illustrations of so extraordinary a subject.

Sir George Mackenzie, in his Treatise on the Criminal Law, B. 1, Title 6, § 22, says, 'Albeit the bones of the defunct traitor are ordinarily taken up and brought to the pannel, in pursuits of this nature, as was done in the forfeiture of the Laird of Restalrig, yet this is not necessary.' Lord Hailes, in an interleaved copy of the Earl of Cromarty's Account of the Conspiracy, remarks, 'He is certainly in the right ; for the bones of a traitor can neither plead defences, nor cross-question witnesses ; and upon this matter, there is no difference whether the accused person be absent in body or present in bones !' *Paulus Jovius*, in the History of his own Times, vol. i. Lib. 2, p. 50, Edit. Venetiis, 1553, notices a similar instance. 'Innocentium namque Catiam Opicini propinquum Ludovicus Sfortia aliquot antè annis facto functum, objectis quibusdam criminibus, è sepulchro in jus vocari damnarique jusserrat, ut bona illius veluti convicta judicio per leges fisco addicarentur. Quod sicuti inauditum et execrabile visum est, ita illi singularem invidiam concitavit.' *Bishop Guthrie* also in his Memoirs, Glasg. 1747, p. 250, mentions, in the case of Archibald Lord Napier, 'The Committee resolved to raise his bones, and pass a sentence of forfeiture thereupon : And for that end, Letters were raised and ordained to be executed at the pier and shore of Leith against Archibald Lord Napier his son, then under exile, for his loyalty, to appear upon sixty days' warning, and to hear and see the same done. And when his friends were startled at the noise of it, and made enquiry what was meant by it ? They found it was only to draw money from the present Lord Napier, for the use of some sycophants that expected it : And so, they advanced five thousand merks to that end ; and thereupon the intended forfeiture was discharged.' See also *Limborch, Historia Inquisitionis*, lib. 4, c. 8, pp. 357, 363.

¹ See also the case of Francis Mowbray, Jan. 31, 1603 ; who, in his attempt to escape from the Castle of Edinburgh, (where he had been confined on a charge of High Treason,) by means of cutting his blankets and letting himself down from his window, fell, and expired in a few hours. His body was brought to the bar, before an Assize ; and ordered to be gibbeted, drawn, and quartered, &c. The case of the Archbishop of Spalato, 1624, *Somers's State Tracts*, vol. ii. p. 30, may likewise be referred to, as illustrative of this practice.

June, 1609. *Sententie Tholosanae*, pp. 162, 167, 248, &c.—‘ Accusati post sepulturam, decretumque ut more majorum punirentur.’—*Tacit. Annal.* 15.—‘ Cum accusatores ac testes perorarent, respondente nullo, miseratio quam invidiaangebatur.’—*Tacit. Annal.* 3.

The first recorded instances, in Scotland, occurred in the reign of King James V., viz. the case of Robert Leslie, and that of James Colvile of East Wemyss, Dec. 4, 1540, which were continued from time to time to 1542; when by Act of Parl. cap. 13, it was declared, that all such actions, in future, against the heirs of deceased Traitors, must be led within *five years* after the decease of ‘pame pat notourlie committis or fall committ crimes of Leife-maieftie aganis pe Kingis perfoune, aganis pe realme for evertioune of pe famin, and aganis paim pat fall happin to betraife pe Kingis army, alanelie.’—*Acta Parl.* vol. ii. p. 415. The practice was founded on the Civil Law, *Corpus Sur. Civ. Dig. ad L. Juliam Maj. L. ult.*—It is only necessary, in farther illustration, to refer to our learned Commentator on the Criminal Law, *Hume on Punishment for Crimes*, vol. ii. p. 458; *Mackenzie on Crimes*, p. 29, No. 22; and *Mack. Obs. on Stat.* pp. 136-7.

As will be seen by the Warrant inserted at the end of these proceedings, the Lord Advocate was directed, by the Privy Council, to prepare the summons against Logan’s representative, and to insist in its pursuit, after thoroughly investigating Sprott’s Conviction and Confessions, and examining the witnesses, whose depositions follow. Sir Thomas Hamilton’s Report to his Majesty has been recovered among the Denmylne Papers, and is also appended. It need hardly be remarked, it is a most important and interesting document.]

(Jun. 24.)—SIR THOMAS HAMYLTON of Bynnie knycht, Aduocat to oure souerane lord, producit in prefens of the noble and michtie lord, the Erle Marfchaill Commiffionar and in prefens of the hail Eftaittis, lyk as [he] did diuerse tymes of befoir, ane Summondis of Treaffoun, raifit and persewit be oure said souerane lord, and be the said Aduocat aganis Robert Logane eldest sone to vnq^{le} Robert Logane of Restalrig and his tutouris and curatouris, gif he ony hes, and all vtheris haveand or pretendand to haue interes in the said mater, for thair intereffe; to haue answerit to the said summondis, and to the crymes of Treaffoun and Lefe-ma^{tie} contenit thairintill: The quhilk summondis and reffones and causses thairin contenit, being first red in prefens of the lordis of Articlis of this present Parliament, they fand the samyn summondis relevant: And thaireftir this instant day, the famin summondis of Treaffoun and reffones and causses thairin contenit being red, in prefens of the said Lord Commiffionar and of the hail Eftaittis of Parliament, the said Robert Logane eldest sone to the said vnq^{le} Robert Logane of Restalrig and his tutouris and curatouris, and all vtheris haveand or pretendand to haue interes, being thryse callit at the tolbutth window, to haue answerit to the said summondis of Treaffoun, and comperit nocht, the saidis hail Eftaittis fand the said Summondis of Treaffoun raifit be our said souerane lord and his hienes Aduocat aganis the said Robert Logane and his foirsaidis, and the reffoun and cause contenit thairin, maist relevant causses of Treaffoun committit be the said vnq^{le} Robert Logane of Restalrig his father, in his lyftyme: And thairfoir the saidis Eftaittis, all in ane voce, Admittit the famin summondis of Treaffoun, and reffoun and cause of Treaffoun contenit thairin, to the said Aduocat, in oure

fouerane lordis name, his probatioun : Quhairvpoun the said Aduocatt, in name June, 1609. of his hienes, akit actis and Instrumentis.

SUMMONS of Treason and fforfeiture of the Memory and Estates of the deceased ROBERT LOGANE of RESTALRIG.

JACOBUS Dei gratia, Magne Britannie, Francie et Hibernie Rex, fideique defensor: Dilectis nostris Leoni Regi armorum, Merchemount, Ilay, Ros, Rothefay, Albanie et Snawdoun, herauldis; Daudi Bryfoun, Alexandro Dowglas, Jacobo Chalmer et Magistro Willelmo Stewart, clavigeris; Ormount, Bate, Vnicorne, Carrik, signiferis, nuncijs, ac eorum cuilibet, coniunctim et diuisim, vicecomitibus nostris in hac parte specialiter constitutis: Salutem. Mandamus vobis et precipimus, quod summoneatis legitime et peremptorie, coram testibus, ROBERTUM LOGANE filium primogenitum et heredem apparentem quondam ROBERTI LOGANE DE RESTALRIG, personaliter, si eius personalem presentiam habere poteritis; sin minus, apud domicilium et locum habitationis sue, necnon dictum Robertum Logane eiusque tutores et curatores, si quos habet, omnesque alios interesse habentes seu pretendentes, per publicationem apud cruce forales burgorum nostrorum de Edinburcht, Hadingtoun, Dunse, Grenlaw, aliaque loca necessaria, ita vt huiusmodi summonitio ad eorum aures et notitiam verisimiliter peruenire possit; ad comparandum coram nobis nostrove Commissionario et Justiciario, ac regni nostri Scotie Ordinibus, in Parlamento nostro apud Edinburgh, vel vbi nos nostrumve Commissionarium ac Justiciarum et dicti regni nostri Ordines pro tempore convenire contigerit, tenendo duodecimo die mensis Aprilis proxime futuri, hora causerum, cum continuatione dierum; ad respondendum nobis seu nostro Justiciario in dicto nostro Parlamento, necnon ad instantiam dilecti et fidelis consiliarij nostri Thome Hammyltoun de Bynnie militis, nostri Aduocati, pro nostro interesse: Et ad videndum et audiendum, per nos aut nostri Commissionarij, Justitarij et trium dicti regni nostri Scotie Statum, decretum et sententiam decerni dictum quondam Robertum Logane de Restalrig, crimina Lesemaieftatis infra scripta in vita sua commississe, eorumque conscium et participem fuisse, eaque approbasse et caelasse: Ideoque Memoriam eius damnari, et bona omnia mobilia et immobilia, jura aliaque omnia ad eum infra dictum nostrum regnum spectantis, nobis confiscari et perpetuo nobiscum modo infra scripto remanere debere; ob causas et rationes sequentes. QUUM enim quondam JOANNES olim COMES DE GOWRIE et quondam MAGISTER ALEXANDER RUTHVENE eius frater, nulla prouocati iniuria, sed multis magnisque devincti nobis beneficijs, in necem nostram, mense Julio aut eo circa, anno Domini millesimo sexcentesimo, ingratis, crudeliter, nefarie, et proditorie Coniurassent; et de asciscendis in sceleris consilium et partem socijs consultantes, neminem ad tam immane nefas aut suscipiendum aut patrandum aptiorem promptioremve dicto quondam Roberto Logane de Restalrig existimarent: Ideoque dictus quondam Joannes olim Comes de Gowrie dictum quondam Magistrum Alexandrum Ruthven suum fratrem ad dictum quondam Robertum Logane de Restalrig misisset, cum vt dicti horreni sceleris consilium et executionis destinatum ordinem ei significaret, tum etiam vt eum hortaretur vt eos consilio et auxilio suo, in tam nefando facinore perpetrando iuuaret; dictus quondam Magister Alexander dictum quondam Robertum Logane de Restalrig, in Vico Canonicorum opportune conveniens, omnem Proditionis seriem ei patefecit, dictusque quondam Robertus Logane pro sua ad scelera omnia naturali et inveterata propensione, adeo gratam sibi eam coniurationem esse declaravit, vt fide data et accepta, crebrisque cum dicto quondam Magistro Alexandro ea de re, in dicto mense Julio, habitis sermonibus, omnem tandem tuto et secreta peragendi criminis ordinem proditorie constituerunt; atque in ea crudeli et scelestissima voluntate, dictus quondam Robertus Logane de Restalrig, non solum pertinaciter et proditorie perseueravit, sed crebris nuntijs Literisque per quondam JACOBUM BOUR de Bourhouse alias *Laird Bour* vocatum ad quondam Comitem de Gowrie missis; quibus dicti quondam Comitibus Literis super ea re acceptis, respondebat dictum quondam Joannem olim Comitem de Gowrie

June, 1609. enixe ad constantiam in prefato scelere prosequendo et perpetrando proditorie hortatus est, arcemque suam de Fastcastell, natura et arte munitissimi, post scelus proditorie peractum, paratum tutumque coniuratis refugium futurum promisit, si tribus aut quatuor socijs comitatus dictus quondam Comes eo se recipere in cymba piscatoria vellet. Et quamvis nomen nostrum et de cæde nostra expressam mentionem in dictis Literis, quondam Robertus Logane, vt in tam sædis proditionibus fieri solet supprefferet; ea tamen adeo dilucide et perspicue habita temporis et circumstantiarum facti in dictis Literis descripti ratione expresse, vt nil clarius manifestiusque esse possit. Cum tandem, quinto die mense Augusto, anno Domini millesimo sexcentesimo, quem cædi nostre diem destinauerunt, dictus quondam Joannes olim Comes de Gowrie misso ad nos Falcolandiam dicto quondam Magistro Alexandro Ruthvene fratre suo, fraudulentè et nefarie nos Pertham pertraxisset, et in secretius cubiculum, exclusis viris nobilibus domesticisque nostris, qui et pauci et inermes, instituta eo die venatione relicta nos eo secuti erant, dictus quondam Magister Alexander duxisset, ibique vim vite nostre proditorie afferre enixe conatus fuisset; Nosque Divino favente Numine, licet et armis et alia omni humana ope destituti, tam atrocem violentiam diu propulsassemus, donec clamore nostro accitis, qui in propinqua Vrbe platea nostrum ex Vrbe exitum operiebantur seruis nostris, Dei mira Providentia, Dominus Joannes Ramsay, (Vicecomes Hadingtonie,) accurrens, et dictum quondam Magistrum Alexandrum nos opprimere conantem cernens, stricto pugione in pectus ipsius addacto, eum fugere coegit; quem Dominus Thomas Erskynne, (Fentonie Vicecomes,) ad auxilium nobis in dicto discrimine ferendum, pro eximia sua in nos fide properans, dictum Magistrum Alexandrum lethalibus vulneribus confecit: Ac dictum quondam Joannem olim Comitem de Gowrie, ad ceptum scelus perficiendum, multis stipatus Coniuratis, ferociter accelerantem, dicti Vicecomites de Hadingtoun et Fentoun prohibere conantes, summoque cum vite sue discrimine, nostrum periculum propulsantes, et vitam nostram honestis vulneribus acceptis protegentes; tandem dictus Vicecomes Hadingtonie dicti quondam Comitum cor, proditionem spirans et sanguinem nostrum avidissime sitiens, ense sua ferociter et feliciter transfixit. Cuius Proditiõnis, quamvis nos dictum quondam Robertum Logane de Restalrig reum esse ignoraremus, ipse tamen sua damnatus conscientia, ac semper timens ne dictus quondam Jacobus Bour, dicte Coniurationis conscius, rem omnem detegeret; sæpius cum dicto Jacobo egit, vt fidem sibi de ea Proditiõne celanda obfringeret; tandemque per dictum quondam Jacobum certior factus quondam Georgium Sprott notarium in Aymouth, tum visis ipsius quondam Roberti ad dictum quondam Comitem de Gowrie ea de re Literis scriptis, apud Gwnifgrene, priusquam clausæ fuissent pluribus diebus ante patratum scelus: Et post detectam Coniurationem (quod dictus quondam Jacobus Bour literarum prorsus ignarus, dicti quondam Georgii opera in legendis scriptis omnibus ad eum missis vel pertinentibus utebatur) quædam etiam dicti quondam Roberti Literas super ea Coniuratione apud dictum Jacobum Bour fortuito vidisse, quare dicto quondam Comite de Gowrie, postquam eas legisset, ad dictum Robertum Logane reportandas, dictus quondam Jacobus Bour retinuerat. Sicque Coniurationis perfectam noticiam habere, eiusdem dictum quondam Robertum conscium esse et participem intelligere, dictus quondam Robertus Logane de Restalrig cum utroque diligentissime egit, multisque unicuique eorum datis muneribus, persuasit vt dictam Proditiõnem pro perpetuo cælerent, obtinuitque vt se vivo nunquam revelaretur: Neque prius horrendum illud dicti Roberti maiestatis crimen detectum fuit, quam dictus quondam Georgius Sprott, Divino vt apparuit inspirante numine, ad vindicandam nostram ab improborum calumniis famam, predictam proditoriam Coniurationem, et dicti quondam Roberti Logane eiusdem reatum, multis constantissimis Confessionibus, vltro patefecit; et dicti quondam Roberti Literis quas a dicto quondam Jacobo Bour acceptas prolatis manifestavit; ac constanti, pia et penitenti ob tam horrendum facinus, tam diu cælatum, morte sæliciter confirmavit. Cuius crudelis, nefarij et proditorij facinoris, et Lese maiestatis criminis, dictus quondam Robertus Logane de Restalrig, in vita sua, fuit ars et pars, conscius et particeps: Idque ipsius persuasione, hortatu, consilio et auxilio, susceptum et perpetratum fuit, dictusque quondam Robertus dictum scelestissimum Maiestatis crimen ad mortem et in morte proditorie cælauit: Et PROP-

TERRA, dictus Robertus Logane, filius et heres apparens dicti quondam Roberti de Logane de Restalrig, eiusque tutores et curatores, si quos habet, omnesque alii interesse habentes seu pretendentes, ad videndum et audiendum nomen, Memoriam et dignitatem dicti quondam Roberti Logane de Restalrig extinctum fore et esse decerni, armaque et insignia sua de Libro Armorum et nobilitatis deleri et cancellari, ita ut ipsius posterius ab officiis, honoribus, dignitatibus, terris, tenementis, prediis, redditibus, possessionibus, omnibusque bonis, mobilibus et immobilibus, juribusque et alijs in hoc regno nostro Scotie possidendis et gaudendis, sint inhabiles et incapaces de hinc imperpetuum; atque omnia bona, terras, predia, tenementa, atque alia quecumque bona, mobilia et immobilia, jura aliaque ad dictum quondam Robertum Logane de Restalrig pertinentia, vel que ad illum post initum scelestæ factionis et proditorii criminis supradicti consilium pertinuerunt, spectarunt, vel ad illum villo modo pertinere vel spectare potuerunt, nobis confiscari et ad nos pertinere, et pro perpetuo nobiscum in proprietate remanere: Intimando dicto Roberto Logane filio et heredi apparenti dicti quondam Roberti Logane de Restalrig, eiusque tutoribus et curatoribus, si quos habet, omnibusque alijs interesse habentibus vel pretendentibus, quod siue comparuerint siue non, dictis die et loco, cum continuatione dierum, Nos, dictusque Commissarius et dictus noster Justiciarius dictique regni nostri Scotie Ordines in prefato nostro Parlamento, justitia mediante, procedemus et procedent. **INSUPER** summonetis ad comparendum in dicto Parlamento nostro, dictis die et loco, cum continuatione dierum, coram nobis dicto nostro Justiciario et Commissario ac dicti regni nostri Ordinibus, ad perhibendum fidele testimonium in premissis, sub pena legis: Et vos qui predictas has nostras literas executione mandaueritis, sitis ibidem, portantes vobiscum dicte summonitionis testimonium et ipsos testes. Ad quod faciendum, vobis et vestrum cuilibet, coniunctim et divisim, vicecomitibus nostris in hac parte, nostram plenariam tenore presentium committimus potestatem. Datum sub testimonio nostri Magni Sigilli, apud Edinbur, decimo quinto die mensis Februarij, anno domini millesimo sexcentesimo nono, regnorumque nostrorum annis quadragesimo secundo et sexto.

And immediatlie thaireftir, the said Sir Thomas Hammyltoun of Bynnie kn^t, aduocat to our souerane lord, in his hienes name, for preving of the pointtis of the said summondis and resson and cause of Treassoun and Lesemajestie contenit thairin, Repetit diuerse Missive billis, all writtin and subscryuit be the said vnq^l Laird of Restalrig, all the Depositiones of the witnesses examinat befor the Lordis of Articlis of befor, and befor the Lordis of Secret Counsaill, George Sprottis Depositiones and convictioun, and his executioun to the death for the samin cause of Treassoun of Gowrie; togidder with diuerse wryttis and vtheris probationis, quhilkis were presentlie product befor the saidis Estaittis be the said Lord Aduocat, in our souerane lordis name, for preving of the foirsaid summondis of treassoun, and resson and cause of lesemajestie contenit thairin: Off the quhilkis Missive billis and Depositionis, product be the said Aduocat in oure souerane lordis name, for preving of the said summondis of Treassoun and reassoun thairin contenit, aganis the said Robert Logane and his foirsaidis, the tennouris followes.

LETTERS by ROBERT LOGAN OF RESTALRIG to the EARL OF GOWRIE, &c. relative to the projected CONSPIRACY against THE KING.

[As has formerly been remarked, the ORIGINAL LETTERS of THE LAIRD OF RESTALRIG, with the Examinations of the Witnesses, have been recently discovered among the Warrants of Parliament, &c. preserved in the General Register House, Edinburgh; and the Editor has been thereby enabled to give a faithful transcript of these interesting documents. At the time the Records of Parliament of this period were framed, and for a long time afterwards, it did not seem to be the practice, or to be

June, 1609. considered of any consequence, even in such important cases, to give a *literal transcript*; all that was aimed at, was to give the words employed, generally, without attending, in the slightest degree, to the spelling, &c. So very inaccurately have they hitherto been given in any printed Collection, that they may be said to be now, for the first time, accurately laid before the Public. As an instance of this total disregard of *minutiae*, not *one* of the characteristics of Logan's handwriting have been attended to, even in engrossing the Letters in the Records of Parliament; although they are there so scrupulously examined and detailed by the Witnesses. So extremely dissimilar are they also in other particulars, that they must have been merely read over or dictated to the transcriber, one of the under Clerks of Parliament, who probably had been unable to decipher any part of these remarkable Letters, which are written in a very difficult hand. In consequence of their great importance, a Fac-simile of a portion of Logan's Letters has been given; and a Plate accompanies this Part.]

(1.) LETTER, *Robert Logan of Restalrig to*

RY^T HONORABIL SIR,

MY dewty with fervife remembred. Pleife yow onderftand, my Lo. of Gowry and some vtheris his Lo. frendis and veill villeris, qha tendaris his Lo. better preferment, ar vpoun the refolucion ye knaw, for þe revange of that cawfe; and his Lo. hes vrettin to me anent þat purpofe, qhairto I vill accorde, incafè ye vill ftand to and beir a pairt: And befoir ye refolve, meet me and M. A. R.¹ in the Cannogat on Tyfday the nixt owk, and be alfe var as ye kan. Indeid M. A. R. fpak vith me fowr or fywe dayis fyn, and I hew promifed his Lo. ane anfwar vithin ten dayis at farreft. As for the purpofe, how M. A. R. and I hes fett down the cowrfe, it vill be ane very efy done twrne, and nocht far by that forme, vith the lyke stratagem, qhairto ve had conferenfe in Cap. h.² Bot incafè ye and M. A. R. forgader,³ becawfe he is fomeqhat confety, for Godis faik be very var vith his raklefe toyis⁴ of Padoa; ffor he tald me ane of the ftrangeft taillis of ane nobill man of Padoa that ever I hard in my lyf, refembling þe lyk purpofe. I pray yow, Sir, think na thing althocht this berare onderftand of it, for he is the fpecial fecretair of my lyf; His name is Lard Bower, and vas auld Manderftonis man for deid & lyf, and evin fa now for me. And for my awin part, he fall knaw of all that I do in this varld, falang as ve leif togidder, for I mak him my howfehald man: He is veill vorthy of credit, and recommend him to yow. Alvyfe to the purpofe, I think beft for ovr plat that ve meet all at my howfe of Faftcaftell; ffor I hew concludit v^t M. A. R. how I think it fall be meitteft to be convoyit quyeteft in ane bote, be fey;⁵ at qhilk

¹ Mr Alexander Ruthven. It has been deemed proper to print these Letters, most scrupulously, according to the Originals. ² The Record of Parliament reads this 'B^h h.' ³ Meet together.

⁴ In Parl. Rec. 'to this,' by an absurd blunder of the Clerk of Parliament. ⁵ It is obvious, that it would have been the height of insanity in the brothers and their accomplices to have murdered King James; at all events, to have done it in Gowrie House. Mr Alexander Ruthven merely intimated to the King that he was his prisoner;—and subsequently, when he desired him to permit his hands to be bound, it was probably for the purpose of dragging him down to the river side, after being muffled up; and then to convey him to the boat which they appear to have provided, where he would lie bound, until they could set sail for Faftcastle, on the departure of the King's attendants. The subsequent struggle, and fatal termination of their enterprise, had never been contemplated; for they certainly reckoned on the unshaken fidelity of Andrew Henderson.

tyme vpon fwre adwartifment I fall hew the place very quyett and veill provy- June, 1609.
dit : And as I receve yowr anfwer I vill post this berair to my Lo. And ther-
foir I pray yow, as ye luf yowr awin lyf, becawfe it is nocht ane matter of mowife,¹
be circumfpect in all thingis, and tak na feir bot all fall be veill. I hew na vill
that ather my brother² or yet M. W. R.³ my Lo. auld pedagog knaw ony thing
of the matter, qhill all be done that ve vald hew done ; and than, I cair nocht
qha get vit, that lufis vs. Qhen ye hew red, fend this my letter bak agane vith
pe berar, that I may fe it brunt my felf, for fa is the faffon in fik erandis ; and
if ye please, vryt yowr anfuer on the bak herof, in cafe ye vill tak my vord for
the credit of the berair : And vfe all expedicioun, for the twrne vald nocht be
- lang delayit. Ye knaw the kingis hwnting vill be fchortly, and than fall be
best tyme, as M. A. R. hes affwred me, that my Lo. hes refolved to interpryfe
pat matter. Lwkinge for yowr anfwer, committis yow to Chryftis haly protec-
tioun. Frome Fastcaftell, the awchten day of Julij, 1600.

(Sic fufcribitur) Youris to vtter power redy. RESTALRIGE.

(2.) LETTER, *Robert Logan of Reftalrig to Laird Bower.*

LARD BOWER,

I PRAY yow hafte yow vaft to me abowt the erand I tauld yow, and ve
fall confer at lenth of all thingis. I hew recevit ane new Letter fra my Lo(rd)
of Go(wrie,) concerning the purpofe p^t M. A. his Lo. brothir fpak to me befoir,
and I perfeif I may hew avantage of Dirlton, in cafe his other matter tak effect,
as ve hope it fall. Alvayfe I befeik yow be at me the morne at evin, for I hew
affwred his lo. fervand, p^t I fall fend yow over the vatter vithin thre dayis, vith
ane full refolucion of all my vill, anent all purpofes : As I fall indeid recommend
yow and yowr truftinefs till his lo. as ye fall find an honeft recompense for yowr
panfe in the end. I cair nocht for all the land I hew in this kingdome, in cafe I
get a grip of Dirleton,⁴ for I efteme it the plesantest dwelling in Scotland. For
Goddis cawfe, keip all thingis very fecret, that my lo. my brothir get na know-
lege of ovr purpofes, for I (wald?) rather be eirdit quik.⁵ And fwa lwking for
yow, I ref till meitting. Fra the Kannogait, the xvij day of July.

(Sic fufcribitur) Yowris to power redy. RESTALRIGE.

I am verie ill at eafe and thairfoir fpeid yow hither.

¹ Sport. It is no mummery or child's play. ² See Note to Letter (5.) ³ Mr William Rhynd.
⁴ The estate of Dirleton, in the county of East Lothian, was a very valuable barony, which the fa-
mily of Gowrie acquired by the marriage of William, second Lord Ruthven, to Janet, eldest of the
three heiresses of Patrick Lord Halyburtoun and Dirletoun. Their fon Patrick (the chief instrument
in the murder of Rizzio) was styled 'Lord Ruthven and Dirletoun;' which title continued, till the
extinction of the family. Restalrig seems to have been promised this barony, as a bribe or reward
for his participation in the Conspiracy; and he dwells on the idea with evident delight. ⁵ Bu-
ried alive.

June, 1609.

(3.) LETTER, *Robert Logan of Restalrig to*

RYT HONORABLE SIR,

ALL my hartly dewty v^t humbill fervise remembred. Sen I hew takin on hand to interpryse v^t my lo(rd) of Go(wrie) yowr speciall and only best belowed, as ve hew fet down the platt alreedy, I vill request yow that ye vill be very circumsppek and vyse, p^t na man may get ane avantage of vs. I dowlt nocht bot ye know the perell to be bayth lyf, land and honowr, incafe the mater be nocht vyflie vfed: And for my avin part, I fall hew ane speciall respek to my promise p^t I hew maid till his lo. and M. A. his lo(rdschipis) brother, althocht the skafald ver fet vp. If I kan nocht vin to Fakland pe firft nycht, I fall be tymelie in S^t Johnestoun on the morne. Ineid I lipnit for my lo(rd) him self or ellife M. A. his lo. brother at my howse of Fast(castell), as I vret to thame bayth. Alwyse I repose on yowr advertifment of the precyfe day, v^t credit to the berar; for howbeit he be bot ane silly ald gleyd¹ carle, I vill answer for him p^t he fall be very trew. I pray yow, fir, reid and ather bwrne or fend agane v^t the berare; for I dar hafard my lyf and all I hew ellife in the varld on his message, I hew fik prui of his constant trewth. Sa committis yow to Chryftis holy protec-tioun. Frome the Kannogait, the xxvij day of July, 1600.

(Sic subscribitur) Yowris till all power v^t humbill fervise redy.

RESTALRIGE.

I vse nocht to wrytt on the bak of ony of my letteris concerning this erand.

(4.) LETTER, *Robert Logan of Restalrig to the Earl of Gowrie.*

MY LO.

MY maift humbill dewty v^t fervise in maift hartlie maner remembred. At pe refset of yowr lo(rdschipis) Letter I am so comforted, especially at yowr lo. purpose, communicated onto me thairin, that I kan nather vtter my joy nor find my self habill how to enconter yowr lo. v^t dew thankis. Ineid my lo. at my being last in the town, M. A. yowr lo. brother imperted somqhat of yowr lo(rdschipis) intencioun anent p^t mater onto me; and if I had nocht bein buyed about sum turnis of my avin, I thocht till hew cummit over to S. Jo.² and spokin v^t yowr lo(rdschip.) Yit alwayse my lo., I beseik yowr lo., bayth for pe saiftie of yowr honowr, credit, and mair nor that, yowr lyf, my lyf, and the lyfis of mony vtheris qha may perhapis innocently smart for p^t turne eftirwartis, incafe it be reveilled be ony; and lykwayse, the vtter vraking of owr landis and howfis, and extirpating of owr names, lwke that ve be all alse fwre as yowr lo. and I my self fall be for my avin part, and than I dowlt nocht, bot v^t Godis g(race,) we fall bring our matter till ane fine, qhilk fall bring contentment to vs all that ever vifed for

¹ Squinting.² Saint Johnston (Perth.)

þe revenge of the Maschevalent¹ maffakering of owr deireft frendis. I dowlt nocht June, 1609. bot M. A. yowr lo. brother hes informed yowr lo. quhat cowrfe I layid down, to bring all yowr lo(rdschipis) affociatis to my howfe of Fa(ftcaftell,) be fey, qhair I fuld hew all materiallis in reddynefs for thair faif recayving a land, and into my howfe ; making as it ver bot a maner of paffing time,² in ane bote on þe fey, in this fair fomertye ; and nane other ftrangeris to hant my howfe, qhill ve had concluded on the laying of owr platt, quhilk is alredy devyfed be M. A. and me. And I vald vifs that yowr lo. wald ather come or fend M. A. to me, and thereftir I fowld meit yowr lo. in Leith, or quyetly in Reftal(rig) qhair ve fowld hew prepared ane fyne hattit kit,³ v^t fuccar, comfettis and vyn ; and thereftir confer on matteris. And the foner ve broght owr purpofe to pafs it ver the better, before harweft. Let no^t M. W. R. yowr awld pedagog ken of yowr comming, bot rather vald I, if I durft be fa bald, to intreit yowr lo. anis to come and fe my avin howfe, qhair I hew keipit my lo(rd) Bo(thwell) in his greteft extremityis, fay the K(ing) and his Counfall qhat they vald. And incaife God grant vs ane happy fwccels in this erand, I hope bayth to haif yowr lo. and his lo., v^t mony otheris of yowr loveris and his, at ane gude dyner, before I dy. Alvyfe I hope that the K(ingis) bwk-hunting at Falkland, this yeir, fall prepar fum daynty cheir for ws, aganis that denner the nixt yeir.⁴ *Hoc jocosè*, till animat yowr lo. at this tyme ; bot eftirvartis, ve fall hew bettir occafion to mak mery. I proteft, my lo. before God, I vifs nathing v^t a bettir hart, nor to atchive to that qhilk yowr lo. vald fane atteyn onto ; and my continewall prayer fall tend to that effect ; and v^t the large fpending of my landis, gudis, yea the haferd of my lyf, fall nocht afray me fra that, althocht the fkaffald ver alredy fett vp, before I fowld falify my promeife to yowr lo. and perfwade yowr lo(rdschip) therof. I trow yowr lo. hes ane prufe of my conftancy alredy or now. Bot my lo. qharas yowr lo. defyris, in yowr letter, þ^t I craif my lo. my brotheris mynd anent þis mater, I alvterly difsafent fra that, þ he fowld ever be ane counfalowr therto ; for in gude fayth, he vill newir help his frend nor harme his fo. Yowr lo. may confyde mair in this ald man, the beirer heirof, my man La(ird) Bowr, nor in my brother ; for I lippin my lyf and all I hew elfe in his handis ; and I trow he vald nocht fpair to ryde to Hellis-yet to plefowr me ; and he is nocht begylit of my pairt to him. Alvyfe, my lo. qhan yowr lo. hes red my Letter, delyver it to the berare agane,

¹ Machiavelian, after the cruel policy of Machiavel ; alluding to the beheading of William Earl of Gowrie, May 28, 1584.

² Feigning pastime, or a pleasure sail.

³ Coagulated milk ; prepared, by milking from the cow upon butter milk, kept till it is pretty sour, so sharply, as to form a sort of froth. The mess is made in a particular kind of wooden *bicher* or *kitt*, having a *pin* or plug near the bottom, by which the *whig* or *whey* is allowed to escape, after having stood for several hours. It is also called '*sour cogue*,' and '*Corstorphine cream* ;' and, if properly made, is a very palatable dish, eaten with sugar and cream ; though some prefer it in its sour state, for when fresh, it has a very agreeable acidity.

⁴ At the anniversary dinner, in commemoration of their enterprise.

June, 1609. that I may se it brunt v^t my awin ein ; as I hew sent yowr lo. Letter to yowr lo. agane ; for so is the fassone I grant. And I pray yowr lo. rest fully perfwaded of me and all that I hew promesed ; for I am resolved, howbeit I ver to dy the morne. I man intreit yowr lo. to expedie Bowr, and gif him strait directioun, one payn of his lyf, that he tak never ane vink sleip, qhill he se me agane ; or ellife he vill vtterly vndo vs. I hew alreedy sent ane other Letter to the gentill man yowr lo. kennis, as he berare vill informe yowr lo. of his answer and fordvardnes v^t yowr lo. ; and I fall schaw yowr lo. forder, at meting, qhen and qhair yowr lo. fall think meitteft. To thilk tyme and ever committis yowr lo. to the proteccioun of the Almychtie God. From Gunisgrene,¹ the twenty nynt of Julij, 1600.

(Sic subscribitur) Yowr lo. awin sworne and bund man to obey and serve v^t efauld² and ever redy seruise to his vtter power till his lysis end.

RESTALRIGE.

PRAYIS yowr lo. hald me excused for my vnsemlly Letter, qhilk is nocht sa veil vrettin as mifter³ ver ; ffor I durst nocht let ony of my vryteris ken of it, bot tuke twa fyndry ydill dayis to it my self.

I vill never forgett the gude sporte that M. A. yowr lo. brother tald me of ane nobill man of Padoa, it comis sa oft to my memory. And indeid it is a parastevr⁴ to this purpose ve new in hand.

(5.) LETTER, *Robert Logan of Restalrig to*

RY^T HONORABILL SIR,

MY hartly dewty remembred. Ye knaw I tald yow at owr last meitting in the Cannogat that M. A. R. my lo. of Go(wries) brother had spokin v^t me, anent þ^e matter of owr concludioun ; and for my awin part I fall nocht be hindmest : And senfyne I gat ane Letter frome his lo. selff, for þ^e same purpose ; and upon the ressait therof, onderstanding his lo. franknes and fordvardnes in it, God kennis if my hart vas nocht listit ten stegefs ! I postit this same berare till his lo. to qhome ye may concredit all your hart in þ^e alsveill as I ; for and it ver my very sowll, I durst mak him messinger therof, I hew sic experiance of his trewth, in mony other thingis : He is ane filly ald gleyd carle, bot vunder honest : And as he hes reportit to me his lo. awin answer, I think all matteris fall be concluded at my howse of Fa(ftcastell) ; for I and M. A. R. concluded that ye fowld come v^t him and his lo. and only ane other man v^t yow, being bot only fowr in company, intill ane of the gret fisching botis, be sey, to my howse, qher ye fall land ase faiffly as on Leyth schoir ; and the howse agane his lo. cumming to be quyet : And qhen ye ar abowt half a myll fra schoir, as it ver passing by

¹ A residence of Logan's. as it ought to have been.

² Sincere, hearty ; literally, *one-fold*.

³ Need, *q. d.* so well

⁴ Apropos, in point.

the howfe, to gar fet furth ane vaff.¹ Bott for Godis fek, let nether ony knowlege June, 1609. come to my lo. my brotheris eiris,² nor yit to M. W. R. my lo. auld pedagog ; for my brother is kittill to scho behind,³ and dar nocht interpryse, for feir ; and the other vill diffwade vs fra ovr purpose v^t reffounes of Religion, qhilk I can newer abyd. I think thair is nane of a nobill hart, or caryis ane stomak vorth a penné, bot they vald be glad to fie ane contented revange of Gray Steillis deid ;⁴ And the soner the better, or ellse ve may be marrit and fruftrat ; and therfor, pray his lo(rdship) be qwik, and bid M. A. remember on the sport he tald me of Padoa ; for I think v^t my self that the cogitacion on þ^t fowld stimulat his lo(rdship). And for Godis cawfe vse all your cowrses *cum discrecione*. Fell nocht, fir, to send bak agane this Letter ; for M. A. leirit me þ^t fasson, that I may se it diftroyed myself. Sa till yowr cumming, and ever, committis yow hartely to Christis holy protection. From Gunnisgrene, þe laft of July, 1600.⁵

(6.) THE DEPOSITIONS *of the Witnesses producti.*⁶

(i.) M^R ALEXANDER WATSONE, Minister at Coldinghame, of the aige of l. (fyftie) zeiris, mareit, deponis, the fyve Missiue Letteris subfcryvit be the Lard of Restelrig, and productit in proces be þe lord Aduocat, for preving of the reffoune of Tressoune persewit aganis Robert Logane, sone and apperand air to Robert Logane of Restelrig, being schawn to this deponar ; and he haveing at lenth fichtit and confiderit the samin, Deponis, that he takis vpoun his conscience, that he verelie belewis that the saidis fyve Missiuues, and euerie ane of þame, ar werralie and trewlie writtin be þe said vmqle Robert Logane of Restelrig, with his awin hand : And giffis this reffoun of his knowlege ; that nocht onlie he thinkis that the carecter of euerie letter þairof resemlis perfytlie the said vmq^{le} Robertis hand wryit, euerie way ; bot also aggreis with his fassoun of spelling, quhilk he

¹ A 'waff,' or signal. ² ALEXANDER (fifth) LORD HOME married Agnes, sister of Patrick (sixth) Lord Gray, and widow of Sir Robert Logan of Restalrig. By her, (who afterwards became the wife of Sir Thomas Lyon of Auldbar, Lord High Treasurer of Scotland,) he had one son, Alexander, who became sixth Lord Home, on his father's death, Aug. 11, 1575. This Lord, then, was 'brother' to Logan of Restalrig, writer of this Letter, being the son of Logan's mother ; and it seems most probable that he is the person here meant. He was created Earl of Home and Lord Dunglass, Mar. 4, 1604. See *Douglas's Peerage*, vol. i. p. 736 ; *Crawford's Peerage of Scotland*, p. 222 ; Thomas Crawford's *Notes on Buchanan's History* ; also *Nisbet's Heraldry*, p. 151, quoted there. Sir Henry Nevill to Sir R. Cecyll, 29th Nov. 1599. 'The Lord Hume also, since his coming hither, goeth openly to Mafs.'—*Winwood's Memorials*, vol. i. p. 134. See also p. 156. He was employed on a secret Embassy to Rome in 1599. ³ Cannot be trusted ; an allusion to the hazard of shoeing a treacherous or ill-broken horse, in the hind feet. ⁴ To be revenged for the death of his father, William Earl of Gowrie, who was beheaded May 28, 1584, for his treasonable part in the Raid of Ruthven. He was known, among his contemporaries, by the chivalrous *soubriquet* 'Greysteill,' a hero of popular romance. ⁵ The signature has been purposely torn off. This had been done, probably by Restalrig or by Laird Bower, at all events previously to the production of the Letter in evidence ; as appears by the following memorandum, in the Books of Parliament : 'The subscription is ryvin fra this last Letter.' ⁶ 'APUD ED^B, xx Junij 1609. WITNESSES productit be the Aduocat aganis Robert Logane, sone to the Lard of Restelrige, for cognofching of the Lard of Restelrigis hand wryit and subscription of þe ffyve Missiue Billis productit, all wryttin and subfcryuit be Restelrige.'

June, 1609. hes particularlie remarkit, in euerie ane of the saidis Miffiue Letteris, in thir pointis following: first, that he newir vseit to wrytt ane 'z' in the begynning of ony word, sik as 'zow,' 'zouris,' 'zeild,' 'zea,' and ficlyk; bot ewir wrait 'y' in steid of the said 'z': That he wrait all wordis begynning with 'w' with ane fingill 'v'; and quhan that letter 'v' fell to be in the myddis or end of ane word, he wrait ane doubill 'w': That quhen he wrait 'quhen,' 'quhair,' 'qlk,' or ony sik word, quhilk vsis to be writtin and spellit be vtheris with 'quh,' he wrait onlie 'qh,' 'qhen,' 'qhair,' and ficlyk: Quhaneuir ane word began with 'con,' he newir wrytt 'con' at lenth, bot with ane 'p.' Quhan euir 't' fell to be in the end of ane word, he wraitt it without ane straik throw the 't'; and did be lyk quhan ewir 't' fell in ony pairt of ane word: And, for forther confirmatioune of the premisses, he produceit thrie Letteris, writtin euerie word, and subscryvit be the said vmq^{le} Robert Logane of Restelrig; and comparing pame with the fyve vther Miffiues producit be the Aduocat, shew euidentlie be direct conformitie of the samin, alsweill in the character and trew resemblance of the handwraitt, as in the spelling and wryting of euerie wrytt, fillap, and letter: according to the particularis aboue specifreit.

(Sic subscribitur) M^R ALEX^R WATSONE.

(ii.) M ALEXANDER SMYTHE, Minister at Chyrnesfyde, of the aige of xxx zeiris or thairby, mareit, deponis, that he wes weill acquentit with the vmq^{le} Lard of Restelrig, be reffoun he vas petagog to his barnis; and hes sene werray mony of his handwrittis: And haveing sene, red, and at lenth confiderit the fyve Miffiue Lettres, producit be the Aduocat, and inquirit 'gif he knew the samin to be the Lard of Restelrigis proper hand wryt?' Declairis, vpoun his great aythe, That he certanlie belewis the saidis fyve Letteris, and euerie word thairof, to be the Lard of Restelrigis proper hand wryt; becaus he findis the carrectar pairof to aggrie, euerie vay, with the chap¹ of his ordiner wryting; and remarkit, werray particularlie, the maner of Restelrigis spelling of mony wordis, vtherwayes nor vther men vses commounlie to wryt and spell; according to the hail particularis remarkit ofbefoir be M^r Alex^r Watfoun, be witnes immediatlie preceding: And in these pointis, and all vtheris, is conforme to the said M^r Alex^r Watfonis Depositioune, in all thingis: *Reddens caussum scientie*, becaus he wes perfytlie acquentit with the Lard of Restelrigis hand wryt, in his lyfetyme, and wes petagog to his barnis mony zeiris, and in his companie.

(Sic subscribitur) M^R ALEX^R SMYTH.

(iii.) SIR JOHNNE ARNOTT, Provest of Edinburcht, of the aige of lxx zeiris, or pairby, mareit, deponis, that he wes weill acquentit with Robert Logane of Restelrig, and with his hand wryt; becaus he had ressaute diuersse of his Lettres him self, and sene mony vtheris lettres writtin be him: And the fyve Miffiues producit be the Aduocat, being shawin to him, and he haveing sene and

¹ Shape, structure.

confiderit þe famin, rememberit that he had fene, red and perfittie confiderit the June, 1609.
 famin ofbefoir; and efter gud advyſment, is reſoluit, that the ſaidis fyve Letteris ar als certantlie the Lard of Reſtelrigis hand wryit, as the Letteris writtin be the deponar, at ony time, ar his awin hand wryit: And ſua takis on his conſcience, that the foirſaidis fyve Miſſiue billis, producit be þe Aduocat, ar the proper hand wryit and ſubſcriptioun of the ſaid vmq^{le} Lard of Reſtelrig, be his judgement: And for vereficatioun thairof, hes producit four writtis, all writtin be the ſaid vmq^{le} Lard of Reſtelrig, and ſend to this deponar, and to Archibald Johnſtoun; aggreand perfyttie, in ſpelling and carrecter, with the ſaidis Miſſiues. (Sic ſubſcribitur) S. J. ARNOTE.

(iv.) ALEXANDER CUIK, ſcheref clerk of Bervik, of the age of l (ffyftie) 3eiris or þairby, maryit, deponis, that he wes weill acquentit with the vmq^{le} Lard off Reſtelrig, and hes fene mony and findrie of his writtis, and reſſaut diuerſe of his Lettris, direct to him ſelf: And being deſyrit to fie and confider the fyve Letters producit be the Aduocat, and to declair quhidder he knew and eſtemit the famin to be all written be vmq^{le} the Lard of Reſtelrig; deponis vpon his conſcience, that he belewes and eſtemis the ſaidis haill Lettres to be all writtin be the Lard of Reſtelrig; *reddens cauſſam ſcientie*, becaus nocht onlie the carrecter aggreis euerie vay with the chap of Reſtelrigis hand wryit, bot alſo the ſpelling, in mony particularis, quhairin Reſtelrig differrit frome vþer menis forme of wryting; and in the particularis thairof, deponis conformis to the twa firſt witneſſes, the Miniſteris of Coldinghame and Chyrneſyde, *reddens eandem cauſſam ſcientie*. (Sic ſubſcribitur) ALEX^R CUIK.

(v.) WILLIAME HOME in Aytoun-Mylne, of the aige of xxxiiij 3eiris or þairby, maryit, deponis that all the fyve Miſſiuis abonevrittin, being ſhawin to this deponar, and haveing at lenth confiderit euerie ane of thame, takis vpoun his conſcience, that, to his knowlege, that the ſaidis fyve Miſſiue Lettres ar all writtin and ſubſcryvit be the vmq^{le} Lard of Reſtelrig; for þe ſpeciall reſſonis contenit in the Depoſitionis maid be M^r Alex^r Watſoun, M^r Alex^r Smyth, Miniſteris, and Alex^r Cuik, ſcheref clerk of Bervik; to quhome he is conforme in all thingis, *reddens eandem cauſſam ſcientie*. (Sic ſubſcribitur) WILLIAME HOME.

(vi.) JOHNE HORNE, notar in Aymouthe, of the aige of xliij 3eiris or þairby, *ſolutus*, deponis, the foirſaidis fyve Miſſiue billis, being at lenth ſichtit and confiderit be this deponar; declairis vpoun his conſcience, to his knowlege, all the ſaidis fyve Miſſiues ar the Lard of Reſtelrigis proper hand wryittis and ſubſcriptioun; for the reſſones abone vritten, in the depoſitioun of Williame Home, *reddens eandem cauſſam ſcientie*. (Sic ſubſcribitur) J. HORNE.

(vii.) M^r WILLIAM HOG Miniſter at Aytoun, of the aige of xxx 3eiris or þairby, mareit, deponis, that he knew weill the Lard of Reſtelrig, and hes ſome

June, 1609. of his writtis ; and producit ane Letter, writtin be Restelrig to the Lard of Aytoune, all writtin with Restelrigis awin hand wryit : And haveing confiderit the fyve writtis producit be the aduocat, declaris, that he thinkis þame lyklye to his wryittis, and þat the famin appeiris to be verie lyk his wryitte, be the conformitie of letteris and spelling.

Sic subscribitur)

M^r W^m HOGG.

AL. CANCELLS.

[GEORGE SPROTT'S CONFESSION follow here. See p. 260.]

The quhilkis Miffive Billis, and haill Depofitiounes abone writtin, and vtheris wryttis¹ and probatiounes producit now presentlie be the said lord aduocat, he repetit, for preving of the said Summondis of Treassoun and cause pairin contenit ; and renuncit forder probatioun : And thairvpoun the said Aduocat askit Instrumentis. And lykwayes the said lord Aduocat producit, in presens of the said Commiffionar and haill Estaittis of Parliament, oure souerane lordis Lettres of Relaxatioun, berand the said Robert Logane eldest sone to the said Robert Logane sumtyme of Restalrig, to be relaxit be Robert Logane messinger, fra the proces of all Horningis, at the marcat croces of Hadington, Dunse and Grenelaw, vpoun the sevint and aucht dayes of Aprile respectiue 1609 zeiris ; and at the marcatt croce of Edinburgh, be Johne Moncur messinger, vpoun the ellevint day of Aprile, the yeir of God foirfaid ; as at mair lenth is contenit in the saidis Lettres of Relaxatioun, of the date the sext day of Marche last bipast, and registrat in the Clerk of Registeris buik, the ellevint day of Aprile 1609 yeiris : Vpoun the production of the quhilkes Lettres of Relaxatioun, the said Aduocat lykwayes askit instrumentis : And defyrit the haill Estaittis to confider of the saidis probationes producit and repetit be him, and to advise the said proces of Foirfaltour, and to gif furth thair decreitt thairintill, according thairto.

And siclyk, the said Sir Thomas Hammyltoun of Bynnie kny^t his heines Aduocat, eftir that he had repetit and producit all his probationis to the saidis haill Estaittis, quhilkis he wald vse for preving of the pointis of the said summondis, and reffones and causses thairin contenit, he reproducit the said summondis of Treassoun befor the saidis haill Estaittis, raifit and persewit at the instance of oure said souerane lord and his heines Aduocatt aganis the said Robert Logane and his tutouris and Curatouris, and all vtheris haveand or pretendand to haue interes, quhairby they wer summonit to compeir befor oure souerane lord and his Estaittis of Parliament at ane certane day bigane, with continewatioun of dayes, to haue hard and sene it be fundin, that the said vmq^{le} Robert Logane of Restalrig committit Treassoun and Lesemajestie, in his lyfetye ; and to heir and fie his fame, name and posteritie abolis hit ; and to haue ansuerit to the haill pointis and crymes of Treassoun and Lesemajestie contenit in the said summondis.

¹ The foregoing Deposition and Confession of George Sprott is engrossed in the Record, immediately after the testimony of the Witnesses, who proved Logan's handwriting. See No. X. (3.)

The quhilk Summondis, with the executionis and indorfatiounis thairof, being June, 1609. this instant day red, in presens of his Maiesteis Commiffionar and Estaittis of Parliament, first in Latine and thaireftir in Scottis; the said Robert Logane, being oftymes callit of new at the tolbut window of the said bur^t of Edinbur^t, to haue comperit and answerit to the said summondis of Treassoun and reffones and causses thairin contenit; and he nocht comperand to haue defendit in the said matter, and to haue anfuerit to the said summondis, the said Sir Thomas Hammyltoun of Bynnie kny^t aduocat to oure souerane lord, desyrit the saidis Estaittis declaratioun, gif the reffones of the said summondis wer relevant: The quhilkis Estaittis ffind the said summondis, and reffone and cause thairin contenit relevant, &c. And thaireftir, the haill Depositiounes of the Witnesses, Missive billis, and haill wryttis and probatiounis, being red, sene and confiderit be the foirsaidis haill Estaittis of Parliament, and they thairwith being ryplie advyfit, the said Lord Commiffionar and Estaittis of Parliament ffindis, decernis and declairis, that the said vmq^{le} Robert Logane of Restalrig committit and did, in his lyfetye, oppin and manifest Treassoun, in all the pointis, articlis and maner, contenit in the said summondis: And thairfor, it wes gevin for Dome, be the mouth of Dauid Lyndesay dempster of Parliament, in maner and forme as followes.

DOME OF FORFEITURE. This Courte of Parliament schawis for law, that the said vmq^{le} Robert Logane of Restalrig; in his lyfetye, committit the foirsaid cryme of Treassoun and Lesemajestie; and that he wes airt and pairt, giltie and pairtaker thairof, aganis oure said souerane lord and his authoritie royall; and that the foirsaidis cruell, wicked and treassounable crymes were interpryfit be his causing, persuaasoun, counsaill and help; lykas, the said vmq^{le} Robert Logane of Restalrig treassounable conceillit the foirsaid cryme of Lesemajestie, to his death, and in his death; in all maner at lenth contenit in the said summondis: And thairfor, Decernis and Declairis the name, memory and dignitie of the said vmq^{le} Robert Logane of Restalrig to be extinct and abolisheit, and his armes cancellat, rivine and deleitt furth of the buikis of Armes and nobilitie; sua that his posteritie fall be excludit, and be vnhable to posses or inioy ony offices, honouris, digniteis, landis, tenementis, rowmes, rentis, possessionis or gudis moveable or vnmoveable, richtis and vtheris quhatfumeuir within this kingdome, in all tyme cumming: And that all the saidis gudis, landis, rowmes, tenementis and vtheris gudis, moveable and vnmoveable, richtis and vtheris quhatfumeuir, pertening to the said vmq^{le} Robert Logane of Restalrig, or quhilkis nicht onyways haue pertentit to him at ony tyme, sen his Conspyring of the saidis treassounable crymes, to be escheat and foirfaltit to our said souerane lord, to appertene and to remane perpetualie with his Majestie in propertie. And this I gif for dome.

Feb. 1609. (7.) WARRAND to the Aduocat, to libell a Summondis of Foirfaytour aganis the airis of RESTALRIG.¹

Feb. 14, 1609.—THE Lordis of Secrite Counsale, ordainis and commandis Schir Thomas Hammiltoun of Bynnie kn' his Maiefties Aduocat to libell ane Summondis for forfeyting of the memorie of v̄mqhill ROBERT LOGANE of Restalrig, for airt and pairt of GOWRYIS TREASOUN, to be persewit in this approching Parliament: And that the said Lord Aduocat infist in the persute of the said summondis, at the Parliament, as becomeith him of his dewtie and office. Qubairanent the extract of thir presentis falbe vnto him a warrant.

(8.) LETTER, SIR THOMAS HAMILTON of Binnie kn', Lord Advocate, (afterwards Earl of Haddington,) to KING JAMES VI. containing an interesting Account of RESTALRIG'S FORFEITURE.²

PLEIS YOUR MOST SACRED MAIESTIE,

ACKNOULEGGEING my self bund, in dewtie, to rander accompt to your Maieftie of the seruices properlie belonging and committed to my charge, I haue tane the bouldnes to wryte of oure progres in the FORFALTOURIS intended aganis the LORD MAXUELL and the Memorie of RESTALRIG, before the Lords of Articlis. Oure first proceeding wes aganis the Lord Maxuell, whairin albeit thair wes no compeirance for the defender, yet sum of the Lordis of Articles kything more scrupulous and precife, in findrie poyntis of that proces, nor (than) we did foresie or suspect; and heiring thairefter, that findrie of that number had preconfaued hard opinions of Restalrig's proces, the knowlege thair of, whilk wroght feir and mistrust in the myndes of dyuers your Ma^{ties} weill affected seruandis, did breid in the Erle of Dunbar fuche caire and seruencie to remoue these impedimentis, that bending his wittis, in more passionat maner nor he visis to expres in common and indifferent maters, he did trauell so earnestlie with the nobilmen and hail remanent Lordis of Articles, and folicited sum of the most learned and best experimented of your Ma^{ties} Counfall, to furneis reasons and light, to the cleiring of the probatioun of that most haynous Treassoun; and gauis to my self so earnest charge, and furneished so pregnant, judicious and cleir groundis, to confirme the Summondis, and manifest the verie circumstances thair of to the worlde, that he left no travell to me, bot the repetition of the substance of his information. To the whilk, haveing so neirlie conformed my discourse, as possiblie I could, it pleased God, that the Lordis of Articles, being happelie prepared, be the Depositionis of dyuers honest men of the Ministrie, and vther famous Witneffis, who recognoscing v̄mq^l Restalrig's handwrit, in his tressonabill Misfiues produced be me, with verie sensibill and forcibill reasons and causis of thair constant and confident affirmation, that these Misfiues wer writtin be him: Whan the probation of the summondis wes referred to the Lordis votes, thay ffind vniformallie, all in ane voce, the said summondis to be so cleirly provin, that thay seimed to contend who sould be abill most zealoussie to expres the satisfaction of his hait, not onlie be most pithie wourdis, bot be tearis of joy; dyuers of the best rank confessing, that that whair of thay douted, at thair entrie in the howse, was now so manifest, that thay behoued to este me thame Traitours who sould any longer refuse to declare thair affured resolution of the treuth of that Treassoun. Swa, hoping your Maieftie will gracioussie pardoun my boldnes, in offering to your Maieftie this rude relation of their purposes, concerning my charge in your Maiefties seruice, I beseeke God, who hes so mercifullie preferued your Ma^{tye} from the horribill devyffes of your develifch enemies, and so miracoulusly detected thair hellish practifes, long to protect and preferue your Ma-

¹ *Acta, Secreti Concilij.* ² From the original, preserved in the Denmylne Collection of MSS. Adv. Library. The remarkable Case of *John Lord Maxwell*, his escape from the Castle of Edinburgh, his forfeiture and execution, &c. are inserted in this Collection, under the proper dates.

iestie from all hairmes and dangers, and to grant your Maiestie all happines and contentment. EDIN- June, 1609.
BURGH, this 21 Junij, 1609.

Your most sacred Maiefties most bundin and faithfull seruant,

S. TH. HAMILTON.

To the KING's Most Excellent Maieftie.

(9.) WARRANT from King JAMES VI. to the Lord Clerk Register, to engross LOGAN of RESTALRIG's Letters and SPROTT's DEPOSITIONS, in the Records of Parliament.¹

JAMES R.

It is o' pleafor, will and expresse command, that in the inserting in the Parliament Register, of the proces of forfeit^r of the disceasid trayterous LAIRD of RESTALRIG, that you shall, at all length, ingross the Missive Letters, and so muche of SPROTTE his depositions, as doeth concerne that mater: for doing whereof, these presents salbe vnto yow a sufficient Warrant. Given at Royston, the xxth of Januar, 1610.

To o' trusty and welbeloued counfello^r S^r Johne Skene of Curryhill,
knight, Clerk of our Register.

No. XVI.

JOHNSTON'S NARRATIVE of the Conspiracy of John Earl of Gowrie, taken from his contemporary MS. History of Scotland.²

ABOUT the end of Februar 1600, WILLIAME (JOHNE) ERL OF GOWRIE³ com out of France, throw England, and com till Edinburcht, accompanyit with his brother S^r Alexander Ruthven, with ane great number of nobilmen, gentilmen and wtheris; and ludgit in the heid of Foster's wynd:⁴ And in the moneth of Junij nixt thairestir, as he was going from his lugin to the Kingis Ma^{tie} in the Abay of Holirudhous, accompanyit with 7 or 8 of his houshald seruandis; and as he was going throw the lang galrey of the Abbay, Coronell Stewart,⁵ (of quhom we maid mention at the taking of wmq^{ll} Willame Erll of Gowrie at Dundie,) cuming furth from the King, and the said Erll persaving him cuming from the Kingis chalmer dure, being at the far end of the galrie, (leif sum tumult sould haue happned be schouldering sum of thame or thair servandis) the said Erll begane to go asyd⁶ till (he) lat the said Coronell pas by him: Bot the same being espyed by ane of the said Erllis servandis, going in the rank befoir him, callit Mr Thomas Kinrofscher, (he) said ardentlie till him, 'Quhat! My Lord, ar ze going back for ony man heir? Com fordward, my Lord, bauldlie!' Quhilk going asyd first, and than cuming fordward agane, being sene by Coronell Stewart, he went in agane to the King,⁷ 'Schir, it will pleis your Ma^{tie} heir ane strang mater, that for guid service done to your grace I suld be so evill rewaridit as I am! Heir cumes in the Erll of Gowry, and I sie he myndis till begin first at me; but be war of the best of your all!' Heirwith the said Erll enterit in his Ma^{ties} chalmer, and the Coronell went out thairof. Bot thair was nothing of that purpos spokin betuixt his Ma^{tie} and the Erll that tyme. Bot the Coronellis wordis to the King, being repoirtid to the Erll, he anfuierid, '*Aquila non captat muscas!*'

¹ From Original, among the warrants of Parliament preserved in the General Register House, Edinburgh.

² This MS. is preserved in the Library of the Faculty of Advocates, Edinburgh, JAC. V. 2. 2. Fol. 633, b.

³ There is a running margin preserved, which shall be marked at the foot of the page. 'The Erll of Gowrie comes out of France.'

⁴ Forrester's Wind, near the site of the present County Hall and the Libraries.

⁵ 'The

Erll of Gowrie and Coronell Stewart, in the galry of the Abay.'

⁶ Avoided him, by giving place and stepping

aside. ⁷ 'Coronell Stewart his speitches to the King.'

Aug. 1600. In the beginning of August, the King being at hunting, betuixt Falkland and Pearth, (as eftirward was repoirtid be his Ma^{tie} and his followeris,) the Erll of Gowry and his brother, haveing still caryed ane deidlie haitred and ane abhominabill rancour at the King, becaus of thair fatheris executioun, as forfaid, interpryfit ane most pernicious and damnabill Conspiracie aganis his Ma^{tie} in thair ludging, in Pearth. So that wpone Tyfday, being the 5 day of August, the same zeir, 1600,¹ (notwithstanding of his Ma^{ties} manifold kyndnesses, quhilk he had schawin to theise tuo brethren, and especially in restoiring to pame thair fatheris haill patremony, landis, rentis and honouris, being foirfaltit, and be public Act of Parliament brocht into the Croune,) the said Erll and his brother, haveing resolued to put thair wicked Treafone to executioun, thocht they could find no better occasioun than presentit at that tyme; and thairfoir, they wald assay quhat could they do. So to bring the same to pas, Sir Alexander Ruthven, Maister of Gowry, spying his tyme convenient,² wpone the foirfaid day, the King being in Falkland, and cuming furth at that Palace at 7 houris in the morneing, till go to the hunting, (accompanyid with verrie fewe in number, except onlie Lodouik Duik of Lennox, quho had maryit Maistres Jean Ruthven, sifter to the said Erll of Gowry, and Johnne Erll of Marr, brother-in-lawe to the Duik of Lennox, and of auld alyat with the said Erll,) being ane gentilman of brawe personeage and behaviour, and weill lykit of be his Ma^{tie}, com to him befoir he was montit on horsback, and said theise wordis: 'Schir, gif your Ma^{tie} war at lazer, I wald gretumlie comunicat to your grace ane hid and mysticall secreit, quhilk I dar not discover to my brother, wpone na conditioun, nor to na wther man leivinge, except to your Ma^{tie} onlie!' The King wfeing the ordinar forme of courtesie, quhilk he vsit till all Nobill men, went a pairt with him from his awin company, and barked quhat he wald say. Than, said he,³ 'Schir, pleis your grace, the wther day, as I was walking alloun athort the feildis, I met ane certane man, wknawin to me quhat he was, quho tauld me of ane great treafour of gold quhilk he had fund; and he schew me quhair the same was: Quhairwpon I tuik the man with the treafour, and brocht him and it baith to my brotheris ludging at Pearth. Bot, Schir, I feir nothing mair nor my brother get wit of it, befoir your grace sie ather the man or it, and that he tak boith the man and the treafour to himselff, to your Ma^{ties} great preiudice (to quhom it richtlie apperteinis⁴) and to my great hinderance of your heines gratificioun. And thairfoir, Schir, I maist humblie besek your Ma^{tie} that ze reveill not this thing till any man quhatsumever; bot lat be your hunting, and send away your company, except it be tuo or thrie of your awin domestick servandis, that ze may go thither with all diligence.' The King heiring the gentilman speiking sick a rair purpose, admirit⁵ thairat, and thocht weill it had bene nothing bot sum vaine imagination, and that he had bene befyde himselff: Bot aftirwards, heiring him speik so confidentlie, and confirmeing the same, be ane aith, to be trew, he thocht better of it, and promeist that estir he had hunted ane hour or tuo, he suld ryd drectlie with him. And so the said Schir Alexander tuik his leve of his Ma^{tie}.

About ten houris, the King left his hunting;⁶ and the said Schir Alexander cam till him againe, thinking the tyme verrie weirrifum till him; and without geweing the King leve to change his hunting-horse, caufit him ryd drectlie to Pearth with him, (befoir his onwaitteris, being wandering throw the feildis, had cum till him,) his Ma^{tie} haveing nather sworde nor dager, bot his hunting horne hingand about his neck.

The forfaid Duik and the Erll of Mar, perfaving the King so fudanlie to leve his pastyme, and taik that way, wonderit verrie mekill pairat, seing nane of pair servandis war as zit cum neir thame; zit thay followit him, in all haift: So that cuming till Pearth, his haill servandis quhilk was cum to him, was bot about 14 or 15 in number. Now Sr Alex^r waited all this tyme so neir to the King, that he had not leve⁷ till schaw any of his attendantis his purposis; except onlie, he roundit to the Duik, that

¹ 'The Erll Gowrie his Conspiracie.' ² 'Sr Alex^r Mr of Gowry com to the King at Falkland.' ³ 'His speitch to the King.' ⁴ 'As treasure trove.' ⁵ 'Marvelled, wondered.' ⁶ 'The King gois to Pearth.'
⁷ Opportunity.

‘ he was going to fie a ritche treasour;’ bidding him wait wpon him, quhan he weitt thairtill. Befoir Aug. 1600. his Ma^{tie} com to the toun, he began to be sumquhat afrayid, quhat pe mater could meane? Bot, calling to mynd the great luiff quhilk he bure to the young man, as also the great bountifulnes quhilk he had schawin, baith to his brother and to all thair freindis, he went fordwart without ony forder feir.

His Ma^{tie} cuming neir to the toun, the Erll of Gowry him selff, accompanyit with 40 or 50 gentlemen, com forth pairof and met his Ma^{tie},¹ and convoyit him till his ludging, in Pearth, (as appeirit, with all dewtiful reuerence) excusing him selff, that he wnderstude not of his Ma^{ties} cuming thither that day, to pe end that he nicht haue bene better provydit for him. The denner being reddie, the King fat doun at tabill and dyneit: And eftir he had dyneit, the Erll himselff convoyit the Duik and the Erll of Mar to ane great hall neir thairto, leiving the King with the Mr of Gowry and the rest of his servandis. This being done, and all thingis being in redynes, Schir Alex^r said to the King, ‘ Now, Schir, quhill the Duik and the Erll of Mar and the rest of your Ma^{ties} attendaris ar at denner, it is maist convenient that your Ma^{tie} go and fie the treasour and the man!’ Quhairto his Ma^{tie} willinglie agriet. So, going thairfra, Schir Alex^r caryit him throw ane fair galrie,² and than throw ane wther chalmer, still cloising everie dure fast behind him, saying, that ‘ it was zit better lockit wp;’ and than led him within the thrid chalmer and steikit³ to the dure thairof. This being done, he oppinit ane lytill studie dure, in the quhilk thair was ane airmed man, appointit to ‘be his murderer! Thair was also in the said chalmer ane bred,⁴ with the pictour of wmq^{ll} William Erll of Gowry, (with ane courting hinging befor it) who was execut at Striviling:⁵ And schawing to the King, thair, the man, with his fatheris pictour; without all dewtiff obedience or reverence, most prouddie he pat his hat wpon his heid,⁶ and pointing till his fatheris pictour, said, ‘ Rememberis thow not of the Murder of my father, quhais pictur that is? Does not now thy conscience accus thé of his innocent blude? I fall be revengit now wpon thé! Now for him thow fall die!’ The King, greatlie affrayit thairat, quyetlie answerit,⁷ ‘ My freind, quhat guid can my blude do to zow? I never defervit this at your handis! As concerning your fatheris death, he diet be way of justice; being convict of Heich Treasone, be my Governouris, the tyme of my menortie, and his haill landis and lordschipis, rentis and honouris war foirfaltit be oppin Parliament, and brocht in to the Croun: And zit, notwithstanding thairof, quhan I com till maioritie, I remitid all quhilk pertentit to your father, to your brother and your handis! And lykwayis, your hous, be me, is maid now mair honorabill nor euer it was befor! I am your King! ze ar a Christiane, and hes bene nurischt with ane quho never wald haue counfallit zow to haue murderit your King! Quhat can ze gaine be my death? I haue childrene to be my airis and succesouris to my Croun! My people will rwin zow and your hous for ever; so that you and your posteritie fall be quyt cutit aff; and nothing fall remaine of your name bot euerlasting schame and infamie! It war better to forzet all bygaines, and lat ws returne quhair we com fra; and I promeis to zow, be the faith of a King, nevir to think wpon any thing that is past, now, betuixt zow and me!’ All this tyme, the Tratur was so affrayit with himself, that (as God wald) he had no power to harme the King, albeit he had his drawin dager in his hand.

Efter the Duik and the Erll of Mar and the rest of the Kingis attendantis had dyneit, the Erll of Gowry said to thame, that ‘ the King had gone furth another way.’ But the said Duik making speir-⁸ing for him, at the common people about the zetis, and porteris thairof, hard that he was not zit cum furth; so that he stayit still, not thinking wpon no evill.

Theise wordis betuixt the King and Mr of Gowry being endit, the said Mr causit the King sweir

¹ ‘ Erll of Gowrie com and met the King.’ ² ‘ The Mr of Gowrie schawes Treasoun instead of the Treasour.’
³ Closed, shut. ⁴ Board; an oil painting on oak or pannel. ⁵ This highly graphic and dramatic circumstance is not stated by any of the Historians; nor is it adverted to in the Depositions, or in the Account published by authority; though it greatly heightens the force of Ruthven’s language, when about to commence his treasonable attack. ⁶ ‘ The proud and treasonable wordis of the Mr of Gowrie to the King.’ ⁷ ‘ The Kingis answer.’ ⁸ Inquiry.

Aug. 1600. till him, solemlie, to zeild himself prisoner to the armed murderer standing befyd him,¹ without ather oppining the windows, or any wayis crying out thairof, till advertise his followeris of his danger, till he com againe fra speiking with his brother: Qubairvnto he solemlie gave his aith. After the Mr of Gowrie was gone furth of the chalmer, the King, taking couradge to him self, commandit that appointit Murtherer to oppin the windois, for he wald not oppin thame him self, becaus of his aith; or wtherwayis, he fould be revendgit wpone him: Qubilk window he half oppined. This being done, presentlie the Mr of Gowrie com in fra his brother, and said to the King, 'Now thow most die!' And thairwith, having a silk ribbon in his hand, and thairwith griping the King till bind his airmes: The King feing that, taking couradge till him self, anfuert, 'I was borne a frie King! I have leivit a frie King! And baith in bodie and mynd I fall die a frie King! And, Tratour! thow fall die befoir I die!' And feing him put his hand till his sword, the King so gripid his throit with his left hand,² and his sword airme with his right hand, that he could not get the sword drawin. The Mr, on the other pairt, griping the King so fast as he could, thay baith wrasslit togidder, a certane space, in the chalmer, till his Ma^{tie} with him weirits neir the oppin windo; and feing it half oppin, cryit with a lowd voice, thrie tymes, 'Treasone! Treasone! Treasone!'

The Duik and the Erll of Mar and the rest of the Kingis servandis, being in feuerall pairtis, heiring the Kingis voice cryinge 'Treasone!' ran in all haift feuerall wayis to find the King. The Duik and the Erll of Mar ran to the entrie quhair the King had gone in at;³ and finding all the dures hard lockit, could not win till they gat foir-hammeris and brak up the same. During all this tyme, the King and the said Mr being wrassling togidder, thay baith fell wpone the sure, and the King fell aboue him. So the Mr, feing he could not get him self moveit, he commandit the appointit Murderer now to 'slay the King!' Bot he anfuert, that 'he could not help him.' At this instant, ane certane young gentilman, quho had laitlie bene Paidge of honour to his Ma^{tie}, callid Johnne Ramsay, knowing ane certane privat entrie, throw ane lytill heich turnpyke, till the chalmer quhair the King was, went that way; and finding the dure cloist, brak wp the same with his fute; and finding the King aboue the Tratour, with the Tratouris sword in his hand, the said Johnne pullit out his dager and strak at the said tratour two or thrie tymes: Bot becaus it did him no hurt, be reasone of his doublet of pruiiff quhilk he had wpone him, as the King suspectit, he bad him 'stryk laich, at his bellie;' quhilk he did 3 or 4 tymes; and so slew him.⁵ This being done, Sr Thomas Erkene knight and Hereis doctour of Medecine, com in till his Ma^{tie}, and feing him saiff, praifit God.

Presentlie the Erll of Gowry, heiring the tumult, and awaiting the end of thair treasone, preifit yerrie fast till rin and do that quhilk his brother could not get done: bot be fum of the Kingis servandis, feing him in sick a raige, he was stayit a quhyll: Bot, geting fra thame, he ran till ane chalmer, and tuo drawin swordis in his handis, com wp with 7 or 8 of his best servandis, the lytill turnpyk, be the quhilk Johnne Ramsay had past, befoir, avowing, 'quhom ever he fand in his way, theife swordis fould go throw thame!' And being in the midis of the turnpyk, Johnne Ramsay, heiring sick a din, com down thrie or four stapis with his raper in hand; and meiting the said Erll, about tuo stepis laicher nor⁶ he was, said to him; 'Now my Lord! quhat will ye have mair? The King is slaine els!'⁷ git the said Erll so preafed to go fordwart, that the said Johane, feiring forder evill, ran his raper throw his bodie;⁸ and all his servandis fled away feuerall wayis. All this was done befoir the Duik or Erll of Mar com neir the King.

The brute⁹ heirof going throw the toun, thair arraise so great a tumult that the hail commoun people com about the hous,¹⁰ not knowing what the mater was, crying allowd, 'pat if they sawe not the Erll of Gowrie quicklie, thay fould put the house in ffyre!' And so contenewit, till the King sent for the Bailleis of the toun, and tauld the hail forme thairof; and than thay quyetide the people.

¹ 'The Mr of Gowry causis the King sweir himself prisoner.'

² 'The Kingis wrassling with the Mr of Gowrie.'

³ 'By degrees worked himself near the window.'

⁴ 'The Duik and Erll of Mar seikes the King.'

⁵ 'Johnne Ramsay slayis the Mr of Gowry.'

⁶ Lower than.

⁷ Already.

⁸ 'The

Erll of Gowry slaine by Johnne Ramsay.'

⁹ Fr. bruit.

¹⁰ 'The toun of Pearth in a Mutany.'

This is the Kingis relation of this storie. Quho wald knaw ony forder of it, lat thame reid ane lytil buik, quhilk he causit, himself, prent pairwpone. Bot this cuming to the earis of sum of the Miniftrie, and wther commoun people of the land, hardlie could thay beleive it to be trew; quhilk pat great suspitioun betuixt the King and many of the people.

Schortlie eftir, the deid bodies of the said tuo brether war brocht till Ed^r and hangit wp at the Crofs pairof, and thair heidis and airmes put wpon the tolbuith of Edinbur^r and wther feuerall and oppin partis of the land.

No. XVII.

ANE CONSPIRACIE dewyffit be THE ERLL OF GOWRIE to flay HIS MAIESTY.¹

Now, as ye haue hard befor, THE ERLL OF GOWRIE was execut in Stirling, for talking the King in his hous of Ruthweine: This Erll had behind him four sons,² and ane gud number of dochteris, quha had bene mareyitt to findrie Nobill menne of the land.³ His eldest sone, being be his moder putt to the schoillis in Ittalie, passit his course in Padua; quha returns to Scotland, about the 13 of Apryll, 1600; and at his hame cuming was kyndlie resauitt be his Prince, and mekill thoct of be all manne; for he wes ane braw manne off persone, ane grit scholler, weill trauellit, and estemit werry wyife; and abuiff all, wes thoct to be ane Nobill man of gude Religioune, and that feiritt God and laiffit iustice; Yitt, in vardlie cairing,⁴ specially contrair the Kingis perfoun; hewand ane rewedge hairt for the bluid of his fader: ffor, being inquiritt be sum, 'Gif he wes to beir querrell at Crouner⁵ Stewartt,' quha had beine the principall taker of his fader, at the tyme of his executione? His anfuwer wes, that 'ane egill killed na fleis,'⁶ meaning that his rewedge fuld nocht be so law.⁷ And heaffing to his secund broder, ane gallant manne, quha wes styllit 'Maister,' and had to name Mr Alexander Ruthwene. Thay dewyife to tak his Maieftis lyff, in the Erllis awin hous in Sanct Johnneftoune; becaus the Erll wes Prowest of that samin towne. And to draw his Maieftie to the samin hous and toune, thay dewyife this, that the Maister fuld ryd to the King, and schaw his Maieftie, that my Lord his broder had tane ane stranger passand throw the cuntrey, quha had grantit the heaffing of ane gritt pois of gold, quhilk wes ane grit riches; as also he had confessitt mony thingis, quhilk his Maieftie wald be weill pleiffit of; and that he and pois and all wes in his broderis hous, in Sanct Johnnstoun; bot my Lord wald nocht mell with him, befor⁸ his Maieftie war present.

His Maieftie, being in Falkland, wes ridding out to the hunting, and was on the feildis quhenne the Maister of Gowrie schew him all this; the quhilk quhanne his Maieftie hard, nocht heaffand no suspitioune of Treassoune, incontinent leiffis his pastyme, and rydis with the Maister to Sanct Johnnstoun, not passing 20 in number; the Duke of Lennox and the Erll of Mar being in his cumpany: And at his Maieftie cuming, the Erll of Gowrie semit as giff he had not bene aquent with his cuming, and thairfoir culd not mak his Maieftie sic intertenement as he wald haue wiffit. Bot the denner being enditt, the Duke and the Erll of Mar went to the zaird, to eitt chirreis: The Erll of Gowry gois with

¹ From an Original MS. Hist. of Scotland, Anon. Adv. Lib. Edinburgh, A. 4. 35. ² (1.) James, second Earl of Gowrie, who was restored in 1596, and died at the early age of 14, in 1588. (2.) John, third Earl of Gowry. (3.) Mr Alexander Ruthven, born at Perth, Jan. 22, 1580-1. (4.) William, who was skilled in alchemy, &c. died abroad. (5.) Patrick, who was for many years confined in the Tower, London. His daughter married Sir Anth. Vandyke. ³ (1.) Mary, married to John Stewart, fifth Earl of Atholl. Their daughter Dorothea was married to William Murray, Master of Tullibardin, who was of the King's retinue, at the time of the Conspiracy. (2.) Jean, married to James Lord Ogilvy. (3.) Sophia, married to Ludovick Duke of Lennox. (4.) Elizabeth, married to John Lord Grahame, Master of Montrose, afterwards the fourth Earl of Montrose. (5.) Lillias, married to Sir Robert Gordon of Lochinvar. (6.) Dorothea, married to Sir John Wemyss of Pittencrief. (7.) Catherine, died unmarried. (8.) Beatrix, married to Sir John Home of Coldingknows, who was Lady of the Bedchamber, and in terms of the strictest intimacy and friendship with Queen Anne of Denmark. ⁴ In the estimation of the world. ⁵ Colonel. ⁶ His words were, 'Aquila non captat muscas.' ⁷ Low, mean. ⁸ Until.

Aug. 1600. thame, leiffing his Maiefty and the Maifter to beir him cumpany; the Maifter heaffand ane feruand of his broderis in the chalmer, keipitt secreitt, all in harnifs,¹ quha had this directioun, to 'abyd thair and to do qubat the Maifter direckitt him.' Now the Nobill men being in the 3aird, the Maifter sayis to his Maiefty, 'Pleis 3our grace, go fie the eirand 3our Maiefty com for.' The King arryffis and gois with him wp to the chalmer, quhair the Maifter barring the dur, sayis, '3e man be bond,' heaffand ane gartane to bind his handis with, and drawand ane daggour, sayis, 'Remember on the deathe of my fader!' This Andro Henderfoun, quha wes cumand out in harnefs, heiring his Maiefty say, 'I wes borne ane frie Prince, and I will nocht 3eild villingly:' The Maifter perfeiffing² to frek, his Maiefty haldis the hand and the dagour baith, and sayis to Henderfoun, 'Saiff the Prince lyff!' At the quhilk word, the man being amassit, stuid still; and his Maiefty, being worfthelling with the Maifter, cumis neir ane windo, quhair he cryis outt, 'Tressfoun! The King is slayne!' Sir Thomas Erkeyne and Doctour Hairreyis being standand law,³ heiris the famin, and cumis wp the foir entrie; bot Johnne Ramsay, his Maiefty peadge, be fortoun, vith the vord, rinnis wp the bak-stair; passing and entiring in the chalmer, ffindis his Maieftie and the Maifter in grippis, as ye haue hard. This Henderfone being fled away priwellie, Johnne Ramsay, at his cuming, strekis the Maifter throw the body, and releffis his Maiefty of him; and thairefter, Sir Thomas Erkeyne and Hew Harreyis cumis wp and straikis him also. The cry is reasfit be Gowreyis folkis, that 'the King is away and lopin on!' Quhairwpone thay com out of the 3eird, with all speid, to get horse: Bot the Erll of Gowrie cuming frst, findis his broder lyand on the stair deid, drawis tua suordis quhilk he veir bothe in ane skabertt, and cumis into the chalmer, the King being putt into the Cabatt, strekis at thame then that wes on the fluir, and hurttis Sir Thomas Erkeyne on the hand, and Johnne Ramsay on the thie; and wes lyk to haue had the victory of thame all; bot Johnne Ramsay sayis, 'My Lord, we are bot seruandis, his Maieftie is slayne!' At the quhilk vordis, my Lord puttis down the pounttis of his suordis to the fluir, and standis still. Johnne Ramsay, takand the awantage, straikis out and straikis him throw the body; quhair of he fallis deid. The rest of the Nobill men cumis wp and mannis the hous.

The toune of Sanct Johnestoune ryffis and cumis to the 3ett of Gowreyis hous, and cryis for their Prowest; and be mekill ado, was pacifeyit, be the Kingis mowth. The quhilk being done, the King lowpis on horse and cumis to Falkland; and than our the wattir to Edinbrughe. And on the nynt day of August, Mr Patrik Galloway maid ane preitching at the Corse of Ed^r, giffand God thankis for the delyuerance of his Maiefty; and the preitching being endit, the Kingis Maiefty, out of his awin mowth, declairis the hail forme of this tressfoune to the pepill; and desyrit the Ministeris of Ed^r to schaw the famin to the pepill out of pulpett on the nixt Sabothe; the quhilk thay refuiffet, saying, 'it wes nocht pertinent to thame,⁴ nor thay had no warrand of the Word for thame to preiche sic doctreyne.' His Maieftie, being heallalie offendit with thame for thair refuiffal, commandis thame ten myllis of⁵ the toune of Ed^r, discharging thame to preitche, wnder the payne of deithe. The hail name of Ruthwene wes chargit nocht to com within ten myllis of his Maiefty. The Ministeris being accusit befor the Counsell, the 10 day, gatt that faour to remayne in Ed^r, bot not to preitche; bot Mr Robert Bruce was chargitt to pas aff the cuntryis of Scotland, Inghland and Iyrland.

The bodyis of the Erllis of Gowrye and his broder war brocht owir the water, and hung on the gybett benethe the Corse of Ed^r, and on the 15 day of Nouember, the Erll of Gowry, his broder and fader-broder was foirfaltitt; and Sir Thomas Erkeyne maid Lord of Dirltoun, Johnne Ramsay and Schir Hew Haireyis maid knychtis of; airmis wes giffin to Sir Johnne Ramsay be his Maiefty, to witt, ane suord and ane bludy dagour, by⁶ the airmis of the Ramfayis.

This attempt wes thocht to be dewyffit be strangeris and forane Princes, bot speciallie the Papistis;⁷

¹ Armour. ² Some words are evidently omitted here. ³ Below, beneath. ⁴ It did not pertain to their office, nor were they warranted by the Holy Scriptures, &c. ⁵ Off, distant from. ⁶ Forbye, besides. ⁷ It is rather a singular coincidence, that John Earl of Gowrie actually joined the Popish Lords who were defeated

and sum thocht that thair war sum of Ingland prewie to the famin. He was in his hame-cuming Aug. 1600. intertenyt be all cuntreyis quhair he come, as ane Prince, an nocht lyk ane subiect: Gif he had bene ane gude subiect, it had bene ane grit loife of him.

No. XVIII.

DOCUMENTS RELATIVE TO THE CONDUCT OF MR ROBERT BRUCE AND
THE MINISTERS OF EDINBURGH, &c.

[AMONG the variety of extraordinary incidents arising out of the Conspiracy of John Earl of Gowrie, perhaps no feature is more singular, than the obstinate resistance of MR ROBERT BRUCE of Kinnaird, a younger son of the family of Bruce of Airth, in Stirlingshire, and one of the Ministers of Edinburgh, a ruling spirit in the Assemblies of the National Kirk; and his refusal to return public thanks, for the King's deliverance from this danger. It may be asserted, without the fear of contradiction, that few instances can be adduced, even in the History of the most troublesome periods of the Scottish Church, of sterner and more inflexible adherence to principle (whether real or imaginary), than that displayed, for so long a series of years, by this keen antagonist of Episcopacy and Kingly prerogative; for he would not yield to the demands of the King, or the entreaties of his friends, down to the period of his death, in 1631. It is not easy, even with the most charitable allowances for exasperated feelings of party spirit, to designate Mr Robert's conduct by a gentler epithet, than that of a revengeful retaliation against his sovereign, for certain oppositions made by him, in the affairs of the Church; and especially, for his strenuous attempts to introduce Episcopacy. Great tact and ability were displayed by this remarkable person, in his repeated 'Conferences' and disputations with the King and Council; and his Majesty's unusual and continued lenity and forbearance, show, in the strongest light, how much the opinions of Bruce were known to be valued and followed by the people; and that the Court attached the utmost consequence to the benefit of his influence with all classes. It is clear, that they strained every nerve to get him persuaded, by fair means, publicly to declare his conviction of the truth of Gowrie's Conspiracy and guilt, and of the King's innocence. Like a second John Knox, Bruce appears, previous to this event, to have assumed and maintained the undisputed sway of the Church; and it seems obvious, that King James and his Council did not *dare* to adopt those measures, which, in other instances, would have been immediately followed up, with the utmost rigour and extremity. Had Bruce been merely a Minister of the Kirk, of an ordinary stamp, a single week

in October 1593. But he was pardoned in consideration of his tender years, and probably from the King's partiality to him individually; at all events, it would charitably be inferred by the King and Council, that he was under the influence of the Earl of Atholl.

Aug. 1600. would not have elapsed, before his head would have borne Gowrie and the Master of Ruthven company, on the top of Edinburgh Tolbooth, for his daring and treasonable conduct.

The sources from which the following Collection of Papers has been formed, are *Calderwood's MS. Church History*, *Wodrow's MSS.*, and *the Buik of the Universal Kirk*, from none of which, are any reprehensions against Mr Robert Bruce to be looked for; but, on the contrary, every thing is so stated by them as to exhibit their Champion in the light of one 'persecuted for conscience sake.' There is a 'Narrative by Mr Robert Bruce, concerning his troubles,' in Calderwood's MSS. Adv. Library, M. 6. 9. No. 36, which has been printed in the Miscellany of the Bannatyne Club. It contains a considerable portion of the Conferences here given; but varies in language, and in other respects; and may be referred to by those who have access to that valuable work, and who wish to look more minutely into this unparalleled affair.]

(1.) CONFERENCE *between the* MINISTERS *of* *Edinburgh* *and* THE KING.

UPON Tuifday the 12 of August, the Ministeris of Edinburgh were charged, be a Macer, to compare before the King and Counfell. The King demanded at Mr Robert Bruce, in name of the rest, 'Why they had disobeyed him and his Counsell, and would not praise God for his delivery?' They answered, 'they had not disobeyed, but was all ready to have praised God for his Majesties delivery, generally; as they did, upon the Sabbath immediatlie following; but they could not descend unto particulars, to qualifie what sort of danger it was; in respect they had noe certainty.' 'Had yee not my Letter,' sayes the King, 'to shew yow the certaintie?' 'Sir,' sayes Mr Robert, 'your Letter did bear noe particular, but made mention only of a danger, in generall, and we were content to follow it.' 'Could not my Counsell,' said the King, 'assure you of the particulars?' And withall addresseth himself to the President, 'Assured ye not them?' sayes the King to the President. The President answered, 'Yes, Sir, we all assured them of the certaintie of that Treafone.' 'Sir, with their honouris leave,' said Mr R. 'they had received noe information, except David Moyfes Bill and John Grahame of Balgonie his Report, who came in the mean tyme, when the Lords were sitting at Counsell; and the tuo Reports did foe fight againft other, that noe man could find anie certaintie.' The Secretar ryfed up and said, 'they agreed very weill.' The President said the like. Mr Robert answered, 'he had David Moyfes Letter to shew, which would testifie the contrarie.' The King asked at last, 'Now, are yee yett perfwaded? Yee have heard me, yee have heard my Minister, yee have heard my Counsell, yee have heard the Earll of Marr, touching the Report of this Treafone; whither are yee yett fully perfwaded or not?' 'Surely, Sir,' sayes Mr Robert, 'I would have farther light, before I preached it to perfwade the people. If I were but a private subject, not a Pastor, I could rest upon your Majesties report as otheris doe.' Then the King asked Mr James Balfour, 'Are yee fully perfwaded?' He answered, 'I will speak nothing to the contrarie, Sir.' 'But are yee not perfwaded?' sayes the King. 'Nott yett, Sir,' said he. Mr Williame Watfone answered after the same maner. Mr Walter Balcanquall said, that he would 'affirme all that Mr David Lindsay preached in pulpite, in prefence of his Maieftie yesterday.' 'What said Mr David?' sayes the King. 'Mr David founded himself upon your Majesties report, and made a faithfull rehearfall of your report; and soe fall wee.' 'Think yee,' sayes the King, 'that Mr David doubted of my report?' Mr David was sent for incontinent. They said unto him, 'Are yee not certainly perfwaded of this Treafone?' 'Yes, Sir,' sayes he, 'I am perfwaded, in conscience,



of it.' 'Now,' sayes the King, 'Mr Walter, are ye freely perswaded?' 'Indeed, Sir,' sayes he, 'I would have farther time and light.' Then the King asked at Mr John Hall, 'Are yee fully perswaded?' He answered, 'I would have the civill tryell goeing before, Sir, that I may be perswaded.' Then the King asked at Mr Petter Hewat, 'Mr Peter, whether are yee yett perswaded or not?' 'Sir,' sayes he, 'I suspect not your Proclamation.' 'But whether beleeve yee it or not?' sayes the King. 'The President heard,' said he, 'what I said the last Sabbath.' The President beganne to justifie him, but the King insifted, saying, 'Lett me hear himself. Whether beleeve yee my Proclamation or not?' sayes the King. 'Sir,' sayes he, 'I beleeve it.' Soe they were all removed, and after a great space the Macer cometh to them with a roll in his hand, wherin all thair names were written, and a score drawn upon Mr Peter and Mr George Robertson's name. Mr George and Mr Peter were not called in. The rest were called. The Chancellor pronounces the Sentence, &c.

(2.) LETTER, THE KING to the MINISTERS of the Synod of Edinburgh.¹

TRUSTIE FREINDIS, We greet you heartily well. The Ministeris of Edinburgh being discharged pair preaching, be us and our Counsell, for pair unaturall and unduetifull behaviour towards us, in this late danger, wherof it pleased God miraculously to deliver us; We have, by advice of the same Counsell, resolved that they shall never be restored agane to pair own places; since, in that case, We dread noe lesse then the hazard of our life and perrelling of our state; as We have more particularlie declared to the Commisioneris,² by whose advice pair rowmes are declared to be vacant, that operis may be provided therto. Lyke as, for the same effect, We, be advice of the same Commisioneris, have appointed a meeting at Ed, upon the second of October next, not only upon order taking in that mater, but for consulting upon such oper thingis as shall be thocht good to be proponed in name of the Kirk, for the weall of our and their estate, at our first Parliament, appointed the first day of November next: And therfor, have thought good to will and desyre you to direct two of the most wisest and best affected of your number to keep the said dyett, and instructed sufficiently to give ther advice and concurrence with the said Commisioneris in the premises; as you will testifie your dewtyfull affection towards us, and the quietnesse of our and your estate. And in respect of our said happy deliverie upon a Twifday, We have, by the advice foirsaid, appointed that every Twifday heerafter shall be a day of ordinar preaching, within every burgh within the boundis of the Synods; and in like maner commanded, by our publick Proclamation, that the last day of September next, and the Sunday next thereafter be kept solemnly, for givinge thankis to God for our deliverie of such ane evident danger; which We have thought meet also to intimate unto you, by this our particular Letter, beside our Proclamation, that you pretend noe ignorance. And soe, Wee committ you to God. From Stirling, the 24 of August, 1600. To our trusty freindis, the MINISTERIS of the SYNOD of EDINBURGH. JAMES R.

To be delivered to them by Mr David Lindsay, our last Moderator.

LETT your Synod be convened the third Twifday of September next, for directing of Commisioners for the effect foirsaid.

(3.) LETTER, MR ROBERT BRUCE³ to THE EARL OF MAR.

MY LORD,

AFTER my very hearty commendations of service, fearing that this lingring of mine should give Sept. 1600.

¹ Calderwood's Church Hist. MS. Advocates' Library, vol. v. p. 518.

² Of the General Assembly of the

Church of Scotland. ³ During this interval, the following correspondence is recorded by Calderwood, on this subject, but not of sufficient interest to merit insertion here:—

1600. Sept. 18.	Letter, Mr Peter Hewat to Mr Robert Bruce,	Vol. v. p. 532
Sept. 22.	Do. Mr Robert Bruce in reply,	533
Sept. 18.	Do. Mr James Balfour, Mr Walter Balcanquhall and Mr John Hall to Do.	536
Sept. 22.	Do. Mr Robert Bruce in reply,	537

Sept. 1600. occasion to finifter impreffions, and nurifh the people in lewd opinions (wherunto they are over much bent, of will) of ther Prince, I thought it my duety, my Lord, to prevent fuch fufpicions, and to fignifie my minde unto your L. as be this Letter I doe ; that if ever God open my mouth, ather in that place or any oper place, I will promife, be his grace, to fuit them and divert them from fuch cogitations as flew from perverfitie of nature, rather then from ane folide ground. This I may doe fafelie, and fall doe farther, when God fall grant me farther light ; ffor your L. takes me up wrong, if yee be of that mind, that it is not confcience that moves me to this, but only prepoftrous affection to perfons. My actions, my Lord, fhortly will be my beft judges and witneffes, ather with me or againft me ; and in the mean tyme, I would crave this favour of your L. if my fervice will not be acceptable to his Ma. within the country, that he would fuffer me, with his Licence and favour, whill this storm be fettled, to depart. I will not fafh your L. with farther Letter ; but, if I durft fay it, my confcience faves to me, I deferve good will of your L. alwayes. The Lord in his mercie direct your L. in all your affaires, and take you and yours under his tuition and defence, both now and ever. OF AIRTH, pe 22 of September 1600.

Your L. to his power to be commanded, with fervice.

MR R. B.

(4.) LETTER, *the* EARL OF MARR, *in reply to* MR ROBERT BRUCE.

SIR,

I RECEIVED your Letter, wherein yee defyred me to be a dealler at his Ma' hand, that yee may have a Licence to paffe furth of pe countrie, if better cannot be (whereof I would be very forry.) I fall leave nothing that in me lyes to doe that which yee defyred me ; but yee muft give me leave, even to fpeak with yow. I think yee are farr in the wrong, to your felf and all your weall willers, that is foe hard of credit, in foe manifet a mater ; and now, feeing it has come to fuch ane hight, I fear his Ma. fall be very hard in it ; ffor I darr take it on me, before God in heaven (that is my only witneffe, in writteing thefe words unto yow,) that pe moft milhant Treafone that ever was intended againft a Prince, was that day intended againft his Ma. be my LORD OF GOWRIE and his brother. This I may baldly write, in refpect of pat I faw ; and if I had occafion to fpeak with yow, I beleeve to let yow fee it evidentialie. Alwayes, Sir, I befeech yow evin to refolve with your felf upon that ; which I am affured of in confcience yee may ; and that, in refpect I knew it to be the truth. I remit pe ref to pe bearer, whom I know yee will credit. And foe, I committ yow to God. OF STIRLINE, the 24 of September, 1600.

Your loving freind,

MARR.

As to that part of your Letter, concerning your good will toward me, in truth I never thought operwife ; nather merited I ever other at your hand, nor yet fall doe.

June, 1602.

(5.) LETTER, MR ROBERT BRUCE *to* THE KING.¹

[THE following Letter has been collated with a more correct transcript, preferved in ' *The Booke of the Univerfall Kirk*' Adv. Library, W. 1. 14, p. 329 ; from which this Extract has been taken. ' Anent the request made be the Moderator, in name of the hail Affemblic, to his Ma., in favouris of Mr Robert Bruce ; His Ma. declarit, that he wald doe in that matter, be the advyce of the Commiffioneris of the Generall Affemblic, and (as) Mr Robert, be his awne behaviour, fhould give him occafione. And becaufe Mr Robert Bruce had, be his Miffiue direct to his Ma. before his departure off the countrie, as alfo by the ratificatione and farther examinatione and explanatione thereof, in write, at Perth the 26 of July, 1602, declarit his refolutione of HIS MA. innocencie, and guiltinefs of the EARLE OF GOWRIE and his brother ; and promifed to divert the people, fo farr as in him lay, from

¹ Calderwood remarks, ' Mr Robert Bruce, eight dayes before the time appointed for his departure, directed a Letter to the King, be the Laird of Balvaird ; wherein he took his good night, and made a repitition of the former offers, in as reverent and humble maner as he could.'

their lewd opinions and uncharitable constructions, anent his Ma. actiones, namely in this turne. June, 1602. Therefore his Ma. defyrith the determinatione of the Assēmblic, quhither, if the said Mr Robert sould lykewife make the same declaration in pulpit, according as it is at lenth set downe in the said Miffive and explanation thair of, at Perth? Quhair of the tennor follows, &c. The quhilk, the hail Assēmblic, after voteing, thought not only reasonabill, but also concludes, that the said Mr Robert aucht to do the same.' This affords the most satisfactory explanation of Mr Robert Bruce's conduct, and sets it in the true light in which it ought to be viewed. The subsequent behaviour of this zealous and able man, when all the previous circumstances of his personal altercations with the King are taken into consideration, is far more questionable than, in charity, without such explanation being afforded, might have been conceded.]

PLEASE YOUR MA.,

HEARING that your Ma. was nothing relentit of your former wrath against me, and being now upon the point to show my obedience unto your Ma' last charge, I could not omitt this, as my last dewtie, to intreat your hienes clemencie, and to mitigate the extremitie of this intendit wrath. I am not ignorant of that speech, that 'pe wrath of pe Prince is the messinger of death,' soe that I craue that the Lord, for Christ sake, may adde his blessing, and work affectionatly¹ in your grace, as he fall see expedient for his awne glory, and your Ma' perpetuall preservation. Then, to be short, to show my conformitie with the rest of my breither of the Ministry, as at all tymes, soe now especially, to show both my reverence to your Ma., and to clear my suspectit affections herein, I offer to give to the ffather of our Lord Jesus Christ, in him and throw him, most heartilye thankis, for all your Ma. deliveries, from your cradle to this present houre; but namely, for that deliverie which he grantit to your Ma. in S. Johnstonne, on Tuifday the fyfth of August, farr above all our deserts and your Ma' expectation. I offer also to steir up the people to that same dewtie; and attour, to divert the people, soe farr as in me lyes, from ther leud opinionos and uncharitable constructions of your Ma. actions; and namely, in this turne. Finallie, ther is noe dewtie that your Ma. can craue of me, without the manifest offence of God and hurt of my own conscience, but I will doe it, with alse good a heart as ever I did anie thing in the earth; that if by anie means I might testifie my good affectione toward your Ma. my Sovereigne, and to enjoy my naturall air and such uther comforts as the Lord hes given me under your Ma' raigne, quhilk I maift humblie craue of your Ma., beseekeand the Lord to move your heart hereunto, for Christ's sake. Soe, waiting of your H. answer, in all humilitie, I take my leave.

MR ROBERT BRUCE.

(Upon the back thereof.) AT PERTH, the 26 of June 1602. Farther, concerning the heids within containit, I am resolvit of his Ma^{ties} innocence and the guiltines of the Earle of Gowrie and his brother, according as it is declareit be the Act of Parliament: And therefore, acknowledges the great mercy of God towards his Ma' hail Kirk and countrie, in his Ma. delyverance; for the quhilk, I thank God from my heart.

(Sic subscribitur)

MR ROBERT BRUCE.²

(6.) *NOTA.* THE ANSWER to this is not preserved by Calderwood, as explained by him in the following terms.

Mr Robert was upon his journey to the ship, and Balvaire³ returned with his answer to his wife. He shewed her that his Ma. had interlynd the Letter, and eeked⁴ some words upon the margent;

¹ 'Effectually,' in *Book of Univ. Kirk.* ² This postscript or indorsation, Calderwood most unfairly omits. This is by no means a solitary instance of such conduct. It must be obvious to any one who carefully peruses the various Conferences, &c. that he uniformly studies to place Bruce in the character of the hero of his book, and in the interesting attitude of a person persecuted for conscience sake, and cruelly trampled upon by the constituted authorities. ³ Sir Andrew Murray of Balvaire. ⁴ Added.

Oct. 1600. and if Mr Robert condescended not to these words, and was not content to utter them in pulpit, there was noe byding for him in Scotland. He desyred also, that he might keep the interlyned Letter a while, promyseing to redeliver it; but he gave it to his uncle Sir Patrik Murrey, and was never redelivered. In the meantyme, Mr Robert returned to Restalrig, upon Thursday at night,¹ the penult of October. The ship was not as yett out of the harbourie, it being great in quantitie,² and heavie loadned, and the floods³ also decreasng, there was litle hope of out-getting. Alwayes Cornelius Inglis, sonne to James Inglis the owner of the ship, was moved to emptie her of a great part of her loadning; but the deid neep⁴ was so great, according to the course of the moon and custome of that sea, that they looked not for her floating: But, by⁵ ther expectation, and farr by the custome marked in those seas, 80 years before, where the waters sould have decayed, against the custome they increased, till they put her on floatt and convoyed her out; and thereafter returned to their own naturall course, and continued in ther ebness for five weeks after. The ship faired furth on Saturday the first of November, and was drawen up to the Queens-ferrie, where she lay at anker. Upon the third of November Mr Robert went up to the ship. Two of the Ministers certified him, that he was to be charged, vnder the paine of Treasone, to retire to the ship within 24 houres; which made him to make the greater haste. Soe he raid to the Queens-ferrie, accompanied with Sir William Cranstoun and his sone; and after supper took ship. Two bailliffes went with him to the shipe, and Mr Thomas Gray and a Notar, John Maky. He took instruments in the hands of the Notar, that he obeyed the Act. They returned in a boat. It was marked by them that returned, that, by⁶ custome, there appeared foe great a light, which served them to read, and the mariners and skippers to take up sail; although it was neer midnight. Soe they drew to sea, by God's blessing, and arived at Deep⁷ in France, upon Saturday the 8 of November.

(7.) LETTER, MR ROBERT BRUCE to HIS WIFE.

A long letter is inserted in *Calderwood's MS. Church History*, Vol. V. p. 584 to 591, in which he treats of his 'persecution,' &c. He subscribes himself, 'Your loving husband, not wearie I assure yow of the Lords croffe, but wearie of the treicherous flatterie of men.' It is dated, 'Off Berwick, the 5 of this instant of June.' And on Sept. 29, 1601, Mr Patrick Simson, Minister at Stirling, writes him, inviting him to return to Edinburgh.—See *Calderwood*, p. 692.

Jan. 1602. (8.) 'A CONFERENCE *between* MR ROBERT BRUCE *and some* (Commissioners) *directed from the King.*'

THE KING appointed Mr Robert Bruce to come to Craigmiller, to conferr with some appointed be him. Mr Robert took Mr Patrick Simsone with him, to be a witneffe to thair dealing: Soe, upon the 15 of Januar (1602), they mett at Craigmiller. They proponned three things to him: (1.) That he would approve the book sett out upon Gowrie's Conspiracie: (2.) That he would purge the King, in such places as the King sould appoint him to preach in: (3.) That he would crave the King pardon, for his long mistrust and difobedience. All the three were refused be Mr Robert, after long conference. They gave him some Articles and Instructions, in write, and craved his Answer in write; the tennor wherof followeth.

INSTRUCTIONS for his Majesties Commissioners directed to Mr Robert Bruce.

WHETHER, if he be throughlie resolved now, of the forme and maner of that treasonable attempt committed against his Ma. at Perth; and speciallie, of his Ma's honest minde, intention and miraculous

¹ This must have been done by stealth, and in contravention of the Charge which confined him to Airth, &c. See p. 233, &c. ² Size, burthen. ³ Flood tides. ⁴ Neap tide. ⁵ Contrary to. ⁶ Contrary to. ⁷ Dieppe.

deliverance, and of GOWRIE'S and his brotheris vile and bloody Conspiracie, intended to pe taking away of his Ma' life; as is particularly sett down in the printed book and Acts theranent, or not? As his doubting of that turne has been the principall cause of the doubt of many, and of his H. slander in that point, if he be willing to utter in pulpit, in such places as shall be appointed, his resolution therein, according to the forme of the said Articles, as clearly, as any his Ma' good subjects have done; craving pardon, and excusing his long incredulity, and the slander arising thereupon; and wishing the people that anywise doubted thereof, as they were ever ready to conceive doubts upon unjust grounds, only moved by his example, soe now to be contented, be his means, rightly to be resolved thereof.¹

(Sic subscriptur) JAMES R.

(9.) THE SECOND CONFERENCE of MR ROBERT BRUCE with THE KING.

IN the beginning of Aprile, the Erle of Marr directed a Letter to Mr Robert Bruce, at the King's direction, to come to Brechin, with diligence. Immediately before the receipt of the Letter, he was exercised in prayer, with shedding of tears. When he came to Brechin, as soon as the King saw him, he raised, and came forward to the place where he stood; and looked, as appeared to Mr Robert, very lovingly. He caused void the house,² none remaining but the King and Mr Robert. The King asked, 'If he was resolved?' He answered, 'Yes.' He asked next, 'What moved him?' Mr Robert answered, 'Sundry things, namely, my Lord of Marr his deep swearing; for I thought (said he) that a Christian, of his quality, could not forswear himselfe, for all the gear in the world!' 'How could he swear?' said the King; 'he nather saw nor heard!' 'I cannot tell that, Sir,' said Mr Robert, 'but indeed he swore very deeply.' The King, understanding what was the forme of the oath, which he repeated to him: 'What was the cause, then,' said the King, 'ye would not trust me?' 'Sir,' said Mr Robert, 'Your Ma. took noe paines to informe.' 'I sent,' said the King, 'Sir Thomas Areskine to you.' 'As for Sir Thomas Areskine,' said Mr Robert, 'I trusted him in a part; but thair were other things that I thought hard.' 'What was that?' said the King. 'That part which concerned the MASTER OF GOWRIE and your Ma.' said Mr Robert. 'Doubt yee of that?' said the King. 'Then yee could not but compt me a murtherer!' 'It followeth not, if it please you, Sir,' said Mr Robert; 'for yee might have some secreitt cause.'³ The King deduced the whole Tragedie, from the beginning. Mr Robert uttered his doubt, where he found occasion. The King heard him gentle, and with a constant countenance; which Mr Robert admired.⁴ At last, the King urgeth him to preach the Articles which were sent to him. Mr Robert answered, he had 'given his answer already to these Articles; and had offered to the Ambassadors that which all men thought satisfaction, yea more than preaching.' 'What is that?' said the King. 'That I will subscribe my resolution,' said Mr Robert. 'Trust you it?' said the King. 'Yes, Sir,' said Mr Robert. 'If ye trust it, why may yee not preach it?' said the King. 'I shall tell you, Sir,' said Mr Robert; 'I give it but a doubtful trust; for I learn this out of Bernard, "in doubtful things, to give undoubted trust, is temeritie; and in undoubted things, to give a doubtful trust, is infirmity!"' 'But this is undoubted,' said the King. 'Then bear with my infirmity!' said Mr Robert. 'But yee say it is more than preaching?' said the King. 'Sir, I ought to preach nothing but the word of God,' said Mr Robert. 'Obedience to Princes, suppose they were wicked, is the word of God,' said the King. 'I durst lay a waiger, there is noe expresse word of King James the Sixth, in the Scripture.' 'Yes,' said Mr Robert, 'if thair be a King there, there is word for you also.' 'The whole Kirk has done it already,' said the King; 'yee must not be singular!' 'Sundry have not done it,' said Mr Robert. 'Shew me one!' said the King.

¹ The Answers are general and evasive; and as the substance is contained in the following most remarkable CONFERENCE with the King, at Brechin, it seems only necessary to refer the curious to *Calderwood's Church History*, M.S. Vol. V. p. 598, &c. ² The Chamber. A common mode of expression at this time. ³ Occasion, necessity. ⁴ Lat. *admirare*, marvelled; or wondered at.

Apr. 1602. 'Your Ma. must bear with me,' said Mr Robert; 'for it were against the rule of Charitie to harme my brethren.' He desired the King to convene the Ministrie, to see what they would enjoine him to doe. 'That needeth not,' said the King; 'none darr or will refuse but yee; and therefore yee are the sole and only ground of my slander.' Mr Robert, to clear him of this imputation, said, 'I have offered to subscribe my Resolution, in what language your Ma. pleaseth; which none have done but I.' 'Where is your Resolution?' said the King. 'I sent it in write to your Ma.,' said Mr Robert. 'That which yee sent was too generall,' said the King; 'but what fault find yee in my Articles?' 'I cannot remember all; but one thing I remember,' said Mr Robert, 'yee would have me to resolve according to your book; and who can doe that?' 'There is never a false word in that book,' said the King. 'Yes, Sir, there are findrie.' 'Weill then,' said the King, 'wee fall putt out that claus out of the Articles. What other fault find yee?' 'I cannot remember now,' said Mr Robert. 'Have yee not the Articles?' said the King. 'I gave them to Sir Patrick Murray,' said Mr Robert. 'I am sure,' said the King, 'yee have kepted the Copie.' Mr Robert, perceiving the King's drift, to urge him farther, thought it not expedient to produce the copie. 'Weill,' said the King, 'stay heer till Sir Patrick Murrey come.' Yet, after supper, Mr Robert gott licence to returne home, till the next advertisement.

Sundrie other things past between the King and him, in conference; as namelie, Mr Robert desired, that he 'and others of the Ministrie be not urged to hurt thair consciences; and that his Ma. would not think, that honest men would sell their soules; howbeit their bodies and geir fall be at his command.' 'I understand not what ye mean,' said the King, 'be selling of your soules; but I fall gar the best of you say and gaine say!' 'That may be, Sir,' said Mr Robert, 'and that yitt they say not against conscience.' 'Yee fall not find the like in me,' said the King; 'my saying fall be alwise one.' 'It setteth not to compare with your Ma.,' said Mr Robert.—He prayed in heart, all the time, thus—'O Lord! keep my heart unto thee! and save me frome the danger that this traitourous and false heart is like to cast me unto!'

(10.) THE THIRD CONFERENCE of MR ROBERT BRUCE *with* THE KING.

MR ROBERT BRUCE, after his Conference with the King at Brechine, was confined in the parioch where he had his dwelling place, and suffered to preach noe where ells. He received a Letter from the King, to come to him, to Perth, the 24 of June. When he come and entered in the King's chamber, no other was suffered to enter but Sir Patrick Murrey. The King asked, 'Where the Articles were?' Mr Robert answered, that he had redelivered them to Sir Patrick Murrey. Sir Patrick produced them. After they were read, the King asked, 'If he was willing to preach according to these Articles?' 'Not, Sir,' said Mr Robert, 'if it please you?' 'Why?' sayis the King. 'Because my preaching is the mater of my Instrukcion and Commiffion: No Prince hath the pouer to give instrukcions to another Princes Ambassader. I am the sone of God's Ambassader and preacher!' 'But,' said Mr David Lindsey,¹ 'yee offered to preach to that effect, before yee went out of the country.' Whereupon, Sir Patrick produced Mr Robert's Letter; which was read, in the audience of the King and Commiffioneris. 'Weill,' sayes Mr Robert, 'yee refused this offer, soe am I not bound to it.' 'Will yee goe from the thing yee have offered?' say they. 'Weill,' sayeth Mr Robert, 'will this Letter falsifie yow? Sall I be noe farther urged, in case we condescend to this Letter?' 'Nay,' quoth the King, 'yee may say all this and not be resolved! Say truely, was yee resolved at that tyme or no?' 'Not indeid,' said Mr Robert. 'How say yee then, that yee will give thanks for my deliverance, that day?' said the King. 'Yes, Sir,' said Mr Robert, 'I have cause to give thanks for your preservatione, suppose yee had cast your self in danger.' 'I told yow that,' quoth the King; 'yee see what he meant.

¹ He was Minister of Leith, and preached the Oration before the King the day of his landing after the Conspiracy.

—Are yee now resolved? 'Yes, Sir,' said he. 'That's but the duty of a subject, when yee have done,' said the King. 'Are yee resolved to preach?' 'I am discharged to preach the pleasures of men,' said Mr Robert: 'Place me where God placed me,¹ and I shall teach fruitful doctrine, as God shall give me grace: But we have not that custom to be enjoined to preach; nor I dare not promise to keep that injunction. It lyeth not in my hand to make a promise; I know not certainly what God will suffer me to speak; I may stand dumb. Therefore, Sir, leave me free; and when I shall find myself to be moved, be God's spirit, and to have the warrant of his word, I shall not fail to do it.' 'That is plaine Annabaptistry! That is a cabal and tradition,' said the King: 'Yee shall preach as the rest have done, or else I cannot be satisfied. Yee shall goe!' 'I pray your Ma.,' said Mr R. 'sett down your disjunctive, and the one, God willing, shall be as welcome to me as the other. I have racked certainly a peace of my heart, to please your Ma.; now seeing your Ma. cannot be satisfied, except I make shipwreck of all, lett me goe, in God's name. Suppose I have some commodities, as other mean gentlemen have, in your Ma's countrie, yett, Sir, I never desired to have seen your Ma's face, or your countrie either, except I had been certainly informed that your Ma. was satisfied!' 'What warrant had yee? Who informed you soe?' said the King. 'If it please you, Sir,' said Mr Robert, 'I had first a warrant from the mouth of both your ambassaders, who assured me their satisfaction should be yours.' 'I trust,' sayeth the King, 'they will not say, suppose of all this new kinde that is knitt up betwixt you.' 'Surely, Sir,' said Mr Robert, 'I am persuaded they will say it, and heere is a brother, (meaning Mr Patrick Simons,) that has heard my Lord of Marr say as much. Beside this, if it please you, Sir, I have your Ma's own warrant, be Letter.' 'What!' sayeth the King, 'my Letter?' 'Your Ma's Letter,' sayeth Mr Robert, 'willeth me to send in my resolution, in write; and thereupon, promised to be satisfied. And soe I did; and therefore, I ought not to be urged any farther.' 'My Letter beareth noe such thing,' sayeth the King. 'If it bear not, Sir, it shall turn to my own paines,' said Mr Robert. 'I have it beside me.' The King went in to his Cabinet, and walked up and down a reasonable space. In the mean tyme, the Commissioners dealt with Mr Robert, almost each one after another. He would have gladly gone out of the house, but the door was locked; soe he behoved to stand, till the King come out of the Cabinet. At last, the King cometh out. The Commissioners say to him, 'Sir, seeing it is soe, that Mr Robert alledgeth such promises, yee shall leave the preaching free to his own will: But let us come to his subscription in the rowme thereof.' 'Are yee content,' sayes Mr David and the rest, 'to subscribe the King's innocencie and their guiltinesse?' 'Not in these terms,' answered Mr Robert. The King urgeth him the more earnestly, and sayeth, 'I will not only have you clearing mee, but my whole company.' 'As for your Ma's company,' sayes Mr Robert, 'they have no need of my clearing; rather will they seek it. I am bound to your Ma., and I will doe all that lyeth in my possibility.' 'Then yee must subscribe my innocencie,' said the King. 'Your own conscience, Sir, can doe that best,' said Mr Robert. 'It is very hard for me to do it!' 'Why is it hard?' said the King. Laith² was Mr Robert to answer, least he should irritate him; but he insisted. Then said Mr R. 'Your Ma. will not be offended if I speak freely?' 'Not,' said the King. 'I was reading,' said Mr Robert, 'upon Ammandus Polanus, touching the slaughter of the Magicians, when the King of Babell commanded to slay. Ammandus disputeth the question, whether the King of Babell did weill or not? First, he sayeth, *animi gratia*, it would appear that he did weill; for he had the plaine law of God for him, in manie places: Yett he concludes against the King; that he did not weill; for, howsoever he had the Law, yett he looked not to the Law nor had regard to God nor his glory: Therefore sayeth he, howsoever the Magistrat hath the sword and may most justly execute, yett if he have nothing but his own particular³ before his eyes, God nor his glory, he is a Murderer!—Now, Sir, I pray, what can I or any man say, what your Ma. had before your eyes? Or what particular yee had?' 'It is true,' sayeth the King, 'and therefore I will give you leave to

¹ Restore me to my pulpit.² Loth, unwilling,³ Quarrel, offence, or cause.

Jun. 1602. pose me upon the particulars.¹ 'Then, first, it please yow,' said Mr Robert, 'Had yee a purpose to slay MY LORD?' 'As I shall answer to God,' sayeth the King, 'I knew not that my Lord was slaine till I saw him in his last agonie; and was very sorie, yea prayed in my heart for the same.' 'What say yee then concerning MR ALEXANDER?' said Mr Robert. 'I grant,' said the King, 'I am art and part of Mr Alexander's slaughter; for it was in my own defence.' 'Why brought yee him not to justice,' said Mr Robert, 'seeing yee would have had God before your eyes?' 'I had neither God nor the Devil, man, before my eyes,'² said the King, 'but my own defence!' Heer the King beganne to fret. He took all these points 'upon his salvation and damnation,' and that he 'was once minded to have spared Mr Alexander; but being moved, for the time, the motion prevailed.'³ Farther, Mr Robert demanded of the King, 'If he had a purpose, that day, in the morning, to slay Mr Alexander?' The King answered, 'upon his salvation, that day in the morning he loved him as his brother!' Mr Robert, be reason of his othes, thought him innocent of any purpose that day, in the morning, to slay them: Yett, because he confessed he had not God nor justice before his eyes, but was in a heat and mind unto wrong, he could not be innocent, before God; and had great cause to repent, and to crave mercie for Chrif's sake!

In end, Mr Robert yielded to subscribe his resolution, according to the Act of Parliament; which he did, Partly because, in his judgment, it was the duty of a subject to reverence the lawes of the Country, except he knew them, certainly, to be contrarie to the word of God: Nixt, he was bound to free himself of that imputation which was layed to his charge, partly be the King himself, partly by others, directed to him from the King, that 'come death, come life to him, come what would come of him, the whole blame should lie upon him, in respect he was the author of the slander!' Thirdly, because he made a faithfull promise to him, that 'noe more should be craved of him.' Soe, upon these three respects, he gave his resolution, in write; not that he was perswaded, in his conscience, for any thing that he could learn, be himself, or from God's Spirit, after prayer, as he himself recordeth in the Historie of these proceedings; but, in respect there was a strait and publick Law, he thought good to follow it, till God gave him farther light. All the Commissioners, and Mr Patrick Simfone, who accompanied him, subscribed as witnesses. Wherupon Warrant was granted to him to travell abroad in the countrie; provided he come not neer Edinburgh, be four milles.

Nov. 1602. (11.) MR ROBERT BRUCE drew neer to Edinburgh, in tyme of the Affembly. *George Heriot* and *John Robertfone*, Commissioners for the Town of Edinburgh, made mention of his reposition;⁴ wherunto the Affembly applauded. But the King and the Moderator⁵ alledged they had fundrie things to proponne, before that were granted. The King desyred to have the Interlocutor of the Affembly, 'whither Mr Robert should be enjoyned to utter in pulpit, that which he had offered in his bill before his banishment, and the resolution which he had subscribed at Perth, after his returne, or not?' Mr John Hall⁶ being first asked, answered, 'Ther could be nothing done in that mater, whill⁷ the parties were first heard.' Soe it was thought meet that Mr Robert should be sent for: But the mater was delayed till the end of the Affembly; and howbeit he was nather called nor heard, they voted that he should publish in pulpit his bill and resolution.⁸

¹ Grounds of quarrel or grudge. ² That is, in the heat of the struggle and the deadly encounter in which he was engaged, he had no leisure for reflection, but looked only for the means of ridding himself of his antagonist. ³ On cool reflection, and at that distance of time, the King is inclined to think it might have been in his power to have saved Mr Alexander's life. But this he admits, after being in the knowledge of all the facts and incidents, which he could not at the time have contemplated. Had he attempted to have taken him alive, in all human probability, it would have cost his own life and that of his party: for Gowrie, as Provost of Perth, and adored by the citizens, could have in an instant overpowered the handful of followers attending upon the King, in this hasty and unprepared visit. ⁴ The fact of his being reponed or reinstated. ⁵ Mr Patrick Galloway. ⁶ The Moderator of the former Assembly. ⁷ Until. ⁸ It is unnecessary to pursue this matter farther. The Editor hopes that *Wodrow's Life of this remarkable person, together with the Lives of other eminent public characters, written by Wodrow, shall soon be published.* The publication of these Lives would prove a valuable accession to the History of Scotland, and could hardly fail amply to repay the person who undertook such a task.

(12.) LETTER, *the Laird of Beltries (Sir James Sempill¹) to Mr Robert Bruce.* Nov. 1602.

SIR,

I INQUIRED of his Ma. yesternight, if he had any new intention anent yow? He answered, none, but that yee fould enter and doe your duetie, as was told yow of before. His Ma. alledges, yee never bide long at one resolution; ffor, after my excuseing yow of your not abilitie for preaching the laft Sabbath, as yee willed me to doe, yett he fent Mr Henry Blyth to the Moderator, to enquire if yee fould teach? This I was ignorant of; but yett I answered, that it was upon a fear that poffessed yow, of a new offence, in not teaching; and foe that was done for the full affurance of his Ma^s minde in it. To the purpose, Sir, yee fall enter, if yee please, on Sunday next, and advertife his Ma. two or three dayes before; inquireing, if he please to speak with yow? At your entry, yee muft doe (as his Ma. speeche is) the duety of a good subiect and of a good pastor; not to say, simply, yee are resolved, which yee have done already; but yee muft indeavour to remove all scrouple from the auditor; as weill in cleiring his Ma^s innocencie, as of your guiltineffe. These are his Ma. own words: And my poor advice is, to satisfie his Ma.; feing, (with manie) I think it may and would be done, being a thing able to do good to the King and whole Common-weall, to knitte the hearts of his people to him, by removeing scrouples, if any be, or by confirming them in the concewed truth; which, be your filence in this mater, will be called againe in queftion be them. The Lord give yow that resolution which may best serve for his glory. HALYRUDHOUS, this Tuifday the laft of Nov^r 1602. Keep this ticket for both our warrants.

(13.) MR ROBERT BRUCE'S ANSWER *to Beltries' laft Letter.*

SIR,

I WAS upon my journey homeward, when I received your laft Letter; and hearing that yee were Dec. 1602. gone in the country, I delayed any answer till your returneing. Therefore, now, Sir, for answer; first, I say, that if Mr Henry Blyth had any such commiffion of me, or if the honest man will say foe in my name, I will be content to take that imputation upon me: but otherwise, as it is true indeed, I received wrong, I am noe wayes ambitious of it. For I have been twice thruft into it, and as oft out of it; and I have noe will that his Ma. be compelled to use his Royall office upon the remanent of my frail life. For these four or five yeares bygane, I have been continually under a lingering and dwyning death, which I am assured has been more troublefome and tedious to me, both in body and minde, then that hour of death fall be, when euer it fall please the Lord to call me therto. I have not forgott these voices, that oftentimes I woudered to hear, 'that his Ma. dreadeth us bodily harme.' These things maketh me to look or I leap, and to advise weill or I enter; yett I speak nott this, as if I were minded to shake off my duety that I ought to my flock: But if it would please his Ma. to suffer us to stand in that liberty wherein the Lord hes placed us, and to speak in the chair of truth, as the word and spirit of truth fould direct us, I would promise, be God's grace, when ever the word fould give us occasioun, as oft tymes it will, that then, from the authority of the word, I fall repreffe all finifter constructions of his Ma. actions, and by the authority thereof, beat down all feditious and insolent humors of subiects, that would preffe to usurp upon your superiours; and foe, from the word, as moved therby to speak upon these matters; which muft have a farr greater grace nor² to speak be way of injunctions, or speak as it were a cunned leffoun,³ or ane A B C putt in man's hand. The one deuty fmelleth of Divine Theologie, the other of Court Theologie, and does noe good to the cause, but hurts greatly: And as God liketh of a cheerfull giver, foe when the people seeth these things to come freely, of my self, without constraint, nor yett putt unto my head, they will reverence them the

¹ He was son of John Sempill of Beltries, whose conviction for Treason is recorded in vol. i. p. 72. Sir James was Ambassador to England 1599, &c. and was author of a Satire, 'The Packman and the Priest.' His son Robert Sempill was author of the well-known Elegy on 'Habbe Simson the Piper of Kilbarchan.'

² Than.
³ Conned lesson, got by rote.

Dec. 1602. more, and have the greater weight with them. Soe to be shott, if this sort of service may be acceptable to the Prince, I am at command; if otherwise, I will hold me with the benefite that I have gotten, within the compas of obedience; and be God's grace, fall be unproveable of any. Having noe farther for the present, I rest, &c.¹

(14.) LETTER, *Mr John Hall to Mr Robert Bruce.*

SIR,

Jan. 1603. JAMES AIKINHEID, bailiffe, gave intelligence to his Ma. that yee were purposed to preach this next Sabbath, God willing; and I being down in the Abbey, his Ma. gave me this answer, and ordained me to signifie the same unto yow: That is, because your advertisement was generall, and thereby he could not understand what yee was to doe in the matter, wherein he has been offended; also, he would assure yow, that if yee entered into the pulpit, and did not according to the Act of the Assembly, it would be a matter of great irritation: Therefore, be your tickett, ye would certifie againe that ye are ready to preache, and to satisfie his Ma. according to the Act of the Assembly; or otherwise it will not be heard as a sufficient offer. Sir, if yee write heeranent to mee againe, I fall be ready to deliver it, and shew yow the event.²

Your brother in Chrif,

MR JOHN HALL.

(15.) MR ROBERT BRUCE'S LAST CONFERENCE *with THE KING, on Tuesday the fifth day of April, 1603.*

Apr. 1603. MEN of all qualities resorted to Edinburgh, to congratulate the King his preferment.³ Motion was made, be some brethren of the Presbytery of Edinburgh, that Mr Robert Bruce should be desired to come East to congratulate with the rest; for the King took it evill in part, as was reported, that he should be the last in giving signification of his humble affection. Upon Saturday, the 2 of Aprile, Mr Robert returned answer, that 'in respect of his Ma's last Conference, holdin with the Commissioners, he durst not take the boldnesse to draw neer to his Ma.;' alwise,⁴ did signifie the sinceritie of his inward affections, to the Lady Marr and some other noble women, who could bear witness of his integritie in that point: But, seeing he was informed that his Ma. would accept the offer of his affection, he should come with diligence, to try what might be done.

Soe, upon Mounday, the 4 of Aprile, he come to Edinburgh and founded some stable men, his freinds, touching the King's disposition, whither he was willing to accept of him and his congratulation. Soe farr as he could learne, he was not able to redeem his countenance and favour, but with confession of a fault, and that upon his knees; be which meanes he might eschew publication in the pulpit, and recover his Ma's favour also. Mr Robert findeth himself brought in as great a strait almost as ever he was; and answered to the Lords that interceded for him, that 'seeing he could not purchase his Ma's presence but upon these hard conditions, his earnest desire was, that they would make his excuse, in all humility, to his Ma. and to shew that notwithstanding he came to the town to congratulate, the preasse and throng of the people was soe great, because his Ma. was upon the point of his departure, that he could get noe access.' They take much in hand; but the King, understanding he was come to town, sent one of his domestick servants, James Murray of Powmais, the day following, Tuifday the 5 of Aprile, soon in the morning, before his Ma's departure, for him, before he was risen out of his bed. Mr Robert thought it hard, and that the King caught that peace of disgrace to his Ministry.

¹ (1602. Jan. 19.)—Mr Robert Bruce addressed a Letter to the Town-Council of Edinburgh, which is an echo of that to the Laird of Beltries. This was followed by *George Heriot* and *Cornelius Inglis* waiting on the King, on Bruce's part; who inhibited any preaching; whereupon he left the town. On 27th January, he intimated his design to preach next Sabbath, to James Aikenhead, one of the Baillies of Edinburgh. ² Much correspondence, &c. took place, till at last the Commissioners of the General Assembly, Feb. 25, 1603, 'declared that his re-entrie to the Ministrie of Edinburgh came through his own default.' ³ To the English Crown. The King departed for England immediately after this Conference took place. ⁴ Nevertheless. ⁵ Undertook; promised largely.

Alwile he went down to the Abbey. The King was at his breakfast. Mr Robert fought occasion Apr. 1603. of speech with him, at that tyme; thinking, that in the prefence of many strangers and noble men, the King would not urge him, as he did before. The noble men courteously gave him place. But when he was upon the point of bowing and entering in conference, Sir Patrick Murray, who stood upon his Ma^s left hand, and rounded somewhat in his ear, prevented him. He was referred to the King's bed-chamber, to be heard after the preaching; which was very cold. It was made be Mr Andrew Lamb. Mr Robert, all the tyme, prayed to God to direct him be his Spirit, in the end; as he had done in the rest of that action before. He resolved noe wayes to goe to the knees, against his conscience; but rather now, in the entry to this great Monarche, to urge his Ma. with a thankfull heart to God for his wonderfull and unlooked-fore blessing. He had all the words and mater conceived, which he communicated to Mr James Melvill, Minister at Anfruther, who was weill pleased both with the mater and the maner; wherby Mr Robert was greatly encouraged to perfitt in his resolution. In the meantyme, the Lord Fleming cometh for Mr Robert, and taketh him to the King's bed-chamber; where he found my Lord of Marr, my Lord of Blantyre, the Laird of Dunipaice, Mr Peter Hewat, Mr Thomas Abernethie. The Lord Fleming went to the Chamber of Prefence, told the King Mr Robert was in the place appointed. The King ncontinent withdraweth himself, goeth in to his bed-chamber, his boots on, ready to ryde. Soe soon as he drew neer, he walked in circle about the house,¹ as his custom was. Mr Robert casteth himself to meet him, with all reverence and humble inclination of his body that he could, without goinge to knee. The King heard him graciously, in outward appearance. The summe and effect of Mr Robert's words were this. ' Sir, I have marked four things in this great work, touching your Ma^s high advancement: first, that the God of heaven and earth has placed yow in all these earthly thrones, without the losse of the credite of your holy Religion and hurt of the inward peace of your own conscience: Next, that he hes placed without shedding a drop of your Ma^s blood, which is lesse nor² conscience: Thirdly, without the hazard of your Ma^s subjects purfes, which is lesse nor blood: And last of all, that he hes soe wonderfullie directed the tongue of that worthy Lady and noble Queen, together with the affections of the whole Counsell, soe that if furth of your Ma^s own bowells, they could not have conspyred more effaldly³ to your Ma^s promotion. These things crave a twofold duety of your Ma.: Firft, that yee take heed to your own heart, that the glory and glance⁴ of these earthly things deceive you not; that ye make them not your reward, nor place the confort and consolation of your heart in them; but rather, as they are given, use them as steppes and degrees to stepp up to the Crown that cannot fade nor faille: Next, seeing the God of heaven hes manifested his unspeakable care, in preserving soe many Crowns and Kingdoms to yow, sir, your Ma. cannot eschew the note of ingratitude, if yee extend not your Ma^s credit, and imploy your whole care, for preservation of his own kingdome.' THE KING answered, ' Mr Robert, be God's grace I fall not place my confort or consolation in them, or in any earthly thing: As for the preservation of the kingdome, if I would preserve my own life, I must study to preserve it; for we have common freinds and commone enemies: The Papists that shutt⁵ at that kingdom, shutt at my life also, as I know certainly.⁶ As touching this wonderfull mercy of God, Mr Robert, if yee be remembered I oft tymes foretold you, that God would bring this work about, after this sort;' and named some places to him. But Mr Robert could not remember.

Mr Robert took his leave; and had as good a countenance of the King, as ever he had in his life, in his own judgement. The King did not urge him with any such thing as the Lords gave out; nor made mention of any thing, tending to that purpose. Ather the mediators were unfaithful, or God putt it clean out of his heart. When the King mounted on horback, Mr Robert went to him againe,

¹ A mode of expression for chamber.

² Than.

³ Truly, sincerely; from ' *afauld*, ' literally *one-fold*.

⁴ Dazzle, splendour, glitter; literally the reflection thrown from a mirror by the sun.

⁵ Shoot, aim at.

⁶ In allusion to the numerous Conspiracies which had been devised by the Papists against his person.

Apr. 1603. to take his leave ; and was as weil received as any subject, of his calling, in Scotland. Those that stood by heard the King say, ' Now all particulars¹ are past betwixt yow and me, Mr Robert.' But Mr Robert himself could not remember that he heard these words.

(16.) NOTES *from Calderwood's Church History, MS.*

Feb. 1605. (1.) MR ROBERT BRUCE, the year of the King's departure out of the country, gott peace and rest ; but the year following he was threatned of new, for the mater of GOWRY, to be deprived of life, living and stipend. He was very farr cast down. Whill he was ryding to Stirlin to fetch the Erle of Castillis to his house, it pleased the Lord that night to give him a comfortable vision in his sleep. He recommended his case to God, and soe fell asleep. He saw great difficulties presented to him, and it behoved him ather to passe through them, or to die be the way. At the last, he resolved, in God's obedience, to hazard ; and whill he was passing through, he feilleth a motion in his heart, moveing him to say, in and through Michaell, the Captaine of the Lord of hosts, ' I fall prevaill, O Michaell ! Michaell ! Who is like the strong God !' Mr Robert was greatly comforted with this ; and putt it in write when he awaked.

This year the Commiffioners of the Generall Assembly directed Summonds, warning him to compare at Edinburgh, the 27 of Februar, to hear and see himself removed from his function, in Edinburgh. He compeared before them, and took Mr Thomas Gray with him. But none gott access to himself. After long reasoning, they removed him. He appealed from their sentence. They inhibited him to preach thereafter. He obeyed not. The Laird of Lowrestoun, Commiffioner, had Commiffion to see the sentence of Removall pronounced against him.

Jul. 1605. (2.) CHANCELLOR SETON sent for Mr Robert Bruce, advertised him that he had gotten command from the King to discharge him from teaching, &c.

Aug. 1607. (3.) THE fifth of August was solemnie kept in Edinburgh. The Kings skoll was drunken be the Duke, his Commiffioner, and some other noblemen at the crosse of Edinburgh, which was covered, for the greater solemnitie. Bacchus was sett up, and much wine drunken and sweete meats cast abroad. Much vanitie and pastime, beside ringing of bells, and getting on of bale-fires. The pest brake up soon after.

(17.) LETTER, *Mr Robert Bruce to the Laird of Beltrife (Sir James Sempill.)*

RIGHT HONOURABLE COUSINE,

Feb 1603. YE most give me leave to utter my friendly counsell against you. To what purpose should ye and Mr Ewart put me in esperance of my liberty, be your Letters ? Of yours I saw only one ; and I have four of Mr Peter's, assuring me of ane comfortable issue ; and, in truth, I gave such credit, and was so certainly perswadit be him, that I sent home my wife and children, and spoiled my self of all my outward comforts, and exponed my self to the extremitie of the seassone, in a cold lodging, in thir miserable and barbarious parts, that I have almost extinguished both my vitall and sensitive spirits. Why would ye not signifie his Ma^s will plainly unto me, or to Mr Peter either ? His Ma. pleasure should have been a law to me. Yea, if his hienes would command me to the scaffold, I have a good conscience to obey him ; and it would be more welcome to me nor this lingering death that I am in. The time has been I have done his Ma. acceptable service, as his own hand writts besides me will beare record ; whilk I fall leave to my posterity as their rarest jewells. I thank God, I was never within the compass of law ; and yett am war used nor either Papist or Atheist. Alwayes I crave noe more of you, but a Christian duty. As I prayed you in my last Letter, soe will I now ; feed me not with compliments : The worst shall ay be welcome to me, be his grace who sustaines me wondrously. I am a

¹ Quarrels, causes of offence.

man that hes tasted of many afflictiones, and I wote not who crosses me ! But be it Papist or Atheist, Feb. 1613. Bishop or Minister, I will lay over all my vengeance where it belongs. As to my prayer, in the end of my last Letter to his Ma., I heare, be Mr Peter Ewart, that I was quarrellit, as if I had prayed for reconciliations in that particular. Indeed, if it had been foe conceived, I might have been justly quarrelled. But the Lord knowes the contrary is most true. I had no more mind of that Treafone, at that time, nor the bairne that is yett unborne. As to the rest of my faults yee make in my other Letters, they are but bairnly : For suppose I wrotte unto yow with my own subscribing hand, yet it is not worthie to present his Ma. I wail¹ the best hand that I can gett, and for the omission of my subscriptione, what marvell ? Seeing I wrott not the body. And yet the writter therof constantly affirms that I subscrivit, whilk makes me to think that ye have not received my closed Letter to his Ma., but the copie therof, which I directed to your selfe to be perused, and not to be presented, except ye knew it would not offend. I pray you, confine, if ye delight in my conversatione, lett the effect declare it. Lett me find the fruit therof ; and if yee be not able, lett me be in no war case nor I am in, be your deid ; for that were needlesse. Suppose ye have gotten new friends, men I grant that are more able to perfit you in your outward estate, yett I will looke that ye will observe a Christian duty towards me. So wishing yow well in the Lord, I take my leave, and rests

Your most loving confine to his power, in God,

INVERNESS, the 10 of February 1613.

ROBERT BRUCE.

No. XIX.

COLLECTION OF ADDITIONAL ORIGINAL LETTERS AND MISCELLANEOUS DOCUMENTS ILLUSTRATIVE OF GOWRIE'S CONSPIRACY.

(1.) LETTER, *George Nicolson, Queen Elizabeth's Ambassador in Scotland, to Sir Robert Cecil, Secretary of State.*²

It may please your honor,

THIS daye morninge, at 9 howers at that tyde, the K.[ing] wrote to the Chancellor, Secretary, Aug. 1600. and others, and to some of the Kirk ; and word came hither in this maner, and the L.[ord] Secretary told me, That yesterday th' Erle of Gowry sent the M^r his brother, M^r Alex^r Riven, to the K.[ing] hunting in Fawkland Parke ; shewing the K.[ing] that where, for his adoies, he had muche troubles to git treasor, &c. his brother th' Erle had founde in an old towre, in his house at S^t Johnston's [Perth] a great treasor, to helpe the K.[ing's] turne ; wth w^{ch}, he saide, his brother wolde faine have the K.[ing] to go to see quietly, that day. Whereon, after the K.[ing] had hunted a while, and taken a drink, he tooke freshe horse and discharged his company (to wit), the D.[uke] and Erle of Marr then in company wth him, taking onely a few wth him ; yet the D.[uke] rode, and the Erle of Marr followed, and the K.[ing] met by the way the L.[ord] of Inchchaffray, who also rode wth him to S^t Johnston's ; where the K.[ing] cominge, th' Erle meting him, caryed him into his house, and gave him a good dynner ; and after went to dynner wth the D.[uke] and his company. The M^r, in the meane tyme of their dining, perswaded the K.[ing] to go wth him quietly to see it ; as the K.[ing] discharginge his company to follow, went wth the M^r from staithe to staithe, and chamber to chamber, locking still the doors behinde him, untill he came to a chamber where a man was, w^{ch} the K.[ing] thought had ben the man had kept the treasor. There the M^r cleked hold on the K.[ing] and drew his dagger, sayeing he had killed his father, and he wolde kill him ! The K.[ing] wth good wordes

¹ Select, choose. ² The Original is in the State Paper-Office, London.—See *Chalmers' Life of Ruddiman*, p. 443.

Aug. 1600. and meanes, fought to difwaid him; fayeing, he was younge when his father was executed, and dyvers others honeft men; that he was innocent thereof; had reftored his brother, and for amends, made him greater then he was; that if he killed him, he could not efchape, nor be his heir: That he prefumed M^r Alexander had learned more divinity than to kill his Prince; affuring him, and faithfully promifing him, that if he wold leave of his enterprife, he wold forgive him, and kepe it fecrett, as a matter attempted upon heate and rafhenefs onely. That to thefe the M^r replied, what was he preaching? that fould not helpe him; he fould dye: And that therewith, he ftroke at the K.[ing,] the K.[ing] and he bothe going to the ground, that the M^r called to the man there prefent to kill the K.[ing.] That the man answered, he had nether harte nor hand; and yet is a very curragioufe man. That the K.[ing] having no dagger, but in his hunting cloths wth his horne, yet defended himfelf from the M^r; and in ftugling, got to the windowe, where he cryed Treafon! w^{ch} S^r Tho^s Erkin, John Ramfay, and Doctor Harris, hearing, ran up after the K.[ing], but found the doors fhut, as they could not paffe; yet John Ramfay, knowing another way, got up and in to the K.[ing,] who cryed to John he was flaine; whereon John out wth his rapier and killed the M^r. In this tyme, that th' Erle fould tell the Duke, Marr, and the reft, that the K.[ing] was gone away, out at a back gate; that they ran out and Gowry wth him, and miffing him, that th' Erle faide, he wold go back and fee where the K.[ing] was. That he, wth 8 wth him, wth a fteele bonnett and two rapiers, ran up the ftaires; that John Ramfay, meting them wth drawn fwordes, S^r Tho^s Erkin and Doctor Harris being then comed to John, after fondry ftrokes, in the end killed the Erle alfo; S^r Thomas being hurt, and Doctor Harris mutulate and wanting 2 fingers. That this ftir being, the townes men and Gowrie's frends, in evil appearance, faid, they wold have accompt where th' Erle was, or they wold pay the grene cotes! To pacifie w^{ch} the D.[uke] and Mar were fent to the Magiftrates; and fo quieted the matter, as the K.[ing] and his company gott away; the K.[ing] thanking God for his deliverance. And yefternight, knighted, as I heare, John Ramfay and Doctor Harris; but the Secretary told it not me.¹

Upon thefe, Lettres comed from the Courte, The whole Council here convened; and in end, at one of the clock rofe, and came all to the market croffe, and there by found of trumpett intimated, but in bref, the happie efchape of the K.[ing] and their Act, that they made in Council, for the people to thank God for it; and in joy thereof, to ring bells and build bone fires. M^r David Lindfay, ftanding with the Council on the Croffe, made a pithy and fhort Exhortation to the people, to prayfe God for it; and therewth praied and praifed God for the fame; the whole Council on their knees on the Croffe, and whole people in the ftretes, in like forte. The peces of the Caftle alfo fhotte in joy; the few bells yet ringing; the youthes of the towne gone out to ffirmifh for joye, and bone fires to be bilded at night: And the Council to go, this tyde, over to the K.[ing,] for further deliberation in this matter. The K.[ing] at his retorne to Fawkland, prefentlie caufe thruft out of the houfe, from the Q.[ueen,] Gowrie's two fifters in cheif credyt wth the Quene; and fwears to roote out that whole houfe and name. Upon the conveninge of the Council, the portes of the towne were fhutt, for apprehendinge Gowrie's other brethren; and the lands are to be given to thefe new knights and others. This is the information and reporte comed yet hither, by the K.[ing's] command; w^{ch} fome yet doubted to be fully fo. What will follow, I remit to the fequell; being glad the K.[ing] is fafe, without hurte. Gowrie's Secretary is taken, and matters hope to be difcovered by him. Some falfe lyenge villains gave it out, I fould have ben this day morne at Leith, by 3 of the clock, and fould fay, being asked by one, that I was there attending ftange newes from beyond the water. I tolde the Secretarie of it, that it was falfe, as God be thanked it is; and that if I were charged by any fuch devilifh devices, I wold refuse no debofhed fwinger or bloody villaine that fould be fo fuborned to put doubt towards me; praying the Secretarie to remember it, and fay it for me, if he hard it. That your honor fees how the malicious here spite me; in what danger I live, and how fubject I am to all

¹ ' Mr James Hamilton is this day gone to England.'

accufation here; and fome practifing knaves wold whifper it, that this plot fhould be drawne and Aug. 1600.
divided in other parts, [England.¹] But thus much, for this tyme, in hafte, wth myne humble duty
and fervice. I pray God preferve yo^r hon^r. Edenburgh, the 6th of Auguft, 1600.

Yo^r honor's, &c. &c.

GEO. NICOLSON.²

I have no copie of this.

(2.) EXTRACTS *from* LETTER, *Sir Henry Neville to Mr Secretary Cecil*,³
Paris, 27th Feb. 1599—(1600.)

Right Honorable,

THE EARLE GOWRY, a nobleman of Scotland, who hath fpent fome time in thefe parts, is Feb. 1600.
purpofed to returne home through England; and defires to have the honor to kiffe her Majefties
hands, as he paffeth. And becaufe I know him well, and have had good communication with him,
and therein found him to be of very good judgement, and exceedingly well affected both to the
common caufe of Religion, and particularly to her Majeftie, and that which may concerne her honor
and fervice, I have thought good to recommend him efpecially, unto your honor; and to befeech you
to be a meanes, that he may receive that honour and favour that he is worthy of; that fo he may
depart, confirmed in that good devotion and respect which he beares already towards her Majeftie.
If your honor pleafe to conferre with him about thefe alterations feared in Scotland, I beleieve he will
give you good fatisfaction; and that you will finde him to be a man of whom there may be exceeding
good ufe made. I have given him my paffport, to ferve him till he come to her Majefties Court, in
as ample and favourable fort as I could. The reft I referre to your honor's good favour towards him;
whereunto I humbly recommend him. And fo, &c.

Your honor's very, &c.

HENRY NEVILLE.

THE Lord Hume purpofeth fhortly to returne likewife, as he telleth me, and hath already prayed
my paffport, which I cannot deny him. But you will be pleafed to have regard to fome of my for-
mer Letters.

(3.) EXTRACT *from* LETTER, *Sir Henry Neville to Mr Winwood*, London,
28th Aug. 1600.

Now to the occurrences of thefe parts, you fhall underftand, that the Erle Gowry, and a brother of Aug. 1600.
his, have been lately flayne, in Scotland, in the Erle's own houfe, and in the King's prefence. They
are charged to have confpired the King's death at that time, but God would not fuffer them. They
had prepared for it, to execute their deffeign, although they attempted it; and fo they fell into the
pitt themfelves had digged.

This is the relation fent hither of it; which, notwithstanding, is diverfely cenfured, according to
men's divers affections. But howfoever, her Majeftie hath fent Sir Henry Bronkard thither, to con-
gratulate the King's efcape, and to doe fome other offices to him. There is alfo one Hambledoun
come from thence, to refide here at leaft for fome tyme.

¹ This word is interlined. ² This must be allowed to be a very interesting letter; as it exhibits a striking
picture of that singular transaction, at the moment, and of the manners of the times. In it we see, that the King
had on a hunting-horn; that the King and his attendants wore *grene cotes*; and that the Earl of Gowrie's two sif-
ters lived in the palace, at the moment of the conspiracy, and were in *cheif credyt with the Quene*. The foregoing
difpatch of Nicolson proves very clearly, that Queen Elizabeth had *no finger in that pye*, particularly when Nicolson's
declarations are coupled with the subjoined Letter, from Lord Willoughby. (No. 8.)—*Chalmers*. ³ In these
and the following Extracts, it has been deemed unnecessary to give any thing farther than what relates to the Con-
spiracy. The above Letters to Cecil and Winwood, have been taken from that valuable and authentic Collection,
Winwood's Memorials and Affairs of State, Vol. I. pp. 156, 249, and 274.

Nov. 1600. (4.) EXTRACT from LETTER, *Sir Henry Neville to Mr Winwood*, (in cipher,) London, 15th Nov. 1600.

OUT of 205 (Scotland) we hear there is no good agreement, but rather an open diffidence between 165 (Counfail,) the King of Scots, and his wife; and many are of opinion that the discovery of some affection between her and the Earle Gowry's brother, (who was killed with him) was the truest cause and motive of all that Tragedy.

(5.) EXTRACTS from LETTERS, *Sir John Cary, (son of Lord Hunfdon,) Governor of Berwick, to Sir Robert Cecil*.¹

(i.)

Aug. 1600. (Aug. 10.)—THE KING has made great search, and lays great wait for the two younger brothers, who, by great fortune, escaped from the schools; and not daring to tarry in Scotland, they are this day come into Berwick closely, in disguised apparel; and being brought to me, they only desire, that their lives may be safe, and they may have a little oversight here, till the truth of their cause may be known: And the pitiful case of the old distressed good Countess hath made me, the willinglier, to give my content, for their stay here a while; till I may, by your honourable means, know the Queen's Majesty's pleasure, whether they shall stay here, or go some whither farther into the country; for they only desire the safety of their lives; and the old Countess's case is pitiful and lamentable. I beseech your honour, let me know her Majesty's pleasure, with as much speed as may be; for that I would do nothing to offend her Majesty. The poor gentlemen stole into the town this morning closely, and I could not well turn them out again; seeing they come for refuge, to save their lives, till I know her Majesty's further pleasure therein.

(ii.)

(Aug. 24.)—UPON the receipt of your letter of the 16th August, according to the contents thereof, I did send for the tutor of the two gentlemen, the Earl of Gowrie's brothers; who, for my own part, I have not yet seen, since their coming into the town, so close have they kept themselves; as they have never yet stirred out of their chamber which they first entered into, to look abroad. I conferred with their tutor, which might be the securest way, for their own safety; advising them, for their better security, to go farther off from these bordering places, where the King might not so easily hear of them, and their being. I wished them to repair towards Richmond, or to Rippon, or to about Hull, or to some other such inland towns, out of the way, where the King might not so easily have intelligence of them; and so they to be freer from the danger of their countrymen, who are very conversant upon the street-ways. He liking very well hereof, yielded willingly thereto; desiring only, for that they came very meanly in, without either money, horse, or apparel, to have three or four days respite, that they might send to their friends for money and nags, and such other necessaries as should be fit for their journey; then will they presently depart, as secret as may be; and in the mean time, they shall remain very close, till their necessaries be gotten, which will be within four days.

(iii.)

Sept. 1600. (Sept. 4.)—BEFORE this day, I could not by any means get the present Earl of Gowrie and his brother out of the town; for that they had sent to their mother for maintenance, and could not hear till now any thing from her; and now it falls out so ill with them, as she hath sent them no manner of maintenance, hoping they should have staid here still; neither dares she trust many of her servants. For if it should be known, that she did, any manner of way, either give them succour or maintenance,

¹ These extracts were obtained by Lord Hailes from the Originals, in the Paper-Office, London. According to his plan, they are modernized.—*Cecil's Secret Corresp.* p. 161.

or any manner of help, she should presently forfeit, and be thrown out of all that she hath. Such Sept. 1600. secret search and privy spial is there through the whole country for her and her sons, as no friend either dare or can travel between them; such privy search is laid for them in all places, as almost no man can travel, in their country, but he is searched. And if I had sent them sooner away, I should but have sent them to very great danger, either of being killed or taken; for that they being very poor themselves, and having no friends, nor any acquaintance, could neither have told whither to have gone, or what to do. But, finding their necessities, and their willingness to submit themselves to any appointment, and for that I would have them out of the town, before any fault were found, I have found means, that they are furnished with some money, and are stolen privately out of the town. I have sent them, with a man of mine own, to Durham, where they shall be secretly for a twenty days, till their mother may take some better order for their maintenance; and then they mean to travel to Cambridge, and there to study for a time. They have none but themselves, and their schoolmaster with them. All the time of their being here, they were as in a prison; for nobody ever saw them, neither did they ever stir out of their chamber; so as there can be no certainty known of their being here, but only upon mistrust; and as secretly are they gone out of the town.

(iv.)

(Sept. 21.)—I HAVE even now presently received your letter of the 15th of this instant, understanding thereby the Queen's Majesty's pleasure for the Earl of Gowrie's two brothers. All that hath been said of them, touching their behaviour here in Berwick, is but surmises and supposes, by the contrary party. For I will assure your honour, upon my faith, it could not have been better carried, nor closer handled by any creatures living, than by them, during their being here. For myself did never see them but once, and that was at midnight, only myself; and for any other, I know they kept themselves close enough; for they durst do no otherwise, they were so afraid of themselves. They went away as secretly; and to Durham they went long since, with an intent to pass onward to Cambridge, as I did before signify to your honour. So as what is now become of them, I know not, neither where they be; for since their departure, I have not heard of them any thing; so as I know not where to hear of them. Thus much I thought good with speed to certify you; that with speed there may be some course taken for their dispatch, according to her Majesty's pleasure.

(6.) LETTER, *King James VI. to Mr John Caldcleuch.*¹

TRUSTY friend, We greit you hertlie weill. We have taiken occasioun heirby, richt erniftlie Aug. 1600. to will and desire you, that ye fail not, all excuissis set a part, to be at Falkland, upoun Wedynsday at evin nixt, the twenty day of this instant, for your best advyses and opinion to be had, anent the planting of Kirkis of Edinburgh; the forme and maner of the universall thankis and prayis that fall be gevin to God, in every Congregatioun and Kirk within this realme, for our miraculous delyverie of that treasonabill Conspiracy, intendit laithlie aganis us, at Sanct Johnstoun, be umquile Johne Erl of Gowrie, the M^r his brother, and thair affociattis; and for your advys to be gevin in sic uther, our great and wechtie effairis, as falbe particularly impairtit to you at your coming: ffor the quilk, luiking precesly that nicht, that on the morne thaireftir, they materis may be handellit and put to ane point; We commit you in Godis protectioun. From Halyruidhous, this xiiij day of Auguft, 1600.

JAMES R.

To our trusty friend, Mr Johne Caldcleuch, Minister of Newburgh.

¹ Wodrow's MSS. Advocates' Library, Vol. LXIX. Jac. V. 1. 12. It is proper to mention, that this seems to be one of the numerous circulars which were addressed to the Clergy, as may be seen from the preceding Extracts from the Lord High Treasurer's Books, No. VIII. See Note, p. 239. No doubt each Letter would vary from another in some minute particulars, and according to the favour the respective parties enjoyed at Court.

Aug. 1600. (7.) EXTRACTS from LETTERS, *Rowland Whyte, Esquire,*¹ to *Sir Robert Sydney.*²

(i.)

(Aug. 16.)—THE King of Scots had lately like to have bene murthired. Young Goory³ (the Erle of Gooryes brother, whom the King restored to his honour and liuing, and bestowed on them both, great gifts and advancements) told the King in secrett, that in the Castell, which he kept vnder the King, he found a great chest buried, of that waight which cold not choose but be treasure. He wold not presume to open yt, but in his Majesties prefrence; and therefore befought him to take the paines to goe himself and see yt brooke open: Which the King did, leauing his traine below in a bafe-court, and went alone with young Goorey vp the stairs, and from chamber to chamber, which Goorey locked as he went, till he had brought the King where he had appointed. And then he told the King that the time was come which he had long wished for, to be revenged vpon him for his father's death: That he had trained him to that place to kill him, which instantly he wold doe; and drew out his dagger to haue stabd him. But the King catcht him by the hand, and defyred hym to heare hym speake. Then sayd, that when his father was put to death, he was but an infant; and therefore, cold not be accessory to his death. That during his Minority, many thinges were comitted, by the Regents of his Kingdom, which he was sorry for; which appeared by the great fauers he had bestowed vpon him and his brother. Bot all wold not serue; for he strugeld to stabb him; and the King, in defence of his liffe, shewed a great resolution and courage; which young Goorey perceuing, called to a seruant of his own, who was a partner in this Conspiracy; but he stode still, and swore he had neither hand nor hart to kill his anointed King; and tooke part with the King, who had time then to put his head out of a window, and cryed 'Treason!' and called for speedy help! Then his traine went vp the staires, where they found the Earle of Goorey, and some others, with weapons, to resist them; but they made way, with the death of the Earle of Goorey and his companions, and so rescued the King, and before his face slue the young Goorey.—LONDON, Saturday the 16 of August, 1600. By post.

(ii.)

(Aug. 26.)—HERE is one Hamelton come from the King of Scots, to reside here as his Agent, and to deliuer to the Queen the maner of the Conspiracie against his Master.—STRAND, (London,) this 26 of August, 1600.

(iii.)

Sept. 1600. (Sept. 12.)—ONE PRESTON, Capten of the King of Scots Foote-gard, a very proper and discret Gentleman, was with the Queen, sent from his Master, to deliuer more matter discovered of the Treason intended against his Maiestie by the Earle Gowrey and his Complices.—STRAND-BRIDGE, this Saturday, the 12 of Septemb. 1600.

(iv.)

Oct. 1600. (Oct. 3.)—SIR HARRY BRUNCKAR is returned out of Scotland; and from the Kings own mouth, receues the maner of the Conspiracy against hym; which is as yt is sett down in the printed booke I sent you the last week. The K. hath knighted all his seruants that assisted hym out of that perrill. Some displeasure the King conceaues against the Ministers; for that they wold not, in the pulpitt, preach against the horibleness of the fact.—STRAND, Friday night, late, the 3 of October, 1600.

¹ This gentleman was employed by Sir Robert Sydney to solicit his affairs at the Court of England, and to relate to him all that took place; for which he received a salary. His Letters are minute and valuable, as they contain much private information not elsewhere to be found. ² Lord Governor of Flushing, afterwards Lord Chamberlain to King James. He was brother of the celebrated Sir Philip Sydney. See *Sydney State Papers*, or Collins's Letters and Memorials of State, Lond. 1746. Folio. Vol. II. p. 211. ³ The Master of Gowry, Mr Alexander Ruthven.

(8.) LETTER, *Lord Gray* to

Sept. 1600.

SIR,

I LANDIT that same nicht I left you last, at eight houris, and ves in danger amongst the craiges, and never in my lyf so feik. Heir I met v^t Thomas Hendryfone of Edinb: He hes no newes, faue of Th' Earle of Gouryes death. He tellis it in the same forte as ye haue hard it. Ther is execute M^r Th: Cranftoun and George Craingelt, v^t sevin honest men of S^t Jhonstoun. They ar executed, for that they ver fund to be in armes befor the rest. His man, who ves v^t him, is bootit, M^r William Rynd; and hes deponit no thing, faue that my Lord studiit Magik in Italie and France, and had sprittis. His chamberlane, who should haue flaine the King,² is yet keipit. M^r Patrik Gallouay hes preatchit all this in the pulpit of Edinb., bothe of the Magic and Treafoon; bot all vho ar dead, confessit no thing. The King, efter the preatching, sueir solemnelly, that all ves treu he hed preatchit, by his saluation and condemnation. The rest of the Minifters ves preassit to subscryue that it ves treu; bot they refusit: Yet they grantit to thank God for his Ma^{tes} delyuerance: And so they ar banifit.

Richart Prestoun is at Loundoun; bot as yet I knou not vhat they fay to him. From Loundoun ye shall heir all. And I remaine your louing freind and coufing, GRAY.

DOVER, 28 Sept. 1600.

I forgot, amongst vther thingis that M^r Gallouay preatchit that Th' Earle of Goury ves a dealler betuene the Pope and the Kingis Ma^{tes}: Bot the rest of the Minifters will not beleue him.

(9.) EXTRACT from LETTER, *Mr Winwood to Secretary Cecil*,³

Paris, May 17, 1601.

THE Ambaffador of Scotland hath been advertised of a dangerous practice against THE SCOTS May, 1601. KING: That lately, one called Glarnet hath been sent out of Scotland, with Letters to BOTHWELL, to hasten home with diligence, where he shall find sufficient assistance. The principal person who employed this person is THE QUEEN OF SCOTLAND; and Letters have been intercepted out of Scotland, from Mr Gray, that the death of GOWRIE should shortly be revenged.⁴

(10.) EXTRACT from LETTER, *Lord Henry Howard (afterwards Earl of Northampton) to Edward Bruce, (Lord Kinlofs)*,⁵

[Without date, but previous to Aug. 24, 1602.]

OUT of the Archduke's Camp, one of her Majesty's greatest commanders heth been advertised, that Aug. 1602? a fire will break out in Scotland, before it be long; which makes Cecil to fear, knowing in what state King James stands with England at this day, that other trains, made under ground by secret pioneers, within the body of that state itself, may break out when it is least looked for. Add hereunto, the gallant maintenance of Gowrie's son,⁶ so near Scotland, and with so great shews; though no man knows from whence, beside Sir John Cary,⁷ who is holden to be very inward in that course, as certain gen-

¹ From the original in the Advocate's Library. The envelope is lost, and no trace remains in any other Letters in the same valuable Collection. It does not appear whether this Letter is from Patrick, sixth Lord Gray, or his son, the well-known intriguing Patrick, Master of Gray, who acted so base and treacherous a part in England, during the latter part of the reign of Queen Elizabeth, and the earlier portion of King James VI. The families of Ruthven and Gray were nearly related by intermarriage. ² Andrew Henderson. ³ *Winwood's Memorials*, I. 326. See also *Pinkerton's Dissertation*, (appended to *Laing's Scotland*, (First Edit.) 1800, Vol. I. p. 534, &c.) who strongly asserts the Queen's participation in schemes against her husband. The inferences he draws from the alleged intrigues of Queen Anne are quite fanciful; and the hypothesis he then maintained, in regard to the Conspiracy, quite untenable. *Laing* discarded *Pinkerton's Dissertation* from the subsequent editions of his History.

⁴ See Notice prefixed to the case of Francis Mowbray, Jan. 31, 1603, &c. ⁵ From *Cecil's Secret Correspondence with King James VI*, edited by Lord Hailes; who has purposely modernized the style. Cecil employed Howard, and the King Bruce, as the medium of correspondence.

⁶ Patrick Ruthven, the son of William Earl of Gowrie, whose daughter, as has been remarked before, was married to Sir Anth. Vandyke. It was he who wrote the admirable Letter to the Earl of Northumberland, published in the *Cabala*, (*Scrinia Sacra*, 4to. Lond. 1654, p. 106.) which shews talents of no ordinary description. ⁷ See Extracts of his Letters to Cecil, (5.) p. 316.

Aug. 1602? tlemen in the North, making feveral collections of tokens vifible, and words let fall, have advertifed their own conceits, in confequence, with thofe other fears which have been formerly advertifed.

The Mafter of Gray hath had long conference with Queen Anne; fince which time his ftyle is heaved up *cothurno altiore*, as Cicero faid of Anthony. Divers of Gowrie's neareft and deareft friends have feeret accefs to perfons of great quality.¹ They keep old iffues open, and feed spleen againft all thofe that are employed and trusted in the courfes of the prefent ftate; which the King's wifdom tempereth.

(11.) LETTER, *Lord Willoughby, Queen Elizabeth's Governor of Berwick, to Sir Robert Cecil.*²

SIR,

Oct. 1600. I RECEIVED your packet to Mr Hudfon, the 18th of this month; and another to Mr Ralph Gray, this morning; both which I have difpatched accordingly, but fuch is the negligence of the pofts, that the packetts are 7 or 8 dayes in coming. For occurens yt is uncertain, whether the convention hold; but the King is refolved to have bifhopes: The Marquis of Huntley have reconciled the King and Queen. The Erle of Mar is retired to Stirling; who hath very difhonorably fuggefted [to] the King, that I was privy to the practice of the Earl of Goury: his reafon to induce him to helieve yt was, becaufe I gave the faid Earle kind entertainment, at his being at London. Other newes hear is none, but that the contry is in very good quiet; which courfe I will endeavour to continue in the town, to my utmoft. But fuch are the contentions of the Council heer, that unlesf S^r Will. Bowes had carried himfelf very difcreetly, and I myfelf prefently prevented yt, they had quarrelled in my bed-chamber, being at Council. Thus, not willing to trouble you any further, I reft

Yo^m faithfully affured to doe you fervice,

Berwick, this 21 October 1600.

P. WYLLOUGHBY.

(12.) LETTER, *Sir James Coluill of East Wemyfs to Sir Edward Bruce, Lord Kinlofs.*³

COUSING,

Jan. 1603. EFTER my hartly commendation, I culd not omit thir feu lynis, that 3e may knaw of my prosperus ariuel to this toun; defyring 3ou to haue my maift humble fervice recommendit to his bines. It greifis me mekil, in my paffing throuche England, the los he hes, for the laik of fum (refident⁴) honeft man, in quhom hartlie his M. might confyd; and fik as interly low him, nicht affur them felfis. For, to be plain, I dout vtheris, for caufis I vil not vret. I pray the Lord grant him that grace, that he may fauour them quha lous him aboue al. I dout not bqt, or now, 3e haue refautit my Letter from Londoun, defyring ernetly to knaw the succes of that maiter aganis his M. I hoip, vithe the grace of God, to difcouer mair in that, nor his M. hes 3it hard; as alfo, in findrie vther practifes aganis him, at my firft cumming. . . . I man 3it ernetly request 3ou to remember my coufing Capitane Coluill to his M., quha hes lofit al his eferance, for his M. fervice; and hopis he fhall shortly gif better prouf nor he has 3it doon. I wret to 3ow afor, tuichin Mefter Dauid Foulis. Let him mak

¹ It appears, from the Letters of Nicolson to Cecil, preserved in the Paper Office, that Beatrix Ruthven, sister of Gowrie, was privately admitted into the presence of Queen Anne of Denmark.—*Hailes*.
² The Original is in the State Paper-Office, London.

³ From the Original, preserved in the Advocates' Library, Edin. (Denmylne Collections, A. 1. 34.) Colvill was then serving with reputation in the armies of Henry IV. of France. He was created Lord Colvill of Culross, Apr. 25, 1604. It is proper to mention, that his first wife was *Isobel Ruthven*, second daughter of Patrick Lord Ruthven, and sister of William, first Earl of Gowrie. His second wife, Helen Shaw, was widow of Robert Mowbray younger of Barnbogle. This connexion with the family of Gowrie, may account for the reliance placed in his information; but no farther trace is to be found of the matter, in any collection to which the Editor has had access. In an interleaved copy of Lord Cromarty's account of the Conspiracy, *Lord Hailes* remarks, 'there was another Colvill at Paris, then a spie of E. Essex (perhaps his 'cousing Capitane Colulle.)' Earl Bothwell was also then in France.

⁴ Interlined.

300 priuè to the maiter, for the man is content, and defyris only the furtie of convoy. Al vther Jan. 1603. thingis, to neu occation; and my hartly commendationis to 3our brother: Praying 3ou, that this may ferue 3ou and Sir Thomas Erskyne, I remain 3our maift loving coufing,

FROM CALYS, our first of Januar (1603¹).

JAMES COLUILL of Est Weimes.

THER vas neuer fo mayny passageris heir a vay.² I pray the Lord it be for gud: Bot hes M. hes gret caus to luik to him fel³.

To my Lord, MY LORD OF KINLOS.

(12.) LETTER, *Andro Hendersoun of Latoun, Chamberlain of Scone, to King James VI, informing his Majesty of certain conduct of David Lord Scone, &c.*³

MAIST nobill, gracious, hie, renownit, deir Sowerane,
and my onlie confort wnder God,

IT WILL pleis 3owr Maieftie, (albeit ower bauld) all kynd of dewtie commandis me to wifite 3owr Jul. 1608. Maieftie with thir few lynnis, fen I have owermekill mater for me. It will pleis 3owr Maieftie to cause stay pe passing of the executioun of Scone,⁴ that it pafs nocht conforme to 3owr Maiefteis laft Gift: ffor, S^r, I protest affor⁵ God, sic as is prowytit pairto mereitis nocht at 3owr Maiefteis hand:⁶ And, S^r, fen I have thair awin hand wret, for my Warrant, I can do na lefs nor mak 3owr Maieftie frequent thairwith, quhilk 3owr Maieftie fall fie, or ellis lat me nocht have that grace to fie 3owr Maiefteis face. S^r, thay have gevin 3owr Maieftie ane werie improper style, faying in pair Letter, direct frome Restowne⁷ to Scotland, in pe Pakald be post, quhilk wes pe tyme I wes at 3owr Maieftie. The wordis of pe Letter ar pir; '3owr Maiefties promifes ar bot diffimulatioune;' and that '3owr Maieftie is bot lyke thais that ar about 3owr Maieftie.' S^r, quhen as thay wrait fwa, iudge quhat thair speeches wilbe amongis pair familiares! And my pairt of pe Letter is, S^r, that I 'merit rather hanging nor ony wther rewaird!' S^r, this is bot ane pairt of pe Letter. S^r, quhen this Letter wes red in Scotland, it wes na small reioyfung to pe Ruthuenis; ffor in guid faith, S^r, fkarce, quhen thair hard thais newis, that pe twa pairt of pe callay culd content pame for pryde; as sum of pair awin name quha wret pe Letter had experience of. S^r, pleis your Maieftie, feing (prayfit be God) thair is appearance of forder licht of pat Treffoun,⁸ S^r, for Goddis cause, lat it be exactlie tryit; ffor in guid faith, S^r, be all thay traitowris faowraris, 3owr Maieftie is callit 'pe Murtherar!' And my parte, 'ane maneforne knaiffe!' S^r, thair is twa in particular, quhilk in guid faith 3owr Maieftie is oblisfit to, wiz. Schir Jhone Moncreif and pe Laird of Bogie; ffor in guid faith, I cum newer in pe pairt, bot pair language mett me, that thay tuik it on pair conscieuce that quhilk I deponit aganis thay tratowris wes pe treuth. I pray God, gif 3owr Maieftie knew pe hundreth part of pe greifis I haif sustenit, pir fywe 3eiris bygane; quhat be the infamows lybellis, and speeches of thay tratowris fawouraris.

Thus taking my leif, on my kneis, craifand at pe Almichtie, to 3owr Maieftie, pe Quene and Prince graces, with all the rest of 3owr Maiefteis royall posteritie, mony guid and ioyfull dayes, with a hapie and ioyfull refurrectioune. 3owr Maiefties most humbill and daylie oratour,

[This Letter bears no date, but probably in July, 1608.]

ANDRO HENDERSOUN of Latoune.

To pe most nobill, gratiows, and hie renownit Pryns, KING JAMES of Britaine, ffrance and Yreland.

¹ The date may be fixed to be 1603, as mention is made of the Duke of Savoy's attempt on Geneva. ² 'Hereawa,' in these parts. ³ From Collection of Autographs, formed by Sir James Balfour of Denmylne and Kinnaird, Bart. Lion King at Arms, preserved in the Adv. Library, Edinburgh. ⁴ This word had been originally left blank. The person whom Henderson employed to transcribe the Letter was probably kept in ignorance of the fact. Henderson inserts 'Scone' in his own hand. ⁵ Before. ⁶ Sir David Murray of Gospertie, created Lord Scone, and afterwards Viscount Stormont. He obtained the barony of Ruthven, and the lands attached to the Abbacy of Scone, of which the Earl of Gowrie was Commendator. ⁷ Royston, one of the royal residences in England. ⁸ This proves the Letter to have been written previous to the Examinations, at least, before the Trial of George Sprot.

Jul. 1608? (13.) LETTER, DAVID LORD SCONE to KING JAMES VI., *exculpating himself and his nephew from the charges brought against them by ANDRO HENDERSONE.*¹

PLEIS YOUR SACRED MATIE,

I wes conveynit heir, before my Lord of Dunbar, and confronted with Andro Henryfoine, wpon fume wnreuerend speiches spoken be me of your Ma^{tie}, quhilkis wer alluterly denyit, in the preface of Sr Alex^r Hay, your Ma^{ties} secretar, that euer he had spokin or wrettine any thing in my preiudice, ather to your Ma^{tie} or ony vther man leiveand; quhilk, if I haid euer hard spokin be ony vther man in the world, wncallengit, I nicht bein thocht the onlie wngrate and wnworthie man in the world: Bot I leave this to your Ma^{ties} gracious confideratione, what all my actiones hes bein in your Ma^{ties} service, bothe in word and deid; quhair of I will be glaid content to be censuret, be my grittest enemyis. Now, Sr, to qualesie the informatioun of Andro Henryfonis, he hes producit ane Lettre of my brother soneis, direct fra Ingland to me, about the space of four zeiris and ane half sence; at quhilk tyme, your Ma^{tie} will be remembrit, I maid eirneft sute, to haue haid the fauour to have remayneit with your Ma^{tie}, and to haue haid some place of credit thair; whereanent, it pleasit your Ma^{tie} to say to me, that your Ma^{tie} wold advyse with some of the Inglis Counfall, to gett fume place to me; and at my way-comeing fra your Ma^{tie}, I delt with sik of your Ma^{ties} Counfall, as come vp with your Ma^{ties}, to be my freind, in absence; feing all the rest of the Scottis Counfall that come with your Ma^{ties} wer preferrit to placeis of credit (bot I): Of quhome I reffauet verrie fair promiseis, nocht only to remember your Ma^{ties}, bot to be my particular freind. And my brotheris sone beand thair, vpon some vther biffinesse of his awin with your Ma^{tie}, I desyreit him to hald sic of the Counfall, as haid promesit to be my freindis, in remembrance; quhilk he did, according to my Directione, and wrett heir to me to Scotland with Mr David Murray, that he had kissit your Ma^{ties} hand, and reffauet verie guid wordis and fair promiseis, that yee wold nocht onlie remember your Ma^{tie}, and advyse with pame on the meynis, how some place nicht be gottin to me. Quhilk Letter pat me in hop to beine send for schortlie thairefter: And within fyf or sex dayis efter pe receipt of this Letter, my brotheris sone wrett to me ane vther Letter, producit now be Andro Henderfone, wherein he assuiris me, he is certefeit, be sum speciall freindis of myne, that the fair promiseis that wer maid be sum of pe Counfall, wes nothing bot diffimulatioun; and speciallie of thame pat I trustit maist into; ffor be sum speicheis that he haid hard, he feirit pat pei sould rather kyth my vnfreindis, and that your Ma^{tie} wes informeit be sic as wer about you, that I haid sent Andro Henderfone to beg sumthing fra your Ma^{tie} that I could nocht mak sute for my self: And quateuir your Ma^{tie} haid grantit to gif to him, your Ma^{tie} wes informeit, he haid transfactit with me for pe same; and I wald gett pe same to my self. Thir speicheis beand reportit, be sum freind, to my brotheris sone, and he, feiring I nicht be moveit fra the loue I buire to Andro Henderfone, to pas his Gift, quhilk your Ma^{tie} haid grantit to him, and that the famin nicht be layd to my charge sum vther day; and out of the love my brotheris sone buire to me, he gave me this aduerteisment; and alsone as this Letter came to my handis, I sent it to Andro Henderfone, to the effect that he sould tak na exceptionis of my guidwill, albeit I haid refusit to pas his Gift, in respect of the premiffis; bot I gaif him suretie that I wald deill with your Ma^{tie} for ane benefit to him, quhilk I did; and obtenit of your Ma^{tie} better nor Sevin hundrethe merkis be zeir, quhilk he possesses presentlie; quhilk wes thocht, be many of pe cuntrie, mair nor he meretit; zit, in respect he did your Ma^{tie} no evill, being quhair he nicht haue done it (if God haid nocht bein your Ma^{ties} better freind;) and euer sence that tyme, I haue reteynit him in my service, and hes protectit him and euer fall; and he hes haid pe commandement of all pat I haue, in theis partis. Bot your Ma^{tie} will knaw, in the awin tyme, that pis is nocht come fra Andro Henryfone; for he wes neuer

¹ From the original, in Sir James Balfour's MS. Collection, Adv. Library.

very wyfe, and he hes loft ane guid pairt of þe witt quhilk he haid; for it appeiris he is nocht his awin man; for the quhilk I ame maift forey: And I will neuer tak me to him, for ony thing that can be reportit of me to 3our Ma^{tie}; and in the awin tyme, 3our Ma^{tie} will know how this comeis, fra quhome and how this pure man hes bene abufeit. Alwayis, I man leave this and all my vther actionis, bothe in word and deid, to 3our Ma^{ties} grations confideratioune, fra the first tyme I haid þe honour to serve 3our Ma^{tie}, quhilk is threttie tua 3eiris fence; and I neuer haid caus to weyrie; ffor 3our Ma^{tie} hes necht onlie honorit me, bot gevin me all I haue in the world, and brocht me vp fra nothing; and if I fould prove vngratte and wnthankfull to fa grationis a maifter, I mereit punefment aboue all tratouris in the world. Sa wiffing 3our Ma^{tie} all happines, withe þe contenance of 3our Ma^{ties} guid helthe,
I rest 3our Ma^{ties} humill and obedient fervitour,

D. SCONE.

[THE envelope has not been preserved, but the letter is marked, at the top of the folding, 'L. Scone to the K.' No date is noted.]

(14.) LETTER, SIR ANDREW MORAY of *Balvaird*, to KING JAMES VI., *defending himself against the accusations of ANDRO HENDERSOUN, Chamberlain of Scone.*¹

MAY IT PLEIS 3OUR SACRED MAIESTIE,

I HAVE bein, be vertew of 3our heichnes commandement, accusit be the Erle of Dumbar, as gif I had bein ane most ondevtifull subiect vnto 3our Maieftie, kything the malice of my hart by the vuttering of onreverent speiches. 3our Maiefties informer is Androw Henderfoun, of quhom I will forbear to speak any thing, leaft I fould feim to haue no better defence nor² the accusing of my accuser. The first point of my accusatioun is, that I haue callit 3our Maiefties promisis bot diffimulatiounis; and quhatfoener may, by consequence, be inferrit vpon this point; for verificatioun quherof, he hes productit vnto the Erl of Dumbar, ane Letter, wrettin by me, from Roiftoun, the laft of March, 1604, directit vnto my vncl, my Lord of Scone. The woordes are these. 'My Lord, Ester I had wrettin at lenth vnto 3our lo. with Maifter David Moray, I have tryit sum thinges, quherof my dewtie bindes me to aduertise 3our lo. notwithstanding of that quhilk I wret to 3ow in my laft Letter, that his Maieftie had said vnto my self, concerning 3ow; I fear it be al bot diffimulatioun.' Quhilk woordes, how far thay man be wrettit befor they can prooue the thing alledgit, I am perfuadit that 3our Maiefties self, without any apologie of myne, will most grationislie confider. Neuertheles, to the end 3our Maieftie may the moir cleirly onderftand how far this malicious imputatioun diflagreis from my trew meaning, I will bot schortlie say this meikill. That former Letter, quherof I maik mentioun, sent be Mr David Moray, had in it tua pairts; the first, was ane declaratioun, how 3our Maieftie had not only most grationislie admittit me to 3our prefence, bot also gracit me with most fauorabill countenance; and mairouer most bountifullie had givin commandement to gif me tua hundreth pund. The vther part was, that I had rememberit my vncl vnto findrie of 3our Maiefties Counfell, and sum of 3our favorites, from quhom I had refautit great protestationes of affectioun vnto him, and as great promisis of friendship, in his adoes.³ Bot befor the wretting of this laft Letter (quherof I am now accusit), I was certainlie informit, be sum of my vncl's special freindes, that they from quhom I had refautit faireft woordes, wer his greateft enemies: Quhilk, mouit to call their promisis diffimulat. Sa that the fence of my woordes ar very cleir, after this maner; 'notwithstanding of that quhilk I wret in my laft Letter, that 3our Maieftie had said and done vnto my self, 3et that quhilk I wret concerning my vncl I tuik it al to be bot diffimulatioun.' Gif my former Letter wer as weil to the foir, to be productit vnto 3our Maieftie, as this laft is, it wald maik this mater most cleir. Bot as God schal be my just judge, I

¹ From the Denmylne MS. Advocates' Library, Edinburgh.

² Than.

³ Concerns.

Jul. 1608. haue fet down vnto your Maieftie, moft trewlie, beath the contents of the one, and my meaning in the vther. Then fallowis, in my Letter, ' I knew his Maieftie to be, as they ar that be about him; and I affuir you, you haue na fauour of them that ar in greateft credit heir.' To this I anfuer, that I was neuer sic a fott to think that your Maieftie was fo simpill to be guidit be them that ar about you. I proteft, befor God, that I had na sic meaning. I haue baith hard and fein to muche of your Maiefties wifdom and refolutioun to think fa vylde a thocht. Bot my meaning was, ' feing my vnckle had no fauour of them that wer in greateft credit about your Maieftie, (the quhilk I was moft certanlie mead to beliene,) therfor I greatlie fearit that their hard informatioun might nuif your Maieftie agenft him, he not being prefent to anfwer for him felf, and hauing about your Maieftie fo many enemies.' Their reftis yet more in my Letter. ' I heir fay that their is ane turne past heir, in fauoures of Androw Henderfoun, into the quhilk your lo. hes great neid to tak head to your proceding; for albeit his Maieftie hes past it vnto him, I fear it be rather to try how you behaue your felf, nor for any good mynd they had to pleafour Androw Henderfoun.' Theis woordes I houp neid no apologie. Befor God I had mynd of no thing concerning your Maieftie. I knaw, and that be experience, that al your Maiefties grantes ar and haue bein euer moft frie and abfolut. My only meaning was, of the advantage they that wer about your Maieftie might maik of my vnckles behaviour in this matter; ffor it was directlie faid, be fum of them, that he wald content Androw Henderfoun with a fmal pairt, and tak the reft to him felf. From this point, it will pleis your Maieftie to confider, that the grund of my accusatioun proceeds, and not from that zeal and affectioun my accufer professis to bear vnto your Maieftie: or els he had communicat this vnto your heichnes, at the first, and not keipit the fam befyds him thir four zeires and moir; and now at lenth reveilit it, be the inftigatioun of vther men, as him felf pairtly confeffis. Their is no man could moir iustlie accuse me vpon this mater nor the Erl of Dumbar, gif his lo. had knawen my trew meaning; for it was his lo. of quhom I cheiflie meanit in my Letter: And I haue crauit his lo. moft humblie pardoun, for that I was fa folifche, vpon any informatioun, to belieue, that his lo. thought vtherwayis nor he had faid vnto my felf. Gif I durft haue prefumit, without your Maiefties leine, I wald, with prostrating my felf at your Maiefties feet, be woord, and not be Letter, mead this my moft trew Declaratioun; and vnto the tym your Maieftie grant me that libertie (quhilk be thir presents I moft humblie beg at your gracious handes) my hart schal neuer be pertaker of any contentment; albeit my confcience bears me witnes, that I neuer fa mekill as thocht onreuerentlie of your Maieftie, yet am I grevid aboue meafur to think that any thing fould haue efcapit my hand, quhilk, in the hardeft construction, can be accoumptit for ondewtifulnes againft your heichnes. Their is na thing in this world can discontent me mair than to want your Maiefties fauour; bot to want it throch my awen iust deseruing wer to me infupportabill. I wer to be accoumptit the moft ingrate wrech that euer had lyf, gif euer I had sufferit any fuch thocht to haue had place within my mynd; confidering the manifold fauoures your Maieftie hes schawen, baith to my felf and al my kynred. Their remains yet the laft point of my Letter, into the quhilk I maik fum mentioun of my Lord Secretar. My simpill meaning was, that his lo. at that tyme had not fa great fauour as he defyrit to haue had, of theis that wer in credit about your Maieftie. I will ceafe to trubill your Maieftie any moir, w' my idill woordes; not dowting bot your Maieftie will, according to your accustomit goodnes, confider that the affectioun I careit vnto my vnckles weill, mead me the moir ernelt in my Letter; and gif their be any woordes in it onadvysit, or not weill chofin (as I do confes their is many) your Maieftie will imput them to want of witt and laik of discretioun (quhilk euer accompaneis youth,) and not to malice, quhilk I proteft, in the prefence of God, is as far remouit from my hart, as it stiks neir to their hart that does accuse me. Praying vnto the Eternal to grant vnto your Maieftie ane moift happie and prosperous regne, ane bliffit and ane long lyff, I reft

your Maiefties moft humbill and moft obedient fubiect,

S. ANDROW MORAY
of Baluaird.

EDINBRUGHE, the 13 of July, 1608.

(15.) LETTER, *Alexander Blair in Colone, to (David Lord Scone,) charging* Apr. 1610.
*Hary Ruthven with using treasonable expressions.*¹

THIS is to latt your ll. wnderstand the wordis that Hary Ruthven spak. He vas cumand downe betuix your ll. park dykis, aboue Scone; quhair he and William Wallace, feruitour to my ll. of Blantyr fell in conference about ane SPROTT, quha was execut in Edinburg at that tym. William Vallace sayis to Hary Ruthuen, 'this mater is mead cleirer nor it was.' Hary Ruthuen anfuert him agane, and sayis plainely, 'Ha! ha! THE ERLE OF GOWRY was faiklely put downe! And the King, and all that was thair that day, vas Trateuris to the Erle of Goury!' And William Vallace anfuering, forbade him to speik sik langage, for it wold do him evill. This I thought good to advertice your ll. that his Ma^{te} our gratius soueran might be acquent therwith. I have subfcryvit this with my hand, and am redy, for my dewty to his Hienes, to seale it with my bluid.

ALEX^s BLAIR.²

M. G. Graham^s B. of Dumblane, vitnes to this subscipne.

(16.) DEPOSITIONS, *relative to the Treasonable expressions made use of by*
*HARY RUTHVEN alias FREELAND.*⁴

(i.) AT EDINBURGHE, the xxvj day of Aprile 1610, IN PRESENCE of *Alexander Erle of Dunfermyne Lord Chancellor, David Lord Scone, the Presdent, Aduocat, and Schir William Hairt Justice depute.*

ALEXANDER BLAIR in Colone, maryed, of the age of xxxviii yeiris, fworne vpoun his great aithe, being humblit vpoun his kneis, and demandit, 'What war the wordis he hard Hary Ruthuen speik, for the whilk he hes bene wardit thir diuers oukis bigane?'⁵ Deponis, that vpoun the aucht day of September, the yeir of God I^m.vj^c and aucht yeiris, Hary Ruthuene, William Wallace servand to the Lord of Blantyre, and the depouner, having mett togidder in Colone, and being comeand thairfra towardis the burgh of Perth; as thay war betuix my Lord of Scones Park dykis, aboue Scone, Williame Wallace sayis, that 'This mater of GOWRYIS TREASOUN is maid cleirar nor it wes, be the Execution and Confessioun of one named Sprott.' Vnto whome Hary Ruthuen anfuert, that 'The Erll of Gourye was ane honnest man, and that he wes faiklelie putt doun!' And that 'They wer all traytouris that wes at his Slauchter, King and all!' Quhairupoun William Wallace replyt, 'Speik not sik language!' And this deponer said to him, 'That is sclanderous language: You do not weele to speeke sik language.' And the depouner sayis, that Hary Ruthuen and the depouner wer in goode terms of freindschip, at that time; and that Haryis wyffe and the depouner ar thridis of kin: And deponis, that Hary Ruthuen and William Wallace ar vnder very grite freindschip and kyndnes; and that Hary Ruthuen is doar and factour to Williame Wallace, in this rowme of Colone; and Hary aggreit Williame Wallace and Agnes Seytoun, anent hir lyverent of the rowme; and that Hary Ruthuen fend to Williame Wallace, ane hundreth merkis, in Januair last. Demandit, 'ffor quhat caus he concealed this mater, fra the moneth of September, quhill the moneth of August thairefter, that he reveilled it to the Lord of Scone?' Deponis, that shortlie thairefter, he tauld to Henry Rattray, goodebruther to the said Hary Ruthuen, that the said Henry Ruthuen had fpokin sclanderous wordis of the King; and that the depouner wald haif reveillit the same to the King, yf he wes in the cuntrey: And seing his Maieftie wes absent, that he wald tell it to my Lord of Scone: To whome Hary Rattray anfuert, 'He will defye 3ow and my Lord of Scone bothe; for he hes alreddy biddan the prwffe of

¹ From the Original, among the Warrants of Parliament, &c. General Register House. ² There is written in a very small hand, as a memorandum at the foot of this document, 'From Justice Clerk, Mr W^m Hairt this day xv dayis.' The date is likely to have been in April, 1610. ³ Mr George Graham, Bishop of Dumblane. He was translated to the see of Orkney anno 1614. ⁴ Originals in General Register House, among the Warrants of Parliament, &c. ⁵ Weeks past.

Apr. 1610. the cannoun !' And deponis, that findrie tymes, he focht the occasiounne to haif tauld it to my Lord of Scone, but could not haif it ; and that shortlie thairefter, he come to my Lord of Scone, being walking vpoun the Greene of Scone, and tauld him that he had some mater to commvnicat vnto him ; and my Lord anfuerit, ' Come to me ane vther tyme and I will heir 3ow.' Deponis alsua, that afoir that tyme, he reveilled this fame mater to Andro Henderfoun, who advifit the depouner to ' tell it to my Lord of Scone ; and that nane hard this conference bot Andro Henderfoun and the depouner : And the depouner fayis, that he tauld this to Andro Henderfoun, within fourtene dayis after that Hary Ruthuane spak it ; and he tauld it to Hary Rattray, within ane moneth after the speiking of it. Deponis alsua, that lang afoir Hary Ruthuen spak thir speeches of his Maiestie, the depouner hard him say, ' Andro Henderfoun is going to big (*build*) : Lat him big quhat he will, I hoip to see the day that I fall putt him out of his houfe and duell in it !' And that Adame Hepburne in Scone, and David Blair thair, wer present, and hard thir speeches, quhilkis wer spokin in Sanct Johnnestoun, in Andro Boyd's houfe thair, as thay wer come from the buryall of ane woman callit Coke, as he rememberis ; and that Hary Ruthuene directit his speeches, on this mater, to the depouner, bidding him ' Go tell the fame to that fals knave Andro Henderfoun !' Deponis forder, that after Hary Ruthuen had spokin thir wordis, concerning Andro Henderfoun, that Andro Henderfoun and the deponer, being walking together on the brig of Perth, Andro Henderfoun perfavis Constene¹ Hynd vpoun the brig, and left the depouner, and past to Constene Hynd ; and as thay war speiking togidder, Hary Ruthuen come by, gaif Andro Henderfoun ane grite touke² and almost putt him over the brig, saying vnto him, ' You may hold out of my gait !' And this wes fourtene dayis afoir the falling of the tree-brig of Sanct Johnnestoun.

(Sic subscribitur)

ALEX. BLAIR.

HARY FRIELAND, sumtyme callit HARY RUTHEN,³ of the age of xl yeiris, maryed, duelland in Sanct Johnnestoun, being humblit vpoun his knees, solemulie sworne vpone his grite oathe, and demandit, ' Yf he rememberis, that in Harvest wes a yeir, in the moneth of September, he and Williame Wallace, with Alexander Blair come from Colloun to Sanct Johnnestoun ?' Deponis, [he rememberis⁴] that he⁵ come frome Colloun that day, towards Sanct Johnnestoun,⁶ and that Williame Wallace and Alexander Blair come [in company] togidder, and that [a litle afoir thame] Henry Balnavis, Johne Broun notair, [and Andro Gairdner,] and the depouner went [in company] togidder ; and thay wer a large space befoir Williame Wallace and Alexander Blair, and staved for thame vpoun the top of the parkis of Scone, beyde the stane brig : And that the caus of thair being at Colone, wes, for geving of feafing of the Landis of Coloine to Williame Wallace ; and that thair come all togidder fra Colone, in companyis, as is afoirfaid [to Scone.] Demandit, ' Yf ther hes been ony grudge or evill will betuix Alexander Blair and the depouner ?' Deponis, that thair hes bene some mislykeing and drynes this langtyme betuix thame, because this depouner gaif informatioun and advife to the Lady Roffy to perfew Alexander Blair, for ane horfe, quhilc violentlie he spulzeit and tooke from the Ladyis dochter ; and becaus he affistit and fortifeit William Wallace and his tennentis aganis Alexander Blairis oppreffoun ; and becaus the depouner wes a doar, in procureing of Agnes Seytoun lyvrent of the rowme of Colone, in William Wallace favour. Demandit, ' Yf at that tyme of thair comeing frome Colone, he hard Williame Wallace say, that the Treafoun of GOURY wes now cleirit and maid manifest, be the Depositioun and executioun of one namit SPROT ?' Deponis, vpoun his grite oathe, that he never hard William Wallace speik ony sik speeches ; and that he never hard William Wallace name Sprottis name : And deponis, vpoun his grite oathe, that thair wes never ony fuche anfuer maid be him to William Wallace, as is affermed be Alexander Blair ; and that thair wes no kynd of conference betuix thame, concerning that mater of Goury or Sprott. Demandit, ' Yf at any tyme, he

¹ Constantine. ² A smart stroke or blow, by pushing or running at one. ³ The Sirname was formally abolished by Act of Parliament. ⁴ These and the following words, within brackets, are interlined. ⁵ Altered to ' they.' ⁶ ' Perth' deleted. Being the original paper, the corrections, on reading over the Depositions to the witnesses, are of course, made by the clerk.

sayd, that he fould duell in Andro Henderfonis houffis, latt him big as he wald?' Deponis vpoun his Apr. 1610. grite oathe, that he neur spak ony fuch mater. Demandit, ' Yf afoir the falling of the brig of Sanct Johnnestoun, the depouner toukit Andro Henderfoun vpoun the brig?' Deponis, that at the tyme specifeit in Alexander Blairis Deposition, this deponer, comeing alongis the brig, with his horse in his hand,¹ he forgadderit vpoun the brig with Andro Henderfoun, the Perfone of Bonbard, Alexander Blair, and Constene Hynd, quho wer all standing togidder; and thay sufferit the depouner to go by thame vpoun the midis of the brig, becaus he had ane horse; and at his by-passing, his shoulder tuicheit Andro Henderfoun, who tooke no offens thairat; and when the depouner was by² thame, Alexander Blair looked over his shoulder and sayd to the depouner, ' Yow mycht haif gevin ws the gait !'³ And that Andro Henderfoun wes angerit at Alexander Blair for thir specheis. And deponis, vpoun his grit aithe, that he spak na thing to Andro Henderfoun at that tyme. Demandit, vpoun his grite oathe, to declair, ' Quhat is his opinioun anent GOURYIS TREASOUN, feing he wes present with the Erll in the chalmer quhair his Maiestie wes persewit?' Deponis, vpoun his grite oathe, that he is and ever wes of opinioun, that the Erllis pairt wes worst; feing he saw the King's Maiestie haif na thing but ane hunting horne about his neck. Demandit, ' When he mett laft with his bruther Alexander?' Deponis, vpoun his grite oathe, that he saw him nocht for aucht yeiris; and that the laft tyme he saw him wes in Hull, in England, afoir the deceis of the Quene of England.

(Sic subscribitur)

H. R. of Freland.

ALEXANDER BLAIR, re-examinat, grantit that he met with Hary Ruthuen and Williame Wallace, at the taking of Williame Wallace seafing of Colone; and that after the giving of the seafing, Henry Balnaves, Johnne Broun and Andro Gardiner past away, and that Williame Wallace and Hary Ruthuene stayed a quhyle behind, to tak ordour with the tennentis; and then thay tua, with the depouner, come togidder.

HENRY RUTHEN, confronted with Alexander Blair, anent the forme of thair comeing frome Colone: Deponis, as ofbefoir, that Williame Wallace, Alexander Blair, Henry Balnaveis, Johnne Brom and Andro Gairdner come togidder frome Colone; and that Williame Wallace and Alexander Blair fell togidder in cumpany; and the depouner and the vtheris perfonis foirfaidis fell togidder, and wer ever afoir Williame Wallace and Alexander Blair, whill thay come to the Hoill-brig, quhair the depouner and his company stayed for thame; and then this depouner fell in company with Williame Wallace and Alexander Blair; and that the vther perfonis foirfaidis wer within the breid⁴ of this chalmer of the tolbuith to thame, and hard every worde that wes spokin betuix thame.

ALEXANDER BLAIR deponis constantlie,⁵ that at this tyme, the vtheris perfonis foirfaidis wer the space of three pair of buttis frome thame; and that he with Hary Ruthuen and Williame Wallace wer half ane hour togidder, at that tyme, going thame selfis allone.

HARY RUTHUEN denyis this altogidder.

(Sic subscribitur)

ALEX^B BLAIR. H. R. of Frelandis.

WILLIAME WALLACE, feruand to Walter Lord Blantyr, sworne vpoun his grite oathe, being vpoun his knees; and demandit, ' Yf he knawis Hary Freeland and Alexander Blair?' Deponis that he knawis thame very weele. Demandit, ' Yf in September 1608, quhen he tooke seafing of the hauch of Colone, yf Alexander Blair, Henry Freeland, Henry Balnaveis and Johnne Broun wer thair?' Deponis, that thai wer all thair. And that efter the geving of the seafing, Alexander Blair tooke this depouner in to his houfe to drink; and the vtheris perfonis foirfaid went afoir, and the depouner and

¹ He led his horse over this frail wooden bridge, which must have been in a very crazy condition, and probably without ledges, for in 'talking' Andrew Henderson, he 'almaist patt him over the brig.' ² Past. ³ The most honourable part of the way was 'the crown of the calsay,' or middle of the street. To usurp this privilege was attended with as much danger, as 'taking the wall,' in the days of Addison or Sir Richard Steele. A great deal of bloodshed took place in both countries, on such trifling matters of mere punctilio, between hot-blooded 'gallants.'

⁴ Breadth.⁵ Without varying, with constancy.

Apr. 1610. Alexander Blair followit, and our-tooke thame at a mylne, qubair Hary Freeland and his company went in to drink ;¹ and the depouner and Alexander Blair stayed vpoun thame befyde the mylne, quhill thay come out ; and then thay come altogidder fra the milne, in company, to Scone ; and drank in my Lord of Scones fellair, as the depouner rememberis. Being demandid, ‘ Yf thair was ony speeche or conference betuix the depouner and Hary Ruthuen concerning GOURYIS TREASOUN or GEORGE SPROTT ? ’ Deponis vpoun his grite oathe, that thair was nevir ony kynd of speeche, talking, or conference amang thame, concerning that mater of Goury or of Sprott ; and that the affirmatioun of Alexander Blair, in that mater, is ane vntrethe. And denyis that haill mater, and all the circomefanceis thairof, and all that is deponit, writtin and subfcryuit be Alexander Blair, concerning that particular : And deponis, vpoun his grite oath, that, as he rememberis, thair wes no privat conference betuix the depouner, Alexander Blair, and Hary Ruthuene, that day : And deponis, that he had priue conference, that day, with Alexander Blair, anent the roume of Colone ; and that Alexander Blair maid ane offer of iij^m markis² for the same, quhill the depouner refusit.

(Sic subscribitur) WILLIAM WALLACE.

ALEXANDER BLAIR, confronted with Williame Wallace, anent the conference betuix thame and Hary Freeland, in thair comeing frome Colone : The said Alexander abydis be his former Deposition, anent the mater of Gourie and Sprott ; and Williame Wallece denyis the same altogidder.

(Sic subscribitur) ALEX^a BLAIR. WILLIAM WALLACE.

(ii.) AT EDINBURGHE, the xxvij day of Aprile 1610. IN prefence of the *Examinatouris* above writtin.

ALEXANDER BLAIR and HARY RUTHUENE being re-examinat and confrontit, vpoun the speecheis past betuix Hary Ruthuen and Williame Wallace, concerning Goury and Sprott : The said Alexander Blair abydis constantlie be his formair Deposition, in that mater ; and the said Hary Ruthuene altogidder denyis the same. The said Alexander Blair offerit, in the said Haryis prefence, to try this mater BE SINGLE COMBAT betuix thame, qubenever it fall pleis his Maiestie or Counsaill to appoint thame tyme and place ; althocht it wer this same nycht : And sayis, that he is content to be hangit, yf in the combatt he move not the said Hary to confes the treuthe of this mater, as he hes deponit aganis him. The said Hary Ruthuen anferit, that he can not be vrgeit, be law, to fecht in fuche a quarrell : And that he will abyde the ordinar tryall of the law ; and refusit the Combatt.

ALEX. BLAIR. H. R. of Frelandis.

WILLIAME WALLACE, being re-examinat, abydis constantlie be his formair Deposition maid yisterday.

AL. CANCELL^a. D. SCONE. JO. PRESTON. S. T. HAMILTON. S. WILLIAM HEART.

(iii.) AT EDINBURGHE, the last day of Junij 1610. IN prefence of the *Erll of Dumfermyne Chancellour, David Lord of Scone, Mr Johnne Prestoun of Pennycooke President, Sir Alexander Hay Kingis Secretair, Sir Thomas Hamiltoun of Bynnie Aduocat and Mr George Young.*

HENRY RATTRAY of Kincarrody, maryed, of the age of xxx yeiris, or thairby, sworne vpoun his grite aith, and demandit, ‘ Yf Alexander Blair come to him, and tauld him that he hard Hary Freeland speeke some outragious speeches aganis the Kingis Maiestie ? ’ Deponis, vpoun his grite aithe, that Alexander Blair nevir spak ony fuche mater to him. And sayis, that Williame Wallace haveing chargeit Alexander Blair to find him law fouirtie, the said Alexander Blair come to this depouner, ane moneth afoir Hary Freeland wes maid prifouner, and sayd to him, ‘ Can I not be quyte of your goode-bruther ? I vow to God, yf I be not quyte³ of him, I fall putt ane fleche⁴ in his hoife ! ’

¹ This word deleted, and five words interlined. ² 3000 merks. ³ Fr. *quité*, requited. ⁴ Fr. *fleche*, a shaft or arrow.

ALEXANDER BLAIR, being confrontit with Henry Rattray, and being re-examinat, vpoun that pairt Jun. 1610. of his formair Deposition, concerning Henry Rattray, the said Alexander, with mony aithis, abydis be his Deposition, in that point : And the said Henry Rattray, with mony aithis, denyis the same, and that thair wes nevir ony fuche purpos or conference betuix thame, as is contenit in that Deposition.

DAVID BLAIR in Scone, maryit, of the age of xl yeiris, sworne and demandit, ' Yf he rememberis that Alexander Blair, Henry Freeland and the deponer wer drinking togidder in Andro Boydis hous ?' Deponis, that he rememberis weele thairof, and that Henry Rattray tooke thame in, to gif thame ane pynt of wyne, they being come frome the buryall of ane woman in St Johnnestoun. And deponis, that the company falling in discourse, ' who had the best aill in the cuntrie ?' ¹ It wes anfuert, be one of the company, that ' Andro Henderfoun Chalmerlane of Scone haid the best aill.' And then Henry Freeland sayd, ' Andro Henderfoun is bying, and bigging, and conqueffing. It is evill to witt quho may brooke and posses thame heirefter, for all his goode aill !' And deponis, that he directit thir speeches to the haill company ; and sayd, that ' he caird not quha wald tell it to Andro Henderfoun.' And the depouner rememberis not that he called Andro Henderfoun ' ane false knaif ;' bot sayis, ' he gair evill wordis anew.' And sayis, that the Parfone of Bonhard wes present, and hard thir specheis.

CONSTANTYNE HYND, in Brigend, vnder the Baillie of Errole, maryed, of the age of xl yeiris, sworne and demandit, ' Yf he rememberis, that a litle afoir the falling of the tree-bridge of Perth, this depouner, Andro Henderfoun, and Alexander Blair wer walking togidder vpoun the bridge ?' Deponis, that he rememberis very weele thairof ; and that in the meantyme, Hary Freeland come alongis the bridge, with ane naig in his hand ; and the deponar, with his company, having thair bakis to Hary Freeland, he said to thame quhen he come to thame, ' Gif ws the gate !' And in his by-ganging, the passage being narrow and strait, the depouner is of opinioun that he rubbit clokis with Andro Henderfoun, and past by without ony forder specheis. And deponis, that Alexander Blair sayd to Hary Freeland, when he wes by, ' The half of the gait mycht haif served yow, when yow crapt vnder the boorde !'

AL. CANCELL^s. D. SCONE. ALEX^s HAY. S. T. HAMILTON.

NO. XX.

LETTERS OF JOHN, EARL OF GOWRYE.

[THE following Letters of JOHN EARL OF GOWRYE, are the only specimens of his literary compositions now known to be extant. The original of the Letter to King James VI. was presented to the College of Edinburgh, by Drummond of Hawthornden, in 1626 ; but it has unfortunately been either mislaid or lost, (with other autograph Letters in the same Collection,) subsequent to the year 1757. About that time, it had been transcribed and published by Sir David Dalrymple, Lord Hailes, in a reprint of the ' Account published by authority,' (No. IV. of the present Collection of Illustrative Documents,) and which was intended by him to serve as a specimen of his projected Collections relating to the Gowrye Conspiracy.

The other Letter is preserved in a volume of Original Papers, collected by David Calderwood the historian, who was a fellow-student, under Principal Rollok, with the Earl of Gowrye, at the College of Edinburgh ; where they took the degree of Master of Arts, in 1594. At the time of writing these Letters, the Earl was in his 17th year, prosecuting his studies at Padua. They are also given, pp. 351-6, of the valuable ' Miscellany' of the Bannatyne Club. A fac-simile of the Earl of Gowrye's subscription to the last of these interesting reliques concludes this Collection of Papers.]

¹ ' Toun' is deleted.

Nov. 1595.

1. LETTER, *the Earl of Gowrye to King James VI.*

PLEASE YOUR MAJESTIE,

GIF the bestowing of great benefites fould moue the receauers theroff to be thankfull to the giueris, I haue mony and extraordinar occasionis to be thankfull to your Majeste; not only being fauored with the benefite of your Majesteis gude countenance at all tymes, bot also that it hath pleasit your Majeste to accept so weill of me, as to honour me with your Majesteis most louing letter, as with ane certane signe and viue testimonie of your Majesteis gude fauor and gracioufnes touartis me; wheroff I este me so much, that I wald think my selff very hapie, if it fould please your Majeste to comand me in any thing, that therby your Majeste might haue ane tryall of my prompt and fathfull obedience; for your Majesteis worthines and valor, attour the particular courtefis schauin to me, merits whatfomeuer I am able to do, and ane hundreth thousand tymes more. In end, I pray your Majeste to haue me excused that I haue taine the audacitie to wrett againe to your Majeste, for not hauing the comfort of your Majesteis presence, could not declare my willing mynd better then be vsing of the nixt remede. In the meane tyme, I fall repose my selff still on your Majesteis constant fauor, quhill God of his mercie grant that I se your Majeste in siche ane gude estate as I wishe, whilk will give me the gretest contentment of all.

Sua crauing earnestly of that Creator of all thingis to blifs your Majeste with all felicitie and satisfacione in health, with ane increas of mony prosperous dayis, I kifs most deuotly your Majesteis hands.

Your Majesteis most humble subiect and obedient seruator in all deuotione,

GOWRYE.

ATT PADUA, the 24th of November 1595.

2. LETTER, *the Earl of Gowrye to Mr Johne Malcome, Minister at Perth.*¹

Ἐυλογητον εἰω το ονομα τῶ Θεῶ εἰς αἰωνα.

BELOVED BROTHER,

HAUING taken occasione to wret to Scotland, wald nocht omitt my deutie to you, in visiting you with this letter, that therby ze myght vnderstand of my present estate, quhilk continues as ofbefore; praising God, from my hairt, that of the riche abundance of his gude grace and mere mercie hes maid the beames and licht of his countenance, to shine vpon me most fauorably; to be ane guide to conduct me saiflie *per hunc Auernum*, quherin mony here, (*quorum oculi densa*

¹ Mr John Malcolm, one of the Regents, and afterwards Principal of St Leonard's College, St Andrews, was ordained Minister of Perth, 4th November, 1591. He was the author of a Latin Commentary on the Acts of the Apostles, a work of considerable learning, printed at Middleburgh, 1615, 4to. He died at an advanced age, at Perth, 3d October, 1634.

caligine et nebulis obfuscati sunt.) *ô miserum spectaculum!* are drowned, in his Nov. 1595.
 iustice; I meane nocht all, *abit*; for I am acquainted with diuers heir, *qui,*
etiam inter has paludes stigias, hes neuer boued ther kne to Baal: Quhat ane
 meruell is this? and quha can beleue it? and zit it is certanly true; *glorificetur*
igitur Deus in operibus suis, ac eo magis quo sunt mirabilia et παρὰ τὴν φύσιν.
 There wes ane notable exemple of constancie not long ago, in ane Silesian Minif-
 ter, of some threscore yeares and mair, quha, efter he had beine deteined in pri-
 sone about nyne yeares, and the Jefuites had trauailed with him to recant; bot
 persaiiffing that thei could preuaile nothing at his handis, caused bring him to the
 fyre, lyke bludie dogges; quhere, efter he had maid ane excellent discours and
 harang to the people, shauing them the gret honour he wes callit to in suffering
 for Christes sake, and exhorting them to conuersione, abode most patiently, without
 ony shrinking, all tormentis; magnifeing Godis holy name, and praying that
 ther finnes mycht be forgiuen them. Efter he wes brunt, not being zit fatisfied
 of the crueltie that they had vsit against him, quhen he wes liuing, did cast ane
 gret heap of stones vpon his ashes, *multo sæuiores quam erant Iudei aduersus*
Stephanum. There were vtheris, quha for feare of death, at that same tyme,
 maid filthie apostacie fra the true Religione to that damnable idolatrie; and at
 that instant that ane of them begane to deny Christ, in making defectione, there
 isshued blude out of his nose in fuche gret abundance, that all did see him thocht
 he sould have dyed presentlie. This wes ane visibill signe of the hand of God,
 that chopped on him quha had done such ane villanie against his conscience, for
 to purchase his auin lyffe, quhilk he wes not worthie to bruik, be the los of his
 soule. Bot thir renegates not the les escaped not their auin punishment, for
 they all were send *ad triremes, ubi non vnus hore spatio vitam finituri, sed mo-*
rientes semper, nec tamen morientur. Laitlie, efter these thingis, ane certane
 Inglishe man, being moued on zeale to cast ther *sacra hostia* (as thai most falslie
 callis it) out of the priestis handis, that wes careing it in proceffione, to the
 grund, and to stramp on it with his fete, wes apprehendit and denudit of his
 clothes, therefter ane hude putt on his heade, quheron wes painted the deuils
 image, and some with bleafis, quha brunt him continually in the backe and brest
 as he walked forduart; bot he, in the meane tyme, wes occupiet in schauing the
 people how thai were schamfullie abused by these miscent idolaters, quha were
 leading them to their auin damnatione. In end, he spake with such ane vehe-
 mencie, that the enymies caused knett his toung, fearing some vprore to enseu,
 if he had gottin ony forder libertie to speke: So he wes brought to the place of
 executione, quhere, lifting vp his eyes to heauen, and on his knees kissing the
 chain he wes bund with, they caused first cut of his hand for the fact he had
 committed, and nixt burne him quicke. All thir thingis were done in Rome,

Nov. 1595. that mother of all vyce, and hoorifhe fynagog of deuils. I am fory that my abfence will not permit me to kyth my mynd and gudwill, in helping to fett furth Godis glorie there, *cui totus ex animo incumberem*; bot quhen, at his gude pleasure, I returne, fall with his grace, indeuore my felff to amend quhatfomeuer is omitted for laike of my presens. I thank 3ou most hartfully, of 3our remembrance of me in 3our prayeris; defyring 3ou earnestlie to contineu, according to the loue 3e cary to the faluatioune of my foule. Thus, remembering my loving commendationis to 3our felff, with the hail nychtbouris of the toune, Committis 3ou with them all to the protectione of the Omnipotent.

Youris aluayis affectionat,

GOWRYE.

AT PADOUA, the 28 of Nouember, 1595.

I DOUT nocht bot 3e haue hard, long fince, of the Papes benedictione given to the King of France; quhilk hes turned to ane maledictione. No vther neuis occurris heir for the present; bot nou agane, latlie, there is some Inglishmen put in the hous of Inquiftione, in Rome.

To my beloued brother, MR JHONE MALCOME, Minister at PERTH.

No. XXI.

FAC-SIMILE OF THE SUBSCRIPTION OF JOHN EARL OF GOWRYE.

[Mr Williame Hairt, Justice-Depute.]

Writing Slanderous Pasquils against the King, &c.—Sedition.

Oct. 10.—FRANCES TENNENT, merchand burges of Edinburghe.¹

[THE TRIAL of Francis Tennent forms one of the series, in a black catalogue of Cases, which must leave an indelible stain on the character of King James VI. Owing to the scrupulous care adopted

¹ On the margin, 'Convictus et Suspendus.'

by the Lord Advocate to suppress these offensive papers, the precise nature of the Pasquils alluded to, cannot now be correctly determined. The likelihood, however, is, that besides 'detracting' the King and his 'maift nobill progenitouris,' and publicly branding the King as the 'Sone of Seniour Davie,' (a popular *soubriquet* for his sacred Majesty,) these offensive squibs had contained matter relative to the recent Conspiracy of THE EARL of GOWRIE. Such a conjecture is fortified by the circumstance of the well-known Mr Robert Bruce and Mr John Davidson, the persons to whom the Pasquils are fictitiously addressed, having publicly asserted the story of the Conspiracy to be an entire fabrication, and that the Murder was devised and perpetrated by the King and the Court faction, to rid themselves of a powerful rival.

After a minute and careful search, the Editor has not been able to obtain copies or fragments of these papers, or to get even a tolerable abstract of their contents. The only light we obtain from any contemporaneous writer, is from that amusing and minute Chronicler, Robert Birrell; who only ventures to say; 'The 8 of October, *Frances Kennaird* hangit at the Croce, for Treassone aganis his Maieftie, for making of Plakketis and wreittis, sic as Cokkolentis.'¹ The latter part of this mysterious intimation would lead us to believe, that these pasquils contained, amongst other satirical remarks, reflections on the Queen's conjugal infidelity. It is certain, at all events, that this shot took effect; and it is equally clear, that his Majesty retaliated, in a most ungenerous and cruel manner. In the course of investigating the public Records, &c. the only notice which the Editor observed, was in the Lord High Treasurer's Accounts; where, in the month of October, the following entry is made: 'ITEM, to the Officeris of Justiciare, for summoning of ane Affyis to Francis Tennent, xl s.'

Should the Editor, afterwards, be so fortunate as to obtain inspection of these papers, or authentic contemporaneous transcripts, amongst the MS. Collections of Thomas first Earl of Haddington, then Secretary of State, Lord Advocate, &c. or from similar sources, they shall be given in the Appendix.]

Dilatit for false, malitious and vndeutifull wryting and disperfing of sklanderous, calumnious and reprochefull Letteris, to the dishonour of the Kingis Maieftie,² his hienes progenitouris, Counsale and procedingis; conform to the Dittay, produceit (by) Mr Thomas Hammiltoune Aduocat to our fouerane Lord.

DITTAY against Frances Tennent.

FRANCES TENNENT, merchand burges of Edinburgh, ze are Indytit and accusit for pe fals, malitious, vndewtiefull wryting and disperfing of sklanderous, calumnious and reprochefull Lettres, to pe dishonour of pe Kingis Maieftie, his maift nobill progenitouris, counsale and procedingis; and steiring vp of feditione and contempt in pe hairtis of his subiectis, aganis his Maieftie; in maner, substance and effect contenit in twa of your Lettres writtin, heirwith produceit, and vsit as ane pairt of your Dittay; The ane of the saidis Lettres, writtin with your hand, and subscryuit be the feingzeit name of 'JAMES SYMPSOUNE, SCOLLER,' and directit 'to Mr Robert Bruce,' off the dait, at Newcastell, pe xvij day of Januar, the zeir of God I^m.V^e.lxxxxvij zeiris; and the vther, lykewyis writtin with your hand, and subscryuit with the feingzeit name of 'JOHNE STRATHAUCHIN;' and directit vpoune the bak, 'to Mr Johne Davidfoune:' Quhilkis twa Lettres, ze laid doune in the Kirke of Edinburgh, to the effect the samyn mycht haif fallin in the handis of the pepill; thairbye to bring his Maieftie in contempt, and steir vp his pepill to feditione and disobediencie; exprefsie aganis the Lawis and Actis of Parliament maid aganis Lesing-makeris and anthouris of feditione and infamous speicheis and writtis. Quhilk ze can nocht deny; Lykeas, ze haif confest pe samyn, be twa feuerall Depositionis, subscryuit with your hand.

¹ Perhaps for 'Cokkoleingis,' cuckoldings.

² See Cases of Diksoun, Aug. 3, 1596; Cornwall, Apr. 25, 1601; and Ross, executed Sept. 10, 1618.

The Aduocat produceit his Maieſteis Warrant, for perfute of Frances Tennent.
The ſaid Frances Tennent produceit certane

DEFENSES, *in writt, aganis the Dittay*; quhair of the tennour followis.

‘IT IS alledgeit, for þe pairt of me Frances Tennent, that na proces aucht to be gevin aganis me, in þe Criminall actioun perfewit be my Lord Aduocat contrair me; becaus I am nocht deprehendit, *in recenti crimine*, bot is convenit vpoune ane deid, alledgeit done thre zeir ſince or þairbye: And conforme to the Actis of Parliament, I aucht to be ſummond vpoune fyftene dayis wairning, and ane copie of þe Dittay gevin me; quhilk is nocht ſwa done; bot I am ſummarlie prefentit on pannell, without ony citatioun preceding. Secundlie, gifand¹ 3our lorſchip wald proceid aganis me the ſaid Frances, nochtwithſtanding the alledgeance foirſaid; 3it I aucht to haif ane copie of þe Dittay, and ane day affignit to me, to anſuer þairto; ſeing I am convenit on my lyffe; And gude reſſoune vald I had ane day to be avyfit þairwith; And to remember the Dittay to be ſpeciall, anent the cryme; And to allege, that ſpeking generallie, without courſing,² is na lawfull cauſe to tak ane mannis lyffe. Thridlie, alledgeit, the Law Intitulat ‘*Si quis Imperatori maledixerit*,’³—and produceit the buik to inſtruct the Law, quhilk is ane Defence to me the ſaid Frances in this cauſe.’

It is anſuerit be my lord Aduocat, that the alledgeance aucht to be repellit, in reſpect of the Dittay contening the cryme of Seditioun aganis the Prince, quhilk may ſuffer na delay. As to the laſt Defence maid vpoun the Law, ‘*Si quis Imperatori maledixerit*,’ the ſamin aucht to be Repellit, in reſpect of the Actis of Parliament maid anent the crymes lybellit; ordaning the authouris of ſklanderous ſpeichis and writtis aganis the Prince, his progenitouris, Counfall or proceedingis, to be puneift to the death.

The Juſtice findis proces: Quhairvpoune the Kingis Aduocat aſkit inſtrumentis.

The ſamin day, twa Letteris being produceit be the Aduocat, maid and writtin be Frances Tennent, togedder with his Depoſitionis; the ſaid Frances acknowledgeit and confeſſit in judgement the ſamyn to be his handwrit: Quhairvpoune the Aduocat aſkis inſtrumentis; and in reſpect thair of, and of the ij^c and fyft Act of the Kingis xij Parliament, and vther Actis thairin mentionat, proteſtis, gif the Affyis clenge the ſaid Frances, for Wilfull Errour.

The Aduocat produceit

HIS MAIESTEIS WARRANT *to pronounce dome aganis Frances Tennent*,
in maner following:

¹ Giving or granting, that your lordship, &c. ² ‘Curſing’ had been originally written, and is deleted in the record, to make way for the *improved* orthography ‘courſing.’ ³ Codicis, lib. 9, tit. 7, l. unic. ‘Quoniam ſi id ex levitate proceſſerit, contemnendum eſt: Si ex inſania, miſeratione digniſſimum: Si ab injuria, remittendum.’

REX,

JUSTICE, Justice Clerk and your Deputis, We greit you weil. It is our will and We command you, that you poun the sycht heirof, you pronounce the dome following, you Frances Tennent burges of Edinburgh, efter his convictione, of the forgeing and casting doune of certane seditious Pascallis:¹ That is to say, that he fall be takyn to the mercat croce of Edinburgh, and his toung cuttit out at the rute; and that thair falbe ane paper affixit you his brow, bering, that he is convict for forgeing and geveing out of certane vyild and seditious Pascallis, detracting us and our maist nobill progenytouris: And thairefter, that he fall be takyn to the gallous and hangit, ay quhill he be deid:² As you will anfuer to us you our offices and obedience: Quhairnant, thir presentis falbe your Warrant. Subscryuit with our hand, At Lynlythqw, the xxij day of September, 1600 yearis.

(Sic subscribitur)

JAMES REX.

The said Frances produceit ane vther Warrant, subscryuit be his Maiestie, dispensing with the former Warrant, quhair of the tennour followis:

REX,

JUSTICE, Justice Clerk and your Deputtis and Aduocat, We greit you weil: forsamekill as, albeit be our vther Warrant direct to you, We commandit you to put Frances Tennent to the torture of the buittis; and pairefter to pronounce dome aganis him, that he suld be careit to the mercat croce of Edinburgh, and pair his toung to be cuttit out, and syne hangit: Nochtwithstanding, for certane causses moving us, We haif thocht gude to mitigat that sentence, be dispensing with the tortoring of the said Frances, other³ in the buittis, or be cutting out of his toung; and ar content, that you onlie pronounce dome aganis him to be hangit, without any forder: Quhill We command you to do, be thir presentis; and to forbeir the said tortour. Quhairnant thir presentis falbe your Warrant. Subscryuit with our hand, At Dundie, the xxvij day of September, 1600 yearis. (Sic subscribitur) JAMES REX.

VERDICT. For the quhilk crymes, the said Frances was put to the knowledge of ane Affyis,⁴ &c.; and (they) being throughlie avyfit thairwith, reenterit agane in Court, quhair thay, be the mouth of George Dowglas, callit of Bengowre, chancellor, ffind, pronounceit and declarit the said Frances to be fylit, culpabil and convict of the dittay abouewrittin, and crymes thairin contenit.

SENTENCE. The Justice-depute, be the mouth of Robert Galbraith, dempstar of the said Court, Decernit and ordanit the said Frances Tennent to be tane to ane Gibbet, besyde the mercat croce of Edinburgh, and thair to be hangit quhill he be deid; and all his movabill guidis to be escheit and inbrocht to our souerane lordis vsé, as convict of the saidis crymes.

NOTA. Immediatlie efter dome pronouncing, Mr Thomas Hammilton take vp the tua Lettres, writtis and Pascallis, the ane direct to Mr Robert Bruce, and the vther to Mr Johne Davidfone, Ministeris; quhilkeis twa Pascallis he vald nocht haif insert in proces.

¹ Pasquils. ² This seems to be a dreadfully severe and barbarous sentence, when compared with the trivial nature of the offence; and marks a shockingly vindictive spirit on the part of the King. The case of Archibald Cornuall, Apr. 25, 1601, is another of many melancholy instances of the sanguinary temper of James VI. in all instances of infringement on his kingly dignity. Although the application of the torture, and cutting out of this unlucky libeller's tongue, were ultimately dispensed with, certainly the punishment was vastly disproportioned to the measure of the offence. The recent Conspiracies may perhaps have induced the King to make some severe examples; and poor Francis Tennent was offered up as the first suitable victim. Independently of his wounded kingly dignity, the wealthy burges's *escheat* had proved too great a bait to James's cupidity, to admit of his passing scot-free. ³ *Other*, either. ⁴ Consisting of merchants of Edinburgh, but persons of no note.

Purchasing Poison—Poisoning Fowls.

Nov. 5.—THOMAS BELLIE, burges of Brechin, and James Bellie his sone.

Dilatit and accufit for contravening of our fouerane lordis Actis of Parliament for bying, haifing and keping of poyfoune; mixing the samyn with daich,¹ and cafting doune thairof in Jonet Clerkis zaird in Brechin, for destructioun of fowlis; be the quhilk poyfoune they diftroyit to the faid Jonet twa hennis. And being perfewit be Mr Robert Lyntoune, substitute for Mr Thomas Hammiltoune, aduocat, for the faid cryme, they refufit to pafs to Affyis, bot come in our fouerane lordis will for the faid cryme: Quhairvpoun the faid Mr Robert askit instrumentis.

The Justice continewis the faid dyet to the morne.

Nov. 6.—Continewis *in cras*, the fevint of November.

Nov. 7.—Comperit Mr Johne Marschell, Minister of Brechin, and produceit his Maieftis will; quhair of the tennour followis.

Rex,

WE, vnderstanding that Thomas Bellie, induellar in Brechin, is become in our will for haifing and keping of poyfoune, and poyfoning thairwith of certane hennis: Thairfoir we declair our will as followis, to wit; That the faid Thomas fall, within the fpace of fourtie dayes, remove and depairt furth of our realme, and remane as a exylit and baneift perfoune furth pair of, during all the dayis of his lyffe; vnder the pane of deid: Commanding heirbye our Justice, Justice Clark and thair deputtis, to pronunce and delyuer pis our Will, iudicialle; and caufe regiftrate the fame in our buikis of Adior-nall. Subfcriuit with our hand, At Halyrudehous, the faxt day of Nouember, 1600.

(Sic fubfcribitur)

JAMES REX.

SENTENCE. According to the quhilk, the Justice, be the mouth of James Lowrie, dempfter, Ordanit the faid Thomas, within the fpace of fourtie dayis, to remove and depairt furth of this realme, as ane exylit and baneift perfoune, furth thairof, during all the dayis of his lyfityme; vnder the pane of deid.

Slaughter.

Nov. 12.—WILLIAME HOME of Ballicafs.

Dilatit of airt and pairt of the Slauchter of vmq^{le} M^r Alexander Dikfoune, sone to vmq^{le} Robert Dikfoune elder of Haffingtoune-maynis; committit the xxj day of Aprile, 1597 yeiris.

PERSEWAR, Johne Dikfoune.

THE Justice continewis this mater, to the faxt day of Marche nixtocum. ‘Plegio, Wilelmo Home de Ballandyne.’

[*Mr Williame Borthuik, Justice-Depute.*²]

Jamesucken — forcible Abduction — ‘Rapt and Raving.’

Jan. 13, 1601.—JOHNE KYNCAID of Craighous.

[THE CASE of Kyncaid of Craighous, which follows, affords a lamentable instance of perversion of the ends of justice, while, at the same time, it contains a most amusing illustration of the cupidity and

¹ Dough.

² He also officiated on Nov. 20, 22, 25, Dec. 17, and Jun. 7.

meanness of 'King Jamie the sapient and fext.' At this period, it was by no means an uncommon thing, in Scotland, to make short courtships with heiresses and rich widows, by 'captivating' them by a *coup de main* and getting married, according to the briefest form recognized by the laws of the land; and, no doubt, some of these unceremonious courtships, in the long run, proved happy to all parties. The Laird of Craighouse, a Cadet of the ancient family of Kincaid of that Ilk, in Stirlingshire, (as were the Kincaids of Warriston, Craiglockhart, Coates, &c.) was possessed of considerable wealth. From the whole complexion of the following story, it appears pretty clear, that this luckless gallant had been regularly *trained* to carry off a certain buxom 'wedo.' It is not even alleged in the Dittay, that any violence had been done to the lady, farther than the fact of carrying her off. Perhaps it may be thought by no means improbable, that the Bailie of the Water of Leith, out of whose house she was said to have been carried, in the face of open day, was one of the parties concerned in *facilitating* the 'abduction'; for it is very unlikely, that a 'wedo' could be thus forcibly taken, (after breaking up the doors of her dwelling,) and that she could, by any ordinary force, be carried, against her inclination, through the Village of the Water of Leith, and also through a populous part of the country, in the immediate vicinity of the City of Edinburgh, to the foot of the Braid hills, where Craighouse is situated; without raising the hue and cry, and being released, ere she had been carried a couple of miles. But it is still more incredible, that the perpetrators of this outrage should, in addition to the palpable indiscretion of committing this crime in broad daylight, be such bunglers, as 'all by accident' to ride into the heart of the King's hunting party! The *machinery* of the imprisonment, trial, and subsequent proceedings, were admirably contrived to practise on the fears of the unlucky Laird; until, at length, he fell into the snare which was so craftily laid for him—he 'become in our fouerane lordis Will!' It appears from the Acts of the Privy Council, that, on Dec. 18, 1600, 'John Kincaid of Craighous (was) committit to waird, within the Castell of Edinburghe; thairin to be detenit, vpoun his awin expenffis, ay and quhill he be presentit to the Justice,' &c.; and the matter, as is proved by the Books of Justiciary, was hung up till Feb. 17, 1601; all which time poor Kincaid lay 'in durance vile,' and was finally forced, by *squalor carceris*, to accept of almost any terms. This 'Will,' it may be affirmed, is *matchless!* A fine of *two thousand five hundred merks* is imposed, which, considering the relative value of money at that time, was an enormous sum. To wind up the transaction, the King demands the Laird's *guid 'broune horfe'*, to quench the remainder of his wrath; and perchance the King would think, with the reader, that 'the rapt of Craighous' was the best day's sport he had had for many a year.]

Dilatit of airt and pairt of the Rapt and Reveifching of Iffobell Hutchesoun, wedow; taking of hir captiue, &c.

PRELOQUUTOUR for the pannell, Mr Johnne Drowling.

PERSEWAR, Mr Robert Lyntoun, subftitute, for the aduocat.

The quhilk Johnne Kincaid of Craighous, hauing enterit on pannell, declarit, that he will becum in his Maiefteis will, ffor taking of Iffobell Huchfoun, wedow, his hienes frie leige furth of Johne Johnestoune, baillie of the Watter of Leithis hous, and taking of hir to his awin hous of Craighous; committit the xvij day of December laft.

(Signed) JOHNE KINCAID.

DITTAY *against Johnne Kyncaid of Craighous.*

FORSAMEKLE as he, with conuocatioun of the perfonis vnderwrittin, and diuerse vtheris our fouerane lordis leigis; To wit, Robert Kyncaid, sone to

Edward Kyncaid, burges of Edinburgh, Daid Watfoun, fister-sonne to Johne Johnestoun, baillie of the Water of Leith, Johne Watfoun, his seruand, Alexander Barcar, baxter in Edinburgh, Johnne Quhippo, baxter thair, and Williame Hepburne, with diuerse vtheris his complices, of his speciall convocating, causing, command and directioun, laitlie, vpoun the xvij day of December lastby-past, being bodin in feir of weir, with swordis, secrettis and vtheris wappynnis, *invasiue*, contrair the tennour of our souerane lordis Actis of Parliament, come to Johne Johnestoun, baillie of the Water of Leith duelling-hous thair; quhair Iffobell Huchfoun wedow was, in sober, quyet and peceabill maner for the tyme, dredand na evill, harme, iniurie or perfuit of onye personis, bot to haife levit vnder Godis peax and our souerane lordis: And thair, be way of hamesuckin and conuocatioune of our souerane lordis liegis, as said is, violentlie and forceablie brak vp the duris of the said duelling-hous, enterit thairin be way of deid, and pat violent handis in the said Iffobellis perfoun, tuke hir captiue, rest, reueischit and tuke hir away with him to his place of Craighous; quhair he detenit hir, quhill his Maiestie, being vpoun the feildis, accompaneit with Johne Erle of Mar, Sir Johne Ramsay and diuerse vtheris, his Maiesteis domestik serwandis, heiring of the committing of fik ane horribill fact, directit the saidis Johne Erle of Mar, Sir Johne Ramsay and diuerse vtheris his hienes serwandis, to follow hir, and to releve hir furth of his handis; quha haifing cum to his place of Craighous, and requyring for hir relive, he refusit to grant the samyn, quhill thay manassit to bring his Maiestie about his said house, and raise ffyre thairin; and swa compellit him to releve hir: Committing thairbye, Rapt and Reveisching of the said Iffobell, Hamesuckin, Convocatioun of our souerane lordis liegis; and hes tressonablie vsurpit his hienes auctoritie, in taking and violent and forceabill detening the said Iffobell his frie liege, expres contrair the lawis and Actis of Parliament; and he being airt and pairt thairof: Quhairbye he hes incurrit the panis, contenit in the said lawis and Actis of Parliament; quhilkis fuld be execute aganis him, with all rigour.

Continewit to the morne, the xiiij day of Januare.

[*Mr Williame Hairt and Mr Williame Borthuik, Juslices-Deputes.*]

(Feb. 17.)—The quhilk day, Johne Kyncaid of Craighous, being enterit on pannell, appointit to heir and see our souerane lordis Will declarit, in the quhilk he become, in ane Court of Justiciarie, haldin in the Tolbuith of Edinburgh, the xij day of Januar, the yeir of God I^m.Vj^c. and ane yeiris, be Mr Williame Borthuik, Justice-depute, for taking of Iffobell Hutcheoune wedo, his hienes frie liege, furth of Johne Johnestoune, baillie of the Water of Leith hous thair, and taking of hir to his awin duelling-houfe thair; committit the xvij day of December lastwas:—Comperit Mr Williame Brois, seruitour to Alexander Maf-

ter of Elphingtoun, Thesaurer to our souerane lord, and producit ane Warrant direct to the Justice, Justice Clark and thair deputtis, contening his hienes Will; and desyrit the Justice to pronunce and declair the said Will, according thairto; and to cause insert the samyn in the buikis of Adiornall, to haif the strent of ane Act and decreit thairof. The quhilk Warrant being red, the Justice pronunceit his hienes Will conforme to the tennour thairof, and ordanit the samyn to be insert and registrate in the buikis of Adiournall; to haife the strent of ane act and decreit thairof; with executioun of horning and poinding, to be direct aganis the said Johne and his cawtioun, for fulfilling of the said Will; and the horning to be vpoune ane simple charge of sax dayes wairning; quhair of the tenour followis:

JAMES, be the grace of God, King of Scottis. To our Justice, Justice Clark and pair deputis, greeting. Forsamekill as Johne Kyncaid of Craighous, is becum in our will, for þe Reveifching of Iffobell Huchefoun, wedo: Thairfoir, We declair our will as followis, to wit; that the said Johne Kyncaid fall mak payment to us and our Thesaurer, in our name, or to sik vtheris as our said Thesaurer fall appoynt and assigne, of the sowe of xxv^o (2500) merkis money of our realme: As also, that he fall delyuer to us and our said Thesaurer his broune horse: Commanding heirbye 3ow our said Justice, Justice Clark and 3our deputis, to cause pronunce and declair þis our will aganis þe said Johne, judicialle, and insert þir presentis in our buikis of Adiornall, to haif the strent of ane act and decreit; that executioun of horning and poinding may be direct aganis þe said Johne, vpoune ane simple charge of sax dayes. Subscryuit with our hand, at Halyrudehous, the last day of Januar, 1601 3eiris.

(Sic subscritur) JAMES REX.

Slaughter.

[*Mr Williame Borthuik, Justice-Depute.*]

Jan. 22.—WALTER SCOT, James Scot and William Scot in Schoftanis, all brether to Robert Scot of Bowhill, and John Scot in Quholplaw, alias callit *Johne of Bonytoun*.

Comperit Mr Allane Hammiltoun, seruitour to Sir Archebald Naper of Edynbillie, knyght, and as procuratour for the said Sir Archebald, and producit our souerane lordis lettres, deulie execute and indorfat, purchest be Alesoune Edmeiftoun the relict, and the said Sir Archebald Naper as fader, with the brether and remanent kyn and freindis of vmq^{1o} Archebald Naper, Gudeman of the Wowmet;¹ to tak fouertie of Walter Scot, &c. that thay suld haif comperit befor the Justice or his deputis, this day and place, in the hour of cause, and vnderlyne the law for the Slauchter of the said vmq^{1o} Archebald;² be the quhilkis lettres the saidis perfonis ar denunceit our souerane lordis rebellis, and put to the horne. The said Mr Allane Hammiltoun protestit for releve of Johne Naper, 3ounger of

¹ Woolmot, near Edinburgh. ² George Birrel gives the following notice in his 'Diarey,' p. 52, 'The aucht of November (1600), Archebald Napier flane be fyve of the name of Scot and Thomas Crichtoun, ryding hame to his awen hous to the Wowmet.'

Merchintoune, cawtioner for productioun of the saidis lettres : quhairvpoune he askit actis and instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Breaking into the Place of Boningtoun—Theft of Title Deeds, &c.

Mar. 31.—JAMES WOD, fear of Boningtoune, and Williame Wod of Latoune.

Dilatit of the breking of the Place of Boningtoune, &c.

PERSEWAR.

Mr Thomas Hammiltoun of Drumcarne, Aduocat to our souerane lord, for his hienes interes.
PRELOQUOUTOURIS for James Wod, Mr Johne Ruffell, Mr Alexander King, Mr Laurence M^cGill,
Capitan Andro Gray, Robert Gray.

The Aduocat produceit his Maiesteis Warrant, subscryuit with his hienes (hand,) ordaining him to infit in perfuit, &c. ; quhair of the tennour followis.

REX,

MR THOMAS HAMMILTOUNE of Drumcarne, our Aduocat, We greit 3ow weill. It is our will, and We command 3ow, that eftir pe sycht heirof, 3e compeir before our Justice or his deputis, in our Tolbuith of Edinburgh, the last day of March instant, in pe hour of caus ; and infit in perfuit of James Wod, fear of Boningtoune, and Williame Wod of Latoune, tane and dilatit of breking of pe Place of Boningtoun, and of pe treffonabill and thiteous steilling and away-taking furth pairof, of certane ewidentis, writtis and pleneiffing, pertening to Patrik Wod, eldar of Boningtoune, and to pe Lady Vlane :¹ As also, for contravening of pe Actis of Parliament in heiring of Mefs ;² and resfetting of Lueis,³ ane Seminarie Preift : ffor pe quhilk thir presentis falbe 3our Warrant. Subscryuit with our hand, Att Halyrudhous, the last day of March, 1601. (Sic subscribitur) JAMES R.

Thairefter, the said Mr Thomas Hammiltoune produceit the Dittay following.

DITTAY against JAMES WOD and WILLIAME WOD.

JAMES WOD, fear of Boningtoun, and WILLIAME WOD of Latoun ; Ye ar indytit and accufit : fforfamekill, as it is statute and ordenit be our souerane lordis Actis of Parliament, and speciallie, be ane Act maid in his hienes Parliament, hauldin and begun at Edinburgh, the xxix day of Julij I^m. V^c. lxxxvij yeiris, that incaice it fal happin ony landit men to be lauchfullie and ordourlie convict of the crymes of Thift, Refsett thairof or Stouth-reiff, in tyme cuming, thay fall incur the cryme and payne of Treffoune ; that is to say, tinfall of lyffe, landis and guidis ; as the said Act at mair lenth beris : And trew it is, that ye and ather⁴ of yow, being landit gentilmen, accompaneit with Thomas Daw, smyth in Brechin, Alexander Daw, in Carrestoun, his brother, and vtheris your complices, laitlie, vpoun the xvj day of March instant, came, vnder fylence and cloud of nycht, fra the citie of Brechin, to the Place of Boningtoun, pertening to Patrik Wod, eldar of Boningtoun, fader to yow the said James ; quhair Alexander Daw schott the haill zettis⁵ of the said place, and preiffit⁶ to pryife⁷ the

¹ A strange corruption, for Ulysses-haven, in the shire of Forfar. ² There is no notice of this branch of the Dittay having been insisted on, and no farther notice is taken. *Birrel* says, in his 'Diarey,' p. 54, 'The last day of Marche, James Wood of Bonnytoun and his guid-brother Williame Wood tholit ane Affyze for being at the Mefs in Andro Napier's hous ; but continewit the executioun.'
³ Name left blank. ⁴ Either, each. ⁵ Shot or unboket the bars and bolts, or other fastenings, of the gates. ⁶ Made a strenuous endeavour. ⁷ To prize or wrench open by means of any levers, such as a 'pinch' or crow-bar, &c.

irne 3ett thairof, and to enter thairin perforce: And becaus ye could nocht pryife the said irne 3ett, ye pryfit vp ane stanchell¹ of ane laich volt windok,² and enterit thairby to the said place: And efter your entrie, ye opnit the haill duris, and fshot the lokis of all the kiftis³ within the said place, and speciallie of the Chartour kift, standing in the chalmer of dace⁴ of the said place, pertening to your said fader; furth of the quhilk ye tresfonable (and) thifteoullie stall, concelit, reffett, stouthfullie rest, and away-tuik, the haill evidentis being thairin; and findrie vther writtis furth of ane vther kift, within the Galrie of the said place, and opnit the haill remanent kiftis and cofferis being thairin; furth of the quhilkis lykewyise, ye tresfonable and thifteoullie stall, stouthfullie rest, reffett and away-tuik nyne pair of scheitis, foure buird-clathis,⁵ twa dofone and twa of feruettis,⁶ ane pair of blankettis of fustiane, and ane peace of vnbleichit linning claith: And efter that the haill kiftis wer opnit, and that ye wer paking vp the writtis and plenneiffing foirsaid, within the saidis buird-clathis, Matho Wod in Croftis, James Wod his sone, and Dauid, ane rynnner boy to the Maister of Ogilvie, came to the Place of Boningtoun to yow, and helpit to pak vp the graith: Lykeas, ye the said Williame Wod of Latoune, with Matho Wod, James Wod and Dauid, and ilkane of yow, thane thifteoullie convoyit away and bure vpoun thair bakis, the haill plenneiffing aboue writtin, writtis and evidentis, togidder with ane lytill coffer with writtis, pertening to the Lady Vfane, furth of the said Place of Boningtoun, towardis the Place of Boschene; quhair ye wes reffett be Johne Ogilvie, seruand to the Maister of Ogilvie, and be yow the said James Wod, fear of Boningtoune, haifing borrowit the said Place of Boschene to that purpois: And vpoun the Thurisday thaireftir, being the xix day of this instant, ye thifteoullie transportit and convoyit the saidis evidentis, writtis and plenneiffing, fra the said Place of Boschen to the Place of Inchtare; quhair ye the said James Wod, be your selff, and vtheris of your causing, reffett the famin: And fwa, ye and ather of yow ar art and part of the thifteous breking of the said Place of Boningtoune, and of the tresfonabill and thifteous steiling, conceling, away-taking and stouth-reiff, furth thairof, of the plenneiffing, writtis and evidentis aboue writtin, pertening to the said Patrik Wod of Boningtoune, fader to yow the said James, and to the said Lady Vfane; and of the reffett thairof: Of the quhilkis crymes, ye, being landit gentilmen, and being ordourlie and lauchfullie convict, ye and ather of yow hes incurrit the cryme and pane of Treffoune, viz. tinfall⁷ of lyffe, landis and guidis: To the takin⁸ that ye and ather of yow ar art and part of the saidis crymes, ye haif confest the famin be your Depositiounis; as the famin, subscryuit be your handis, beris.

The famin day, the Laird of Latoune, efter reding of the Dittay produceit be the Aduocat, declarit that he wald becum in the Kingis Maiesteis Will for the famin: Quhairvpoun the said Mr Thomas Hammiltoun askit instrumentis.

The parteis, requiring that this mater mycht continew to the morne, THE JUSTICE repellis, and ordanis proces.

The preloquitouris for James Wod defyrit that thay may haif licence to propose declinatouris aganis ony Affessour that he fall speir att.—It is alledgeit be the said James Wod and his preloquoutouris, that na proces can be led aganis the said James; becaus he is challengeit vpoun crymes of Treffoune, and that he is nocht fummond vpoun fourtie dayes, to vnderly the law for the said cryme, quhilk aucht to be; in respect he is nather tane *in flagranti crimine*, nor putt

¹ Stancheon. ² The window of a low vault or cellar. ³ Chests. ⁴ The presence chamber, or room of state. Properly speaking, it is that part of a hall which was raised higher than the rest; the place of honour. 'Chawmer o' dais' is still used to signify a parlour, in remote parts of the country. ⁵ Table-cloths. Servets, towels, or table napkins. Loss; from the verb to *tyne*, or lose. ⁸ In token, evidence, or proof.

to the horne.—To the quhilk it is anfuerit, that it is nocht necessar to warn him vpoun fourtie dayes, becaus he is accusat of Tressoune, and brocht fra the Kingis waird to the bar.

THE JUSTICE ffindis proces, and repellis the alledgeance; quhairvpoun my Lord Aduocat askit instrumentis.

It is alledgeit, that the Dittay is nawyis relevant, becaus it is difconforme to the Act of Parliament; becaus the Act of Parliament is anent commoun thift, reffett of thift, or stouth-reiff; and trew it is, that the propositioun of the Dittay is nocht sa fett doun, but only vpoun simpill thift; quhair that the wordis of the Act of Parliament is extendit only to commoune thift, commoun reffett, commoun stouth and reiff.—The Aduocat anfueris, that the alledgeance aucht to be repellit, in respect of the Actis of Parliament and Dittay; speciallie, seing thair is na thing obiectit aganis the tua poyntis of Dittay, anentis the reffett of thift and stouth-reiff, quhilkis ar baith feuerallie (*separately*) releuant.—It is anfuerit be the defender, that thay wordis of the Act of Parliament, anent reffett of thift, stouth-reiff, man (*must*) be *eiusdem nature* with thift; that is to say, commoun thift: And forder, the hail strenth of this Dittay, sa far as is qualefeit aganis Bonningtoun, is qualefeit vpoun the alledgeit actuall deid of thift, alledgeit committit be him, quhilk of all necessitie man be, be the Act of Parliament, commoune.—The Aduocat anfueris, that the wordis of the Act of Parliament ar confaut dif, and ewerie poynt thairof is relevant, lyke as the pannell is persewit for the thift, reffett of thift and stouth-reiff.—It is anfuerit be the pannell, that that word ‘commoun’ is vnderstand to be repetit in ewerie pairt of the dif; and as simpill thift is nocht Tressoune, *multo minus* is simpill reffett or simpill stouth-reiff, Tressoune; for thay man be *eiusdem nature*.—The Aduocat alledgis, that the said alledgeance aucht to be repellit, in respect of the wordis of the Act of Parliament.

(2.) Forder, it is alledgeit be the defender, that the Dittay is nocht relevant, becaus it condiscendis nocht quhat landis the excipient hes; for, without it wer speciallie condiscendit vpoun, the Dittay can nawyis be relevant to infer Tressoune: And forder, gif the Aduocat wald condiscend, we mycht and wald allege, that gif ony Infeftment the defender had of thay landis, he wes, lang before the alledgeit committing of the cryme lybellit, denudit of thais landis, be Decreit of Redemptioun obtenit att the instance of his fader; and we declair that the alledgeance is only proponit to elide that pairt of the lybell concerning Tressoune; vnder protestatioun, that he nawyis grantis the cryme lybellit.—The Aduocat anfueris, that the alledgeance aucht to be repellit, in respect of the Dittay; ffor gif he haif land, the conclusioun anent the Tressoune standis relevant; and gif he want land, the rest of the Dittay will tak his lyffe and all his gudis.—It is anfuerit,

that my Lord Aduocat man say *positive*, that he is landit, and condiscend quhat land he hes ; for it man be lybellit and cognoscit be Assyise, quhidder he be ane landit gentilman or nocht ; and ane presumptioun can nocht be put to ane Assyise, bot (*without*) ane affirmatioun and ane speciall condiscending vpoun quhat land he hes ; and the partie man be hard, to propone his defenssis aganis the famin.—The Aduocat repetis his former anfuere.

(3.) Forder, of all necessitie, the Aduocat man condiscend vpoun the names of the landis, becaus gif he wald condiscend, that same condiscending wald be ane sufficient exceptioun to the defender, to purge him of the hail Dittay ; be reasoun that the eidentis, alledgeit stollin, will be fund to be the eidentis of the landis quhair of he falbe condiscendit to be heretour ; and swa, can nawyis be thift ; for ane man can newir be callit and convict of thift, for steilling of his proper guidis ; that is contrar to the definitioun of thift, quhilk is *contractatio rei aliene, invito domino*.—The Aduocat repetis his former anfuere and the Dittay.

(4.) ITEM, it is allegeit that the Dittay is nocht relevant, in respect that it condiscendis nocht, quhat eidentis and of quhat landis thay ar of ; quhilk man be condiscendit vpoun, in respect the defender wald sufficientlie purge the hail Dittay and away-taking thair of, be schawing that the faidis eidentis wer his awin proper eidentis.—The Aduocat repetis the Dittay for anfuere.

(5.) ITEM, it is forder allegeit, that this Dittay can nocht be putt to the knowledge of ane Assyise, becaus it man ressaue ane Ciuile precognitioune, quhilk is nocht¹—The Aduocat anfuereis, that thair is na Ciuilite in Trefoun, and the allegiance mereitis na anfuere.—The defender sayis, he will say na mare at this tyme.

(6.) ITEM, anent the feruettis, *non relevat, et est res parvi momenti* ; and *per se* can work na thing.

INTERLOCUTOR of Relevancy. THE Justice findis the Dittay relevant ; and remittis the famin to the tryell of ane Inqueist, nochtwithstanding of the hail alledgeances aboue writtin, proponit for the pannell ; and to be verefeit to the Inqueist, as accordis.

Vpoun the quhilk Interloquoutour, the Aduocat askit instrumentis.

ASSISA.

Sir Patrick Creychtoun of Strathaird,	Mr Patrik Balfoure of Pitculloch, Johne Mathefoune of Brochtoune, Andro Paterfoune of Leuchrie, Clement Kyncaid of the Coittis,
Patrik Hepburne of Riccartoune, James Richefoune of Smetoune, Alexander Fairlie of Braid,	
Patrik Levingtoun of Saltcoittis, Johne Houstoune of Lany, Patrik Johnefoune of Elphing-	
George Lyle of Stanypeth, Johne Fairlie of Comeifoune, foune.	
Mr Patrik Hepburne of Smetoune, Williame Congiltoune of that Ilk,	

The Aduocat askit instrumentis of the swering of the Assyise ; and that my Lord Justice will nocht ressaue the Laird of Latoune in will ; bot will put him to ane Assyise. The Aduocat (also) askit instrumentis of the reding of the Dittay to

¹ Left blank.

the Assyse ; and of the productioun of the Act of Parliament ; and of the productioun of the foure Depositiounis, maid and subscryuit be the pannell ; beirand the hail contentis of the Dittay.

The Defender acceptis the Dittay, the hail verificatiounis and Judges Interloquoutour, and repetis the hail allegeancis proponit ofbefore, to be cognoscit be the Assyse ; And alledgis, to the Assyis, that seing the Act of Parliament is ane pairt of the Dittay, and the fundament and ground of the samin ; and seing, the hail Dittay and verificatioun consistis vpoun thift ; in caise the Assyse find nocht the pannell giltie of Commoun Thift, protestis, that he be chargeit of the said Dittay and Act of Parliament ; and ane cryme or poynt of Thift, of the law and practik of this realme, man newir be estemit Commoun Thift ; and ane persoune can newir be convict of Commoun Thift, for ony ane alledgeit poynt or cryme ; ffor he, of the law and practik of the realme, is estemit ane Commoun theif, quha is convict of thre seuerall poyntis and crymis of Thift ; quhilk is nather qualefeit in the Dittay nor verifeit. And forder, the Defender takis instrumentis, that thair is na thing produceit to verifie him to be ane landit gentleman ; and thairfore, of all necessitie, man be clangeit of all poyntis of Tressoune ; ffor except it had been relevantlie qualifeit in the Dittay, and sufficientlie instructit, that the Defender wer ane landit gentilman, Tressoune could nather be inferrit nor concludit vpoun that dittay. Forder, the defender alledgis, that the remanent of the crymes contenit in the said Dittay, for the alledgeit away-taking of the euidentis and the Confessioun maid be him of the samin, is na cryme of Thift ; haifand consideratioun, that the euidentis is confessit to appertene to his fader, to quhome he is eldest sone and apperand air ; and the away-taking of his faderis euidentis, can newir import Thift ; haifing consideratioun, that his fader, quhom-fra the euidentis is alledgeit tane, is na persewar nor complenar ; and thair is na actioun that can be compitent for the awaytaking thairof, bot¹ only ane simple actioun of spuilzie ; ffor that wer ane dangerous preparatiue² to the hail realme of Scotland, that quhen ane sone offendis his fader, ather be alledgeit away-taking of his euidentis, horse or vther graith, the fader newir complenand nor fyndand falt with the doing of the said deid, that the committeris falbe convict of Tressoun or Thift, at the Aduocatis instance.

To the quhilk, it is ansuerit be the Aduocat, that the Assyse aucht nawyis (to) respect the alledgeance proponit, in safar as this Dittay is consauit aganis William Wod of Latoune ; becaus he nather proponis nor adheris to itt, bot hes ratifeit his Depositiounis, and hes becum in his Maiesteis will, for the hail poyntis of the Dittay ; in respect quhairof, in cais the Assyis onywyis clange,³ protestis for Wilful error. And in safar as the alledgeance is proponit for Boningtoune,

¹ Unless, excepting.

² Precedent, example.

³ Cleanse, or acquit.

the fyrst pairt, anent the Commoun Thift, nawyis concernis the Affyis, bot the dittay foundit vpoun the Thift, Reflett of Thift and Stouthreiff, specialle fett doun in the Dittay, in ewerie speciall poynt thairof, is fund relevant be my Lord Justice; and the confideratioun of the relevancie of the famin, only pertenis to the Judge, and nawyis to the Affyis, quhais dewtie is only to try, declair and determine, gif the fact and deid contenit in the Dittay to haif bene done and committit be the Pannell; and gif thay be giltie thairof, thair giltienes of the quhilk Dittay being manifest, be thair awin Depofitiounis, fubfcriuit with thair handis and red in thair prefens before the Affyis, thay nor nane of thame can pretend ony ignorance thairof: And quhair it is alledgeit, that it is nocht verifeit that the faid James Wod is ane landit gentilman, that aucht to be repellit, in refpect of the notorietie that he is eldeft fone and apperand air to the Laird of Boningtoun, and fear of the faid lewing; as his fubfcriptioun of his awin Depofitioun, producit, beris: Nether is it neceffar that the Aduocat, perfeward for his Maieftis interes, fal verifie, be writt or production of the pannellis euidendis, that he is ane landit gentilman; quhilk wer impossibill, the writtis being in the defenderis awin handis; quhilk, poffible, can nocht be prefumit to be habill to be recoverit be the perfewar; bot in crymes of Treffoun, fyve yeiris poffeffioun of heretage, be the rebell, is *loco tituli*, and makis the rebell to be repute to haif bene heretabill proprietor of the faidis landis, and the heretabill rycht of the famin to befall to the King, be fforfaltour. And it is of veritie, that the defender hes poffeft the Landis of Birnie, as heretabill proprietour thairof, be the fpace foirfaid: in refpect of the notorietie quhairrof, and of his awin affirmatioune foirfaid, it being manifest and notour that he is ane landit gentilman, and that he hes committit the haill crymes contenit in the dittay, as is cleirly verifeit be the Depofitiounis producit, and Latounis Confeffioun, and becuming in will; in caife that the Affyfe clange him of ony of the pointis libellit, protestis for Wilfull error aganis the faid Affyfouris, and all payne that can follow thairvpoun. As to the laft pairt of the alledgeance, that the fader, to quhome the euidendis and geir pertenis, perfewis nocht, and that the fact is committit be his eldeft fone and apperand air; anfueris, that albeit the partie grewit keipis fylence and perfew nocht, the Aduocat hes fufficient interes, be exprefs Act of Parliament, to perfew all crymes, without concurrence of the partie: Lykeas, the perfewar acceptis that pairt of the alledgeance, that the deid contenit in the Dittay is committit be the Laird of Boningtounis eldeft fone, quhilk beris ane judiciaill Confeffioun of the treffonabill fact contenit in the Dittay, and fand be interloquoutour of the Judge to be ane treffonabill cryme.

It is anfuerit, that the Dittay and ewerie heid thairof aucht to be verifeit; and quhair it is alledgeit, that he man be prefewmit ane landit gentilman, becaus he

subscrives 'ffear of Boningtoun,' that argument can work na thing, becaus na thing can mak ane man ffear, bot Chartour and seafing ; and forder, gif that may verifie, *ergo*, it is confest be the perlewiar, that the eidentis tane away ar the defenderis awin proper rychtis, and sa can nocht be Thift : As to the Act of Parliament, the famin militatis na thing in this caice, ffor in the caice of the Act of Parliament, it is the cryme that makis the man tratour ; and this cryme *pe, et sua natura* is na Tressoun, except it be committit be ane landit gentilman ; quhilk man (*must*) be verifeit.

VERDICT of the *Affise*.

QUHILKIS perfounis of Affyis, being chofin, and the said JAMES WOD, fear of Boningtoun, and WILLIAM WOD of Latoune, being accusit oppinlie in judgment, be reding of pe said Dittay, &c., thay removit altogidder furth of Court, to the Counfal hous of the said Tolbuith ; quhair thay, being convenit, electit and chuse the said James Rychardfoune of Smetoune Chancillar, and reafonit and votit vpoun the poyntis of the said Dittay ; and efter lang deliberatioun, being throwchlie auisit thairwith, thay reenterit agane in Court, and thair, be the mouth of the said James Rychardfoune Chancillar, all in ane voce, ffand, pronunceit and declarit the said *Willame Wod of Latoune* to be ffylit, culpabill and convict of the Dittay aboue writtin, and hail crymes thairin contenit ; in respect of his Depositionis, and that he become in his Maiesteis Will thairfore : AND als, the said perfounes of Affyse, for the maift pairt, be the mouth of the said James Rychardfoun of Smetoun Chancillar, ffand, pronunceit and declarit the said James Wod, ffear of Boningtoun (as ffear of Boningtoun, quhilk he confest to, be his awin subcriptioun at his Depositionis) to be ffylit, culpabill and convict of airt and pairt of the thifteous breking of the Place of Boningtoune, entering thairin perforce, accompaneit with the perfounes contenit in the said Dittay, and of opning of the hail duris and lokis of all the kiftis within the said Place ; and speciallie, of the Chartour-kift, standing in the chalmer of daice of the said Place, pertening to Patrik Wod of Boningtoun his fader ; and of the thifteous steilling, conceling, stouthfullie reifing, resfetting and away-taking furth of the said kift of the baill eidentis being thairin, and findrie vther writtis furth of ane vther kift, standing within the galrie of the said place ; and opning of the hail remanent cofferis and kiftis being within the said place ; and of the thifteous steilling, stouthfullie reifing, resfetting and away-taking furth thair of, of nyne pair of scheitis, foure burdclathis, twa dofone and twa feruettis, ane pair of blankettis of fusteane, and ane piece of vnbleachit linning claith, pertening to the auld Laird of Boningtoune ; and of ane coffer with eidentis, pertening to the Lady Vfone ; committit vpoun the xvj day of March instant, vnder sylence and cloud of nycht.

' Hary Stewart of Craigiehall and George Dowglas of Langnudrie, americiat in pe pane of ane hundreth markis' each ; for not appearing ' to haif past vpoun the said Affyse.'

SENTENCE. Apr. 1. THE quhilk day, JAMES WOD, fear of Boningtoune, and WILLIAME WOD of Latoune, being presentit on pannell, to heir and sie dome pronunceit aganis thame, as thay that war lawfullie and ordourlie convict and fund guiltie, be ane Affyis, in ane Court of Justiciarie, haldin in the Tolbuith of Edr the last day of Marche lastbypast, be the said Justice-depute, of airt and pairt of the thifteous breking of the place of Boningtoune, &c. as at lenth is contenit in thair Convictionis : Thairfoir, the said Justice-Depute, according to the tennour of the Act of Parliament, hes fund, be the Convictioun of the said James Wod, as feare of Boningtoune, and the said Williame Wod of Latoune, be ane Affyis, of the crymes of thift foirfaidis, that thay and ather of thame hes incurrit the cryme and pane of Tressoune, viz. tynfall of lyffe, landis and guidis : ffor the quhilk cause, he, be the mouth of Robert

Galbraith, dempstar of Court, hes Ordanit and Ordanis thame and ather of thame to be tane to ane gibbet, standand be-eist the mercat-croce of Ed^r, and thairvpoune to be hangit, quhill thay be deid:¹ And all thair landis, heritageis, takis, fleddingis, rowmes, possessionis, coirnis, cattell, guidis and geir to be forfaltit and inbrocht to our souerane lordis vse, as convict of the saidis crymes.²

[*Mr Williame Borthuik, Justice-Depute.*]

Breaking into the Place of Bonningtoun—Stealing Title Deeds, &c.

Apr. 3.—THOMAS DAW, smyth in Brechin, and Alexander Daw, smyth, his brother, in Correstoune.

Dilatit of airt and pairt of the thifteous Steiling, conceling, ressetting and away-taking of certain eidentis and writtis, with pleneiffing, furth of the Place of Bonningtoun;³ with certane pleneiffing, scheittis, blankettis and buirdclathis; and ane coffer, with writtis, pertening to the Lady Vfane.

The Aduocat takis instrumentis of the Confessioune of the pannell, of thair being at breking of the Place of Boningtoune; and that Thomas Daw gat thre crownis, and Alexander Daw gat ane croune, for thair panis: And protestting, gif the Assyis clenge, for Wilfull error: Repeittis lykewyis the Depositionis of Latoune and Boningtoune; quhilkis ar produceit to the Assyis.

VERDICT. The Assyis,⁴ be the mouth of Thomas Somervell, merchand in Ed^r, chancellor, ffind, pronunceit and declarit the saidis Thomas Daw and Alex^r Daw to be ffylit, culpabill and convict of airt and pairt of the thifteous steling, conceling, ressetting and away-taking of the saidis writtis and eidentis, &c.

May 7.—The Justice-depute, be the mouth of Robert Galbraith, Dempstar, ordanit the said ALEXANDER DAW to be tane to the gibbet on the Castle-hill, and thairvpoun to be hangit⁵ quhill he be deid; and all his movabill guidis to be escheit and inbrocht to our souerane lordis vse, as Convict of the saidis crymes.

¹ It is probable that great interest was made for the young Laird of Bonningtoun. The sentence was not carried into execution till Apr. 27; under which date, Robert Birrell records as follows:—'James Wood of Bonnytoun beheidit at the croffe, at 6 houres in the morneing, for breaking the Place of Bonnytoun, quhilk appartentit to hes father, and sould haif beine hes awen.'

² Since the above was written, the Editor has found the following interesting notice:—'UPON Munday pe 27 of Aprile (1601), THE LAIRD OF BONYTOUN was beheaded at pe Croffe of Edinburgh, betwixt six and sevin in the morning, be a Commission from the King, directed to pe Bailliffes of Edinburgh, tymoufly in the morning; for howbeit great intercession was made be Huntly, Erroll, Hume, and operis, yett pe Ministers were instant with the King, to have a prooffe of his sincerity. He died ane obstinat Papist, ever looking for pardon till the last gasp. He pretended he suffered for the Roman Catholic Religion, but it was noe point of his Dyttay; only the steeling of his father's evidences and writtes was layed to his charge. LATOUN gatt Remission, be pe moyen of Courtearis.'—*Calderwood's Church Hist.* MS. Adv. Library. ³ In an abstract of their Dittay, which is inserted, it is stated, that they, 'accumpaneit with the Wodis,' &c. 'vnder sylence and cloude of nycht, come to pe Place of Boningtoune, and pair thifteoullie clam ye barnekyn wall with ane ladder,' &c. ⁴ Composed of 'merchandis' and 'bugeffis' of Edinburgh. ⁵ Birrell says, 'The 7 of Maj tua men wer hangit on the Castell Hill, the ane callit Williame Crichtoun, for thift; and the uther, Alexander Smythe, dager-maker, for opining of the lockis to the Laird of Bonytoun.'

Perjury — Hearing of Mass, &c.

Apr. 24.—MR WILLIAME BARCLAY, brother to Sir Patrik Barclay of Towie, (Tollie) knycht.

Dilatit of Periurie; and Heiring of Mefs, contrair the Actis of Parliament.

Comperit Daudid Hairt, feruitour to my lord Thesaurer, and produceit the lettres dealie execute and indorfat, purchest be Mr Thomas Hammiltoune, his hienes aduocat, aganis Mr Williame Barclay, for the crymes within contenit. ‘Continewit *in cras*.’

[*Mr Williame Hairt, Justice-Depute.*]

Apr. 25.—DITTAY. THAT quhair, it is expresse provydit, statate and declarit, be Act of Parliament, maid in the tyme of his hienes derrest mother, vmq^{le} Marie Quene of Scottis, that the panis of Periuirie falbe to the personis committeris thairof, confiscatioune of all thair guidis movabill, warding of thair personis for yeir and day, and langer, induring hir Maiesteis will; and to be infamous personis, never abill to bruik office, honour, dignitie nor benefice, in tyme to cum: And als, it is statute and ordanit, be Act of Parliament, maid in his hienes Parliament, haldin and begun at Ed^r the viij day of Junij the yeir of God J^m.V^c.lxxxxiij yeiris, that in all tyme cuming, all Wilfull Heraris of Mefs, and conceillaris of the samyn, be execute to the death; and thair guidis and geir escheit to our souerane lordis vsf, sa sone as thay fall be fund gyltie and convict thairof, or declarit fugitiue for the samyn, befor the Justice-generall and his deputtis, or the lordis of his hienes Privie Counsale; as the saidis Actis, at mair lenth beris. AND trew it is, that the said Mr Williame Barclay, haifing, in pe moneth of lastbypast, sworne and subscryuit befor the Presbyterie of Ed^r that he wes of the Religioune presentlie profest within this realme; nochtwithstanding thairof, vpoun the xx and xxj dayes of Marche lastbypast, he assistit and hard twa Messis, quhilkis war said be M^r Alex^r M^rQubirrie, ane Jesueit Preist, within Andro Naperis duelling houfe in Ed^r; be the heiring quhairof, and assistit thairto, he hes profest and sworne the contrair Religioune; and sua, hes committit the cryme of Periurie, and incurrit the pane thairof abouewrittin, contenit in the said Act of Parliament: Lyke as, he, be the wilfull heiring of pe saidis twa feuerall messis, at the twa feuerall tymes *respective* abouewrittin, hes incurrit the panis contenit in the vther Act of Parliament, maid anent Wilfull heraris of Mefs, viz. the pane of death and confiscatioune of all thair movabill guidis.

The said Mr Williame refusit to abyde the tryell of ane Affyis; bot become in his Maiesteis Will for the samyn crymes: Quhairvpoune the said Mr Thomas Hammiltoune askit Actis and instrumentis.

[*Mr Williame Borthuik, Justice-Depute.*]

May 2.—The said Justice-depute produceit his Maiesteis Warrant, concerning his hienes Will; quhilk he pronunceit and oppinlie red in jugement; quhairof the tennour followis.

JAMES, be pe grace of God, King of Scottis. To our Justice, Justice Clark and his deputis, greting: fforfamekill as Mr Williame Barclay, brop^r to pe Laird of Towie, is becum in our will, in ane Justice Court, haldin in our Tolbuith of Ed^r, vpoune pe xxv day of Apryle lastbypast, for Periurie, and hering of Mefs, contrair pe tennour of our Actis of Parliament: Thairfoir, We declair our will, as followis, to wit: ffor pe Periurie, We ordane pe said Mr Williame to be declarit Infamous, and nocht habill, now, to bruik office, honour, dignitie or benefice, within our realme: And for pe hering of Mefs, we decerne and ordaine him to be Baneist our realme, during all pe davis of his lyfetime, and never to returne within pe samyn, vnles, be satisfatioune of pe Kirk, he obtene our speciall Licence to pat effect; vtr-

der þe pane of deid : And that he remoue or depairt furth of our realme, within fourtie dayis nixt efter his libertie furth of his present waird. Commanding, heirfoir, 3ow, our said Justice, Justice Clark and 3our deputtis, to pronunce and deliuer þis our will, iudiciallie, aganis þe said Mr Williame : And pair-estir, caufe commit him to waird agane, within our Castell of Ed^r, þair to remane quhill the forder know-ledge of our will and plesour towardis him. As 3e will anfuere to ws pairvpoune : Quhairanent þir presentis falbe 3our Warrant. Subscriuit with our hand, At Dalkeith, the last day of Apryle, and of our regne þe xxxiiij 3eir, 1601.

(Sic subscribitur) JAMES REX.

Quhilk being oppinlie red and declarit in judgment, the Justice-depute interponit his autoritie thairto.

[*Mr Williame Haert, Justice-Depute.*]

Exhibiting the King's Portrait, on the Public Gibbet, &c.

Apr. 25.—ARCHEBALD CORNUALL, ane of the toune officiaris of Edin-
burghe.

[THE following Trial is perhaps unparalleled in the Annals of Criminal Jurisprudence, in any coun-try ; and cannot be read without exciting feelings of the utmost disgust and indignation, at the cold-hearted and vindictive, nay, sanguinary spirit, which dictated the pronouncing and carrying into execu-tion of so awful a sentence, for an offence of so trivial a nature, probably originating in pure accident or inadvertency, or at most in a foolish jest of the officer, who would, no doubt, for his own interest, as well as that of his employer, in making a sale, endeavour to dispose of the picture to the best advan-tage. The Dittay only accused him of '*preiffing* to haif hung the same' upon the gallows ; but that he was prevented from doing so by the people.

It is evident that the King instigated these disgraceful proceedings ; and it is equally certain, that the unhappy victim of this most tyrannical act suffered death accordingly. The '*Affise*' bears all the marks of a selected '*set of worthless and pluckless wretches.*' No less than *eight* of their number are Tailors, who have at no time been famed for extraordinary firmness or independence. The veracious Robert Birrel gives the following account of the matter. '*The same day (Apr. 27), Archibald Cornell, toune officer, hangit at the Crosse, and hung on the gallows 24 houres : And the caus quhairfore he wes hangit : he being an unmerciful, greidie creatar, he poyndit ane honest manis hous, and amongst the rest, he poyndit the King and Queins picturis ; and quhen he came to the crosse to compryse the same, he hung thame up upone twa naillis on the same gallows, to be compryfit ; and thai being sene, word 3ead to the King and Queine, quhairupone he wes apprehendit and hangit.*' If Birrell is correct with regard to date, (which it would appear he is,) it makes the matter still worse, so far as the King is concerned ; for it puts violent and sudden rage out of the question. The '*treffonabill fact*' took place upon the 15th day of April ; so that the trial, condemnation, and execution must have proceeded on cruel, deliberate, and malicious determination : The proceedings before the Justiciar are dated Apr. 25 ; and the poor town officer did not suffer death till Apr. 27.

Unfortunately for the character of King James VI. this is by no means a solitary instance,—witness the Cases of John Dickson, in Lyne, Aug. 3, 1596 ; Francis Tennent, Oct. 10, 1600 ; Thomas Ross, son of Ross of Craigie, in 1618 (executed Sept. 10), and many others. Another very remark-able instance of the arbitrary and despotic character of James, in the month of October the same year, is given in the new and accurate edition of Lord Hailes' Annals, 8vo, Edinburgh, 1829, Vol. iii. p. 106, and which is reprinted here, in illustration of the above remarks. The object of this latter act of tyranny is abundantly clear. Mr Peter Narne was a victim offered up to the English nation, at a time when the King was plotting with Cecil, &c. to secure his succession to the throne of Elizabeth ; as a foretaste, doubtless, of the protection he would afford them against every encroachment of his Scottish subjects. There is no doubt that this unfortunate man suffered, for his supposed *intention to murder* ;

as the torture was directed to be used, till he should confess; and then the Judge was directed to pronounce sentence of death!

So extraordinary is this Case of Archibald Cornwall, in all its bearings, that the Editor deemed it requisite to investigate the matter, as minutely as his opportunities permitted. The result of these inquiries are appended, and left to the reader's consideration, without farther observations.]

Dilatit of the ignominious Dishonouring and Defaming of his Maiestie, in taking of his Portratour, and laying of the samyn and fetting thairof to the stowpis and vpberaris of the gibbet, preiffing to hing vp the samyn thairvpoune.

PERSEWAR, Mr Thomas Hammiltoun, Aduocat to our Souerane Lorde.

ASSISA.

Patrick Acarfane, wrytter,	Johne Blak, tailzeour thair,	Edmond Smyth, tailzeour (' in the Cannogait,')
William Tailzeour, deacon of the	Johne Horne, fruitman in Edr,	James Sympfoun, tailzeour thair,
tailzeouris in the Cannogait,	Johne Pillons, cordiner thair,	William Bauchop, wryter thair,
Johne Rankene, tailzeour, burges	James Aikman, tailzeour thair,	Alexander Lyell, skyner thair,
of Edinburghe,	Dauid Bennet, tailzeour thair,	
Patrick Somervell, burges thair,	Adame Carkettill, tailzeour thair,	Patrik M-Gregour, fruitman.

The Aduocat takis instrumentis of the Admissioun and fwering of the Assyis.

The Aduocat protestis for Wilful Errour, in case they acquitt; in respect of the notorietie of the deid, knawin to thamefelffis.

The quhilk day, Archibald Corneuell, ane of the toune officeris of Edinburghe, being enterit on pannell, dilatit, accusit and perfewit, be dittay, produceit be Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord, for the trefsonabill and ignominious dishonouring and defaming, sa far as in him lay, of our fouerane lord the Kingis Maiestie, be taking of his hienes portratour to the public mercat place of this burgh, and thair schamefullie and wyildlie (*vilely*) fetting the samyn to the stowpis and vpberaris of the gibbet; and in mair, and manifest and trefsonabill contempt and disdane of his Maiestie, he stuid vp vpoune ane buird or furme, befyde the said gibbet, and cald ane naill thairin, sa heich as he culd reiche it, and listit vp his hienes portratour foirfaid, and held the samyn vpoun the gibbet, preiffing to haif hung the samyn thairon, and to haif left it thair, as ane ignominious spectacle to the haill world; gif he had nocht bene stayit, be the iust indignatioun of the haill people, minassing to stane him to deid, and pulling him perforce fra the said gibbet, to stay his trefsonabill fact foirfaid; committit be him, vpoune the xv day of Apryle instant.

VERDICT. The Assyis, be the mouth of the said Johne Rankene, chancillar, ffand, pronunceit and declarit, for the maist pairt, the said Archebald Corneuell to be fylit, culpabill and convict of the trefsonabill fetting of his Maiesteis portract to the tramme of the gibbet; and presenting of the famin, to be hung heich vpoun ane nail in fixt in the said gibbet.

SENTENCE. For the quhilk cause, the said Justice-depute, be the mouth of Robert Galbraith, dempstar of the said Court, decernit and ordanit the said Archebald Corneuell to forfealt lyffe, lands and guidis, and to be tane to the said

gibbet, quhairvpoune he preiffit to hing his Maieftis portratour, and thairon to be hangit quhill he be deid; and to hing thairvpoun, be the fpace of xxiiij houris, with ane paper on his foirheid, contening that vyild cryme committit be him.

(1.) NARRATIVE *taken from Wodrow's MSS.*¹

IN the faid moneth of Aprile (1601), one of the officeris of Edr, having rowping at the Croce of Edr certane poindit geir, amang the quhilk the Kingis picture wes; and to the effect that the bred² and picture micht be the better fene (the officeris stand being hard beyde the gibbet) vndifcretlie and rafchelic the officer wes calling³ in ane naill in the gibbett, to haue hung vp the bred, as wes reportit, and yit hang not vp the famin, bot ceiffit, being admonifchet be fum of the pepill standing by, that it wes not weill done to put vp ony naill to the effect foirfaid: Allwyfe, vpoun the faid prefumtioun, the officer wes challengit and put in wairde, within the tolbuith: And the Kingis Maieftie, being informit thair of, caufit examine certane witneffes thairvpoun; and thairefter the faid Officer wes put to ane Affyfe, and convict vpoun the faid prefumtioun; and dome gevin vpoun him, to be hangit xxiiij houris, with ane paper on his foirheid, declairing the faid caus. Lyke as, he wes fua done with, vpoun the faid xxvij of Aprile, about fax houris at evin; and fufferit to hing on the gibbet quhill the nixt day, at evin, at the fame time: And thaireftir, the gibbet wes takin doun and brunt with fyre.

(2.) ACCOUNT *taken from Calderwood's MS. Church History.*

Apr. 27, 1601.—UPON the fame Mounday, at fax houres at even, ane Officer of Edinburgh, named Archibald Cornwall, was hanged upon a gibbet, at pe Croffe of Edr. At pe rouping of some poynded gear, at pe Croffe of Edinburgh, finding a broad wherein was the King's picture, and standing hard beside the gibbett, undifcretly and rashly was driveing in a nail in the gibbett to hing up the board, as was reported: but being admonifhed by some of pe people standing by, he ceafed and hanged it not up: Always, upon the fame prefumption, he was putt in waird, in the jayle. The King, being informed, caufed examine certaine witneffes; and thereafter, he was putt to ane Affife, convicted and condemned to be hanged, and to hing twentie four houres, with a paper on his forehead: which was done; and thairefter the gibbett was taken doun and burnt with fire.

(3.) EXTRACTS *from THE RECORDS of the Town Council of THE CITY OF EDINBURGH.*

Apr. 17, 1601.—FOR the honour and reverence thair aught to our foueran lord, his darrest fous and children; Statutes and ordanis, that nane of thair Maieftis and graceis pictures and portraits be poyndit, rowppet or compryfet, for ony maner of caus, publictlic or privatlic, heirefter: Dischargeing thair officeris and feriandis of the fam and of thair offices in that pairt, vnder the payne of tynfall of thair faid offices, and wairding of thair perfounis for the fpace of twenty dayes.

(Apr. 22.)—The Bailleis, deyne of gild, thefaurer, and maift pairt of the Counfall being convenit, appoyntis George Todrig baillie, David Williamfoun and Patrik Sandelandis, to pas to his Maieftie, presentlic at Dalkeyth, and to inform his Maieftie of the trewth, anent the offence confauet be his Maieftie aganis Archebald Cornuell, officer, for the alleget hinging of his Maieftie and fous picture at the gibbet, in ane rowping.

(May 1.)—Thomas Hammiltoun appointed in place of 'vmq^{le} Ar^d Cornuell.'

(4.) COMMISSION OF JUSTICIARY *to Robert Lord of Roxburgh, for the Torture, Trial and Execution of Mr Peter Narne.*

JAMES, be the grace of God, King of Scottis; To all and findrie our lieges and subditis, quhom-

¹ Wodrow's MSS. Adv. Library, Edinburgh, Vol. IX. Rob. III. 2, 9. ² Board; a painting on panel. ³ Driving.

ever it effeiris, to quhais knowlege thir our letters fall come, greeting. **FORSAMEKLE** as **MR PETER NARNE**, haveing maist traiterouslie devifit and conspyrit the Murther and destruction of Englishmen ; and for executioun of this vyld and abhominable fact, haveing trained thame within our realme, promiffing unto thame to get thame advancen in credite and service with us ; and haveing brocht thame to the town of Kelfo, he thair resolvit to have accomplifhen his said vyld Murther ; and being in the actual executioun, he was, be the providence of God, stayed, the puir innocent strangearis releivit, and himself apprehendit, and is presentlie in handis. Quhilk vyld and detestable coyfnage and Conspiracie of an intendit and conspyrit Murther, being of so rare ane example and preparative, and carrying with it sa foull ane sclander and reproche to our natioun, giff the same be not accordingly tane order with and punisheit : And albeit, thair be na law maide againe practizars and Conspiratours of ane Murther, unexecute ; and that this fact, naikedlie confiderit, will not appeir puneifhable to the death ; yet We, haveing regaird to the circumstanceis thairof, with the interest quhilk it carryis to our service, and the sclander and reproche to our natioun, We have thairfoir, of our awin absolute auctorite and power, Ordanit the said vyld and detestable Conspiracie to be puneifheit to the death ; to the terror of all uthiris to interprise the lyke heireftir. For quhilk purposis, We have maid and constitute, and be the tenor heirof Makis and Constitutis, our richt trust coufing and counfallor **ROBERT LORD OF ROXBURGHE**, our Justice in that parte, to the effect undirwrittin ; Gevand, Grantand and Committand to him, our full power and Commissioun, expres bidding and charge, to try and examine the said Mr Petir, upoun the forme, maner and circumstanceis of the said Conspiracie, and upoun the vyld Murther, quhairof he is suspect guilty ; And, giff neid beis, for the better discoverie of the treuth, to put him to Tortour : As alswa, to put him to the knowlege of ane Assize for the same, and giff he cry guilty of the said Conspiracie and intendit Murther committit be him, that he caus execute him to the deid for the same ; and in special, for the foull and treterous Conspiracie foresaid : And for this effect, Justice Courtis, at quhatfomevir placeis convenient, to sett, begyn, affix, have and continew ; fuitis to make to be callit ; absentis to amerciat, unlaws and escheitis of the saidis Courtis to ask, lift and raise, and for the same, giff neid beis, to poind and distrenzie ; Assifers neidfull to this effect, *respective*, under the pane of fourty pundis, to fummond, warne, cheis, and causis to be sworne ; clerkis, ferjands, dempstair, and all uthir officiaris of Courte neidfull to make, creat and ordane, for quhome he sal be haldin to answer ; and generallie, all and findrie uther thingis to do and use, quhilk for executioun of this our Commissioun ar requifite and necessar ; ferme and stable halding, and for to hald, all and whatfomevir thingis in our name fall be done herein. Given undir our signet, and subscrivit with our hand, **AT BRECHIN**, the tent day of October, and of our reign the xxxv, and yeir 1601.

(Locus sigilli.)

JAMES R.

Breaking into the Lord Chancellor's House—Theft, &c.

May 7.—**WILLIAME CREYCHTOUNE**, sumtyme indweller in Edinburgh.

Dilatit and accusit, ffor samekill as he, accompaneit with John M'Culloch and Robert Ahannay, laitlie, in the moneth of September lastbypast, cam to Johne Erle of Montrois chancellaris house, befyde the Abay of Halyruidhous, and thair, vnder sylence of nycht, brak the samyn, and thifteoullie stail, concelit, ressett and away-tuik furth thairof, fourtie-fyve pound pecis, ane cloik, twa dowblettis, ane bow and foure arrowis, with ane pair of filk schankis, pertening to James Grahame, sone to the Chancellor, and vther seruandis to the Chancellor : Att the leift, for airt and pairt of the steilling, conceling and away-taking thairof.

As at mair lenth is contenit in the Dittay, quhilk wes verifeit be his awin Depofitiounis and Confessionis.

VERDICT. The faid Williame wes putt to the knowlege of ane Affyfe, and thay being chofin, fworne and admittit, be the mouth of George Frenfche in Edinburgh, chancillar, ffand, pronunceit and declarit the faid Williame Creychtoun to be ffylit, culpabill and convict of the crymes foirfaidis.

SENTENCE. ffor the quhilk caus, the faid Justice-depute, be the mouth of Robert Galbraith, dempftar, ordenit the faid Williame Creychtoun to be tane to ane gibbet to be affixit vpoun the Castel-hill of Edinburgh, and thairvpoun to be hangit quhill he be deid; and all his movabill guidis to be efcheit, &c.

[*Mr Williame Hairt and Mr Williame Boirthuik, Justices-deputes.*]

Treason—Purchasing, Forging, and Vending of Counterfeit and Adulterated Coin — Theft, &c.

Majj 29.—THOMAS M^cALEXANDER of Drummochreyne; James Johnestoun, fone to Johnestoun in Kirkcaldie, sumtyme feruitour to Johne Johnestoune, wryter; George Dowglas, sumtyme in Bengoure, now in Edinburgh; Williame Maxwell, fone to George Maxwell in Haik; Cuthbert Home, fone to vmq^{le} Robert Home of Reidheuch; and James Moffat, fone to Moffet of Helbeth.

Perfewis be Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord, for his hienes interes, of the crymes following, that is to fay,

DITTAY against M^cAlexander and Johnestoune,

FOR airt, pairt, red, counfale and conceiling of the tressonabill Outing¹ amangis our fouerane lordis liegis, in the Tounis of Gawyefyde, Dalfarf, Hammiltoune, Clochftane, Air, Irvin, and vtheris pairtis, of certane fals and counterfit ten schilling peices, to the fimilitude of his hienes trew coingie; committit ane yeir fenfyne in harvest. *Item*, for airt, pairt, red, counfall and conceiling of the tressonabill forgeing, counterfitting, casting and prenting of xxx false ten schilling peiceis, within the citie of Glasgw, in Dauid Hallis bak chalmer thair; quhair thay, togidder with vmq^{le} Marioune Hepburne and ane ferwand woman of hirs was lugeit; off the quhilkis, thay tressonablie outit ane to the faid Dauid Hallis wyffe; and the faid Thomas M^cAlexander delyuerit twa of the faidis pieceis to the faid James Johnestoun, at the Bridgend of Glasgw; and als delyuerit to him fyve pundis w^t thairof, in ane lytill zaird at the faid Brigend, quhilk he tuk bak fra him agane. *Item*, for airt, pairt, &c. of the tressonabill fforgeing, prenting and casting in calmis² of trie, fillit with calk,⁴ within the place of Tourlandis, of twa fals foure merk pecis, to the fimilitude of his Maiefteis trew coingie of foure merk pecis of silver; quhair of the faid Thomas outit ane to ane honest man in Air: Lyke as, the faid James, be directioun of the faid Thomas, convoyit the calme out of Irving to the place of Tourlandis, quhair he and Sandie of Tourlandis wes present at the tressonabill fforgeing of the faidis pecis, quhilk wer maid of ane pew-

¹ This term corresponds with the modern law term 'uttering;' literally, putting out, circulating. ² Probably for 'worth,' although it is also an usual abbreviation for 'wecht,' weight. ³ Moulds. ⁴ Wood bedded with chalk or plaster.

der plait: Committit in harvift, bygane thrie zeir. *Item*, the said Thomas being accusit ffor airt, pairt, &c. of the tressonabill reffaucing fra George Dowglas, callit of Bengowre, of fourtie poundis in fals fyve pound pecis, foure pound pecis, and crounis, to haif bene outit amangis our fouerane lordis liegis, as trew and guid gold; quhair of he outit twa fals crounis to Johne Johnestoun in Mayboill, and lent the rest thairof (except ane foure pound peace and twa crounis, quhilkis he referuit to him self) to Gilbert Makalexander in Air; and delyuerit the foure pound peace to Bruce, his seruand. *Item*, the said Thomas dilatit and accusit, fforfamekill as he, accompaneit with William Boirthuik of Johnestounburne and twa of his seruandis, betuix Martimes and gwill,¹ in the yeir of God Im. Vc.lxxxxvij yeiris,² past owre att the Qeinis-fferrie, towardis Castell Campbell, or thairby, quhair thay brak ane hous, and thifteouslie stall, concelit, ressett and away-tuik furth thairof foure hors, and cam about be Stirling to Falkirk, quhair his naig³ tyrit: And swa, wes airt and pairt of the thifteous steilling of the saidis foure hors. *Item*, the said Thomas being dilatit of airt and pairt of the thifteous steilling, conceilling, refetting and away-taking of ane naig fra ane seruand of the Erle of Caffilis, quhilk Bruce his seruand stall be his directioun, and William Maxwell delyuerit the samyn to Gylbert M^calexander.

DITTAY against George Dowglas, sumtyme in Bengoure, now in Edinburgh.

DILATIT for the tressonabill bying of fourtie peacis of fals gold, in fyve pound pecis, foure pound pecis and crounis, and the maist pairt of them wer crounis, fra vmq⁶ Dauid Johnestoune, quhilk he ressaueit in the moneth of Junij, or thairby, in Kingorne, to be tressonablie outit; ffor the quhilk he payit fourtie merk in guid siluer, quhair of Johnstounburne, his pairtiner, payit tuentie merkis. Lykas, he, togidder with the said William Boirthuik, William Maxwell, Moirlie and James Hoppringill his seruandis, past, at Mydsomer was ane yeir, to ane fair in Air, for outing of the samyn, quhair he, in the said fair, coft⁴ ane broune meir;⁵ ffor the quhilk, he tressonablie outit and payit xxiiij poundis of the said fals gold: And als, bocht ane naig fra James Hammiltoune, seruand to the Maister of Cathcart; for the quhilk he tressonablie outit and payit xxvj or xxvij lib. of the said fals gold; The quhilk gold the said James Hammiltoune, being outand in Aire, for certane Lundoune wairis, the samyn wes cryit fals; the said James immediatlie thairestir followit the said George, fra the burcht of Air, be the space of foure myles, rasit the countrey and owertuik him and his cumpany, and compellit him to ressaue the fals gold, and restoir the said naig to the said James Hammiltoune: Estir the quhilk, he, accompaneit with Thomas M^cAlexander apperand of Drummochryne, William Boirthuik of Johnstounburne and his seruandis, satt down be ane brae-fyde, and pairtit⁶ the fals gold quhilk he left vnoutit,⁷ and delyuerit fourtie poundis worth thairof to the said Laird of Drummochryne, in fals fyve pound pecis, foure pound pecis and crounis; and outit and delyuerit to the said William Boirthuik, his pairtiner, tuentie poundis worth thairof; and retenit thrie crounis thairof to him self; quhilk he thairestir outit and delyuerit to the said Williame Maxwell; and swa, hes committit Treason.

DITTAY of Williame Maxwell, sone to George Maxwell in Haik.

INDYTIT, accusit and persewit, ffor airt, pairt, red, counfall and conceilling of the pairting of the said fals fyve pound pecis, foure pound pecis and crounis, quhilkis George Dowglas, callit of Bengoure, pairtit and delyuerit att ane brae-fyde, cumand out of Air, att Mydsomer wes ane yeir, to Thomas M^cAlexander, apperand of Drummochryne, and Williame Boirthuik of Johnestounburne; quhair of he delyuerit fourtie poundis worth to Drummochryne, and xx lib. thairof to the said Williame Boirthuik, quha delyuerit the samyn to the said Williame Maxwell, quha convoyit it to Edinburgh; and att his cuming, restorit agane to the said Williame Boirthuik, quha thairefter outit ane of the saidis fals crounis in, and ane vther in Lauder; and thairby, the said William Maxwell committit Treason.

¹ Yule or Christmas.
⁶ Parted, divided.

² Anno 1598.
⁷ Uncirculated.

³ Horse, nag.

⁴ Purchased, bought,

⁵ Mare,

Item, indytit ffor the treafounable reffauing fra George Dowglas of thrie fals crounis, to be outit-as guid gold amangis our fouerane lordis leigis; quhairof he delyuerit ane to Jeane Reid, fpos to James Lewingftoune, in wad¹ of ane faiddill, and the vther twa he delyuerit to the Guidman of Johnftounburne. *Item*, accufit, fforfamekill as he, being in cumpany with vmq^{le} . . . Morlie, and being feruandis to Williame Borthuik of Johnftounburne, be his fpeciall directione and command, paf to Weft Lowtheane about Caldermure or thairabout, and thifteouffie ftall, concelit, reffett and away-tuik furth thairof, twa meiris; quhilk he convoyit to the weft end of the toune, and thairfra directit thame hame with . . . Morlie to Johnftounburne; and cam in him felf to Edinburgh to James Lewingftounis hous thair, quhair ye mett the Guidman of Johnftounburne and tauld him how ye fped.

DITTAY againft James Moffet, fone to . . . Moffet of Helbeth.

FORSAMEKILL as he, accompaneit with Petir Daveis Johnftoun of Kirkhill, Thomas Stewart feruand to Rob of Kirkhill, Jony Lyall and Cryftie Brydene feruandis to the Guidman of Cairtertoune, and James Wilfoune vnder Geordie of Kinmonth, in the moneth of . . . I^m.V^c.lxxx . . . yeris, cam to ane hill pertening to Mr James M^cMath of Dalpever, and thair thifteouffie concelit, reffett and away-tuik aff the famin, fourfcoir of fcheip, pertening to the faid Mr James; off the quhilk he gatt fourtene for his pairt.

DITTAY againft Cuthbert Home, fone to vmq^{le} Robert Home of Redheuch.

FORSAMEKILL as he, accompaneit with Johne Broderftanis, younger fone to Johne Broderftane, fefchour in Tranent, and Richard Paterfoune, in the moneth of March, or thairby, I^m.V^c.lxxxvij yeris, cam, vnder fylence and cloud of nycht, to John Creychtounis duelling-hous at Preftoun-grangemyll, and thair thifteouffie brak the faid hous aboue the dur, enterit thairin, and brak vp his kift, and thifteouffie ftall, concelit, reffett and away-tuik furth thairof, foure hundreth poundis worth of gold and filuer, or thairby, and maift crewallie dang the faid Johne Creychtoun and his wyff, and left thame for deid: Of the quhilk foume he gatt fittie pound for his pairt. *Item*, ffor the thifteous Reffetting of faxtene fchep, or thairby, pertening to Sir Patrick Hepburne of Lufnes, knycht, and Williame Caldeleuch in Eifter Gemmilfcheillis, his feruand and fchiphird; quhilkis fcheip wes thifteouffie ftollen be Mertene Hall: Committit in the moneth of Januar I^m.Vj^c. yeris. *Item*, ffor Commoun Thift, Commoun Reffett of thift, inputting and outputting of thift, fra countrey to countrey, fra land to land, bayth of auld and new.

FOR the quhilkis crymes, the faidis (perfounes on pannell) wer putt to the knowledge of ane Affyife, of the perfounes after fpecifeit; they are to fay.

ASSISA.

Johne Stenhoip of Stenhopifmyll,	Johne Logane of Cowftoune,	Alex ^r , Horsburcht of Horkas,
Williame M ^c Clellane Tutour of W ^m Annand in Tranent,	Bombie,	Johne Henderfoune in Preftoune,
David Seytoun, elder in Tranent,	Jobne Farguyfoune of the Yle,	Rob ^t Anderfoun burges of Perth,
Capitan Patrik Herring,	George Hereis, fumtyme of the Kirktoune of Effie, now in	Williame Polwart, fumtyme of Rottinraw,
James Dalzell eldar, in the Water of Leith,	Edinburgh,	Williame Halyburtonne, fumtyme of Inchkairney.
	Johne Boifwall of Affiek,	

The Aduocat proteftit for Wilfull Errour, in cais thay acquit.

VERDICT. Efter the accusatioun of the faidis perfounes be Dittay of the faidis crymes, quhilk wer verifeit be thair awin Depofitiounis and Confeffioun, (the Affyis) removit altogidder furth of Court to the laich Counfal-hous; quhair

¹ Pledge, security.

thay, eftir chefing the faid Johne Boifwall of Afflek Chancillar, reafonit and votit vpoune the faid Dittayis *refpectiue*, and ewerie point thairof, &c. ; and be the mouth of the faid Chancellar fband, pronunceit and declarit the faid Thomas M^cAlexander and George Dowglas, James Johnftoune, Williame Maxwell, James Moffett and Cuthbert Home, to be ffylit, culpabill and convict of ewerie poynt of the Dittayis *refpectiue* aboue writtin, quhairof euerie ane of thame *refpectiue* wes accufit, and quhilk wes laid to thair charge.

DOME pronounced againft the Pannels.

FOR the quhilk caus, the faid Mr Williame Haert, Juftice-depute, be the mouth of Robert Galbraith dempftar, ordanit the faid *Thomas M^cAlexander*, as convict of Treaſoune and thift; *James Johnftoun*, as convict of Treaſoun; *George Dowglas*, as convict of Treaſoune; *Williame Maxwell*, as convict of Treaſoune and thift; to be tane to the Caftell-hill of Edinburgh, and thair to be wirreit at ane ftaik quhill thay be deid, and all thair landis, heretagis, takis, ſtedingis, rowmes, poſſeffiounis, cornis, cattell, guidis and geir, to be fforfaltit and efcheit, and inbrocht to our fouerane lordis vfe: AND als ordanit, be the mouth of the faid dempftar, the ſaidis *James Moffett* and *Cuddie Home* to be tane to the faid Caftell-hill of Edinburgh, and thair to be hangit vpoun ane gibbett, quhill thay be deid; and all thair movabill guidis to be efcheit and inbrocht to our fouerane lordis vfe, as convict of the ſaidis crymes of Thift.

[*Mr Williame Haert, Juftice-Depute.*]

Treafon — Uttering baſe Coin, &c.

Jun. 6.—THOMAS GLASS in Fowles, and Johne Gib at the Wodheid of Condie.

THOMAS GLASS was dilatit for the treffonabill Outing of xij falſe fyftie-ſchilling peiceis of gold, to the fimilitude of our fouerane lordis trew coinzie, amangis his hienes liegis; off the quhilkis peiceis, he reffauit foure fra vmq^{le} Walter Murray in, foure fra Johne Murray his brother, and foure fra Patrik Drummond of the Lenach. *Item*, for the treffonabill reffauing fra George Drummond, ſaidler in Perth, of twentie peice of falſe fyve-pund peiceis, hat-peiceis, and fyftie-ſchilling peiceis; and for the treffonabill outing thairof amangis our fouerane lordis liegis, as trew gold; quhairof he gaif ane pairt to Robert Schedden, nolt dryuer. AND ficlyke, JOHNE GYB, for airt and pairt of the cumming in cumpany with vmq^{le} Mr Williame Balfoure, brother to the Laird of Burlie, Johne Oliphant and vmq^{le} Harie Cuke, his ferwandis, Patrik Murray of Gallwallis, his ferwandis, in the moneth of Februar laſtbypaſt, vnder fylens and cloude of nycht, and thair thifteouſlie breking vp the dur of the faid hous, entering thairin perforce, and thifteous ſteling, conceling, reſſetting and away-taking furth thairof, ane purſe with foure ſcoir and twelf merkis, pertening to the faid Andro; quhilk the faid Johne delyuerit to the faid Mr Williame; together with ane horſe and ane meir, and his haill infycht pleneiffing.

VERDICT. The Assyis, be the mouth of William Stalkar, goldfmyth in Edinburgh, Chancellour, fand, pronunceit and declarit the saidis *Thomas Glas* to be ffylit, culpabill and convict of the crymes aboue writtin, quhairof he was accusit; and als, fand and pronunceit the said *Johne Gib* to be ffylit, &c. of the crymes whairof he was accusit and persewit.

SENTENCE. THOMAS GLAS to be tane to the Castell-hill of Edinburgh, and thair to be wirreit at ane staik quhill he be deid, and his bodie to be brunt in asses; and all his landis, heritageis, takis, stedingis, rowmes, possessionis, coirnis, cattell, guidis and geir to be forfalt and escheit to our souerane lordis vsè, as convict of the crymes foirfaidis: AND als decernit and ordanit the said *JOHNE GIB* to be tane to the Castell-hill of Edinburgh, and thair to be hangit quhill he be deid; and all his movabill guidis to be escheit, &c.

Horse-stealing — House-breaking — Theft.

Jun. 18.—NICOLL *alias* NIKKIE MOFFETT, at the Brigend of Cramond, and Daud Adiesoune, sone to Johne Adiesoune, in Dyfert.

NIKKIE MOFFETT was dilatit and accusit for airt and pairt of the thifteous steling of twa naigis fra James Bannatyne, tennent to the Laird of Cleghorne, twa yeir senfyne or thairbye, furth of ane burnefyde bevest¹ Calder. *Item*, for airt and pairt of the thifteous steling of ane blak naig fra Patrik Clarkfoune in Blakburne; of ane gray meir; and for commoune thift and commoune resset of thift.—AND siclyke, DAVID ADIESOUNE being accusit for the steling furth of Margret Strathauchinis hous, in the Cannogait, of ane naipkyn, quhairin thair was xij aucht mark peiceis, ane hairt of gold, ane pair of grene silk gartonis, and ane cloik of Inglis hewit² grene claith, pertening to Daud Drummond, feruitour to Sir Johne Ramsay, committit at Martymes lastwas: *Item*, for bryking of Mark Lord Newbottill chalmer, and steling furth thairof ane veluot cloik, ane raise veluot gounè furrìt, and vtheris guidis and geir: *Item*, for the thifteous steling furth of Robert Erskyne house, in the fit of the Cannogait, of certane gold, siluer, claythis, guidis and geir, with thre hundreth markis: *Item*, for commoune thift, &c.

VERDICT. The Assyis, be the mouth of Hector Daudfoune, sword-flipper in Edinburgh, Chancellor, ffound the pannels to be ffylit, &c.

SENTENCE. To be tane to ane gibbet, standand vpoune the Castell-hill of Edinburgh, and thairvpoune to be hangit quhill thay be deid; and all thair movabill guidis to be escheit, &c.

¹ To the westward of.

² Coloured.

Striking a Person, while the King was sitting in Judgement, &c.

Jun. 20.—**JOHNE DUNDAS** of Newlistoune.

Dilatit for contravening of the Actis of Parliament, in stryking of Mr James Hammiltoune, sone to James Hammiltoune, at the Vest-port of Lynlythqw; committit the 3d of¹

PERSEWAR, Mr Robert Lyntoune, aduocat, substitute for Mr Thomas Hammiltoune.

PRELOQUOUTOURIS for the pannell, Mr Johne Scharpe, Mr Will. Oliphant, Mr Robert Leirmonth.

DITTAY against Johne Dundas of Newlistoune.

THAT quhair, be our souerane lordis Actis of Parliament, maid in the moneth of Julij 1^m.V^o.lxxxiiij yeiris, it is statute and ordanit, that quhosoewir fall stryke or hurt in ony tyme thairestir ony persoune, before his hienes Justice or his deputis sittand in judgement, or within the inner 3ett of our souerane lordis Palice, quhair his hienes fall mak residence for the tyme, or within the outar Tolbuith of Edinburgh, the tyme that the Lordis of his hienes Sessioun (sit) for administratioun of Justice, fall incur the pane of death, and salbe accusit criminallie thairfore; as att mair lenth is contenit in the said Act of Parliament maid thairnant: AND trew it is and of veritie, that the said Johne Dundas of Newlistoune, being forzetfull of his dew obedience and reverence, quhilk he aucht to our souerane lord and his hienes authoritie, laitlie, vpoun the ferd day of Junij instant, he being within the Tolbuith of the burcht of Edinburgh, in the bak hous thairof, quhilk is betuix the owtar Tolbuith and the inner Tolbuith, his Maiestie being for the tyme, in proper persoune, sitand in the Inner hous with the Lordis of his hienes Counfall and Sessioune for administratioun of Justice, he than enterit in conference and speiche with Mr James Hammiltoune, eldest lauchfull sone to James Hammiltoune, att the West-port of Lynlythqw; and estir sum contentious and hett langage past betuix 3ow (them) twa, 3e (he) maist dispytefullie, butt respect or regaird of his Maiesteis personall prefens in the Inner-hous and Tolbuith, or to the tyme and place, the before none, in the tyme of the sitting of the Lordis of Sessioun, invadit and persewit the said Mr James, and straik him with 3our (his) neave vpoun the face, and had nocht fail3eit to haif followit out 3our (his) persuit, with all rage and crewaltie, againis the said Mr James, war nocht 3e (he) wes stayit be ane number of our souerane lordis guid subiectis, awaiting in the Tolbuith vpoun his hienes, or vpoun thair awin actionis for the tyme: Quhairby he, be strykeing of the said Mr James vpoun the face, quhen our souerane lord in proper persoun wes sitand in the inner Tolbuith, and the tyme that the Lordis of Sessioune wes sitand thair for administratioun of justice, has incurrit the pane of death; quhilk sould be execute againis him, conforme to the said Act of Parliament, with all regour.

(The pannell) declarit, infasar as his Maiestie, as is contenit in the Dittay, wes sitand in the Tolbuith, the samin was by his knowlege;² and that vpoun the occasioun of sum contentious wordis fallin furth betuix him and Mr James Hammiltoune, quhairwith he wes movit to mak sum mynt³ for revange thairof, and thairby maid sum truble in the Myd-hous, quhairwith his Maiestie is justlie offendit; That he will cum in his Maiesteis will for ony fact or offence committit to our souerane lord, or the Lordis of his hienes Sessioune, the tyme and place contenit in the Dittay; to be confidderit be his Maiestie, according to his hienes guid will and pleasour, and according to his accustomit clemencie, schawin to vtheris his hienes liegis for the lyke crymes ofbefore.

¹ The fourth of June instant. See Dittay.

² Unknown to him.

³ Attempt, motion.

With the quhilkis premiffes, the Justice tuik him to be auisit quhill Tyifday nixtocum, the xxij day of this instant, that he mycht knaw his Maiefteis will thairin : And ordenit the Bailleis of Edinburgh present, to tak the said Johne Dundas to waird to the Castell of Edinburgh : And ficlyke, caufit Andro Home, ane of the Officeris of Court, to warne the perfounes fummond vpoun the said Johne Dundas Affyis, to compeir in the Tolbuith of Edinburgh to pas vpoun his Affyis, vnder the panis contenit in the Actis of Parliament.

Jul. 9.—THE following Precept ordanit to be infert in the buikis of Adiornall.

Rex,

JUSTICE, Justice Clark and 3 our deutes. We greit 3ow hairtie weil : Forfamekill as Johne Dundas of Newliftoune, being indytit and accusit in ane Court of our Justiciarie, haldin within our Tolbuith of Edinburgh, pe xx day of Junij lastbypast, for pe invading and perfewing of Mr James Hammiltoune, lauchfull sone to James Hammiltoune, att pe West-port of Lynlythqw ; and ftrykeing of him vpoun pe face, vpoun pe ferd day of pe said moneth of Junij, &c. And We having reffaut the said Johne Dundas in our will, and having weyit and confidderit the hail circumstance of pe cryme contenit in pe said Dittay, and quhatfumeuir thing wes done be the said Johne the day and place foirsaid ; the said Johne, according to our will notifeit be ws to him selff, hes payit the foun of ane thousand sewin hundreth and fiftie merkis, quhilkis wer deburfit in fum of our necessar affairs ; quhair of we difcharge the said Johne for ewir be pir presentis. And ficlyke, according to our directioun gevin to him, as ane vpir part of our will, hes comperit in prefens of our Chancillar, Prefident and Lordis of Sessioune, thay being convenit in full nowmer in pe said Inner counsal-hous for administratioun of justice, and thair hes füllelie fatisfeit pame for ony offence done be him to pame, the saidis day and place. We Will thairfore, and be pir presentis declairis, that the said Johne Dundas falbe fred and relewit furth of pe waird, quhairin presentlie he is ; and We command 3ow to freith and releve him of pe samin : As also, we declair that the said Johne Dundas fall nocht att ony tyme heireftir be indytit, perfewit or accusit for ony fact or deid committit he him the day and place foirsaid ; bot We acquyte and mak him frie pair of in all tyme cuming : And thairfore We command 3ow, that, in our Justice-Court to be hauldin in pe said Tolbuith of Edinburgh, the said nynt day of Julij instant, in prefens of pe said Johne Dundas, 3e mak publicatioun of pe declaratioun of our Will, estir pe forme and tennour of pir presentis ; and that the said Johne hes obeyit and fulfillit the samin in all pointis : Kepand pir presentis for 3our Warrant. Subfcryuit with our hand, att Halyruidhous, the fewint day of July, the 3eir of God, I^m.Vj^c. and ane 3eiris. (Sic subscribitur) JAMES R.

MONCRIEF CANCELLARIUS. FYVIE SECRETARIUS. HOME COMPTROLLER. J. HALYRUIDHOUS.

**Namesucken — Brigancy — Oppression — Horse-stealing —
Foraying, &c.**

Aug. 1.—THOMAS CWINGHAME, sword-flipper, serwand to (Williame Cwninghame) the Laird of Tourlandis.

Dilatit of certane crymes of Thift, and for taking of captive and presoner Patrik Gemmill.

DITTAY against the Pannel.

THOMAS CWINGHAME, sword-flipper, sumtyme seruitour to Williame Vaus, armorar in the Canogait, being enterit on pannell, dilatit and perfewit : Forfamekill as he, accumpaneit with Alexander

and Hew Cwninghames, breper to the Laird of Tourlandis, vmq^{le} Johne Cwninghame alias Potter, Marioune Parker, Iffobell Parker hir sifter, Williame Speir, serwand to the said Alexander, and ane vther boy, laitlie, in the moneth of Januar lastbypast, vnder scyence and cloude of nycht, be way of Hamefuckin and Brigancie, come to Patrik Gemmill duelling-hous in Tempilhous, qubair he, his wyffe and familie was, in sober and quyet maner, takand the nychtis rest, dredand na evill or harme; and thair brak vp the dur of the said hous, enterit thairin perforce, and tuke the said Patrik and his wyffe furth of thair bedis, band his wyffe fit and hand, and kaitt hir in ane mekill kist,¹ manassit² the said Patrik to delyuer to thame his siluer and gold; and becaus he refusit to do pe samyn, thay band ane tedder³ about his nek, and hang him vp vpoune ane balk,⁴ qubair he hang ane lang space, qubill⁵ the said Thomas for pitie cuttit him doune; and thairefter thay pakkit vp his haill infycht guidis and pleineiffing in scheittis, and caufit the saidis thre wemen convoy the samyn thifteouslie vpoune thair bakie: And thairefter tuke and apprehendit the said Patrik Gemmill captiue and presoner, and convoyit him, being ane ageit man of threscoir of yeiris, in ane grit storme, be the space xxvij myles fra his awin house, qubill he come to Clyddisholme, qubair he was releuit be the Bailleis of Lanerk: Vfurpand thairbye our souerane lordis auctoritie vpoune thame; the said Patrik being his hienes frie liege; and the said Thomas was airt and pairt of the saidis crymes. ITEM, for airt and pairt of the cuming vpoune ane Sabboth day, ten oukis senfyne or thairbye, in tyme of preching, accompaneit with Williame Cwninghame of Tourlandis, Alexander Cwninghame, his brother, vmq^{le} Johne Cwninghame, the potter, and vtheris serwandis of the young Laird of Blaquhannis, and vtheris thair compliceis, to the nowmer of xiiij personis or thairbye, and rynnng of ane forrow⁶ with the Laird of Cwninghames heidis tennentis, for the thifteous steling and reving fra thame of xij horse and meiris, qubilkis war fauld in the cuntrey. ITEM, for airt and pairt of the thifteous steling and away-taking of twa naigis, ane foir⁷ and ane vther broune, pertening to Thomas Bigger in Byres furth of the landis of Warreikhill, committit in Junij lastwas. ITEM, for commoune thift, commoune ressett of thift, &c.

VERDICT. The Assyis, be the mouth of Johne Farguesoun of the Yle, Chancellor, ffand, pronunceit and declarit the said Thomas Cwninghame to be ffyld, culpabill and convict of the haill poyntis of the Dittay aboue writtin, and crymes thairin contenit.

SENTENCE. To be tane to ane gibbet, vpoune the Castell-hill of Edinburgh, and thairvpoune to be hangit qubill he be deid; and all his movabill guidis to be escheit, &c.

Striking Ministers — Obstructing the Designing of Blause and Glebe.

Aug. 18.—SIR DAVID WOD of Craig, knycht.

Dilatit, accusit and persewit of the crymes following.

PERSEWAR, Mr Thomas Hammiltoune, aduocat to our souerane lord.

PRELOQUUTOURIS for the pannell, Mr Johne Scharpe, Mr Lawrence M^cGill, Mr Robert Cokburne.

DITTAY *against the Pannell.*

FORSAMEKILL, as it is expresse statute and ordenit be Act of Parliament, maid in our souerane lordis Parliament, hauldin and begun att Edinburgh, the xxix day of Julij, the yeir of God I^m. V^o. lxxxvij yeiris, that quhatsumewir persoun or persounes invadit ony Minister, or puttis ony violent

¹ Chest. ² Menaced, bullied. ³ 'Tether,' halter or rope. ⁴ Beam. ⁵ Until. ⁶ Foray, or predatory incursion. ⁷ Sorrel. Fr. saure, Ital. sauritto, a dark reddish colour.

handis in him, for feiking of thair lewings,¹ or sic vther cauffis or quarrellis specifeit in the said Act, falbe pwneift thairfore with all regoure, and incur the pane of tinfall of thair movabill guidis for the said invasioun and violence allanerlie, albeit na Slauchter nor mutilatioun follow thairvpoune; the half of the said movabill guidis to be applyit to our fouerane lordis vfe, and the vther half to the partie offendit, but² preiudice of the heichar pwneifchment, gif ony gritar cryme concur with the violence and invasioun foirfaid; and to be callit criminallie thairfore, before our fouerane lordis Justice or his deputtis, att particuler dyettis: As the said Act att mair lenth beris. And trew it is, that Sir David Wod of Craig, knycht, accompaneit with vtheris his complices, with convocatioun of our fouerane lordis liegis, to the number of tuelf perfounis or thairbye, all bedin in feir of weir with swordis, gantillettis and vtheris wappinnis, *inuafue*, incontrair the tennour of the Actis of Parliament, laitlie, vpoun the xxvj day of March lastbypast, cam to the Kirk of Fordoun, and to the landis occupyit be lyand besyde the said Kirk, and within the Sherefdome of Kincardin, quhair Mr Adam Walker, Minister att Fordoun wes, accompaneit with sum of the Presbiterie of the Mernis, according to the ordinance of the Act of Parliament, and the directioun of the said Presbiterie, cum to haif designit³ ane Manse to Patrik Bonkle, principall Minister att Fordoune, and to his successouris; dredand na ewill, harme, iniurie or persuit of ony persoun, bot to haif lewit vnder Godis peax and our fouerane lordis; and thair, fyrst boifitit,⁴ manassit and threatint the saidis Ministeris, and speciallie the said Mr Adam Walker, for thair bodelie harmes; and thairefter, fett vpoun the said Mr Adam Walker, and invadit and strak him with the gaird of his sword vpoun the heid, putt violent handis in him, and with his sword, behind his bak, strak att him, and dang him to the eird;⁵ and with thair drawin swordis hurt and woundit him in baith his handis, to the effusioun of his blude in grit quantitie; and thairby, for the quarrell of the designationn of ane gleib⁶ and manse, quhilk is ane pairt, at the leift, sould be ane pairt, of the said Mr Adamis lewing, he beand ane of the Ministeris of Fordoune, and helper to the said Patrik Bonkill to the cuir⁷ thairof, thay haif put violent handis in the said Maister Adam, invadit, straik, dang and bled him with the gairds of thair swordis, and with drawin swordis, in maner foirfaid; and he wes airt and pairt thairof: Quhairby he hes incurrit the payne of tinfall of all his movabill guidis; the ane half thairof to be applyit to our fouerane lordis vfe, and the vther half thairof to be applyit to the vfe of the said Mr Adam Walker, as partie offendit.

The pannell takis instrumentis of his entrie, and protestis for releve of his cautioner summond for his entrie; and that thair is na partie persewar bot my Lord Aduocat; and that na persoune assistis him in this persuit; and that the lettres ar rasit at his lordschipis instance allanerlie.⁸

The Aduocat passis fra all vther persounes, nor⁹ the Laird of Craig; and passis fra that pairt of the summondis, ordaning ony vther persounes guidis to be escheit, *pro loco et tempore*.

The Judge declaris, that na pairt of the pane contenit in the Act of Parliament fall fall to the partie,¹⁰ bot only to the Kingis pairt, conforme to the Act of Parliament.

¹ Livings, stipend. ² Without. ³ To designate or appoint a place for the Minister's manse, or dwelling-house, &c. ⁴ Intimidated, brow-beat. ⁵ Struck him to the ground.
⁶ The glebe (*gleba*) is a piece of arable and pasture ground, uniformly allotted to the Parochial Clergy of Scotland, and usually adjoining the manse. ⁷ Viz. the cure of souls. ⁸ At the instance of the public prosecutor alone; not at the instance of the private party, with the Lord Advocate's concurrence. ⁹ Excepting, but, other than. ¹⁰ Viz. that the private party injured shall have no share of any penalties which might be awarded; but that the whole should fall to the Crown, as sole prosecutor.

It is alledgeit be Sir Daid Wod, that this mater aucht nocht to be putt to ane Affyis, except it wer verifeit, be writt, that Mr Adam Walker is the Minister of the Kirk of Fordoun, and that he had commiffioun to mak defignatioun of the gleib and manfe that day. Anfueris the Aduocat, that the alledgeance aucht to be repellit, in respect of the Act of Parliament and of the fummondis ; and thay thingis are *meri facti*, and only pertinent to the Affyfe.

Forder, it is allegeit be the said Sir Daid and his preloquoutouris, that the lettres ar alluterlie¹ irrelevant, takand thair ground and fundament vpoun thais wordis of the Actis of Parliament, ‘ anent the inuasioun and putting of violent handis in ane Minister, vpoune quarrell, for feiking of his lewing ;’ and that particuler caufe is only proponit in this lybell ; and it is subfunit, that diuerse of the Ministeris of the Mernis, and speciallie the said Mr Adam Walker, wes boiffit and manaffit² the day lybellit, quhilk alledgeit boiffing and manaffing is na relevant caufe to induce the penaltie lybellit. Forder, that pairt is generall, nocht condiscendand vpoun the names of the vther Ministeris. *Item*, thair is ane manifest irrelevancie in ane vther pairt of the saidis lettres and subsumptioun thairof, berand, that the gleib alledgeit defignit wes ane pairt of the said Mr Adam Walkeris lewing, att the leif fould be ane pairt thairof, becaus he is alledgeit to be fuceffour to Patrik Bonkill, quha be the letteris thame felfis is grantit to be the Minister of Fordoune : As also, it is grantit that the said pretendit defignatioune wes maid be the said Patrik, and fwa is grantit to be alluterlie the said Patrikis lewing : And the Act of Parliament vnderftand in that pairt, to be, of the lewing of the perfounes that ar offendit, and nocht of the lewingis he hopis for to be fuceffour ; quhilk is *de futuro contingenti* ; for he may be deprevit, or deceife, before the deceife of Patrik Bonkill.

The Aduocat repeitis the fummondis and Act of Parliament, for ane anfuer.

The Judge, in respect that this fummondis is only execute aganis the Lairdis felff, quhairby he is accufit vpoun his awin deid done be him to Mr Adam Walker, alledgeit Minister att the Kirk of Fordoune, and craving defignatioun of the gleib and manfe, as the said fummondis beris, to Patrik Bonkill, principall Minister thairatt ; and that his coadiutour wes strikin and invadit for that caufe, fufftenis the fummondis.

Quhairvpoun Mr Thomas Hammiltoun askit instrumentis.

ASSISA.

Williame Raitt of Halgrene,
Robert Arbuthnet, feare of
that Ilk,
Johne Allerdes of that Ilk,
Patrik Falconer of Killhill,
Johne Irving in Qulyterigis,

Dauid Rait feare of Halgrene,	Robert Rait in Silliefat,
Dauid Arbuthnet of Fyndowrie,	Robert Arbuthnet in Barkhill,
Alexander Sybbald (Sibbett) in Watterftoune,	Williame Sybbald (Sibbett) in Carnetoune,
Robert Strathachin in Munbodo,	Archebald Irving in Reidmyre,
Andro Gray of Kinggornie,	James Tullo in Allertoune.

¹ Altogether, entirely.

² Intimidated and menaced or threatened.

The Aduocat protestis for Wilfull Errour, in caise thay Acquyte; becaus the Laird of Craig hes confest the deid, and maid his repentance thairfore.

VERDICT. The Assyis, be the mouth of Robert Arbuthnet, fear of that Ilk, Chancillar, for the maist pairt, ffand, pronunceit and declarit the said Sir Dauid Wod to be Acquyte, cleane, innocent and clangeit of the haille crymes aboue writtin, quhairof he wes accusit and persewit: Quhairvpoune the said Sir Dauid Wod askit actis and instrumentis; and protestit for his Testimoniall.

Sir Johnne Wischart of Pittarro, knycht, Johnne W. his sone and air, Robert Falconer of Balandro, Johnne Allardes, fear of that Ilk, Johnne Ramsay, eldar of Balmayne, Alexander Lyndesay of Brodland and Patrik Craig in Kinneth, and ilk ane of thame, wes vnlawit in the pane of ane hundreth merkis, for nocht comperand on the said Assyis.

Murder.

Nov. 13.—WILLIAME NUKILSOUNE (NICOLSOUNE) in Dirltoun.

Dilatit, accusit and persewit,

FORSAMEKILL as he, and Adame Nicolsoune, his sone, with thair complices, being bodin in feir of weir, with swordis, forkis, quhingear and vtheris wappynniss, *invafue*, laillie, vpoune the xiiij day of September lastbypast, haifing consauit ane deidlie hatrent and malice aganis vmq^{le} Williame Jakfoune in the Cannogait, for taking of ane schaeff of peis off thair land, sett vpoune him, vnder scylenche and cloude of nycht, befyde the Place of Dirltoun, quhair he was in sober and quyet maner for the tyme, doand his lefull effairis and buffines, dredand na evill, harme, iniurie or persuit of ony personis, bot to haif levit vnder Godis peax and our fouerane lordis; and first straik him with ane fork in at the leask;¹ and thairefter, strake him with quhingearis aboue the left palp,² and throw the bodie; and thairefter, bure him to the said Williamis duelling-houfe in Dirltoun, and causit dicht³ the blude fra his woundis, and syne tuke him furth of the said houfe, and careit him to the Place of Dirltoun, and kaift him behind the 3et thairof, to the effect that the said crewall Murthour fuld nocht haif cum to lycht: And swa, maist crewallie and vnmercifullie slew and mureidit him; and he was art and pairt thairof.

VERDICT. The Affise, viz. 'George Dewar seruitour to the Lady Gowrie, George Bettie, cuke and brewfster to her in Dirltoun,'⁴ &c., be the mouth of Hew Baillie in North-Beruik, chancelar, ffand the pannell to be Innocent and Acquit of art and pairt of the Slauchter of the said Williame Jakfoune, &c.

Murder of the Warden of the West Marches.

Nov. 14.—THOMAS ARMSTRANG, sone to Ringanis Thom. (In the Dittay he is styled 'sone to Sandeis Ringane.'⁵

Dilatit, accusit and persewit be Archbald Carmichell of Edrom, brother to vmq^{le} Sir Johne Carmichell of that Ilk, knycht, Warden of the West Marcheis of Scotland, for the tyme, of the cryme following: that is to fay,

¹ The groin or flank, sometimes spelt *leask* or *lish*. ² Breast. ³ Wipe off. ⁴ The rest of no note. ⁵ This last seems his proper designation, as the Dittay mentions 'the said Ringane (Ninian) his fader.' The loose mode of designating persons, in the rank of life of the pannell, which was prevalent in the Borders at this period, is apt to lead modern readers into confusion as to identity of persons.

FORSAMEKILL as he, accompaneit with the said Ringane his fader, Lancie, Hew, Archie and Watt Armstrangis his brether, Sym of the Syde, Lancie of the Syde, Rob Sandie, Rob Scott, Thome Tailzeour, Williame Forrefter, Williame Grabame of the Braid of the Grange of Medop, and divers vtheris his complices, to the number of xx, commoun thewis and traittouris, all bodin in feir of weir,¹ with jakis, steilbonettis, lances, hagbuttis; haifing, be the instigatioun of vtheris qubais names he knew, consultit, dewyfit and interpryfit the crewall, treffonabill and schamefull Slauchter of vmq^{le} S^r JOHN^e CARMICHELL of that Ilk, than Warden of the West Marcheis, vpoun ane Soneday, in the moneth of Junij, the yeir of God I^m.Vj^e. yeiris, att ane meitting at the fute-ball,² quhair diuers borderaris and freindis wes conuenit to that effect: Quhilk purpos being plattit and fett doun³ be him and thame, and being fuirlie aduertesit that the said vmq^{le} Sir Johne was to keip Court⁴ at Lochmaben, vpone the morne thairefter, being Monunday and the . . . day of the said moneth of Junij, the yeir of God foirfaid; for executioun of the quhilk treffonabill and vngodlie fact, thay mett altogidder, att thair tryfting place⁵ of the Blerieheid, quhair thay lay att waitt for the said vmq^{le} Sir Johne Carmichellis passing by; and as he wes in fobir and quyet maner passand by to the said Court, dredand na ewill, harme, iniurie or perfuit of ony personnes, bot to haif lewit vnder Godis peax and our souerane lordis, he being his Maieftis Wardene for the tyme, thay altogidder fett vpoune him at the Rae-knowis, schott thair hagbuttis att him, and thairwith maift schamefullie, crewallie (and) treffonablie schot the said vmq^{le} Sir Johne Carmichell throw the body, and slew and mordreift him thair; vpoun fett purpos, provisioun and foirthocht felony.

VERDICT. The Assyis, be the mouth of George Ferrie, portioner of Restalrig, Chancillar, ffand, pronunceit and declarit the said Thom Armstrang to be culpabill and convict of airt and pairt of the treffonabill and crewall Slauchter and Murthour foirfaid.

SENTENCE. For the quhilk caus, the said Justice-depute, be the mouth of Robert Galbraith, dempstar, Decernit and Ordanit the said Thom Armstrang to be tane to the mercat croce of Edinburgh, and thair his rycht hand to be strickin fra his arme; and thaireftir to be hangit vpoune ane gibbett, quhill he be deid;⁶ and thaireftir, to be tane to the Gallows on the Burrowmure, and thair his body to be hangit vp in irne cheinis;⁷ and all his movabill guidis to be escheit, to our souerane lordis vfe.

¹ Arrayed or furnished in warlike manner. ² At this period, especially on the Borders, it was by no means uncommon to have such meetings for playing at foot-ball, archery, &c.—and these games were often taken advantage of, for the perpetration of deeds of violence; at least, they were frequently terminated by bloodshed and violence, through the feuds of neighbouring clans or districts. ³ Plotted and arranged. ⁴ A Warden's Court, for punishment of excesses committed on the Borders, &c. ⁵ Appointed place of meeting. ⁶ Robert Birrel thus notices this event. 'The 11 of July (1600), the Laird of Carmichael buriet; quha wes slaine be the Armstrangis and Carliles, he doing and executing his office of Wardenrie, upone the 16 of Junij befor.' He thus notices the execution of Armstrang and *the Peck*, whose trial immediately follows. 'The 14 of November, Thomas Armstrong and Adam Steill, *alias* callit *the Peckit*, wer baith hangit at the crosse. This Thomas had his hand strak aff with ane stroke, befor he wes hangit, becaus he wes at the slaughter of James Carmichael. This *Pecket* wes ane of the maift notabill thieffes that evir raid.' ⁷ This is the earliest notice in this Record of a Criminal being hung in chains which the Editor has yet met with, and was evidently, in this instance, suggested by the atrocity of the crime, and the dignity of the person so basely murdered. The deficiency of facts, in the earlier Volumes, may account for this circumstance; as the particulars were then seldom recorded.

Horse, Cattle, and Sheep-stealing — Slaughter, &c.Nov. 14.—ADIE SCOTT, callit *the Peck*.

Being enterit on pannell and accusit,

FOR the thifteous steilling, conceilling and away-taking of certane oxin, furth of the Drochellis, pertening to the Erll of Mortoune and his tennentis. ITEM, for airt and pairt of the thifteous steilling of certane scheip furth of ane rowme beyde Lammingtoune. ITEM, for airt and pairt of the thifteous steilling (and) conceling of fourfcoir heid of nolt, furth of the landis of the Cairne, pertening to certane Lowthian men, quhilk wes in gerfing¹ on the famin landis. AND for airt and pairt of the slauchter of vmq^{le} Hary Rannald, feruitour to Sir James Sandielandis of Slewmanna-mure, and vmq^{le} Andro Smyth in Auchnowlis-hill, committit in the moneth of Auguft, I^m.Vj^c. yeiris. ITEM, for airt and pairt of the thifteous steilling of foure hors furth of Corfwodburne, pertening to Sir James Sandielandis of Slewmanna-mure. ITEM, for airt and part of the thifteous steilling of xvj oxin furth of Lestoun-scheillis, pertening to Alexander Dowglas. ITEM, for airt and pairt of the thifteous steilling of certane guidis fra the Guid-wyff of Garvell-fute. ITEM, for airt and pairt of the thifteous steilling of certane guidis furth of Ingerftoun-burne, pertening to Rychard Hodge thair. ITEM, for airt and pairt of the thifteous steilling of certane claith furth of Caringtoun-mylne. ITEM, for the cuming to Johne Ker Minister of Lynis hous, breking thairof, taking of him selff presoner, and steilling of his infycht and pleneiffing furth thairof. ITEM, for airt and pairt of the thifteous steilling of twa naigis furth of Hairburneheid, pertening to Adame Johnestoun thair. ITEM, for airt and pairt of the thifteous steilling of threttie gers oxin² furth of Corfwodburne, pertening to certane Lowthean men. ITEM, for the steilling of certane oxin, pertening to Adamfoun in Lestoun-scheillis. ITEM, for the setting upoune vmq^{le} Rodger Schaw in Craiganbae, George Schaw thair, Quintene McMillane in Craignell, Downie McMillane thair, Sandie McMillane thair, Johne Chalmeris in Clatteran-schawis, Johne McMillan in Dasseloch, George McMillan his brother, George McMillan in Craiginbae, Andro McMillan in Powfchaskene, James Reid in Stroneschaskene and Williame Gordoune in Knokschene, at the Sandiehillis; quhair he and his complices slew the said vmq^{le} Rodger Schaw in Craigbae, and thifteouslie stall xxij naigis fra thame. ITEM, for airt and pairt of the thifteous steilling of nyntene nolt furth of the byre of Nether Quhitlaw, pertening to Thomas Ker of Caveris; committit at Martimes 1600 yeiris. ITEM, for Commoun Thift and Commoun Reffett of Thift, inputting and outputting of thift.

VERDICT. The Affise³ ffand, pronunceit and declarit the said Adie Scott to be flylit, culpabill and convict of the hail cryme of Thift and slauchteris aboue writtin, laid to his charge.

SENTENCE. The Justice Ordanit him to be tane to ane Gibbett att the mercat croce of Edinburgh, and thairvpoun to be hangit quhill he be deid; and all his movabill guidis to be escheit, &c.

Uttering Adulterated Money, &c. — Treason.

Nov. 27.—GEORGE DRUMMOND, burges of Perth.

Dilatit and accusit of,

THE Treffonabill outing⁴ of fals and adulterat money, sic as Hatt-pecis,⁵ crounes, foure pound pecis,

¹ Grazing. ² Oxen sent from the Lothians to pasture or graze. ³ The same as in preceding Trial.
⁴ Uttering, issuing. ⁵ An early coin of James VI. in which the head is surmounted with a hat, in place of the crown or laurel.

and foure merk pecis, amangis our fouerane lordis liegis, as trew money and coingie, att the ffairis of Perth, Striuling, and in vther mercattis in the North partis; quhilk fals coingie he bocht fra Hanis Johnestoune, Fleming, Charles Hereis, Fleming, and Arthour Smyth, a smyth duelland beyde Banff, and wes coingie be thame in Banff, Elgyn, Abirdene and Lenocho, fyve or sax yeiris syne.

VERDICT. The Affyis, be the mouth of Petir Spens, dagmaker in the Cannogait, chancellor, ffand, pronunceit and declarit the said George Drummond to be culpabill, ffylit and convict of the cryme of Treasoun aboue written.

SENTENCE. To be tane to the Castell(hill) of Edinburgh, and thair to be wirreit att ane staik quhill he wes deid, and his bodie to be brent in affis; and all his landis, heretageis, guidis and geir to be forfaltit, escheit and inbrocht to our fouerane lordis vse, as convict of the saidis crymis.

[*Mr William Hairt, Justice-Depute.*]

ASSESSORS, Lords Halyruidhous, Dunkeld and Fentonbarnes.

Treason—Keeping the House of Cuninghamehead against the King's Commissioners — Slaughter.

Dec. 15.—WILLIAME CUNNINGHAME of Tourlandis.

Dilatit, accufit and perfewit be Mr Thomas Hammiltone of Drumcarne, aduocat to our fouerane Lord, of the crymis following, contenit in Dittay produceit be the said Aduocat.

DITTAY against the Pannel.

WILLIAME CUNNINGHAME of Tourlandis, ye ar indytit and accufit, fforfamekill as Alexander Cuninghame, your brother, and certane his complices, hyrit and conduceit suddartis,¹ haifing, in the moneth of March the yeir of God I^m.Vj^e. yeiris, tane the Hous of Cuninghameheid, and being chargeit be vertew of our fouerane lordis lettres to haif randerit the famin within², vnder the payne of Treffoun; Neuirtheles, it is of veritie, that ye, within fourtie aucht houris efter the taking of the said place, and eftir the charge gewin for randerit thair of vnder the pane of Treffoun, convoyit youre self and enterit within the said place and hous of Cuninghameheid, and treffonablie affistit the said Alexander Cuninghame, your brother, in keping of the said hous aganis the Lairdis of Duntraith and Vrchill, his Maiesteis Commiffioneris, quha wer affageing the said place, and that be the space of xxiiij dayes eftir your entrie within the famin; during the quhilk tyme, ye and your complices treffonablie fshot out of the said place diuers hagbutis att the saidis Commiffioneris and thair affist-eris; committand thairby oppin and manifest Treasoun, and incurrand the tinfall of lyffe, landis and guidis; quhilkis aucht and fould be execute aganis yow, with all regour. To the takin³ that ye ar gyltie of the said cryme, ye haif confest the famin, be youre Depofitioun. **ITEM**, ye ar indytit and accufit, fforfamekill as ye, accompaneit with Alexander Cuninghame, your brother, and vtheris your complices, being bodin in feir of weir, with fecretis, steilbonnettis, dagis and piftolettis, prohibite to be borne, worne, vfit or fshot with, be our fouerane lordis Actis of Parliament, laitlie, in the moneth of September, or thairby, the yeir of God I^m.V^c.lxxxvj yeiris, haifing confaut ane deidlie feid, rancour and malice aganis vmq^{le} James Stewinfoun in the Myltoune of Robertoune, come to the Landis of the Myltoune of Robertoune, quhair the said vmq^{le} James wes in fobir and quyet maner, doand his lefull effairis and buffines, dredand na ewill, harme, iniurie or perfuit of ony perfounes, bot to haif

¹ Waged, or stipendiary soldiers.

² Left blank.

³ In proof, *token*, or testimony.

Jéwit vnder Godis peax and our fouerane lordis ; and thair, with your wappinnis foirfaidis, maist schamefullie, crewallie and vnmercifullie slew the said vmq^{le} James ; and ye was airt and pairt of the said crewall Slauchter ; committit vpoun sett purpois and provisioune, and foirthocht felony. To the talkin that ye ar airt and pairt of the said Slauchter of the said vmq^{le} James Stewinsoune, ye wes, vpoun the xxij day of Januar I^m.V^o.lxxxxvij yeiris, denunceit rebell and putt to the horne, for nocht comperand befor the Justice or his deputis, in the tolbuith of Edinburgh, the xxiiij day of November, the yeir of God foirfaid, to haif vnderlyne the law for airt and pairt of the Slauchter foirfaid ; att the quhilk horne ye haif remainit continewallie senfyne, and as yit remanis : as the Letteris of Hoirning, produceit heirwith, beris.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, Aduocat to our fouerane lord.

PRELOQUOUTOURIS for the pannell.

Mr Williame Oliphant,	Mr Johne Ruffell,	The Laird of Reidhall,
Mr Alexander King,	The Laird of Glengarnok,	The Laird of Capringtoun.

The Preloquoutouris produceit ane Warrant of the Lordis,¹ commanding thame to compeir in Defence of the Laird of Tourlandis, now enterit on pannell ; quhilk Warrant is subscriuit be the Chancellor, *in presentia Dominorum*.—The pannell takis instrumentis, that the Justice declaris that *Sir Johne Cokburne of Ormiston*, Justice clark, fall nocht be judge nor Affessour, nor yit Justice clark in this mater.² Alledgeis, that *Sir George Home*, thesaurer, can nocht be Affessour, becaufe he may win and tyne in the cause, in caise of convictioun. The Aduocat anfuersis, that the alledgeance aucht to be repellit, in respect he is nocht partie. The said Sir George Home declarit he wold nocht voit in that mater.—The Aduocat takis instrumentis of the admitting of my Loirdis of Halryuidhous, Dumkerd³ and Fentounbarnes to be Affessouris in this cause.

The pannell alledgeis, that he fould be cited vpoun fourtie dayes wairning, for the alledgeit Treasoune of keping of the hous. The Aduocat anfuersis, that it hes bene the inviolabill practik, quhen ony is tane⁴ for Treasoune, to putt him to ane Affyis for the said cryme of Treasoune, but⁵ citatioun.

The Justice repellis the alledgeance maid be the pannell.

It is alledgeit that the Dittay is nocht relevant, in respect of the generalitie thairof, nocht condiscendand att quhais instance the charge wes gevin to rander the place, quhom to, or *ex qua causa*. The Aduocat alledgeis that it aucht to be repellit, in respect of the Dittay.⁶ Forder, the Dittay is nawyis relevant, becaus I wes nocht chargeit, nor na intimation wes maid to me of the charge,

¹ This form was usual, especially in cases of Treason, in order to screen Counsel from the consequences of defending one who must be inferred to have been most obnoxious to the King. A Supplication was, in the first instance, presented to the Lords of Council and Session, by the pannell, praying them to name 'prolocutors' for the defence, and suggesting various names. The prayer was generally granted, as a matter of course.

² 'Declinator' of the Judge was competent, on the ground of relationship, or that he had a pecuniary or other interest in the case, &c.

³ Bishop of Dunkeld?

⁴ Taken or apprehended and put in ward.

⁵ Without.

⁶ It will be noticed, in the course of this Collection, that this loose and unjust mode of answering a special objection was usually sustained by the Court, seemingly on the ground, that such must of necessity be held to be *inferred*, from the general scope of the Indictment. Much of the apparent obscurity in such matters, however, may arise, from the brief manner in which these circumstances are recorded in the Books of Adjournal.

nor na qualificatioun of the Dittay of my knowledge. The Aduocat anfuers, it aucht to be repellit, in respect of the Dittay.

The Justice ffindis the Dittay relevant, and referues the hail defensis proponit aganis the verificatioune of the Dittay to the Assyis; ffindis the proces for the slauchter.

The Aduocat passis fra the taking away of the horse, *pro loco et tempore*.

ASSISA.

Nicoll Carnecroce of Calhill,	Capitan Patrik Herring,	Thomas Alexander, portionar of
James Weitchie of North Syntoune,	Archebald Layng, merchand thair,	Drummeldrie,
Robert Hepburne of Markill,	Johne Fairlie, merchand thair,	Williame Dowglas of Erlisfmylne,
Johne Baillie of S ^t Johnes Kirk,	James Johnestoune, merchand	Johne Dunbar of Moynes,
Edward Edzer, merchand burges	burgess thair,	Thomas Hay of Scrogis,
of Edinburghe,	Robert Home of the Heuch,	Andro Logane of Grantoune.

Quhilkis persounes being chosin, fsworne and admittit, eftir the accusatioun of the said Williame Cwninghame of Tourlandis, of the crymes contenit in the Dittay foirsaid; ffor Verificatioune of the fyrft poynt thairof, the said Mr Thomas Hammiltoun, aduocat, produceit the said Williame Cwninghames Depositionis and Confessiounis; quhairof the tennour followis.

DEPOSITION and CONFESSION of the Pannel.

AT ED^R, the xij day of December, 1601 zeiris. In presens of Johne Erll of Montrois, chancellor, S^t George Home of Spott thesaurar, Mr Thomas Hammiltoun of Drumcarne Aduocat, Sir Johne Cockburne of Ormistoun Justice Clark, and Mr Williame Haert of Lewielandis Justice-depute, WILLIAME CWINNINGHAME OF TOURLANDIS, being fsworne, and being demandit, anent pe last taking of pe Place of Cwninghameheid and keping of pe famin, anfuers, that the hous wes fyrft tane be his broper Alexander, vpoun quhais aduerteisment, vnderstanding that thair wes sum variance betuix him and the sudartis within the place, the deponer cam to pe place, and enterit pairin, and remanit within pe famin be pe space of twentie or xxiiij dayes; be pe quhilk space he wes besaiget be pe Lairdis of Duntraith and Vrchill, haifing the Kingis Commissioun; during pe quhilk tyme thair wes schuting out of pe hous and schuting in: Declaris, that his broper Alexander had nocht enterit in pe place of Cwninghameheid fourtie aucht houris, before the deponer cam to him; and the taking of pe place wes about March, 1600 zeiris; Denyis that he wes chargeit or putt to pe horne, for nocht randerin of pe Place of Cwninghameheid; bot his broper wes chargeit, vnder pe payne of Treaoun, befor pe deponer enterit in pe hous, and gatt knowledge pairof quhen he enterit.

And als the Aduocat produceit the Extract of the Lettres, vnder the signe and subscription of Mr Robert Young, for chargeing of the Toune of Glasgw to assist the Kingis Commissiouner, for Asslageing of the said hous, and to head fourtie hagg-butteris thairto, in respect of the Commissiouner and Lettres of Treaoun, direct and execute aganis the Laird of Tourlandis and his complices; quhilk wes disobeyit. Quhilk Extract of the Letteris, is of the dait, at Halyruidhous, the sewint day of March, 1600 yeiris.

And for verification of the last poynt of the Dittay, concerning the Slauchter of the said vmq^{le} James Stewinfoune, the Aduocat produceit Extract of the

Letteris of Hoirning, vnder the subscriptioun of Mr Johne Skene, clark of Register, quhairby the said Williame Cwninghame of Tourlandis wes putt to the Horne.

VERDICT. Eftir productioun quhairof, and diuers alledgances maid aganis the famin, and anfuers maid thairto be our fouerane lordis Aduocat, the haill perfounis of Affise past altogidder out of Court to the Counfal-hous; quhair, eftir chefing of the said Nicoll Carncorfe of Calhill chancellor, &c., they ffand, pronunceit and declarit the said Williame Cwninghame of Tourlandis to be Cleane, innocent and acquit of airt and pairt of the Slauchter of the said vmq^{le} James Stewinfoune, committit in the moneth of March, in the yeir of God J^m.V^c.lxxxvj yeiris, as the Dittay beris: AND als, ffand, &c. the said Williame to be ffylit, culpabill and convict of the affisting of Alexander Cwninghame his brother and his complices, in the keping of the Place of Cwninghameheid aganis the Lairdis of Duntraith and Vrchill, his Maieftis Commiffioneris; the said Alexander being chargeit, vnder the payne of Treafoune, to haif randerit the famin, conforme to his Depofitiounes, fufcryuit with his hand.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair his heid to be strikin fra his body: And als his lands, heretageis, takis, ftedingis, rowmes, poffeffiounes, coirnes, cattell, guidis and geir to be ffoirfaltit, efcheit and inbrocht to our fouerane lordis vfe, as convict of the said cryme.

Adultery.

Dec. 16.—**DAVID GRAY**, fyfchemonger in Edinburgh.

Dilatit for the cryme of Adulterie, committit with Elfpeth Hiflope, indueller in Edinburgh, and Margaret Gourlay, wedow in Edinburgh.

The said Daud confeffis that he had ado with baith Elfpeth Hiflope and Margaret Gourlay, as the Dittay beiris; bot knawis nocht quhither the bairnis be his or nocht. For the quhilk he askis Godis mercie, and cummis in the Kingis will.

VERDICT. The Affyis, for the maift pairt, ffylis Daud Gray of the cryme foresaid.

Dec. 26.—**SENTENCE.** The Justice, be the mouth of Robert Galbraith, dempftar, Ordenit the said Daud Gray to be baneift the burcht of Ed^r, and during all the dayes of his lyff; and nocht to return thairin, without his Maieftis licence, vnder the payne of deid: And als, Decernit and Ordanit the said Daud to pay to the Baillie of the Quarter of Ed^r quhair he duellis, the foume of fourtie poundis money, to be applyit to the vfe (of) the Kirk: And to pafs in waird in the Tolbuith of Ed^r, thair to remane quhill the famin be payit.

¹ The 16 of December, Cuninghame of Tourlands beheidit at the croffe, for Treafoune.—*Birrel's Diary*, p. 55.

[*Mr Williame Hairt, Justice-Depute.*]

ASSESSOURIS. My Lord Chancillar, The Bischop of Dunkeld,
The Lord of Halvruidhous, The Comptrollar, My Lord Collectour.

Slaughter — Wearing and Shooting Bags and Pistolets, &c.

Dec. 18.—THOMAS TRUMBILL apperand of Mynto ; David Daidfone of Kames ; George, Raff, James and Williame Daidfoune, his fones ; Jaquie Laidlaw of Rafflat ; Hector Trumbill of the Firth ; James Trumbill, callit *baneist James* ; Mark Trumbill in Bewlie ; Andro Trumbill, his brother ; Walter Trumbill, callit *Sir Davidis Wattie*.

Accusit and perfewit be Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord, for his hienes interes, being assistit be Mr James Ker, brother to vmq^{le} Thomas Ker of Craling, of the crymes following.

DITTAY against the Pannels.

FORSAMEKILL as it is statute and ordenit be diuers of our fouerane lordis Actis of Parliament; that na maner of perfoun or perfouues, of quhatsumewir estait, degrie or conditionn thay be of, fall schuit, weir or beir culveringis, dagis or pistolettis vpoun thair bodeis, or in thair cumpaneis, in ony pairt of this realme, ather to burcht or land, vnder the payne of cutting aff of the rycht hand, and confiscatioun of all thair guidis movabill, being convict be ane condigne Assyis thairof : Neuertheles, it is of veritie, that the saidis perfounis, accompaneit with diueris vtheris thair compliceis, with convocatioun of our fouerane lordis liegis, to the number of xxx perfounes or thairby, all bodin in feir of weir, with jakis, steilbonettis, hagbuttis, daggis, pistolettis, lances and vtheris wappinnis invasiue, of thair causing, command, assistance and ratyhabitioune, the saidis dagis and pistolettis being expresse forbidden, vpoun the fourtene day of September lastbypast, being the mercat and ffair day of the burcht of Jedburghe, cam to the said burcht in ane professit hostilitie, nochtwithstanding publict Proclamatioun maid in our fouerane lordis name, and in name of Sir Andro Ker of Pharnyherst knycht, Provest of the said burcht of Jedburghe, and of the bailleis thairof, that nane fould repair to the said ffair or mercat bot in sobir and quyett maner, keping oure fouerane lordis and the said Provest and bailleis peax : And yit, in manifest contempt of the said Sir Andro Ker, thay haifing consauit ane deidlie feid aganis him and vmq^{le} Thomas Ker his brother, and haifing of lang tyme before invadit and perfewit Thomas Ker of Caveris, thair freind and kynnisman, for his slauchter and hurt, and woundit him in diuers pairtis of his body, to the grit effusioune of his blude, nawyis repenting thame of thair former wickit deidis and wrangis, bot continewing thairin, thay addrest thame selffis before his ludging in the burcht of Jedburghe, foiranent the mercat croce thairof, he being within the samin in sobir and quyett maner for the tyme, with his (wife ?) and famelie : and thair, in publict mercat tyme of day, estir diuers bragis, insolent behavioure and manaffingis vsit be thame foiranent the said Provest ludgeing, in contempt of him and his seruandis, seiking the occasioun of ane new quarrell, without ony offence, harme or iniurie done to thame, nocht only thay wure vpoun thair bodeis and in thair cumpaneis pistolettis and gunnis, bot als schot the samin att the said Sir Andro, his seruandis, and diuers honest inhabitantis of the said burcht, of sett purpois, provisioun, auld feid and foirthocht felony ; bot specially, schot the said vmq^{le} Thomas Ker and vmq^l George Glaidner, domestik seruand to the said Sir Andro : And swa, thay maist crewallie and vnmercifullie slew the said vmq^{le} Thomas Ker and vmq^{le} George Glaidner with thair wappinnis foirfaisid : And thay and ilk ane of thame ar airt and pairt thairof ; and consequentie, thay and ilkane of thame ar nocht only giltie of the saidis slauchteris, bot lykewyis of schuiting and

wearing of the saidis dagis and piftolettis, in maner foirfaid; with convocatioun of our fouverane lordis leigis: And in respect thair of, thay and ilkane of thame aucht and fould be pwneift in thair perfounes and guidis, according to the lawis of this realme, in example of vtheris.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouverane lord; Mr James Ker, brother to (the said vmq¹ Thomas and to) the said Sir Andro Ker of Phairnyherft.

PRELOQUUTOURIS for the pannell, Mr Johne Scharp, Mr Williame Oliphant, Mr Johne Daling, The Scheref of Roxburcht, The Guidman of Buchtryg, The Guidman of Hwtounhall, The Laird of Mynto 3ounger.¹

Williame Erll of Angus comperit and defyrit Jaquie Laidla, duelland in Ancrum, quhilk is ane pairt of the Regalitie of Jedburghe-Forrest, to be Replegeit to his Regalitie. The Justice findis him to be replegeit.

The pannell defyris that thir materis may be continewit quhill Tyisday,² and that it may cum *in pari passu* with the vther caus;³ becaus letteris being rafit be thame ofbefore, before my lord Justice and his deputis, againis the Laird of Phairniherft and his complices, to ane day of lang tyme bypast, before ony Lettres wer rafit be the partie aganis thame, it pleafit his Maieftie to command to defert that dyett: And fummondis being rafit now be my lord Aduocat aganis bayth the parteis to this day, for deidis alledgeit committit be thame aganis vtheris⁴ vpoun ane day, viz. the xiiij of September laft; it hes pleafit my lord Justice, with auife of the Nobill men, counfalouris and affeffouris, to continew the perfuit of thais parties nixtocum the xxij day of this instant; off all reafoun, this perfuit aganis thame aucht to be continewit to the famin day; and tryell tane of the factis committit be ather of the parteis aganis vtheris, *pari passu*, and be ane Inqueift, but ony diuifion of the cauffis.⁵

THE JUSTICE, nochtwithftanding of the defyre, Ordanis proces.

The Aduocat declaris he will infist aganis all the perfonis enterit vpoun pannell: And paffis fra thir wordis in the lybel, 'be way of Hamefucken.'

THE JUGE Ordanis the Aduocat to condiscend, in speciall, vpone the tyme of the hurting of the Gudman of Kaveris.

The Aduocat condiscendis and declaris the hurt done to the Gudman of Kaveris, wes committit be the hail perfones perfewit, awcht yeris fyne, or thairby, laftbypaft.

The pannell takis instrumentis of the Interloquutour and the Aduocattis speciall condiscending vpone the tyme foirfaid of the hurting of the Gudman of Kaveris.—My lord Aduocat declaris he infistis aganis the pannell for the crymes of Slauchteris libellit, vpoune foirthocht felony; and for the bering and wering

¹ His name is only inserted at the second *diet*, after the case was continued to the Air of Roxburghe. ² Tuesday. ³ A counter pursuit against Sir Andro Ker of Phairnyherst, and others, which was delayed till Dec. 23, (q. v.) ⁴ Against each other. ⁵ Without any separation of these two cases.

of piftolettis; with convocatioune, and being airt and pairt thairof.—The pannell allegit that the lybell, in that pairt anent the Convocatioune, is na wyfe relevant, quhairvpone the perfones vpon pannell or ony of thame may be put to the knowlege of ane Inqueift; vnder proteftatioun, that thai one na wyfe grant the famyn to be of veritye; becaus the perfonis of the pannell, famony of thaim as convenit in Jedburgh, the tyme libellit, convenit at the command and directioun of the Sheref of Roxburgh, quha of befoir, with concurfe of the Laird of Phairnyhirft, than Proveft of the burgh of Jedburgh, had tane affurance betuix vmq^{le} Thomas Ker and vmq^{le} Robert Trumbill of Bewly and vtheris thair freindis; to the effect, that the Sheref mycht haif convoyit thame furth of the faid burgh, but ony truibill, at the Burne-wynd-Port, quhairin thai enterit, vpone conditione accordit vpone betuix the Sheref and the Proveft: Lyke as, the Sheref, according to the faid conditione, convoyit thame furth of the faid Poirt, in quyet maner, but offence of ony man; in respect quhairrof, thair repairing to the faid Sheref can nocht be comptit ony Convocatioune, quhairvpone ony cryme may be inferrit; alwyfe this allegiance is proponit for the haill pannell, vnder proteftatioune forfaid, that thai grant na Convocatioune.

My Lord Aduocat askis instrumentis vpone the declaratioune forfaid, and that it is proponit for the haill pannell.

THE JUSTICE fyndis the lybell relevant, notwithstanding the allegiance; and Repellis the fame *loco quo*; and Referris the cognitioune thairof to the knowlege of the Affyfe.

Quhairvpoun the pannell askit instrumentis.—The pannell denyes ony bering or wering of hagbuttis or piftolettis the tyme libellit; and takis instrumentis that it is affermit in the libell, *defertis verbis*, that thai wer fchot to the deid with hagbuttis and piftolettis.—My lord Aduocat askis instrumentis, that it is affermit in the lybell, that thai wer fchot and flane with hagbuttis, piftolettis, ‘and vtheris wappynis.’

It is allegit be the pannell, that my lord Aduocat can never be hard to allege that thai wer flane with ‘vtheris wappynis;’ in respect of the exprefs affirmatioun in the lybell, that thai wer fchott with hagbuttis and piftolettis.—My Lord Aduocat paffis fra thai wordis in the lybell, ‘to be deid.’

The pannell defyrit tyme to avyfe with the lybell, in respect of the paffing fra the wordis forfaid be the Aduocat.

THE JUSTICE ordanis proces.

The procuratouris allegis for the pairt of the haill pannell, vnder proteftatioun that he on na wyfe grantis the lybell, nor na cryme thairin contenit, nor na pairt thairof to be of veritie; that the pannell aucht not to be put to the knowlege of ane Affyfe, becaus vmq^{le} Thomas Ker and George Gladner, his fervand, wer

ordourly enterit our souerane lordis rebellis, the tyme of the allegit Slauchter ; and proponis this allegiance vnder protestatioune forsaid. And for verificatioune of the said allegiance, producit the extract of the Hoirning ; be the quhilk lettres thai wer denunceit to the horne, for the Slauchter of vmq¹⁶ Henrie Olypher.

My Lord Aduocat allegis the saidis personis wer lawfully relaxit fra the Horning producit, befor the cryme libellit ; and thairfore the forsaid allegiance aucht to be repellit ; and producit the said Relaxatioune ; and askit instrumentis of the productione of the Horning, and allegis the samin to be null, in respect of the executione not contening ony copy of the saidis lettres to haif bene gevin to the said Thomas Ker and George Glaidner, or affixt vpon thair dwelling place. To the quhilk it is anfuerit be the pannel, that the said Horning is lawchfull, being for ane criminal caus, to witt, for Slauchter, quhilk merittis na favour ; be the quhilk letteris thre personis being only summond to vnderly the law, Thomas Ker and George Glaidner ar bayth personally apprehendit,¹ and the personis lykwyse lauchfully summond at the market croce, and ane copy affixt ; and the letteris beris exprefly, that the messinger ‘ deliuerit to the said Thomas ane,’ quhilk of all necessity man be supponit and pre-fwmit to be ‘ ane copy,’ being deliuerit be the officer, quaha had na vther erand with the said Thomas, bot to charge him and deliuer him ane copy : And be the subiect of the letteris, can be referrit to na thing bot to ane copy ; and the omiffioure of that word in the extract of the Horning furth of the Register can nocht preiuge the partie.—Anfuerit my Lord Aduocat, that the Horningis, being of thair awin natour odious, and nevir vsit to ressave ony favorabill interpretatioune in jugement, this Horning being vsit to stay the tryell of the partyes vpon pannell, for the crwell Slauchteris and vtheris crymes libellit, the Horning wanting ane necessar solempnity requisit be the Act of Parliament, is manefeist null, and sa can not stay proces.

THE JUGE Repellis the allegiance proponit aganis the nullity of the Horning. Quhairvpon the pannell askit instrumentis.

My lord Aduocat anfueris, the saidis personis wer lawchfully relaxit fra the said Horning befor the crymes committit be the pannell and producit the said Relaxatioune. The pannell yit, as ofbefoir, desyres continuatioune quhill Tyf-day, or to the morne, that thai may, in the mene tyme, aduyse with the Relaxatioune producit. My lord Aduocat craves proces, and disfasentis fra all continuatioune.

THE JUSTICE ordanis forder proces.

¹ A technical phrase, employed when the officer ‘ serves’ or ‘ executes,’ as it is termed, the Letters or writ upon the party against whom directed, by delivering a copy to him personally.

It is allegit yit be the pannell, that in respect the maist pairt of thame hes bene detenit in waird this lang tyme bigane, swa that thai culd not provyde thame selffis for defence, and this Relaxatioune is bot laitylly produceit, and laitylly writtin as apperis, delay awcht to be grantit presently, in respect of the tyme of the nycht.—It is anfuert be my lord Aduocat, fik ane allegance blekkit¹ never this buk of before.—It is allegit, vnder protestatioune forsaid, that thir perones vponne pannell awcht not to be put to the knowlege of ane Inqueist, for the allegit Slauchter of the said vmq^{le} Thomas Ker, becaus, the tyme of the committing of the Slauchter, he wes enterit our souerane lordis rebell and put to the horne, and herewith produceit the said Horning, vfit at the instance of James Maistertoune, for nonpayment fevin scoir ten li. (L.150) mony, and xl li. for expenffis.—It is allegit be the pannell, that the Relaxatioune producit for the first Horning, vfit aganis Thomas Ker and George Glaidner, is null, becaus it is expresly providit be Act of Parliament, that all registratiounis falbe in the Sheref Court bukis of the schyre quhair the pairtyes wer denuncit, or quhair thai dwell. This Relaxatioune is nether affermit to be registrat in the Sheref bukes nor be the Sheref elerk, nather declarand befor quhame it is registrate, nor be quhame, nor befor quhame it wes produceit.—The Aduocat anfuert, the allegance aucht to be repellit, in respect of the Relaxatioune produceit, quhilk is minut,² produceit and registrate in the Sheref bukes of Roxburgh, and subscryvit be the ordiner clerk thair of.—It is allegit be the Aduocat, that the Horning produceit, at the instance of James Maistertoune, aganis the said Thomas Ker (is null ?) becaus it is nocht lauchfully registrate, within xv dayes efter the denunciatioune, conforme to the Act of Parliament, nor yit subscryvit be the Sheref clerk.—It is forder allegit be the pannell, for the fortificatioune of the allegance proponit for the nullaty of the said Relaxatioune produceit, that it is null ; for this caus, becaus it is not registrate nor affermit to be registrate be ony Sheref clerk ; and insafer as it apperis to be subscryvit be ane callit Dowglas, thair wes never ane of that name Sheref clerk of Roxburgh, except ane Mr George Dowglas, quha deceiffit twa yeir before the said Relaxatioune ; and he never affermes him selff to be clerk to the Sheref of Roxburgh. My lord Aduocat anfuert, as of befor, the Relaxatioune is sufficient notwithstanding the allegance, and declaris that this Relaxatioune was registrat be Mark Dowglas, Sheref Clerk of Roxburgh, quha wes reput sheref clerk, and vfit the office by registratioune of Horningis and Relaxatiounis, and geving furth of extractis thair of.—Vponne the quhilk declaratioune the pannell askis instrumentis ; and forder allegis, that Mark Dowglas wes never sheref clerk, nor affermes him to be sheref clerk, bot be the contraire, be deceis of Mr George Dowglas, Sheref clerk, Robert Trumbill wes lawfullie providit to

¹ Never blackened, defiled, disgraced.

² Minuted, noted in the ' Minute book.'

the said office, quha vsit and exerceit the said office of clerkship, dyueris yeris after the deceis of the said Mr George Dowglas.

The pannell declairis thai haif na mair to say, nor will say na mair, befor this mater be put to the knowlege of ane Assyse.

THE Juges continewis the said mater quhill the morne.

Dec. 19.—THE Aduocat allegis, that he will insift only aganis HECTOR TRUMBILL of the Firth, JAMES TRUMBILL, MARK TRUMBILL and ANDRO TRUMBILL.

It is alledgeit for the rest of the pannell, that my lord Aduocat can nocht pass fra thame, in respect of the stait of the proces, quhairin the pannell comperit and proponit findrie defensis, quhairvpone Interloquoutouris ar gewin, with auife of the Assessoris: and eftir the proponing of the alledgances and anfuers maid thairto, and Interloquoutour gewin be my lord Justice; partie being willing to abyde tryell of Justice, my lord Justice may nocht pass fra perfuit in thair preiudice.

THE JUSTICE findis, that my lord Aduocat may pass fra thame.

The pannell allegis the Relaxatioune produceit, makis no mentioun that it wes registrate in the Sheref bukis of the sherefdom of Roxburgh; in respect quhairof, na respect aucht to be had to my lord Aduocatis allegeance made thairanent.

THE JUGE, *ex officio*, desyrit the ayth of James Dowglas of Kaveris, Shereff of Roxburgh, being present, giff he knawis that Mark Dowglas wes Sheref clerk of the said sherefdom, and wes in vse to keip Courtis, and register and extract Horningis; quha being sworne, declairis, he knew not the said Mark to be Sheref clerk, be his knowlege; and that he wes never reffavit nor admittit be him to the said Office of clerkship. Quhairvpone the pannel askit instrumentis.

My lord Aduocatt askis instrumentis that my lord Justice declairis he will heir the partyes be word, (and) he will gif his Interloquoutour thairvpone.—It is anfuert be the pannell, that the allegeance proponit be my lord Aduocat aganis the validity of the extract of the Horning producit, subscriyvit be my Lord Clerk of Register, awcht to be repellit, in respect of the extract, quhilk is ane Extract furth of the Register of the Horningis of the Sherefdom of Roxburgh, and as the originall buk of the Register makis na mentioun of the clerk, swa the extract furth of the Register can mak na mentioun, becaus the Extract respectis the Register, and the Register of every sherefdom awcht not to mak mentioun of the clerk, of the productioun of ilk feuerall horning; becaus it being the Register of the Sherefdom, is merkit be the clerk, quhilk is sufficient for the hail horningis thairin contenit: And my lord of Register makis na mentioun of the Sheref clerkis in the Extract of ony Horningis gevin furth be him; and

gif this Extract falbe fund null, for the argument fairsaid, the hail Extractis subfcryuit be my Lord of Register, and the hail declaratiounis gevin be the Lordis of Seffioune thairvpone, will be fund null: And it is not proper for my Lord Justice to fynd all the saidis Extractis null, for the quhilk thair is ane sufficient Warrant be Actis of Parliament, gevand my Lord Register power to extract all Horningis furth of the Registeris, and that they fall mak als grate fayth as the principall; and gif fik ane Relaxatioune had bene, as is now produceit, these wald haif bene also in the Register of that yeir.

THE JUGE fyndis the Extract of the Horning produceit, vnder my Lord of Registeris subscriptioun, to be sufficient. Quhairvpone the pannell askit instruments.

It is forder allegeit be the pannell, that this Extract of the Relaxatioune produceit, is nocht contenit in the Register of the Sheref dome forsaid, nor is nocht contenit in the Register thair of that yeir, quhilkis ar extant in my Lord of Registeris handis.

THE JUSTICE Repellis the alledgance maid aganis the Relaxatioune, and sustenis the said Relaxatioune produceit.

Quhairvpone my Lord Aduocat askit instrumentis.

THE JUSTICE declaris he and the Affessoris will heir bayth the saidis parteyis, be word; and gif thair allegeanceis be worthy writting, he will heir thaim to writt; vthirwyse nocht.

Quhairvpone my lord Aduocat askit instrumentis.

ASSISA.

Adame Quhytefurd of Myltonne,	Gilbert Pennycaik of that ilk,	George Heiflop, armurare, burges
Neill Montgomerie of Langschaw,	Petir Collace, indueller in the	of Edinburgh,
Matho Fynlafoune of Killeithe,	heid of the Cannogait,	George Waldye, skynner, burges
William Weir of Auchterfardell,	Andro Naiper, burges of Ed ^r ,	thair,
Robert Cairncorfe, burges of Ed ^r ,	Andro Scott, chirurgian,	Johne Dowglas, burges thair,
James Hoppringill of Quhyte-	James Stalker, indueller in the	Williame Fyddes, baxter, burges
bank,	heid of the Cannogait,	thair.

The quhilk day, James Ker, brother to the Laird of Phairnyhirft, being personally present in judgement, fwoir the Dittay to be trew, in prefens of the Affyse; quhairvpone my lord Aduocat askit instrumentis.

To the taikin¹ that this deid being done vpone the Ruid day,² the ffair day of Jedburgh, be thir personis vpone pannell, thai wer takin ryd hand³ be the Procest of Jedburgh; and at his Maiesteis command brocht to the tolbuith of Edinburgh, and hes bene kepit captives thairin continually fensyne.—The pannell takis instrumentis, that thair is na verificatioune vfit nor produceit, for verifeing

¹ In proof or evidence.
fact, 'with the bludie hand.'

² Holy Rood, or Holy Cross day, Sept. 14.

³ Red-hand, in the

of the Dittay, bot the aith of Mr James Ker, informer. The pannell producit ane Testimoniall, subscryuit be the Sheref, togidder with ane new Declaratioun of the maner and trewth of the Slauchteris of vmq^{le} Thomas Ker and George Glaidner; quhilk thay defyrit to be infert in proces.—The Aduocat protestis, that the informatioun of partie fould nocht be reffaut, nor the Testimoniall of the Shereff fould be reffaut.—It is agreit vpoune, that George Gybsoune and Williame Mayne fould be reffaut witness.

The Aduocat protestis, in respect that George Glaidner is slayne with ane hagbut or pistolet, quhilk is na wappin of defence, bot vnlauchful wappin, in caise the Assyis Clange, for Wilfull errour. And the Pannel protestis for Wilfull errour, in case thay Convict thame, albeit he wes slane with ane hagbut or pistolet, feing thay were nocht the slayaris of him, nor had na hagbut nor pistolet; bot thair wes that he gaue away with the saidis crymis.—And the Aduocat alledgis that the pannell are airt and pairt of the saidis crymis.

THE JUSTICE findis that the Testimoniall fould nocht be reffaut.

SPECIAL VERDICT of the Assyse.

Quhillis persones of Assyis being fworne, &c. thay removit altogidder furth of the Court to the Laich-Counsal-hous, quhair, eftir cheping of the said Neill Montgomery of Langschaw chancillar of the said Assyis, and after examinatioun of George Gibsoun and William Mayne, burgesfis of Edinburgh, quha wer reffaut as witnessis, with consent of our souerane lordis Aduocat and of the persones on pannell; and eftir lang reasoning and voting vpoun the poyntis of the Dittay foirfaid, being throwchlie auisit thairwith, thay reenterit agare in Court, in presens of my lord Justice; Quhair thay, be the mouth of the said Chancillar, ffand, pronunceit and declarit Hector Trumbill of the Firth, James Trumbill, callit '*baneijt James*,' Mark Trumbill and Andro Trumbill, brether to vmq^{le} Robert Trumbill of Bewlie, to be ffylit, culpabill and convict of airt and pairt of the slauchteris of the saidis vmq^{le} Thomas Ker, brother to Sir Andro Ker of Pharneyhirst, and of vmq^{le} George Glaidner his seruand, committit vpoun the xiiij day of September lastwas, in the Burne-wynd of Jedburghe: And als, be the mouth of the said Chancillar, ffand, pronunceit and declarit the saidis persones to be Acquit of Convocatioun of our souerane lordis liegis, and of bering, weiring and schuting of pistolettis and hagbuttis, and of foirthocht felony, and of all the rest of the lybell.

The Justice thaireftir continewis all pronunceing of Dome, till he get his Maiesteis mynd thairanent; and committit the persones convict to waird within the tolbuith of Edinburgh.

On Dec. 26, the following is inserted in the Record.

DOME ffor Andro Trumbill, brother to the Guidman of Bewlie.

Dec. 26.—THE JUSTICE, be the mouth of Robert Galbraith, dempftar of Court, decernit and ordanit the said *Andro Trumbill* to be tane to the mercat-croce of Edinburgh, and thair his heid to be strikin fra his body; and all his movabill guidis to be efcheit and inbrocht to our souerane lordis vse, as convict of the saidis crymes. Quhilk wes pronunceit for dome.

**Shooting with Hagbutts, &c.—Slaughter—Remembrance—
Convocation of the Lieges, &c.**

Dec. 23.—SIR ANDRO KER of Pharnyherft, James Ker of Lyntellie, Williame Ker, his sone; Michaell Ker in Oxnem, (stewart to the Laird of Pharnyherft,) Daid Anislie, younger in Falaw, Johne Anislie, his brother, Lancelot Anislie in Oxnem, Adame Anislie, his sone, Thomas Robsfoune, callit *Prettie-fit*; Mathó Robsfoune in Burnefit, Thomas Gay in Tounheid, John Gay thair, Williame Rutherford, callit *Gray Will*, burges of Jedburghe; Johne Rutherford, his sone; James Hislop in Eschiefteill, Mr James Ker, brother to the Laird of Phairnyhirft; Williame Robsfoune in Burnewynde, Thomas Ker, brother to *George the Browfser*.

Dilatit for contravening of the Actis of Parliament, in beiring, weiring and schuting with hagbuttis and pistolettis: And als, for airt and pairt of the slauchteris of vmq^{le} Robert Trumbill of Bewlie, and vmq^{le} Johne Middilmest, brother to Williame Middilmest of Lilflie-chapell: And for airt and pairt of the schuting of James Dowglas, apperand of Todhoill, with twa bullettis in the wambe, hurting and wounding of him thairwith: And als, for hurting and wounding of James Dowglas in Cruik, in the neife, and demembering of him of ane pairt thairof: And for demembring of Henrie Daidfoune, sone to Daid Daidfoune of the Kamis, of his rycht hand: And for demembring of Mark Trumbill, brother to the said vmq^{le} Robert Trumbill of Bewlie, of the thowme of his left hand: And for demembring of Andro Trumbill, his brother, of the lytill fingar of his left hand; and for hurting and wounding of Williame Trumbill in Tounheid, in the wambe, be the schot of ane pistolet with twa bullettis; committit the xiiij day of September lastbypast: With convocatione of our fouerane lordis leigis; vpoune fett purpois, provisioune, auld feid and foirthocht felonye.

PERSEWARIS, Mr Thomas Hammiltoune, aduocat, Nicolas Trumbill, the relict of vmq^{le} Robert of Bewlie, Thomas Trumbill, apperand of Mynto.

PRELOQUUTOIRIS for the pannell, Mr Johne Ruffell, Mr Thomas Craig, Mr Johne Leirmonth.

Comperit Williame Erll of Angus, lord of the Regalitie of Jedburghe-fforrest, and desyrit the perfones following, duelland within the boundis of the said Regalitie, to be replegeit to the privilege thairof; to witt, Sir Andro Ker, &c.; and produceit his Infestment of the Regalitie, contenand expres privilege of Regalitie, and desyrit the said personis to be repledgeit.

The Aduocat allegis, that the said Laird of Pharnyherft, and remanent personis, can nocht be replegeit; becaus the seasing prewis nocht Pharnyherft to be in Jedburghe-fforrest, or within the regalitie thairof; and except he preve itt,

they can nocht be hard to replege. The Lord Angus anfueris, that Pharnyherft and landis thair of ar pairt and pertinent of the lordfchip of Jedburghe-fforrest, haldin of my Lord Angus.—The Aduocat takis instrumentis, that Thomas Trumbill, apperand of Mynto, declaris, as he is informit, that the Place of Pharnyherft is nocht within the boundis of the Regalitie: And als, the Aduocat allegis, that my Lord of Angus can nocht be hard to preve, be witnesses, the Place of Pharnyherft to be pairt and pertinent of Jedburghe-fforrest.

THE JUSTICE findis that it man be verifeit be writt, that the Place of Pharnyherft is pairt and pertinent of Jedburghe-fforrest.

Thairefter, it wes fund be Interloquoutour that it may be verifeit be witnessis, that the Place of Pharnyherft lyes within the boundis of the said Regalitie.

The Lairdis of Aytoun, Broxmyth, Traquair, being produceit as witnessis to preve as above; and the Aduocat anfuerand, that thay wer kyn and freindis to the Laird of Pharnyherft, the Justice fand that thay could nocht be reffaut for the respect foirsaid.

The Laird of Drummalzear wes sworne, that he cam nocht heir to defend the Laird of Phairnyherft, and wes produceit as witness to preve Pharnyherft to be within the Regalitie; and being sworne, deponis that he knawis the Place of Pharnyherft to be within the Regalitie of Jedburghe-fforrest.

Gylbert Pennycuik of that Ilk, being sworne, previs na thing.

James Anislie, being sworne and produceit, the Aduocat allegis that James Anislie could nocht be reffaut, becaus he is of the name of Anislie, of the quhilk name diuers wes att the Slauchter aboue writtin; and swa the persewaris, declarand that thay bure feid aganis all the name of Anislie, the said James could nocht be reffaut: And the Justice referrand the mater to the declaratioun of the said James, quha wes sworne, and declarit he bure feid att na man, reffaut the said James witness, nochtwithstanding that the informeris alledgeit feid: Deponit, that he knew Phairnyherft to ly within the boundis of the Regalitie.

Allegis the Aduocat, that the Laird of Pharnyherft can nocht be repledgeit, becaus he being Proveft of the Kingis frie burcht of Jedburghe, and accusit of ane capitall cryme committit within the samin, he can nawyis be repledgeit to ony Regalitie, in respect of the qualitie of the place and persoun; nather can his hienes Aduocat be drawin to insift in sic ane persuit before ony inferiour Judge, bot aucht only persew him before his hienes Justice Generall.—It is anfuerit for my Lord of Angus, proponer of the exceptioun of Replegiatioun, that albeit the Laird of Phairnyherft acceptit vpoun him to be Proveft of Jedburghe, that can nocht preiudge my Lord of Angus of his privilege of Regalitie within the haill boundis of the lordfchip of Jedburghe-fforrest; nather yit preiudge the Laird of Pharnyherft of ony benefite compitent to him, in respect of

his duelling-place: And albeit ane capitall cryme be committit within the Regalitie, ather within burcht or land, that can nocht preiudge the lord of the Regalitie of his priviledge, quha is Judge compitent to all and quhatfumeuer perfounes duelland within the boundis of his Regalitie, quhairwir the cryme be committit; And forder, the Laird of Pharnyherft is nocht perfewit as Proveft, vpoun the difcharge of his office, or for ony failzie¹ committit be him, in vſing or exerceing thair of, bot as ane privat man, for the crymis contenit in the Dittay: And albeit my lord Aduocat is nocht obleift to compeir befor ony vther Inferiour Judge, that is na caus to preiuge the lord of the Regalitie of his privilege, feing the parteis offendit may perfew, and any lord Aduocat may perfew be his ſubſtitute; and gif that argument ſould be respectit, the hail heretable Regaliteis ſould be vnprofitabill, and na replegiatioun ſal be admittit in favouris of the lordis of the Regalitie and thair bailleis: And forder, his Maieſteis Aduocat is ordinarlie partie in all criminall perfuitis.

The Laird of Pharnyherft, being inquiryrit, gif he wald adhere to my lord of Angus' defyre and alledgeance, he anſuerit, that he wald gif his procuratouris leif to anſuer for him: And Mr Johne Ruſſell, as procuratour for the Laird of Pharnyherft, declarit he wald keip ſylence, quhill² the diſcuſſing of my Lord Angus' alledgeance; quhairvpoun he aſkit instrumentis.

DENUNCIATION *againſt William Ker, &c. for the above crimes.*

THE quhilk day, Sir Andro Ker of Phairnyhirst knight, oftymes callit as cawtioner and ſouertie for WILLIAME KER, brother to Robert Ker of Ancrum, George Moſcrope, burges of Jedburghe, David Moſcrope his brother, thair, George Ker in Oxnem, Johne Ker in Redden, Andro Ker thair, Charles Robſoune in Wallis, George Pyle in Mylneheuche, David Pyle his brother, and Symmie Hall in Haviefyde, to haif enterit and preſentit thame befor our ſouerane lordis Juſtice or his deputis, the ſaidis day and place, in the hour of cauſe, to haif underlyne the law for the above crymes; lawfull tyme of day biddin, and nocht enterand the perſonis abouewrittin, as he that become cawtionne for thair entrie, as ſaid is: Thairfoir the Juſtice decernit and ordanit the ſaid Andro Ker, as cawtioner foirſaid, to be vnlawit and amerciat for thair nocht entrie, in the panis contenit in the Actis of Parliament, vid. for nocht entrie of the ſaid Williame Ker, in the pane of twa hundreth markis, and for nocht entrie of the remanent ix perſonis, for ilk ane of thame in the pane of ane hundreth markis: And als Adjudgeit the ſaidis Williame, &c. to be denunceit our ſouerane lordis rebellis, and put to his hienes horne; and all thair movabill guidis to be eſcheit and inbrocht to his Maieſteis uſe, as fugitiues fra his hienes lawis for the ſaidis crymes.

PERSEWARIS.

Margaret Trumbill, freind³ to John Middilmest,
Mark Trumbill, brother to Bewlie.⁴

PRELOQUUTOURIS for the pannell.

The Erll of Crawford, My Lord Vchiltrie,
My Lord Newbottill, The Lard of Lytildene.

Dec. 24.—My Lord of Angus declaris, that he infiſtis only to haif James Ker of Lintellie and Williame Ker, his ſone, replegeit; but vnder proteſtatioune

¹ Failure, malversation.

² Until Lord Angus's allegation of being lord of this Regality, &c. was diſcuſſed.

³ Relative, blood relation.

⁴ Theſe 'perſewaris' and alſo the 'preloquutouris' here noted, are inſerted in the Record, in addition to thoſe formerly entered.

that he passis nocht fra the priviledge of his Regalitie, nochtwithstanding that he requyres not the land of Pharnyherft replegeit.

THE JUSTICE Admittis the replegiatioune to my Lord of Angus, for replegiatioun of James Ker of Lintellie and Williame Ker, his sone: And my Lord of Angus appointis the thryd day of the nixt Justice-air of the Regalitie of Jedburghe-fforest, or soner, vpoun fyftene dayis warning, for administratioun of Justice; and ffand Ker (of Caveris) cautioner for administratioun of Justice; and James Commendater of Melroise¹ become souertie for thair entrie; and the Guidman of Lintellie obleift him to releve my Lord of Melroise.

The Laird of Pharnyherft takis instrumentis that Mark Trumbill of Bewlie infistis in perfuit of his lyffe.—The Laird of Mynto refusis to perfew; quhair-vpoune the Laird of Pharnyherft askit instrumentis.—The Laird of Pharnyherft askit instrumentis, that Mark Trumbill infistis in perfuit of his lyffe.—The pannell, except the Laird of Pharnyherft, askit instrumentis that Mark Trumbill wold nocht infist aganis thame.

The pannell askit instrumentis that thay offerit thame selffis to ane Tryell, and to abyde ane Assyse.—The said Mark Trumbill lykwayis declaris, that he will nocht perfew the Laird of Pharnyherft, att this tyme, in respect he can nocht gett ane Assyis to him.—The Laird of Pharnyherft askit instrumentis of the declaratioun of Mark Trumbill; and speciallie, in that poynt, that he being inquyrit, gif he had just caus to infist aganis the Laird of Pharnyherft? Declarit, that in respect his lyffe wes saifit be him, and in his handis, he wald nocht perfew: And nochtwithstanding of the said declaratioun, to testifie his obedience to his Maiesteis Justice, and that he cravis na subterfuge, in respect of his innocencie, and that he did na thing bot as ane publict Magistrate, thairfore he willinglie offeris him selff presentlie to ane Tryell: And becaus this perfuit is only movitt att my lord Aduocatis instance, he cravis his lordschipis declaratioun.

The Aduocat desyrit this mater to be continewit quhill Setterday; becaus that he had informatioun of his Maiestie to infist in perfuit; and vpoun informatioun of partie, quha hes past fra the perfuit.

SIR ANDRO KER of Phairnyherft, and Sir Johne Ker of Hirfell, as cawtioneris for Mr James Ker, Michael Ker, Thomas Ker, brother to George the browfter, and James Hislop, to haif enterit thame, &c. were americiat in the panis following, viz. for nocht entrie of Mr James 200 markis, and for ilk ane of the rest 100 markis: And these parties were ordered to be denounced rebels, &c.

Dec. 26.—Continued to Justice-air of 'Roxburghe, tertio Itineris, vel super premonitione xv dierum, plegiis, Patricio Home de Aytoune, D. And. Ker de Phairnyherft et D. Joanne Ker de Hirfell.'

¹ Afterwards named 'Johne,' in the Record.

Slaughter in Single Combat, in France.

Jan. 13.—CAPITAN JOHNE RIG, Archeour of the Gaird of France.

Dilatit for the Slauchter of vmq^{le} Mr Thomas Strathauchin, alias Meirnis.

Comperit Mr George Strathauchin, alias Meirnis, and produceit our souerane lordis lettres, deulie execute and indorfat, purchest be him selff aganis Capitan Williame (Johne) Rig; and defyrit proces.

Comperit Mr Thomas Hope *excusatorio nomine* for Capitan Johne Rig, and produceit ane Warrant subscriuit be the Kingis Maiestie, ordaning the dyet aganis the said Capitane Johne to be desert; of the quhilk Precept, the tennour followis.

REX,

JUSTICE, Justice Clark and 3our deputtis, We greitt 3ow weill. Forfamekill as Capitan Johne Rig and vmq^{le} Mr Thomas Strathauchin, Archeouris of pe Gaird of France, and s^{wa} being ferwandis to our darrest broder Henrie King of France, the said Mr Thomas Strathauchin appeillit to the said Capitan Johne Rig to pe Singolar Combat; in pe quhilk Combat the said vmq^{le} Mr Thomas was hurt and woundit, and be evill handling and cure of cherurgeanis, deceiffit: Quhilk Combat, and all that followit pairvpoune hes bene tryit be our said darrest broder Henry King of France and his Jugeis, as Jugeis compitent to pe said Tryell, the said vmq^{le} Mr Thomas and the said Capitan Johne Rig being baith subiectis to our said darrest broder: And nochtwithstanding, as We ar informit, the freindis and kyn of pe said vmq^{le} Mr Thomas Strauchin hes rasit our vperis letteris, and hes summond pe said Capitan Johne Rig, to compeir befor 3ow in our Tolbuith of Edinburgh, pe xiiij day of Januar instant, in pe hour of caufe, to vnderlye our lawis for pe Slauchter of the said vmq^{le} Mr Thomas, albeit it be of veritie, that We nor our Justices can nawyis be Jugeis compitent to pe said Capitan Johne Rig, he being ane Archeour of our said derrest broderis Gaird, and s^{wa} his subiect; befor quhome and his Jugeis he hes bene alreddie tryit: Lyke as, also, the said Capitan Johne Rig being vpoune pe poynt of his voyage, to pafs in France to his seruice, can nocht gudlie attend vpoune pe famin dyett: QUHAIRFOIR, We haifing tane sufficient tryell in pe said mater and of pe proceding pairrof, hes concludit that the said Capitan Johne Rig falbe nawyis trublit in tyme cuming for pe said slauchter. Commanding 3ow, that 3e onnawyis proceid aganis him nor his cawtioner, at pe said xiiij day of Januar instant, nor in na tyme cuming, for pe Slauchter of pe said vmq^{le} Mr Thomas; discharging 3ow pairrof, and of 3our offices in pat pairt: And for pe said Capitan Johnis mair securitie, cause registre pir presentis in our buikis of Adiornall, *ad perpetuam rei memoriam*, and for 3our Warrant. Subscriuit with our hand, at Halyrudehous, pe first day of Januar, 1602 3eiris.

(Sic subscribitur)

JAMES REX.

To the quhilk it is ansuerit be the said Mr George Strathauchin alias Meirnis, persewar, that the said Letter was ane priuie Letter, and aucht nocht to be admittit.—With the quhilk Letter and ansuer maid thairto, the Justice being throughlie avysit, admittit his Maiesteis Warrant, and desertit the said dyett: Quhairvpoune the said Mr Thomas Hope askit instrumentis; and the said Mr George protestit, that the admiffioun thairof preiuge nocht his persuit in tyme coming.

Treason — Forging and Uttering Base Coin, &c.

Jan. 13.—PATRIK DRUMMOND, in Lenach.

Dilatit of airt, pairt, red, counsale and conceilling of the treffonabill fforgeing, prenting, coinzeing and out-putting of false and adulterat money, fik as false fyve-pund-peices and fyve-schilling-peiceis; quhilkis, fyve yeir senfyne, or thairbye, was coinzeit be Hans Johnestoune, Fleming, and vmq^{le} George Drummond, saidler in Perth, in the kill of Lenach and vpoun the Craigis thairof, of his knowlege and conceilling; ffor the quhilk he reffautit ten false fyftie s. peiceis.

VERDICT. The Affyis, being sworne and admittit; and the pannell accufit be dittay, quhilk wes verefeit be his awin Deposition, and the Depositionis of vmq^{le} Walter Murray in Dunfermling, vmq^{le} George Drummond, saidler in Perth, and vmq^{le} Thomas Glas in Creif, and Thomas Reid, serwand to the said Hans, &c.; they, be the mouth of Andro Naper, merchand, burges of Edinburgh, ffand, pronunceit and declarit the said Patrik to be fylit, culpabill and convict, &c.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair wirreit¹ at ane staik quhill he be deid; and thairefter, his bodie to be brunt in asses; and all his landis, heritageis, coirnis, cattell, guidis and geir to be fforfalt, and be inbrocht to our fouerane lordis vse.

House-breaking — Theft — Horse-stealing.

Jan. 13.—PATRIK MURRAY of Galwald.

Dilatit of the cryme following, viz. Forsamekill as he, being in cumpany with vmq^{le} Mr Williame Balfoure, brother to the Laird of Burlie, vmq^{le} Johne Gyb, Hary Cuik, Johne Oliphant, and vtheris thair compliceis, in the moneth of februar lastbypast, cam, vnder sylence and cloud of nycht, to the duelling hous of Andro Fluikar, in the Brigend of Gairny, and thair brak vp the dur of the said hous, enterit thairin, and steilling furth thairof his hail infycht pleneiffing in ane seak, with ane meir; and had and convoyit the famin away with thame to the place of Strowie. ITEM, for airt and pairt of the thifteous steilling, conceling and away-taking of ane horse furth of ane stabill in the Cannogait-heid, pertening to Toscheoch of Monyvaird; committit twa yeir syne, or thairby.

VERDICT and SENTENCE. The pannel being 'fylit' by the Affise, the Justice Ordanit him to be tane to ane gibbet standand in the Castell-hill of Edinburgh, and thairvpoun to be hangit quhill he be deid; and ordanit all his movabill guidis to be escheit, &c.

¹ Strangled.

Slaughter.

Jan. 23.—THOMAS JAK, wrycht in Haltoune.

Dilatit, accusit and persewit, fforfamekill as he, accumpaneit with Johne Herring in Lang-Forgoun, bodin in feir of weir, with sword and vtheris wappinnis *invafue*, laitle, vpoun the xxix of Julij lastbypast, haifing consaut ane deidlie feid aganis the said vmq^{le} Alexander, fett vpoun the said vmq^{le} Alexander foirnent¹ his duelling hous, at the Kirk of Forgoune, and thair crewallie hurt and woundit him in the heid, and claif his harne-pan² with swordis, and thairby slew him; and he wes airt and pairt of the slauchter of thesaid vmq^{le} Alexander Moncur.

PERSEWARIS.

Andro Moncur, sone to the defunct,
Patrik Moncur of Chapeloune,

Johne Flouris, sifter-sone to the defunct,
Mr Thomas Hammiltoune, (King's Advocate.)

The pannell, nochtwithstanding that he is innocent of the Slauchter of the said vmq^{le} Alexander Moncur, he becummis in the Kingis will for the samyn, and for beiring of pistulettis.

VERDICT. The Affyis, be the mouth of Robert Gyb in Lochtoune, chancillar, ffand the said Thomas Jak to be ffylit, culpabill and convict of airt and pairt of the Slauchter.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair, his heid to be strikin fra his body, and all his movabill guidis to be escheit, &c.³

Murder—Theft.

Jan. 29.—JAMES CRUIKSCHANK, feruitour sumtyme to Mr David Ogilvie.

Dilatit, accusit and indytit, fforfamekill as he, accumpaneit with Andro zoung alias Daidfone, hantand⁴ in Sanct Johnistoun, laitle, vpoun the fourt day of Januar instant, fett vpoun vmq^{le} Robert Innes, merchand att the Kirk of Inch, one Carnbodd-mure, and thair, in the dawing of the day,⁵ maift crewallie (and) schamefullie Murdreift and slew the said vmq^{le} Robert Innes, be cutting of his thrott: And als, thifteoullie stall, conceillit and away-tuik fra him his pak,⁶ contening merchand-geir, with his purs and certane money thairin.

VERDICT. The Affyis, be the mouth of Robert Varnour, skynner in Edinburgh, chancillar, ffand the said James to be ffylit, culpabill and convict of the crewall Murthour of the said vmq^{le} Robert Innes; and of the steilling of his pak and purs, with certane money thairin.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit vpoun ane gibet quhill he wer deid; and thaireftir his heid and rycht

¹ Before, immediately opposite to.

² Skull, 'brain-pan.'

³ On the margin, 'Convict et decollat.'

⁴ Literally, haunting, dwelling, but without any fixed occupation.

⁵ At dawn,

immediately before sunrise.

⁶ Travelling pack, he being what is termed a 'packman,' or small-ware merchant.

hand to be strikin fra his body; to be affixit, the hand in Dundee, and the heid in Carnbodo-mure; and all his movabill guidis to be escheit, &c.

Stouthreif — Cattle-stealing — Horse-stealing, &c.

Feb. 12.—JAMES VALLEM and George Vallem, sonis to David Vallem of Woodwrae.

Dilatit, accufit and perfewit, be Dittay following,

FORSAMEKILL as thay, accompaneit with Williame Ogilvie, Williame Cumming, Archibald Douglas, Rikard, Ramfay, and vtheris their complices, commoun thevis and brigandis, in the moneth of Junij, the yeir of God I^m.V^c.lxxxvj yeiris, being bodin in feir of weir, with swordis, secreittis, pistolettis and vtheris wappynnys *invafive*, vmbeset¹ the hie way and passage to Williame zung and James Blak, cadgearis,² duelland vpoune the south fyde of the fferrie of Dundie, and to twa of thair servandis, at the Coittoune of Melgum, lyand within the Sherefdome of Forfar, quhair thay wer dryvand sevin pakis of merchand-geir, on sevin horfis, towardis Brechin, to the ffair thairof; quhilkis packis pertentit to Patrick Wedderburne, burges of Dundie, and Johne Alexander, burges of Edinburgh, vmq^{le} John Wrycht, burges thair, and Thomas Allane, tailzeour, burges of the Cannogait; and thair set vpoune thame oppinlie, in day lycht, at xij houris in the day; and, be way of Stouth-reif, violentlie rest, stall and away-tuke fra the saidis cadgearis, the saidis sevin pakis and sevin horfis; and thifteoullie and masterfullie convoyit the samyn away with thame, togidder with the saidis cadgearis, to the mouth of Glenmoy, and disponit vpoune ane grit part of the said merchand-geir, at thair pleafour: AND als, the said James being accufit, forfamekill as he, accompaneit with Williame Cummyng and vtheris his complices, in the moneth of October lastbypast, come to the toune and landis of Auchterlony, pertening to Johne Carnegie, grynter,³ and thair thifteoullie stall, conceillit, restit and away-tuke furth thairof, sax oxin and twa ky, pertening to the said Johne Carnegie and James Pitilach his seruand; quhilk thay draif to the North and sauld, at thair plefour. ITEM, the said James indytit and accufit for airt and part of the thifteous steilling of ane quhyte horse furth of Mr Williame Gairdyn stabill, Vicar of Abirleynoch, pertening to Johne Mortimer younger of Flemingtoun, committit foure yeir fenfyne, or thairbye. ITEM, the said George Valleme being indytit and accufit for the thifteous steilling, conceilling and away-taking of ane horse fra Johne Kyd.

PERSEWAR.

PRELOQUUTOURIS for the pannell.

Mr Thomas Hammiltoun of Drumcarne, aduocat. Mr Thomas Craig, Mr Johne Ruffell.

It is allegeit that the Dittay sould nocht be putt to ane Assise, becaus thay sould be summond vpoun xv dayes wairning, and thay sould haif ane copy. The Aduocat anfuertis, that in respect of the Dittay, quhilk is vpoun thift, the alledgeance aucht to be repellit.

THE JUSTICE ffindis proces.

¹ Forcibly beset, &c. by stopping or blocking up the way. ² In this sense 'cadgers' were carriers, who travelled through the country with their pack-horses, and were employed by small-ware merchants to transport their goods to fairs and markets. At this period, all distant carriages were effected by means of pack-horses; and (as is the present custom of carriers) they usually travelled in companies, for mutual protection and security. The modern term *cadger*, is commonly applied to persons who collect eggs, fowls, butter, &c. from small farmers, &c. and bring them to market for sale. Their present equipage consists of a horse or ass, with *creels*, or panniers, placed across the animal, when foraging and bargaining with small farmers and cottagers; but when they go to market, their accumulated store is commonly brought in carts. ³ Properly, one who keeps or takes charge of a granary or farm. It is sometimes spelt 'grainter, or 'granitour.'

It is allegeit, that this mater, concerning the taking away of the pakis, fould nocht be putt to the knowledge of Assyis, becaus it is ane mater of depredatioun; and be Act of Parliament maid in the tyme of King James the ffyft, cap. xxxvij, all depredatiounis and maisterfull reiffis fould be fyrft Ciuilie discuffit before the Lordis. The Aduocat anfuert, that the said alledgeance aucht to be repellit, in respect of the Dittay contening Stouth-reif and thift. The preloquutouris takis instrumentis, that thay defyrit to putt thair alledgeance in writt thame selff, and to dyte itt; and that the Justice anfuert that he, be the auife of the Chancillar, Collectour, Thesaurer, Lord Hereis and vtheris¹

THE JUSTICE Repellis the alledgeance, in respect of the Dittay.

The Pannell takis instrumentis, that na partie comperis to persew, bot my Lord Aduocat; and na persoune can be putt to ane Assyis, without ane sworne Dittay. The Aduocat anfuert, that he fould nocht sweir.

VERDICT. The Assyis, be the mouth of Alexander Kerfane in Balbethie, chancillar, ffand the saidis George and James Vallemes to be ffylit, culpabill and convict of the crymes *respectiue* aboue writtin, laid to thair chairge.

SENTENCE. To be tane to ane gibbet at the mercat croce of Edinburgh, and thairvpoune to be hangit quhill thay be deid; and all thair movabill guidis to be escheit, &c.²

[*Mr William Boirthuik, Justice-Depute.*]

Slaughter — Bearing of Pistolets, &c.

Mar. 3.—PATRIK LORD GLAMMIS; Johnne Lyoun, sone to Johnne Lyoun in Rouchalhill; Johnne Lyoun, sone to Lyoun, burges of Dundie; Johnne Scrymgeoure, Johnne Edmestoune, and Fargus Murray, seruandis to the said Patrik Lord Glammis; Williame Lyoun, seruand to the said Johnne Lyoun, sone to Johnne Lyoun in Rouchalhill.

Dilatit for airt and pairt of the Slaughter of vmq^{le} Patrik Johnestoune of Mof-toun; and for beiring and weiring of pistolettis, contrair the tennour of the Actis of Parliament; committit vpoun the saxt day of September lastbypast.

Comperit Mr Williame Oliphant, and produceit ane Warrant, direct be his Maiestie; quhair of the tennour followis.

REX,

JUSTICE, Justice clark and 5oure deutes, We greit 3ow weill. Forfamekill as the thryd

¹ Assessors to the Justice. The sentence is left unfinished; but it is probable that it referred to the right of the Justice to dictate the 'allegiances' and replies, in cases where the matter was disputed between the King's Advocate and the Counsel for the pannel. ² 'The xiv of Februar, twa brether hangit, viz. Daid Volume and his brother, for oppression and spuizie.'—*Birrel's Diary*.

day of March nixtocum is appointit and affignit to Patrik Lord Glammiss, and certane his friendis and seruandis for pair comperance before 3ow, to vnderly oure lawis for þe slauchter of vmq^{le} Patrik Johnnestoune; nochtwithstanding, for certane cauffis moving ws, it is oure will, and We command 3ow to continew the said dyet, vnto þe tent day of Maurch nixtocum; and that 3e dispens with the personall comperance of the saidis perfounes, and tak new cautioun of pame, that thay fall compeir befoir 3ow, the said tent day of March nixtocum. As 3e will anfuere to ws pairvpoun. Quhairnant thir presentis falbe to 3ow ane Warrant. Subscryuit with our hand, At Halyrudhous, the saxtene day of Februar, 1602.

(Sic subscribitur) JAMES R. MONTROIS, Can^{rius}, S. G. HOME,¹ The^r.

Quhilk Precept the Justice admittit.

The quhilk day Sir Johne Murray of Tillybairdyn, knycht, comperand be Mr Williame Oliphant, his Aduocat, be his letteris obligatouris, subscryuit with his hand, at Glammiss, the last day of Februar, 1602 yeiris, become plege and fouertie for Patrik Lord Glammiss, &c. that they fall compeir befoir our fouerane lordis Justice or his deputtis, the tent day of Marche nixtocum, &c.

The quhilk day, Johnne Gordoun of Boigis, Sheref-depute of Abirdene, and Johnne Arbuthnett of Carnedaw, oft tymes callit as cautioneris and fouerteis, coniunctlie and feuerallie, for reporting of our fouerane lordis letteris, dewlie execute and indorsat, and perfewing thairof, purchest be Margaret Arbuthnett, the relict, Johnne, Robert, Gylbert and Alexander Johnnestounis lauchfull bairnis, with the remanent kyn and friendis of vmq^{le} Patrik Johnnestoune of Mostoune, &c.; lauchfull tyme of day biddin, and nocht produceand the saidis letteris dewlie execute and indorsat, and nane compeirand to perfew thame; thairfoir the Justice-deput, be the mouth of James Lowrie, dempstar, decernit the said cautioneris, conjunctlie and feuerallie, to be vnlawit and amerciat, for nocht reporting thairof, and for nocht perfuit thairof aganis the said Patrik Lord Glammiss, in the pane of . . . thowsand poundis; and vpoun ilk ane of the remanent sax perfounes, in the pane of ane hundreth merkis.²

[*Mr Williame Haert, Justice-Depute.*]

Stealing the Poor's Box of Cokpen — Adultery, &c.

May 21.—WILLIAME NORWALL, scolemaister in Cokpen.³

Dilatit, accufit and perfewit, for the thiftious steilling, away-taking and con-
celing of the puir folkis box, furth of the Kirk and Sessioun-hous of Cokpen,
vpoun the xj day of Apryle lastbypast; quhairin thair wes aucht poundis money,
or thairby, gewin in almous to the pure; quhilk he brak vp at the watter-syde,
befyde Mountounhall.⁴ ITEM, ffor the cryme of Adulterie, committit fourtene
or fyftene yeir syne, or thairby, with Christiane Dowglas; he haifing ane mareit
wyffe, callit Margret Morifoune, than on lyffe.

¹ Sir George Home, afterwards Earl of Dunbar, Lord High Treasurer of Scotland.

² 'The-
saurario deliberat.'

³ See June 9, 1602.

⁴ Monktonhall?

⁵ 'The-

The said Williame become in our souerane lordis will; and the Justice, ref-
faueand him in will, ordanit the said Williame to be Baneist this realme, during
all the dayes of his lyffe; and to depairt furth thairof within aucht dayes eftir
the dait heirof, and nocht to returne thairin vnder the payne of deid. And the
said Williame obleist himself to the effect foirfaid; vnder the payne to be hangit,
but Affyse.

Barbarous Murder of a Dumb Young Man.

Jun. 2.—WILLIAME GEIKIE Younger in Kethynniss.

Dilatit for airt and pairt of the crewall Murthour and Slauchter of vmq^{le}
Patrik Cathrow, in Kethinniss ('ane dumb borne young man'); committit vpoune
the xx day of Februar lastbypast.

PERSEWARIS.

Dauid Cathrow, myller at the mylne of Kethinniss, fader-lother to the defunct; Mr Tho^s Hammiltoune.

PRELOQUUTOUR for the pannel, Mr Williame Oliphant (advocate.)

DITTAY *against the Pannell.*¹

FORSAMEKILL as he, with his complices, being bodin with ane grit sting or rung,² laitle, vpoune pe
xx day of Februar, the 3eir of God I^{III}.Vj^c. ane 3eiriss, haifing confaut ane deillie hatrent, rancour and
malice aganis pe said vmq^{le} Patrik, quha was ane simpill, pure, dum young man, sett vpoune him
within pe toune of Cowper-in-Angus, quhair he wes in sober and quyet maner for pe tyme, doand his
lesull effairis and buffines, traifing na ewill, harme, iniurie or perfuit of ony personis, bot to haif leuit
vnder Godis peax, and our souerane lordis; and pair, crewallie invadit him for his slauchter, hurt and
woundit him with pe said rung on the face and neise, and brak pe girfell of his neise,⁴ to the effusioune
of his blude in grit quantitie; and gaif him diuerse vperis bauch, blae and bludie straikis, vpoun his heid,
bak, wambe and schoilderis; Lyke as, the said Williame Geikie, nocht being satisfeit with pe crewallie
done to pe said vmq^{le} Patrik Cathrow, in day lycht; he, vpoune pe said xx day of Februar, pe 3eir of God
foirfaid, vnder scyience and cloude of nycht, vmbefet pe hieway and passage to pe said vmq^{le} Patrik, in
the Rasche-myre, lyand betuix Cowper and Kethyniss, as he was in sober and quyet maner passand on
the hie way towardis the toune of Kethyniss, to his said saper-broperis duelling hou^s pair, dredand na harme
or iniurie to haif bene done to him be pe said Williame, in respect of the bludie woundis gevin to him
ofbefoir; and pair, of new, sett vpoune pe said vmq^{le} Patrik, and with ane rung, best,⁵ straik and dang
him vpoune pe heid, face, bak, fillettis and wambe, and brak his haill intrallis, that it was piteous to
haif hard pe lamentabill routis⁶ and cryis of the pure dum man; and left him nocht, quhill⁷ be pe saidis
crewall straikis he slew and mordreist him, and left him deid vpoune pe ground: Committand pairbye
crewall, schamefull and abhominabill Slauchter and Murthour, being ane dumb borne young man,
vnhabill to haif defendit him self; vpoune sett purpois, provisioune and foirthocht felonye.

The Aduocat protestis for Wilfull Errour, in cais thay acquit, in respect of
the Dittay and taikinniss.⁸

¹ To be hanged without farther Trial. ² This Dittay, it need hardly be observed, has been preserved here chiefly on account of the extraordinary nature of the case, and the remarkable phrases with which it abounds. ³ A large bludgeon or cudgel. ⁴ The *gristle*, cartilage, or flexible part of his nose; perhaps implying also the 'bridge.' ⁵ Beat, Old Fr. *basté*, *basted*. It may be 'best,' *bast*, a synonymous word. ⁶ Bellowings, usually applied to the lowing of cattle, especially when impatient to be milked, or to be driven home in the evening. 'The kye stand routin' in the loan.' ⁷ Until. ⁸ Evidence, *tokens*, proof.

VERDICT. Eftir accusatioune of the said Williame, be Dittay, of the crymes aboue writtin, quhill he alluterlie denyit, the Affyis, be the mouth of Sampfoune Ker, in Auchterhous, Chancellor, fand the said Williame Geikie to be Clene, innocent and acquit of airt and pairt of the crewall murthour and slauchter foirsaid, &c. Quhairvpoune the said Williame Geikie askit actis and instrumentis.¹

Exercising the Office of Notary without lawful Warrant.

Jun. 9.—WILLIAME NORVELL, scole-maister in Cokpen.²

Accusit and persewit be Dittay, at the instance of Mr Robert Lyntoune, substitute to our souerane lordis aduocat, for the crymes following.

DITTAY against the Pannel.

FORSAMEKILL as, it is statute be the Actis of Parliament and lawis of this realme, that na maner of persons gif him self furth for ane Notour, or vse or exerce the office of Notarie, vnles thay be first presentit be his Maiestie, be his hienes Letter of Presentatioune directit to the Lordis of the Sessioune, and thaireftir admittit be the saidis Lordis to the said office, efter tryell; and thair Prothogoll-buik sychtit and markit be the Clark of Register and his deputtis; and gif ony man preswme to do in the contrair, to be pwneist to the death: As the saidis Actis of Parliament at mair lenth beiris. And trew it is, that the said Williame Norvell hes vsit and exerceit the said office of Notarie, as ane ordinar Notar, in syndrie deidis, sik as in Contractis, Obligatiounis, Seasingis, Requisitionis or Redemptionis; and generallie in all thingis, quhen he was requyrit, continewallie sen the moneth of November, the yeir of God I^m.V^c.lxxxv yeiris, to the day of his apprehensioune; albeit it be of veritie, that he was never admittit to the said office of Notarie; lyke as, he never had his Maieftis Presentatioune direct to the saidis Lordis of Sessioune, for his admissiounne to the said office; nather had he ane Prothogoll-buik, markit be the Clark of Register or his deputtis, conforme to the ordinance prescryuit be the saidis Actis of Parliament: Quhairin he hes fallie circumvenit and disflaut our souerane lordis leigis, as ane false disfaear; geveing him self furth to be ane Notour, he being nane: Quhairbye he hes incurrit the panis contenit in the saidis Actis of Parliament.

VERDICT. The Affyis, be the mouth of Robert Smyth, merchand in Edinburgh, Chancellor, fand the said Williame to be ffylit, culpabill and convict of the saidis crymes.

SENTENCE. To be tane to ane gibbet, standand vpoune the Castel-hill of Edinburgh, and thairvpoune to be hangit quhill he be deid; and all his movabill guidis to be escheit, &c.

Slaughter.

Jun. 15.—JAMES CWININGHAME of Glengarnok.

Dilatit of art and part of the slauchter of vniq^{le} Williame Cwninghame, in Walzaird.

¹ It is likely that the Lord Advocate abandoned his writ of Error against the Assise; at least no mention is made of the matter, in the Record. ² See May 21, 1602. Although the former Assise had acquitted Norvell, yet the public prosecutor had set his seal upon him; and, in his next charge, crushed this ill-fated thief, adulterer, and 'fals notour.'

PERSEWARIS, Katherine Crawford, the relict ; Gabriell Cwninghame, as brother.

PRELOQUUTOURIS for the perfewaris.

The Laird of Cwninghameheid, the Laird of Craigance, Mr Thomas Hammiltoune.

PRELOQUUTOURIS for the pannell.

The Laird of Caprintoune, the Laird of Houftoune, the Laird of Blair, Williame Porterfeld of at
Ilk, Mr Johne Scharp, Mr Williame Oliphant.

The Justice continewis this dyet to the morne, the xvj day of this instant.
(Plegio, Roberto Hammiltoune de Inchemauchan.)

Jun. 16.—The perfewar askis instrumentis, that he is reddie to perfew,
and will infist conforme to the cautione fundin contrar the Lard of Glengarnok ;
and protestis for releif of his cautionar.—The Aduocat declaris, that he will
nocht infist in perfuit, becaus he hes na informatioun of the partie nor the
Thesaurer.—The pannell takis instrumentis, that Gabriell Cwninghame and the
preloquutouris infistis in his perfuit.

THE JUSTICE, being auisit with my Lord Chancellor and the rest of the
Assessouris, declaris, that vpoun occasioun moving thame, will nocht putt this
mater to the knowledge of ane Assyis this day ; bot continewis the famin to the
thryd day of the nixt Justice-air of the sherefdome of Perth, or soner, vpoun
(xv dayis warning.)

The Laird of Glengarnok, present, takis instrumentis, that the partie per-
fewar, rasar of the letteris, hes comperit this day judiciallie, and offerit him red-
die to perfew ; lyke as, the said Laird of Glengarnok, being enterit on pannell,
offeris him to (abide) ane tryell, for the cryme lybellit, according to the law.

Johne Blair of that Ilk becomes pledge and fouirtie for James Cwninghame
of Glengarnok, that he fall compeir, &c.

Slaughter — Stouthreif.

Jun. 24.—JOHNE MURE of Auchindrane.¹

Dilatit of airt and pairt of the slauchter of vmq^{1e} Sir Thomas Kennedie of
Culzean, kny^t : And of stouthreif² of his purse, worth ellevin scoir rois-nobillis ;
fax dosoun of goldin buttounis ; ane ryng of gold, contenand nyne dyamountis set
thairin ; his sword, belt and quhingar ;³ committit the xij day of May lastbypast.

PERSEWARIS, Dame Elizabet McGill, the relict of vmq^{1e} Sir Thomas Kennedie of Cullane, kny^t,
James Kennedie as sone, Mr Thomas Hammiltoune of Drumcairne, Aduocat to our souerane lord.

PRELOQUUTOURIS for the pannell, the Laird of Langschaw,⁴ the Laird of Rowallane,⁵ the Laird of
Auchinlek,⁶ the Laird of Blair,⁷ Mr Williame Oliphant, Mr Johne Ruffell.

The Laird of Langschaw takis instrumentis of the entrie of Johne Mure of
Auchindrane ; and protestis, that he be releuit, as cawtioune.—The perfewaris

¹ See Jul. and Nov. 1608, Feb. 1609, and Jul. 1611. ² Theft accompanied by violence. ³ A
kind of short sword or hanger. ⁴ Sir Niel Montgomery. ⁵ Mure. ⁶ James Boswell.
⁷ John Blair of that Ilk.

takis instrumentis of the productione of the letteris ; and protestis for releve of thair cawtioune.

Comperit Johne Maister of Orknay, and produceit the Warrant vnderwrittin ; quhair of the tennour followis.

REX,

JUSTICE, Justice Clark and your deputtis, We greit you hairtie weil. Forfamekill as We, vnderstanding, that the xxiiij day of Junij instant is appoyntit be vertew of our vperis Letteris, direct at the instance of Dame Elizabeth Mc Gill, relict of vmq^{le} Sir Thomas Kennedie of Culzeane, kny^t, and James Kennedie, thair eldest lawfull sone, with concurrence of our Aduocat for our intres ; for tryell of Johne Mure of Auchindrane, and certane vperis perfonis his complices, for the crewall murthour and slauchter of the said vmq^{le} Sir Thomas Kennedie ; committit be pame in the moneth of Maij last bypast. And We, willing to be condinglie tryit, for the pairt of the said Johne Mure of Auchindrane ; and for better tryell pair of, necessar it is, that the boy callit,¹ quha was directit fra Mayboill to the said Johne Mure of Auchindrane, as also the boy callit,² quha come to Thomas Kennedie in Bargany, a lytill befor the committing of the said murthour, war apprehendit and examinat and tryit, quhilk we vnderstand is nocht zit done ; and that the saidis twa boyis ar fugitiues ; quhair-bye the veritie is suppressit. Thairfoir it is oure will, and We command you, incontinent efter the sycht heirof, ye continew your Court, and all proceeding aganis the said Johne Mure of Auchindrane in the said mater, quhill the thrid day of the air ;³ or that he be new summond, be the pairtie, to that effect. As alwa, that ye proceed and minister justice aganis all the remanent perfonis contenit in our saidis Letteris comperand, and that war summond to vnderlye our law for the cryme aboue specifit. And this ye fail nocht to do, without ony delay. As ye will anfuer to us vpoune your obedience. Anent the quhilk, your presentis falbe your Warrant. Subscryuit with our hand, at Falkland, the twentie-foure day of Junij, 1602. (Sic subscribitur) JAMES REX.

The said Johne Mure of Auchindrane disaffentis to all continewatioun of this mater ; and offerit him reddie to vnderly the law for the crymes aboue writtin.

Sir Neill Montgomerie of Langschaw become pledge and souirtie for Johne Mure, that he fall comper the thrid day of the nixt Justice-air of the Sherefdome of Air, or soner, vpoun xv days wairning.

Thett — Shooting of Pistolets — Barbarously Burning a Woman on a red-hot ' Girdill,' &c.

JUN. 29.—ALEXANDER ROWANE, sone to Nicoll Rowane of Sandiedub.

Dilatit of certane crymes of thift, schuting of pistolettis, and for burning of Katherine Huggoune, in the Burnesyde of Saling, vpoune ane girdill.⁴

Comperit James Wynrahame, and produceit the Warrant vnderwrittin ; quhair of the tennour followis.

JUSTICE, Justice Clark and your deputis, and Aduocat, We greit you weil. Forfamekill as the xxix day of this instant wes appointit and assignit to Alexander Rowane, for his personall comperance befor you, to haif vnderlyne our lawis for certane odious crymes, att lenth specifit in the criminall

¹ William Dalrymple. ² There was only *one* boy. Dalrymple, however, had been prevailed on to change his name several times. This unfortunate youth was afterwards murdered on the Sands of Girvan, by the elder and younger Mures and James Bannatyne, under circumstances of peculiar atrocity. See Jul. 1611, &c. That Case is perhaps one of the most remarkable, in all its parts, of any one on record. ³ The Justice-air of the Sheriffdom of Ayr.

⁴ A large circular piece of hammered iron, still in common use in Scotland, in place of an oven, for toasting oat-cakes, &c.

letteris direct pairanent : Thairfore, and for findrie vper our wechtie occasiounes moving ws, especiallie, becaus oure Thesaurer, quha aucht to perfew in pat mater, will nocht be present, att pat day : It is our will pairfore, and We command 3ow to continew the said dyett, vnto pe fyrst day of Julij nixt ; and in pe meane tyme, that 3e keip pe said Alexander Rowane in fuir waird : As 3e will anfuer to ws pairvpoune. Quhairanent thir presentis salbe 3our warrand. Subferyuit with our hand, att Perth, the xxvij day of Junij, 1602. (Sic subscribitur) JAMES R.

Jul. 1.—THE JUSTICE continewis the mater to the thrid day of July.

PERSEWARIS.

James Stewart, portioner of Sandiedub, Katherine Huggoune, at the Burnesyde of Sawling, Cristian Hammiltoune in Lynmylne, Mr Thomas Hammiltoune for his hienes intres, Mr Johne Gib.

PRELOQUUTOIRIS for the pannell, Mr Vmphra Blyndfscheillis, Mr Alexander Peblis.

DITTAY *against the Pannel.*

FORSAMEKILL as, the said Alexander, with his complices, in the moneth of Januar lastbypast, come to the landis of Overtoune of Pitvar, and thair thifteouslie stall, concelit, reffett and away-tuke furth thairof, ane gray horse pertening to Robert Tempilman thair. ITEM, for airt and part of the thifteous steilling, conceling and away-taking of ane blak kow, fra James Inglis, in the Pow of Adie ; committit in the moneth of August or thairbye, the yeir of God I^m.V^e.lxxxvij yeiris. ITEM, for contravening of our souerane lordis Actis of Parliament, in schuiting of ane pistulet, chargeit with twa bullettis, at the said Cristian Hammiltoune, and schuting of hir throw the courfchet¹ thairwith ; committit in the moneth of August lastwas. ITEM, fforfamekill as, he and his complices, in the moneth of December or thairbye, the yeir of God I^m.V^e.lxxxvij yeiris, come to Katherine Huggoune duelling-houfe, at the Burnesyde of Sawling, and thair put violent handis in hir persoune, and sett hir bair erfe vpoune ane reid hett² girdill, standand vpoune ane ingill ;³ held her perforce thairon, quhill⁴ ane grit part of the flesche of hir hipis was brunt. ITEM, for airt and part of the thifteous steilling of certane blak aittis fra the said James Stewart ; committit in the moneth of Februar lastwas. ITEM, for commoune thift and commoune reffett of thift.

Jul. 3.—The pannell takis instrumentis, that thair is na persounes compeiris to perfew, except the persounes aboue writtin ; and farther, that nather Johne Broune in Fairnyherft, James Gibsoune, Agnes Rowane, Johne and Thomas Hornes, compeiris nocht to perfew, nather to informe my Lord Aduocat.—Alledgeit for the pannell, that the burning of Katherine Huggoune is nocht relevant, and aucht nocht to be put to ane Assyis, becaufe scho was nocht brunt to the deid.—The Aduocat anfuerit, that this being ane extraordinar and odious cryme, the attempting of it, and proceding to the verie executioun, be setting of hir vpoune ane burning girdill, as *conatus cum effectu*, mereittis the deid,⁵ and aucht to pafs to ane Assyis.

THE JUSTICE ordanis this matter to be (put) to the knowlege of ane Assyis.

The Aduocat takis instrumentis of the swering of the Assyis ; and also of the sweiring of that poynt of the Dittay concerning Cristian Hammiltoune, of schuting of hir with ane pistulet throw the hair of the heid : And further, of the

¹ Often spelt *courche*, or *curchey*, a sort of cap or *mutch*, shaped to the head like a close hood, but the back part so formed as to descend on the shoulders, and a little over the ears. Old Fr. *couvre-chef*. ² Red-hot. ³ Fire. ⁴ Until. ⁵ The punishment of death.

fweiring of Katherine Huggoune, concerning the burning of hir vpoune the girdill ; and of the fweiring of James Stewart, of the pairt of the Dittay concerning him, aganis Alexander Rowane.—The Aduocat proteftis for Wilfull Errour aganis the Affyis, in cais thay clenge,¹ in respect of the notorietie of the crymes laid to his charge, and of the fweiring of the Dittay be the perfewaris.

VERDICT. The Affyis, be the mouth of Dauid Bruce of Brathieburne, Chancellor, fband, pronunceit and declarit the faid Alexander Rowane to be ffylit, culpabill and convict of the haill crymes and poyntis of Dittay aboue writtin.

SENTENCE. For the quhilk caus, the Justice, be the mouth of Walter Pirie, dempftar, decernit and ordanit the faid Alexander Rowane to be tane to ane gibbet, standand vpoune the Castel-hill of Edinburgh, and thairvpoune to be hangit quhill he be deid ; and all his movabill guidis to be efcheit, &c.

Barbarous Murder, &c.

Jul. 3.—PATRIK STEWART, in Innervak.

Dilatit, accufit and perfewit be Mr Thomas Hammiltoune of Drumcarne, aduocat to our fouerane lord, for his hienes interes, of the crymes following, to wit.

DITTAY *against the Pannell.*

FORSAMEKILL as he, accompaneit with Stewart, his brother, and Allefter Reoch, his ferwand, laillie, in the moneth of November, the yeir of God Im.Vj^c. yeiris, haifing confaut ane deidlie malice aganis vmq^{le} Angus Dow McEwir, his ferwand, for alledgeit abusing of Stewart, his dochter, in fornicatioune, take and apprehendit the faid vmq^{le} Angus, band him hand and fit as ane malefactour, brak his rycht leg with ane ax, and thaireftir, with ane fcharpe knyffe or durk, cuttit away his secreit memberis fra him, and put in het affis and emmeris² in the bag of his secreit memberis, quhilk refit vncuttit ; and crewallie demanit, hurt and woundit him thairbye ; and thairefter knifft³ him on horsbak, and convoyit him to the toune of Blair-in-Atholl ; quhair the faid vmq^{le} Angus take bed, and continewand bedfast, in grit dolour and difeas thairof, be the fpace of fyve dayes or thairbye ; at laft, he, in the faid moneth of November, deceffit, be the faid crewall handling ; and fwa was crewallie and vnmercifullie flane be thame : The faid Patrik being airt and pairt of the faid crewall flachter ; the lyke of the quhilk crewaltie and tyrannie was never hard to be committit within this cuntrey, nather in hieland nor lawland.

PERSEWAR, Mr Thomas Hammiltoune of Drumcarne, aduocat.

PRELOQUOTOURIS for Patrik Stewart, Mr Johne Ruffell, Mr Alexander King.

Williame Stewart of Tullich takis instrumentis of the entrie of the faid Patrik ; and proteftis, that he, as his cautioner, be releuit ; quhilk wes grantit.

The pannell denyis the cryme ; quhairvpoune his preloquoutouris takis instrumentis : As also the pannell takis instrumentis, that na partie compeiris to perfew, except our fouerane lordis Aduocat ; or that na perfoun fwoir the Dittay.

¹ Cleanse, acquit.

² Hot ashes and live-embers.

³ Cast, tossed.

ASSISA.

Johne Stewart Neilfoune in Fofs, Alexander Robertfoune of Faf- Duncan Robertfoune of Glen-
 Williame Stewart in Duntulleich, calze, gennet,
 Johne Tarlafoune, apperand of Johne Farguefoune, callit Bar- Mr Robert Rois of Craigie,
 Moingzeis, rounne Farguefoune, Duncan Robertfoune of Pitcafell,
 Tarloch Robertfoune in Calie- Johne Farguefoune in Cluny, James Robertfoune of Killifchawie,
 bruer, Daudid Barroune in Faudowie,¹ Andro Boyd, portioner in Litill
 Robert Robertfoune of Strowan, Alexander Stewart in Bifchoprie, Dunkeld.

The Aduocat proteftis for Wilfull Errour, in caife thay acquit, in refpect of his awin Confeffioun; quhair he confest, that he wald haif flayne his brother, for the latting of the faid vmq^{le} Angus gang.

VERDICT. Eftir accusatioun of the faid Patrik be Dittay, quhilk was veri- feit be his Depofitionis, the Affyis, be the mouth of the faid Chancelar, ffand, pronunceit and declarit the faid Patrik Stewart to be fylit, culpabill and convict of airt and pairt of the flauter of vmq^{le} Angus Dow M^cEvir.

SENTENCE. To be tane to ane place befyde the mercat-croce of Edinburgh, and thair his heid to be ftrykkin fra his bodie; and all his movabill guidis to be efcheit, &c.

THE famin day, George Leslie Capitan of Blair, Neill Stewart in Fofs, Robert Stewart in Faucastell, Alexander M^cIntofch in Tirenies, George M^cIntofche, his brother, Alexander Stewart in Bohepik, John Butter in Eifter Dunfallandie, Andro Burt, eldar in Cult, Johne Stewart M^cRobert in Archgowll, George Nafmyth in Lachlache, and James Nafmyth off Inwar, vnlawit, ilk ane of thame in the pane of ane hundreth markis; for nocht compeiring and paffing vpoun the Affyise, &c.

Rapt and Raving — Besieging House of Auchmedden, &c.

Jul. 6.—JAMES CHENE of Pennan.²

Dilatit of the Rapt and Reveifching of Mariorie Cuke, dochter to Williame Cuke in Vrinach: And ficlyke, for the affageing of Gilbert Baird of Auchmedden (his) houfe: And for fchuting of piftolettis at Liliis Baird, and caufing of hir pairt with barne; and vtheris crymes.

PERSEWARIS, Mr Thomas Hammiltoun, Williame Cuik of Vrinoch, for Mariory.

PRELOQUOUTOURIS for the pannell.

Mr Thomas Craig,
The Laird of Donypaice,

My Lord Home,
Mr Johne Ruffell,

My Lord Sanquhar,
Mr Alexander King.

DITTAY *againft the Pannel.*

FORSAMEKILL, as it is expreflie provydit, ftatute and ordanit be our foverane lordis Actis of Parliament, maid in the tyme of his hienes prediceffouris, that na maner of man commit Rapt or Reveifch-

¹ This person's name affords an instance of the difficulty and uncertainty of Genealogical enquiries, and the immense research requisite for tracing Family-pedigrees, especially in the North of Scotland. He is here described as 'David Barroune in Fawdowie'; when chosen Chancellor of the Assise, he is designed 'David Farguisoun, Barroun of Fawdowie'; and he subscribes the verdict of the Assise, 'DAVID M^cDUF OF FAUDOU!' Another person in the same Assise, 'Johne Farguesoune, callit Barroune Farguesoune,' still farther illustrates this remark, regarding the labour and indefatigable industry which must be displayed by the correct Genealogist and Historian. ² See Jul. 9, 29, and 30. The pannell was brother of Patrik Chene of Essilmonth, a person of considerable note and influence.

ing of wemen, vnder the panis contenit in the saidis Actis: And trew it is, that James Chene of Pennan, accompaneit with Alexander Chene, sone to Williame Chene in Orcheartoune, Geddes and Thomas Daidfoune, seruitour to Patrik Chene of Effilmonth, accompaneit with diuerse vtheris thair complices, with conuocatioune of his hienes liegis, to the nowmer of twelf perfonis or thairbye, all bodin in foir of weir, with secreittis, plait-slevis, gantilettis, steil-bonnettis, swordis, dagis and piftolettis, expresse prohibite to be borne, worne, vsit or schot with, be his hienes Actis of Parliament and Secret Counsale, vnder diuerse panis contenit in the samyn, laillie, in the moneth of July, the yeir of God Im.V^c.lxxxvij yeiris, come, be way of Hamefuckin, vnder scylenche and cloude of nycht, to the said Williame Cuke duelling-hous in Vrinach, lyand within the Sherefdome of Abirdene, quhair the said Mariorie Cuke was, in sober and quyet maner for the tyme, doand hir lefull effairis and buffines, traisting na ewill, harme, iniurie or perfuit of ony perfonis, bot to haif leuit vnder Godis peax and our souerane lordis; and thair pat violent handis in hir bodie, take hir captiue and presoner, and perforce reveifchit,¹ and convoyit hir away with thame to the said James Chene duelling-hous in Pennan; quhair the said James deforcit and abusit hir bodie, and held and detenit hir in captiuitie within the said James house, be the space of xij dayis or thairbye; vsurping thairbye our souerane lordis autoritie vpoun thame, in taking of the said Mariorie, his hienes frie liege but² commissiounne or autoritie: And swa, he being airt and pairt of the saidis crymes, hes contravenit the tennour of the saidis Actis of Parliament, in rapt and reveifching of the said Mariorie, being than ane virgyn; and hes incurrit the panis contenit in the saidis Actis, quhilkis aucht and fuld be execute aganis him with all regour, in exampil of vtheris to commit the lyke in tyme cuming.

The pannell being³ defyrit quaha wald infist in this perfuit, The Aduocat declaris that he infistis, togidder with Williame Cuik, fader to Mariory Cuik: And the said Mariorie, being chargeit to infist, sche is excusit, be Testimoniall of the Minister, that sche is lyand in chyld-bed-lair.

ITEM, ffand that my Lord Aduocat has interes to perfew, albeit that the principall letteris ar nocht rasit at his instance, for the Reveifching of Mariory Cuik; the Walkning⁴ being rasit in my Lord Aduocattis name, nocht contenand Mariory Cuikis name.

The Aduocat takis instrumentis, that he passes fra the wordis, 'as administratour, tutour, gyder and gouvernour,' and kepis the wordis 'as fader.'

THE JUSTICE ffindis Williame Cuik, as fader, hes interes to perfew for the iniurie done to his dochter; albeit sche wes of perfyte aige quhen the principall Summondis wes rasit, and is nocht present to perfew.

The said Mr Johne Ruffell preloquutour defyris, that his alledgeance may be recordit be writt.

It is alledgeit, for the pairt of James Chene, that he aucht nocht be putt to ane Assyffe for the reveiffing of Mariory Cuik, becaus he opponis *exceptio spontanee voluntatis* aganis the force and violence; as he, being fyrst mareit with Katherene Ruthirfurd his spous, and insafar as it is offerit to be provin, before the tyme lybellit, that the said James had carnall deill with the said Mariory; and thairefter, in respect of the familiaritie betuix him and hir freindis, sche

¹ Carried away by force.² Without.³ Having?⁴ Process of Wakening.

frelie, of hir awin meare will, cam to the said James, in cumpany with Marioune Cullen and Helene Quhyte, remanit in his hous be the space of xiiij dayis alto-gidder, he being absent all the tyme furth of the said hous, and sche mycht haif returnit to hir faderis hous att hir pleasour, it being distant bot ane myle or twa att the farrest, hir fader and freindis haifing acces to hir ; the said James being absent be the space of xxxij mylis att the leift, purposlie fend to Abirdene to by hir clathis ; during the quhilk tyme sche nocht only administrat hir effairis, bot tuik of hir kiftis and coifferis sic geir as sche pleafit, quhilk thaireftir wes ressaufit aff hir hand be hir fader and mother : Quhilk being done, sche wes perswadit be hir fader and Rychart Vgiftoune to affirm, that sche wes reveift, and sche sould gett geir fra him for hir aduancement. In respect quhairof, the said alledgeance being verefeit presentlie, the mater can nawyis be putt to ane Affyis ; att the leift, this exceptioun and tryell thairof man be tane coniunctlie with the lybell ; and takis instrumentis, that thay offer presentlie to verifie the said alledgeance, before the mater be putt to ane Affyse.

The Aduocat alledgis, that the alledgeance aucht to be repellit, in respect of the summondis ; and na probatioun can be ressaufit in the mater, be the Justice.

THE JUSTICE, with auise of his Affessouris, repellis the alledgeance, in respect of the summonds.

The pannell protestis, that nochtwithstanding thair alledgeance be repellit *hoc loco*, that thay may haif place to verifie the said alledgeance to the Affise.

THE JUSTICE continewis this mater to the nynt of July.

PRELOQUUTOUR for the pannell, My Lord Erle of Crawford.¹

Jul. 9.—Allegeis, that the bering of pistolettis or schuting thairwith, can nocht be put to ane Affyise, becaus thair is Commissioun grantit to the Laird of Effilmonth¹ and vtheris thairin contenit, to tak the Laird of Troupe and vtheris, in quhais cumpany the said James wes present, att the executioun of the said Commissioun ; vnder protestatioun, he affermis nocht that he wure pistolettis, att the tyme lybellit ; and produceit the Commissioun.—The Aduocat allegeis, that the alledgeance aucht to be repellit, in respect of the Commissioun grantand na Commissioun to the said James Chene ; nather wes he desyrit be the Commissioun, att the tyme lybellit, to assist thame.—Allegeis James Chene, that gif he wure ony pistolettis the tyme libellit, he did na wrang ; vnder protestatioun, becaus his Maiestie directit his Commissioun to certane his Commissioneris, speciallie to Patrik Chene of Effilmonth, his brother : Quhilk Commissioun is ane sufficient to him to beir pistolettis ; and gif ony wyis he hes borne or worne the saidis pistolettis, it wes done with his said brother and vtheris his Commissioneris, in executioun of the said Commissioun.—The Aduocat alledgeis that

¹ In addition to those formerly entered.

² Patrik Chene, brother of the pannell.

the said alledgeance aucht to be repellit, in respect of the Commiffioun berand na anfuert.—Anfuert the pannell, the Commiffioun gevis ane Warrant to convocat the Kingis liegis.

THE JUSTICE Repellis the alledgeance, except that thay instantlie verifie that he wes with the Commiffiouneris the tyme lybellit; and that thay wer in the executioun of thair officeis.

ASSISA for the Reveiffing.

Alexander Fairlie of Braid,	Robert Flescheour, burges of	Williame Bandene, alias Ruth-
Johne Traill of Blebo,	Dundee,	vene, 3ounger of that Ilk,
Johne Johnestoune, callit Johne	Patrik Lyoune, merchand, burges	Hector Rae, merchand, burges
of Elphinstoune, burges of Edr,	thair,	of Edinburghe,
Andro Logane of Grantoune,	Gabriell Merfer, burges of Perth,	Thomas Somervell, merchand,
Alexr Wod of Lammieytham,	Mr David Home, brother to the	burges thair,
David Kynneir of that Ilk,	Laird of Wedderburne,	Mr Archebald Wilkie, in the
Johne Fairlie of Comeiftoune,		Cannogait.

The Assyis being sworne, and the Dittay red, my lord Aduocat produceit for takyn,¹ Letteris of Horning aganis the said James; quhair the said James gaid² to the horne, for the rapt and reveiffing of the said Mariorie Cuke; and als produceit ane proces of the Presbiterie of Deir, fynding the said James gyltie of the said cryme; and als vfit the said Williame Cuke ayth, to be gewin, quha wes present to offer his aith.³

Repellis the foure-half-about.

It is allegeit that *Williame Cuik* can nocht gif his aith, becaus the deid wes nocht done to him; and his dochter is absent. *Secundo*, he can nocht gif his aith, becaus that he offeris him to prove, that sen the last Court, the said Williame offerit to compeir at the bar, and fueir that the reweiffing is nocht of veritie.—The Aduocat takis instrumentis, that he repetis the Interloquoutour pronunceit, that Williame Cuik had guid interes to persew in this caus, and that he offeris him reddie to sweir the Dittay; in respect quhair of, and of the Letter of Hoirning produceit aganis the pannell for the said cryme, and of the proces and sentence gewin aganis him be the Presbiterie of Deir, for this samin caus; gif the Assyise clange, protestis for Wilfull Errour.

The pannell askis instrumentis, that gif the King and Kirk wer satisfeit, he wald forgif the said James. The pannell takis instrumentis, that Williame Cuik declaris that he can nocht, of his conscience, ffyle or clange the said James, bot⁴ Mariorie Cuik his dochter tuik vpoun hir conscience, that the said James tuik hir away and reveiffit hir.—The Aduocat thaireftir produceit the said Wil-

¹ Token, or proof.
evidence upon oath.

² Went, suffered himself to be put to the horn.
⁴ Unless, except.

³ Testimony, or

liame Cuikis Depositionis, maid before the Counfall, quhairvpoun he askis instrumentis.

The pannell askis instrumentis that the Aduocat vses na forder probatioun. *Item*, James Chene produces ane Testimoniall, subscryuit be Dauid Howiesoun, Minister of Abirdowr, testifeing, that the witnesses contenit in the proces produceit aganis James Cheyne, testefeit na reveiffing.—The Aduocat takis instrumentis, that Mr Johne Ruffell produceis and gewis in the Testimoniall subscryuit be Mr Dauid Howiesoun, Minister of Abirdowr. The saidis Maisteris Thomas Craig, Alex' King, and Thomas Craig (Johne Ruffell) vses the said Testimoniall, as preloquoutouris for James Chene, quhilk wes send to thame be Mr Alex' Cheyne amangis the rest of his writtis, to be vfit in Defence of the said James Cheyne.—The Aduocat produceit ane vther Testimoniall, subscryuit and writtin be the said Dauid Howiesoune, testifeing the subscriptioun of the vther Testimoniall to be fals.

SPECIAL VERDICT. The perones of Assyse being chofin, sworne and admittit, and the said James being accusit be Dittay of the crymes foirsaidis; and our souerane lordis Aduocat, for verificatioun thairof, haifing produceit to thame our souerane lordis Letteris, purchest at the instance of the said Meriorie Cuke and Williame Cuke, hir father; be the quhilkis the said James was denunceit rebell and putt to the horne, in defalt of fynding of fouirtie, that he suld haif comperit befor the Justice or his deputtis, to haif vnderlyne the law for the saidis crymes; and als, haifing produceit the Extract of the proces led and deducit aganis the said James, for the away-taking and violent reveifching of the said Meriorie Cuk, befor the Presbiterie of Deir, the fourt day of August, the yeir of God 1597 yeiris, Mr Duncan Dauidfoun being Moderatour; togidder with the Depositionis maid be the said Williame Cuke, at Falkland, the first day of July instant, in presence of my Lord Chancellor, Thesaurer, Bischops of Ross and Dunkeld. Aganis the quhilkis writtis and verificatioune, the said James Cheyne and his preloquoutouris maid diuerse alledgeanceis for elyding of the samyn, and ansueris maid thairto be the Aduocat; the saidis peronis of Assyis removit altogidder furth of Court to the Counfall-hous, quhair thay, efter chesing of the said Dauid Kynneir of that ilk chancellor, &c., ffind, pronunceit and declarit the said James Chene to be Clene, innocent and acquit of the rapt and reveiffing of the said Meriory Cuik, dochter to Williame Cuik in Vrinach; and of detening of hir in captiuitie, be the space of xij dayes; and of the desforceing of hir, committit in the moneth of July, the yeir of God 1^m.V^o.lxxxvij yeiris:¹ And als ffind, pronunceit and declarit him to be ffylit and convict of the lying with hir in the place of Pennan, at the tyme foirsaid, without violence. Quhairvpoun the said James askit actis and instrumentis.

THE JUSTICE continewis the nixt dyet to xx day of this moneth.²

Treason — Forging Mark-pieces.

Jul. 13.—ALEXANDER REID, cuitlar in Edinburghe.

Indytit, accusit and persewit, fforfamekill as he, being ane prentar in our souerane lordis Coinzie-hous thir diuers yeiris bygane, and haifing the credite to

¹ 1597. This method of marking the year arose from the mode of expression then in use, viz. Ane thousand fyue hundreth, thre scoir feuintene zeiris.

² See Jul. 20, 1602.

his hienes trew coinzie, ffor the quhilk the Maifter-coinzeour fatiseit him honeftlie and payit him for his panis ; nochtwithftanding thairof, he, vnmyndfull of his dewtie, fyrft to God, nixt to his Maieftie, and laft to the faid Maifter-coinzeour, the faid Alexauder Reid, vpoun the xxviiij day of Junij laftbypaft, gatt ane fals half-merk-peace of copper prentit, with the ballance on the ane fyde, fra Cristian Reid, fpous to Daud Lowriestoun, in Corftorphene; and als bocht ane fals batterit peace, blank but prent,¹ fra Williame Smyth, feruitour to William Weylandis, lorymer,² burges of Edinburghe, vpoun the fyrft day of July instant ; the quhilkis twa fals pecis, he, vpoun the thryd day of the faid moneth of Julij instant, maift trefsonable prentit, fforgeit and pafst his Maiefteis trew prenting irnis with the prent of the mark peace ; and thairby hes committit Trefsfoun.

ASSISA.

Williame Stalker, goldfmyth, burges of Edinburghe,	James Lethingtounne, jufter in the Coinzie-hous,	Robert Thomfoun, goldfmyth, burges of Edinburghe,
Alex ^r Bruce, cuitlar, burges thair,	Daud Lyndfay, fmyth, burges of	Robert Tailzefer, cuitlar in Leith
Williame Myller, meltar in the Coinzie-hous, ³	Edinburghe,	wynd,
Thomas Myller, cuitler, burges of Edinburghe,	James Mynto, forgear in the Coinzie-hous,	George Seytoun, forgear in the Coinzie-hous,
Johne Quhyte, cuitler,	Walter Mathie, forgear thair,	Moreis Gray, forgear thair,
	Patrik Schaw, prentar thair,	Williame Sinclair, forgear thair.

VERDICT. The Affyis, be the mouth of the faid Patrick Schaw, chancillar, ffand, pronunceit and declarit the faid Alexander Reid to be ffylit, culpabill and convict of the trefsonabill prenting of twa mark pecis, vpoun his Maiefleis trew irnis, as his hienes trew coinzie.

Jul. 20.—SENTENCE. The Justice, be the mouth of Walter Pirie, dempftar, decernit and ordanit the faid Alexander Reid to be tane to the Castell-hill of Edinburghe, and thair to be hangit quhill he be deid ; and all his movabill guidis to be efcheit, &c.

Namesucken — Besieging House of Auchmedden — Adultery.

Jul. 20.—JAMES CHENE in Pennan.⁴

The quhilk day, James Chene being enterit on pannell, dilatit, accusit and perfewit of the crymes efter specifeit, thay ar to say,

FOR contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbuttis and pistolettis vpoune his perfoune, and in his cumpany, oppinlie, outwith houffis, in the monethis of September, October, November, December, Januar, Februar and Marche, the yeir of God 1597, vpoune the landis of Pennan, Auchmedden, and diuerse vtheris boundis, within the sherefdom of Abirdene. *ITEM*, fforfamekill as he, accompaneit with diuerse vtheris, his complices, forneris and brokkin men, all bodin in feir of weir, with hagbuttis and pistolettis and vtheris wappynnis, *inuafue*, incontrair the tennour of the Actis of Parliament, laitlie, in the moneth of Marche, the yeir of God

¹ Without any impression.

² Old Fr. spur-maker, *lormier*. Lorimers, besides selling small iron wares,

generally dealt in saddlery.

³ The Royal Mint.

⁴ See Jul. 9, 1602.

1597, haifing confaut ane deidlie feid, rancour and malice aganis Gilbert Baird of Auchmedden and Lilius Baird his spous, come, be way of Hamefuckin, vnder scyence and cloude of nycht, to the faid Gilbertis duelling-place of Auchmedden, quhair the faid Lilius Baird was for the tyme, in fober and quyet maner, accompaneit with hir bairnis and ferwandis, hir husband being absent, and thair clam¹ the cloife dykes of the faid place, pullit out the stanchellis² of the kitchen wyndois, brak vp sum duris, and affageit the faid Lilius and hir ferwandis within the faid place, be the space of thre houris or thairbye ; clam vp to the tops of thair houffis, kaift in stanes at the chymnay heid, schot in hagbutis and pistolettis at the duris and wyndois of the faid place ; schot the faid Lilius throw the claythis, scho being grit with barne ;³ ffor feir of the quhilk schot, scho schortlie thairefter pairtit with the faid barne,⁴ quhilk was crewallie flane be the faid James ; and swa, ye committit Hamefuckin, Affageing of houffis vnder scyence and cloude of nycht, and hes contravenit the tennour of the faidis Actis of Parliament, in beiring, weiring and schuting with hagbuttis and pistolettis. ITEM, for contravening of our fouerane lordis Actis of Parliament in abusing of his bodie in notour Adulterie, with Mariorie Cuke, dochter to Williame Cuke in Vrinot, within his awin duelling-place of Pennan, in the monethis of July and August, the yeir of God 1597, he being mareit with (Katherine) Rutherford, his spous, and being vndeorceit.

The faid James declarit, for obedience of his Maiestie, that nochtwithstanding that he was maift innocent of the faidis crymes, and that he may vse his lawfull defence aganis the samyn, he vald become in our fouerane lordis will ; provyding alwayes his lyffe may be saiff : Quhairvpoune the faid Mr Thomas Hammiltoun, and als the faid James Chene, askit actis and instrumentis.

Jul. 30.—The Justice produceit HIS MAIESTEIS WILL, quhair of the tennour followis.

REX,

JUSTICE, Justice clark and 3our deputtis, We greit 3ow hairtie weil : fforfamekill as James Chene of Pennan, being accusit before 3ow for findrie crymes, he voluntarlie become in our will, for pe cryme of Adulterie and syndrie Oppressiounis committit be him. Heirfoire it is oure will, that 3e fall gif furth dome aganis pe faid James, that he fall be Baneifchit this cuntry, and fall nawyis returne within the fame, without oure Licence, vnder pe pane of death, to be incurrit be him, and of pe sowe of thre thousand markis to be incurrit be his cautioner, quhome 3e fall ordane him to fynd for his remaning furth of pe cuntrey ; and that befor he be put to libertie. Qubairanent thir presentis falbe to 3ow ane sufficient Warrant. Subscryuit with our hand, At Falkland, pe xxvij day of Julij, 1602.

(Sic subscribitur) JAMES REX.

The quhilk Will the faid Justice-depute pronunceit, &c. ; and the faid James askit actis and instrumentis.

Slaughter — Shooting of Hagbuts and Pistolets.

Jul. 21.—DAVID GRAHAM of Craig, and Alexander Kennedie of Balarrak.

Dilatit of art and part of the Slauchter of vmq^{1e} Richard Spens, seruitour to Johne Erle of Cassillis ; and for beiring and weiring and schuting of hagbuttis and pistolettis ; committit in December.

¹ Climbed.

² Iron stancheons.

³ Pregnant.

⁴ Miscarried.



PERSEWAR, Mr Thomas Hammiltoun of Drumcarne, aduocat.

PRELOQUOUTOURIS for the pannell, Mr Thomas Craig, Mr Alexander King.

Comperit Rychard Spens as fader, . . . Spens and . . . Spens, as brether to vmq^{le} Rychard Spens, and declarit thay wald nocht infist in perfuit of Daid Grahame of Craig, att this present, and att na tyme heireftir ; and als defert. The said Daid Grahame declaris, he offeris him reddie to vnderly the law, for the crymes contenit in the letteris.—The said Rychard Spens and his sonis desyrit that the perfuit of Alexander Kennedie sould delay, quhill thay may haif tyme to fummond ane Affyis.—The said Alexander Kennedie takis instrumentis that he offeris him to vnderly the law, for the crymis lybellit ; disaffenting to all continewatioun now, as of before.—‘ DESERT’ as to Grahame : And as to Kennedie, continued to the Justice-air of ‘ Air, tertio Itineris.’

Adultery.

Aug. 19.—ELSPET HEISLOP, lait servand to Archibald Bauld, indueller in Edinburghe.

Dilatit and accufit for contravening of our fouerane lordis Actis of Parliament, in abusing of her body in the filthie and abhominable cryme of Adulterie with Daid Gray,¹ fischmunger in Edinburghe ; committit in the monethis of March, Apryle, Maij, Junij, Julij, August, September, October, November, December, Januar and Februar, in the yeiris of God 1594-5-6-7-8-9, 1600 and 1601 yeiris, att the leift, in ane or vther of the saidis monethis and yeiris *respectiue* foirlaid ; and that within the burcht of Edinburghe, att the West-port thairof and vtheris partis, about the said burch : In the quhilk cryme sche hes procreatt and borne to the said Daid foure findrie bairnis, quhairof twa deceiffit this lyffe, vnbapteift ; and ane is yit on lyfe, vnbapteift.

Quhilk cryme the said Elspett confest, and become in our fouerane lordis will for the famin.

(Nov. 27.)—SENTENCE. The Justice ordanit the said Daid Gray and Elspeth Hislope to be kairtit throw the Toune, and ane paper vpon thair heid, contening thair cryme : And to be banischit the said burgh ; and nocht to return thairin, during all the dayis of thair lyftyme, vnder the pane of deid.

Slaughter.

Nov. 10.—JOHNE CONGILTOUNE, gairdner, in the Plefance (of Ed'.)

Dilatit of art and part of the Slauchter of vmq^{le} George Spottifwod, brother-german to vmq^{le} Ninian Spottifwod of that Ilk ; committit in Junij 1588 yeiris.

¹ See Jan. 12, 1602.

PERSEWAR, Agnes Spottifwood, onlie dochter to the said vmq^{le} George.
PRELOQUUTOUR for the pannell, Andro Blak.

The said Johne Congiltoune allegeis that this mater can nocht pafs to ane Affyis, in respect he hes our fouerane lordis Remiffiounne, grantit for the slauchter of the said vmq^{le} George, vnder our fouerane lordis Previe Seill, of the dait, at Edinburghe, the thrid day of Marche, the yeir of God 1588. And als, produceit ane Letter of Slaynis, grantit be Williame Spottifwod of that Ilk, Mr Johne Spottifwod his father-brother, Williame Spottifwod, Alexander Spottifwod and Spottifwod, brether to the said vmq^{le} George, and Cristian Thomesfoune, the relict of the said vmq^{le} George, to the said John Congiltoune, daitit at Edinburghe, the xxij day of Februar 1588.

Dauid Corfbie, merchand burges of Edinburghe, James Daidfoune, flescheour burges thair, become cautioneris and fouerteis, coniunctlie and feuerallie, to satisfie the partie persewar, as law will; Lykeas, that he fall pafs the said Remiffiounne the Grit Seill, vnder the pane of ffourtie pundis.

Slaughter — Shooting of a Pistolet.

Nov. 19.—WILLIAME WAUCHOPE, sone lauchfull to vmq^{le} Johne Wauchope, baillie of Nudrie.

Dilatit of airt and part of the Slauchter of vmq^{le} Johnne Symfoun, meffinger in Edinburghe; committit in the moneth of October or thairby, the yeir of God I^m.V^c.lxxxix yeiris. ITEM, for contravening of our fouerane lordis actis of Parliament, in schuiting of ane pistolet at James Wadie, sone to vmq^{le} Wadie, wrycht.

VERDICT. The Affyse, be the mouth of Archibald Geddes elder, burges of Ed', chancellor, ffand, pronunceit and declarit the said Williame Wauchop to be Giltie and ffylit of the saidis crymes *respectiue* aboue writtin.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair his heid to be strukkin fra his body; and all his moveabill guidis to be escheat, &c.

Child-murder.

Nov. 27.—AGNES COWANE in Corstorphin.

Dilatit for the crewall Murthour and Slauchter of ane young infant barne, procreat be her to George Kyle, seruitour to the Laird of Corstorphin.

VERDICT. The Affyse, be the mouth of Patrik Home of Polwart, chancellor, ffand, pronunceit and declarit the said Agnes to be culpabill and convict of the saidis crymes.

SENTENCE. To be tane to the Castelhill of Edinburghe, thair to be hangit vpone ane gibbet quhill fcho be deid, and all her moveable guidis escheit, &c.

Adulterating and Uttering Base Coins, &c.

Dec. 15.—ALLANE NAPER, culteller in Glesgw.

Dilatit ffor the treffonable gilting of twenty fevin fals aucht-merk and foure-merk peces, of the number of threfcoir fals aucht-merk and four-merk peces; quhilkis war fend to him to his duelling-hous in Glesgow, be Campbell of Glenlyell, about tua yeir syne or thairby; togidder with tua licht angell-nobillis, and that with Donald M'nair, ferveand to the said Campbell of Glenlyell.

VERDICT. The Affise, be the mouth of James Hoppringill of Quhytebank, chanceler, ffand, pronunceit and declairit the said Allane Naper to be ffylit, culpable and convict of the crymes aboue writtin: and that, in respect of his awin Confessioun maid in jugement, and of his cumming in the Kingis Maieftis will thairfoir.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be wirreit at ane staik, and his body brint in affis; and all his moveabill guidis to be efcheit, &c.

Slaughter.

Jan. 4, 1603.—WILLIAME WAUCHOPE, brother to vmq^{le} Archibald Wauchope of Nydrie.¹

Dilatit of airt and pairt of the Slauchter of vmq^{le} Daid Edmestoun of the Wowmett, committit in the moneth of

PERSEWERIS, Aliefone Home, relict of the said vmq^{le} Daid, Ewfame Edmestoune, sifter.

PRELOQUUTOIRIS, Daid Home of Rowiestoune, George Home brether to the said Aliefoune.

PRELOCUTOIRIS for the pannell, Mr Laurence McGill, Mr George Wauchope.

The pannell takis instrumentis, that nane compeir to infist in his persute, bot the partie. It is allegit be Williame Wauchope that this matter can nocht pas to the knowledge of ane Affyse, nor that the partie hes na entreis to persew, bot reffaut ane Assythment.²—Anfuerit that thair is na thing produceit to verifie.

THE JUSTICE repellis, in respect nathing is producet to verifie.

It is forder allegit that this matter can nocht pas to ane Affyse, in respect his Maieftie hes remittit the samyn, be his speciall Letter of grace, quhilk is produceit, blank in the dait, and subscryuit be his Maieftis allanerlie.—It is anfuerit be the persewer, that this Letter is only ane Letter, blank, finisteruslie purchest, contrair the Act of Parliament, vndaittit, vncomponit be the Thesaurer, and subscryuit only be his Maieftie; quhilk is nocht sufficient of the law.—It is

¹ See Feb. 2, 1603.
solatium for the Slaughter.

² A fine or compensation made to the relations of the party slain, as a

declairit be the defender, that he cumis in his Maieftis Will, baith concerning the fact and the imperfectiones of the Letter.

The parteis producit ane Letter, fubfcriuit be his Maieftie, commanding the Juftice to proceed and minifter Juftice, and put him to the knowledge of ane Affyfe, for Slauchter and beiring of piftolettis.

THE JUSTICE continewis this mater to Thurifday nixt; and wairnit the Affyfe, *apud acta*, to the faid day.—(Jan. 6.)—‘DESERT.’

Importing and Uttering Base Coin.

Jan. 13.—ALEXANDER THOMESOUN, mariner in Borrestounes.

Dilatit, accufit and perfewit for the treffonable hame-bringing of fourfcoir fax falfe merk-peices furth of the realme of Ingland to Scotland; and for the treffonabill out-putting of sex of them to . . . Gray, Baillie in Eyemouth; committit in the moneth of Januare instant.

VERDICT. The Affyis, be the mouth of Daud Home of Rowiftoun, chancellor, ffand, pronuncet and declaret the faidis Alexander Thomesone to be ffylet, culpable and convict.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair to be hangit vpon ane gibbet, quhill he be deid; and his guidis, geir, landis, heritageis and poffeffiones, gif he ony hes, to be fforfalt and efcheit, &c. As also, ordanit the faidis fourfcoir fax falfe merk-peices, quhilkis war producit in jugement, to be meltit and diftroyit at the faid croce.

Murder — Theft.

Jan. 20.—JOHNNE RAMSAY, fumtyme in Meluill mylne.

Dilatit of the crewall Murthour and Slauchter of vmq^{te} James Roife, fumtyme thefaurer and burges of Edinburghe; committit vnder filence and clud of nycht, vpon the aughtene day of September, I^m.Vj^c. and ane yeiris; and thifteous Steilling and away-taking fra the faid James, of his horfe, cloik and purfe, at the tyme foirfaid.

VERDICT. The Affyis, be the mouth of Daud Fairlie merchand, chancellor, ffand, pronuncet and declairit the faid Johne Ramsay to be ffylet, culpable and convict of the faidis crymes.

SENTENCE. To be tane to ane gibbet, befyde the corfe of Edinburghe, and thair to be hangit quhill he be deid: And thaireftir, his heid to be ftrukkin fra his body, and put on the Nether-boll of Edinburghe; and the remanent his memberis to be vset at his Maieftis directioun, and his haill moveabill guidis to be efcheit, &c.

Hamesucken—Rapt, Abishing and Forcing.

June 21.—HENRIE SINCLER of Quhytkirk.

Dilaittit, accuset and perlewit at the instance of Mr Tho. Hammiltoune of Monkland, aduocat to our fouerane lord, for his hienes entreis, of the crymes following, viz.

FORSAMEKILL as the said Henrie, being accompaneit with James Hepburne, ferveand for the tyme to the Laird of Roifling, Andro Anderfone, and vtheris thair complices, with convocatioune of our fouerane lordis leigis, to the number of aucht perfones or thairby, all bodin in feir of weir, with fwoirdis, secreitis, steil-bonettis, &c. laitlie, in the moneth of December, 1^m. Vj^e. yeiris, come be way of Hamesukkin, vnder silence and clud of nicht, to vmq^{le} George Carkettillis duelling hous of the Monk-rig, quhair Margaret Carkettill, now spous to Archibald Hammiltoune of Bairfute, was, in sober and quyet maner for the tyme, takand the nichtis rest; and thair brak the said hous, enterit within the samyn, and put violent handis in the said Margaret, had and raveifchet hir away with thame perforce; and convoyit hir away to the place of Merkill; quhair the said James forcet and abuifet her body: And thaireftir, transpoirtit hir to the place of Quhitekirk, quhair scho was detenit all the nicht captiue and priffoner, and keipit and detenit hir in captiuitie with the said Henrie and remanent perfones foir-faidis, be the space of aucht dayis thaireftir, or thairby; scho being our fouerane lordis frie leige; vsurpand thairby his hienes auctoritie vpone thame: And sua, the said Henrie was airt and pairt, red and counfall of the taking of the said Margaret, and of the Rapt and Raveifching of hir, and keeping of hir in captiuitie; scho being his hienes frie leige; and of the fforceing and abusing of hir body, to the greit contempt of our fouerane lord, his hienes auctoritie and lawis: At the leift, of Resfetting of hir, in maner foirfaid.

Comperit, Johne Home, Constable of the Castle of Edinburgh, and takis instrumentis of the entrie of the pannell.

ASSISA.

Sir Johne Ker of Spylaw,	Henrie Lauder, in Dunbar,	Adam Hepburne of Bonhard,
Stevin Bruntfield of Grynd-	Adam Scott, brother to the	James Henderfone of Drydane,
lawdene,	Laird of Dryop,	And nine others,

(Feuars and burgesses, excepting ' Mr Thomas Levingfloune, fone to the Laird of Hayning.')

The said Henrie denyit the Dittay, and ewerie poynt thairof.

The Aduocat alledgeit that the said Henrie could nocht deny the Resfett.

VERDICT. The Assyis, be the mouth of the said Adam Hepburne, chancellor, in respect na partie comperit to fweir the Dittay, nor that nathing wes producet be our fouerane lordis Aduocat for verifeing thairof, ffind, pronuncet and declairit the said Henrie to be Clene, innocent and acquyte of the haill poyntis of Dittay aboue specifreit. Quhairvpone the said Henrie Sincler askit instrumentis.

High Treason—Doom pronounced upon the Dead Body of a suspected Traitor, produced at the Bar of the Court.

Jan. 31.—FRANCES MOUBRAY, deceased, (son to the Laird of Barnbowgall.)

[THE CASE OF FRANCIS MOWBRAY may, perhaps, be considered as one of the most extraordinary of its kind, in the whole range of the Criminal Records of this or of any other country. There is something monstrous in the idea of wreaking vengeance on the lifeless remains, even of the most atro-

cious criminals; but in the present instance, the victim had only been imprisoned in the Castle of Edinburgh, on vehement suspicion of Treason; and, in his endeavour to effect an escape, he was precipitated over the rocks, and killed. The production of the mangled body of the suspected criminal, at the bar of the Supreme Criminal Tribunal of the country, and the subsequent sentence of Forfeiture, however repugnant to modern ideas and to every proper feeling, were by no means, in themselves, solitary examples of such procedure, in cases of High Treason. To avoid repetition, reference is made to a Notice prefixed to the Forfeiture of Logan of Restalrig, (see Vol. II. p. 276,) for several illustrations of a similar nature. In addition to these instances, it may be noticed, that *Robertson*, in his History of Scotland, observes, that after the battle of Corrichie, the dead body of the Earl of Huntly was presented in Parliament, before sentence of Forfeiture was pronounced against him; and other cases might easily be mentioned.

In order to arrive at the *facts* of this case of Francis Mowbray, which are of themselves of considerable historical importance, the Editor found it necessary to institute an examination of various contemporary Histories and MSS. preserved in the Advocates' Library.

The most accurate account of Mowbray's Treason, however, is detailed by *Archbishop Spotswood*, (p. 471,) in the following brief passage. 'About the same time, the King had intelligence given him, that one FRANCIS MOWBRAY, son to the Laird of Barnebowgall, who had lived a while in the Infant's Court at Bruxells, had undertaken to kill him. This brake out first at London, by an Italian, a fencer, whose name was Daniel; which coming to the Queen's ears, she commanded Sir Robert Cecill, her secretary, to call the persons (for they were both in the city) and examine them. The Italian abode by his speeches. Mowbray denied, and offered to prove him a liar, in combat; which the other accepted. Both being sent into Scotland, they were tried (examined) first severally, then confronted before certain of the Council. The Italian produced witnesses, who verified all that he had deposed: Whereupon Mowbray was committed to the Castle of Edinburgh; where, seeking to escape by night, at a window of the chamber where he was detained, the sheets proving too short, by which he thought to descend, he fell from a great precipice; and was found, the next morning, dead, at the foot of the rock. The corps was the same day, being the last of January, presented to the Justice, and Sentence of Forfeiture pronounced against him; his body hanged for a space upon the gibbet, and afterwards quartered, and affixed to the gates and most open places of the town. His friends (for he was well born, and a proper young gentleman) gave out, that he had been strangled, and his corps thrown down at the window. But this carried no appearance, and was believed of few.'¹

From the various Collections of State Papers of this period, we find, that King James was kept in constant alarm, from the incessant machinations of British as well as Foreign Papists and Jesuits; and, owing to many previous communications from the English Court, advertising the King of the certainty of such attempts being on the eve of execution, his Majesty had probably considered it necessary to make very severe examples of the first plotters who should be detected.

These Popish plots were in constant agitation, until the remarkable discovery of the Gun-Powder Treason, Nov. 5, 1605. *Calderwood* records one instance, in his MS. Church History, not mentioned by other historians, where the King certainly acted with unwonted lenity, no doubt in consequence of *Instructions* from Queen Elizabeth. It is thus briefly told. 'About the end of April (1602,) an English gentleman addressed himself to Court; and got presence of the King, upon the last of April; and conferred with him a little space, in Dumfermline. Therafter, he went to his lodging. He flew

¹ Robert Birrell gives the following account of this monstrous proceeding. 'The 3d of Januar, Francis Mowbray brake ward out of the Castell; and he fell owir the wall and brake his craige. Thairefter he was traillit to the gallows and hangit; and thairefter was quarterit, and his heid and four quarteris put one the four Portis.'—*Diary*, p. 57.

James Chambers, one of the Kingis servants, and hurt the barber that was peling his head, before they were aware. He was apprehended and putt in the Tolbooth of Dumfermline. He cryed like a mad man, "The hour! The hour! The King!" &c. Being examined, he confessed that he and ane Italian sould have slaine the King. As is reported, he was transported to the Castle of Edinburgh, and kept in the irones; but within a quarter of a year was sett at liberty. It was reported that the King thought not much of the matter, but tooke the man to be some what distracted in his witts.'

Without further remarks, the remaining Papers which have been collected are appended, and left for the reader's deliberate consideration.]

THE JUSTICE ordanit his Maiesteis Precept to be infert and registrat in the buikis of Adiornall.

Rex,

JUSTICE, Justice clerk and 3 our deputis, We greit 3ow weill. Forfamekill as vmq^{le} Frances Mowbray, being accuset of maist heich, horrible and detestable poyntis of Treffone and Lefmaiestie, aganis us, our persone and Estait, and for pe samyn, committit to waired within our Castell of Edinburgh; and the samyn being sufficientlie verifeit be pe Depositiones of twa or thre witneffis, and pe tryell pairof sa cleir, pat pair remanit na obscuritie of pe same. The said vmq^{le} Francis, obduret in mynd, and to all appearance seducet be Sathan, quha was the first motioner of theis his devillische interpryses, hes, vpon intencion to escaip furth of our waired, procurit his awin miserable and schamefull death; and hes maid his giltines (be his breck of waired) mair nottour and manifest. It is our will heirfoir, that 3e cause give dome and sentence aganis him, to be demaynit, quarterit and hangit; and his heid and quarteris to be put vpoune pe maist publict pairtis and places of our burghes of Edinburgh; as ane quha is gilty of pe saidis crymes. And pat 3e direct pe officiaris (to quhome pe executionn of theis turnes belang) to do pe same, with all pe formes accuftomet in sic caiffis: Quhairnent pir presentis fall be 3our Warrant. Subscryuit with our hand, att Halyrudhous, pe last day of Januare, 1603.

(Sic subscribitur)

JAMES R.

MONTROIS, CAN^{NIUS}. MAR. HEREIS. HALYRUDHOUS.

S^r G. HOME, THE^r. JO. PRESTOUN. M. T. HAMMILTOUNE.

SENTENCE. According to the quhilk Precept, and for obedience thairof, the Justice, be the mouth of Walter Peirie, dempstar, decernit and ordanit the said vmq^{le} Frances Mowbray, now presentit on pannell, to be demanit as ane tratour, as eftir followis: That is to say, To be hangit be the craig vpoune ane gibbet, beyde the mercat-croce of Edinburgh, and his body to be quarterit; and his heid, ane leg and ane airme to be put vp aboute the Nether-boll, ane elne aboute the rest; and ane vther leg to be hung on the West-point of Edinburgh, and ane vther airme to be hungin vpoun the Potter-raw-point: And all his landis, heritageis, takis, steidingis, rowmes, possessiones, coirnes, cattell, guides and geir to be ffoirfalt and inbrocht to our souerane lordis vse, as gilty of the saidis trefsonabill crymes. Quhilk wes pronuncet for dome.

PAPERS illustrative of MOWBRAY'S TREASON.

1. EXTRACTS from *Calderwood's MS. Church History*.

(Oct. 1602.)—IN October, the King was advertised, out of England, of a Conspiracie. Ane Italian, who had been in this countrie eight years, alledged upon FRANCIS MOWBRAY, sone to the Laird of Barnbougall, that he sollicitet him to take part with him in cutting of the King, by poyfone or some

other means. They were both presented before the Council of England. At the King's desire, they were sent to Scotland. The Italian affirmed constantly,¹ before the King, and offered to fight the Single-combat with Francis. Francis, being examined, being certain of the King's Council, denied; and offered to fight with the Italian.

(Jan. 5, 1603.)—IT was ordained that FRANCIS MOWBRAY and the Italian, who accused him of Treason, would fight, hand to hand, in the great clove of the Abbey of Haliburgh. The 5 of Januar was appointed for the combat. The baraffe being made and preparation, advertisement was sent two or three dayes before, out of England; to stay the Combat; because there was certaine Scottish-men, who would verifie the Treason. Soe, upon hope of further tryell, it was delayed.

(Jan. 29, 1603.)—IN the meantyme, upon the 29 of Januar, the King and Council were occupied, for the most part, all that day, in the examination of FRANCIS MOWBRAY and the Italian, and confronting Francis with other two Scottish men sent out of England, bot of light accompt, because they had spent their moyen, and was forced to leave the country,—to witt, Mr Walter Mowbray and John Anderfone. The day following, that is to say, the Lord's day, the penult of Januar, Francis Mowbray assayed to come down the wall of the Castle upon peeces of the blanketts of his bed, sewed together on the night before. The blanketts were too short; so he fell, and falling, fell himself upon the craig, about eight houres at night. He was apprehended immediately, but was speechlesse, and dyed about three houres in the morning.

Upon Munday the last of Januar, his body was drawn backward to the Tolbooth, where the doome was pronounced, that he should be drawn backward to the gibbett, and there hang for a certaine space; and then be quartered; and the members of his body to be sett up in publick parts of the town. It is marked, that when he was examined, he said, before the King, 'If ever I thought evill, or intended evill against my Prince, God, that marketh the secrets of all hearts, make me to fall at my enemies feet; make me a spectacle to all Edinburgh; and cast my soul in Hell forever!' And, being required, subscribed these words. He fell at his enemies feet indeed! For the Italian was above him in a Chamber. He was made a spectacle to Edinburgh. As for the third, we remitt to God, who saveth and condemneth whom he pleaseth. It is reported, that he sought his supper sooner than at other tymes, as though he had some Letters to write: After supper, he rave the blanketts in four pieces, and sewed them together; and that he was minded to doe the like with the sheets. The keeper, coming to the door, and finding it close, cryed. He thrust himself, for haste, out at the window, and cometh down upon the blanketts. The blanketts being short, he falleth. Some horsemen were awaiting on, to carie him away; but finding him unable, they spoiled him and departed; and his body was brought up to the Castle. The Italian was set at liberty, and was to be rewarded.

2. EXTRACT from an *Anonymous MS. History of Scotland*.²

(Jan. 30, 1603.)—FRANCIS MOWBRAY, being warditt for allegit Treffoune aganis (his) Majesty, brak waird; and being aschaipitt³ be the watche of the Castell, thay schaikis him out of the claitthis quhilk he wes gangand doune into; quhairby he fallis, and slayis him self be the fame.

3. EXTRACTS from *Cecil's Secret Correspondence with King James*.

(i.) MOWBRAY, to Daniel and others, did confesse a purpose, in his own heart, to be made an instrument against the person of the King, whensoever he were set in hand; and to affect all persons opposite to the present carriage of your affairs, as he would demonstrate upon the first opportunity. If other *embryones*, which are yet *informes*, but yet dangerous, come any nearer to the likelihood of any formal shape, his Majesty shall be advertised; though, in the mean, we repute it a great indiscretion to reveal our uttermost, before the desire of utterance, out of a sound affection, becomes so strong as

¹ With constancy, without prevarication.

² Advocates' Library, A. 4. 35.

³ Escaped. Perhaps for espied.

the son of Cræfus would, by straining, break the strings of his tied tongue, to deliver what his love and duty binds him to.¹

(ii.) CECIL and I are very glad that the Laird of Weemes² had no better warrant for his traffick with this busy body.³ The man is not honest, nor was drawn to this discovery of *Mowbray's Treason* by love to the King, but merely upon spleen and malice to the party, upon the fractions of old amity. In this point we will say no more, but only wish, for the good of the King's service, that he neither have encouragement to come, nor entertainment, though he should chance to come; which I do not think will happen, because Cecil's angels⁴ have him in charge, for the working out of more stuff, if it be possible; and his pension seasons him in the giddiness of his natural and habitual uncertainties.

From Francis Mowbray, Cecil did never hear word, since the last which was advertised; which makes him wonder, both at the pause, and at the motive that may cause it, after so large promises. Cecil will observe the King's direction, as well in mining, by invention and subornation, into his ends, as by continuing the pension, though he have very ill deserved it. He doth concur with the judgement of King James, touching the peril that may grow by driving him into despair, for want of provender, before the close decks be discovered. You may, in like sort, assure King James, that Cecil will take no extraordinary course with him, about King James's particular, till he take him with more meat in his mouth, and the matter be so pregnant as negatives would be found both ridiculous and impudent.⁵

Bearing, Wearing, and Shooting Hagbuts and Pistolets, &c.

Feb. 1.—SIR HARIE LYNSDAY of Carrestoune.

Perfewit be Mr Thomas Hammiltoun of Drumcairne, aduocat, of the DITTAY following, producet be the said presoner.

SIR HARIE LYNSDAY of Carrestoun, Ye ar indytit and accuset, fforfamekill as it is statute and ordanit be dyuerse our souerane lordis Actis of Parliament, that na maner of persone or persones tak vpon hand to beir or weir hagbuttis or pistolettis, or ony vther ingyne of ffyre-wark vpon thair persones, and in thair companeis, oppinlie, outwith houffis, or schute thairwith at ony persone or persones, vnder the pane of cutting af of thair rycht hand, and vtheris panis thairin contenit: Nochtwithstanding quhairof, it is of veritie, that ye, being forgetfull of your deutfull obedience and reverence, quhilk ye fould haif gevin to the saidis Actis and lawis, and of the guid exampill quhilk ye fould haif gevin to vtheris his Maiesteis leigis, in respect of your place, office and seruice in his Maiesteis houshold; ye, laillie, vpon the . . . day of Januare lastbypast, with convocatioun of our souerane lordis leigis, to the number of ten or tuelf persones, all bodin in feir of weir, with secreitis, steil-bonetis, hagbutis and pistolettis, past fra the Palice of Halyrudhous towardis Perth, quhair ye was informet Patrik Eviot, brother to Colene Eviot of Balhouffie,⁶ was in the South-Inche thairof for the tyme; and thair set vpon him, and crewallie invaidit him for his slauchter, and chaiffit him to ane cok-boit, quhilk he was compellit to tak, and enter in the watter of Tay, for saiftie of his lyfe: And he being thairin, ye and your company schot and dilaschet the number of ten or tuelf schott of hagbuttis and pistolettis at him,

¹ Lord Henry Howard to Mr Edward Bruce; without date, but about Aug. 1802. See Vol. II. p. 319, *Note*.
² See Vol. II. p. 276, *Note*. ³ The Master of Gray. ⁴ Golden angels, bribery. ⁵ Lord Henry Howard to Mr Edward Bruce—probably written soon after that of the 27th August, 1602.—*Hailes*. ⁶ Although Eviot escaped this barbarous attack, he was murdered, five years afterwards, by his wife and her paramour. *Fleming* gives the following graphic account of this transaction, in his curious MS. Chronicle, preserved in the Library of the Faculty of Advocates. (8th Apr. 1608,) 'PATRIK EVIOT, brother-german to the Laird of Balhoussie, was murtherit in Blelok, be his wyfe Jonet Ross, quha wes air to the Lairdschip of Craigie and Kynfawnes both (*also*.) He wes schote with ane gun in his bed, sleiping, be James McNair. Thairefter, they wer both taikin and execute; and brunt, efter they wer hangit, in the Playfeild of Perth, the 17 May 1608. His heid and arme putt wp on the Castell gawill port.'

of purpois to haif flane him ; quhilk ye had nocht failz it to haif done, war nocht he lay darnet¹ on his face, in the boddome of the said boit. Be beiring, weiring and schuitting of the quhilkis hagbuttis and pistolettis, ye haif contravenit the tennour of the saidis Actis of Parliament, and incurrit the panis contentit thairin ; quhilk fould be execute aganis yow with all rigour, in exampill of vtheris, &c.

The said Sir Harie Lyndsfay declairit, for obedience of the Kingis Maieftie, and for the offence done to his hienes, mynding nawyis to vse ony defenffis be law, albeit he mycht vse thame ; he will becum in his Maieftis Will for the Dittay producet be the Aduocat : Protesting, that his becuming in will preiudge him nocht, anent ony defens that he will vse aganis ony pairtie that fall happin to perfew him, heirefter, for the saidis crymes : Quhairvpoun he askit instrumentis ; and lykwayis our fouerane lordis aduocat askit instrumentis of his becuming in his Maieftis will.

The samyn day, Patrik Eviot protestit, that the said Sir Harie Lyndsfayis becuming in will fould nocht preiudge him of ony actione that he had to perfew aganis him.

Slaughter — Sentence of Banishment.

Feb. 2.—WILLIAME WAUCHOPE, sone to vmq^{le} Robert Wauchope of Nydris.²

Compeirit Johne Mayne, and producet ane Precept contening HIS HIENES WILL, togidder with ane delyuerance of the Lordis of Secreit Counfall, quhilk the Justice ordanit to be insert and registrat in the buikis of Adiornall ; quhair of the tennour followis.

REX,

JUSTICE, Justice Clerk and your deputis, We greit you weil. Forfamekill as Williame Wauchope, sone lauchfull to vmq^{le} Robert Wauchope of Nydris, being laitlie perfewit befor you, to haif vnderlyne our law, for airt and part of pe slauchter of vmq^{le} David Edmestoune of Wowmett : ffor pe quhilk slauchter he is becum in our will, in hoip of our clemencie and faour : We pairfoir, for dyuerse consideraciones moveing us, temperand the rigour of justice with clemencie, haif declairit and declairis our will towardis him, as followis : That is to say, That the said Williame fall depairt furth of our realme to quhatfumeuir pairtis he pleiffis, betuix pe dait heirof and pe first day of Marche nixtocum ; and nawayis to returne agane within pe samyn, without our Licence first had and obtenit pairto : And for pat effect, to find sufficient cautione actit in pe buikis of Adiornall, vnder the pane of fyve hundreth pundis, to be payit to our Thesaurer in our name, in cais of failzie. And forder, in cais it fall happin pe said Williame to returne agane within our realme, eftir his departour, without our licence, as said is, that, in pat caise, he fall die pe deathe pairfoir, quhairuoir he can be apprehendit, be ony of our Justices or ministeris of our lawis : And pat pir presentis salbe ane sufficient Warrant and Commission to pat effect. Subscryuit with our hand, att Halyrudhous, pe secund day of Februaire, 1603.

(Sic subscritur)

JAMES R.

Followis the (Supplication and Warrant.

Vnto your Maieftie and Lordis of Secreit Counsell, humlie menis and schawis your seruitour, Williame Wauchope, sone to the Laird of Nydris : That quhair, eftir I haif remanit this lang tyme in waird, within the Tolbuith of Edinburgh, and haif cum in your hienes will and pleafour, foir airt and part of the slauchter of vmq^{le} David Edmestoun of Wowmet, it hes plefit your Maieftie, of your

¹ Hid, concealed.

² See Jan. 4, 1603.

hienes fauour and mercie, to grant ane Warrant for puting of me to libertie furth of the said waird, I findand cautionne actit in your graces buikis for my departing furth of the cuntrie betuix and the first day of Marche nixtocum, vnder the pane of fyve hundreth pundis, and onnawayis to returne agane within the samyn, without your hienes Licence, vnder the pane of deid. As þe said Warrant heir present to schaw beris. Out of the quhilk waird I am nocht as zit releuit, albeit I haif done quhat in me lysis to find cautionn and souirtie, conforme to þe said Warrant, and hes offerit Johne Robiefoun, flescheour, burges of Edinburgh, cautioner for me to þat effect; and it nawayis lying in my power, as I fall anfuer to God, to get ony vper persone to becum cautionn for me, bot sic persones as ar nocht responfall in landis and guidis, as the said Johne is, quhair of your Maiestie and lordis as zit haif had a fauourable consideratioun of me and my estait in tyme bygane; sua I maist humlie befeik your lordschipis, that ze will freith and releve me furth of the said waird; and that I may haif command to your Maiesteis Clerk of Counfall or Justice Clerk, to ressaue þe said Johne Robiefoun cautionn for me: Conforme to the said Warrant and your anfuer.

(Sic deliberatur) APUD Halyrudhous, primo Februarij, anno tertio Im. Vj^c. Fiat ut petitur, Johne Robiefoun and John Mayne, coniunctlie and feuerallie, cautioneris.

(Sic subscribitur) MONTROIS, CANRIUS. M. R. YOUNG.

Conforme to the quhilk Precept and Will producet, the Justice, be the mouth of James Lowrie, dempstar, pronuncet his Maieftis will to be, &c.¹

House-breaking — Theft, &c.

Feb. 15.—ANDRO REID in Bervie.

Dilatit for cuming to George Sincleris houfe, accompaneit with Johne Bennet and Thomas Welfch; breking of the said George houfe, streking vp of kiftis, and taking furth thair of certane abuilzementis,² clothing, and gold and filuer, pertening to Dame Agnes Sincler Lady Errole, Barbara Sincler and Thomas Sym, messinger, hir fervandis.

PERSEWARIS.

Barbara Sincler, Thomas Sym, messinger.

PRELOQUUTOURIS for the pannell.

Mr Vmphra Blindschell, Mr George Frafer.

Compeirit the Lady Errole, and infittit in the perfute of Andro Reid, according to the Dittay; and producet ane Rolment of Court.—Mr Vmphra Blindschell, for the pannell, allegit, that he can nocht be put to the knowledge of ane Assyse for the hail Dittay, except the plaittis; in respect he was put to the knowlege of ane Assyse for the samyn, befor the Scheref of Kyncairne; and the Judge hes fund him nawayis worthie of daith thairfoir, as the proces producet beiris. The pannell askit instrumentis of the production of the Rolment of Court furth of the perseweris handis, quhair Andro Reid is put to the knowledge of ane Assyse be our souerane lordis Commiffioun, of the poyntis of Dittay producet, and of the Judges decret.—It wes anfuerit be the perseweris, to the former allegeance, that he sould be put to the knowledge of ane Assyse for the said crymes, becaus he was nather ffylit nor clangit be the Assyse thairfoir: And for

¹ In terms of the Warrant, which is repeated.

² Apparel, dress. Fr. *habiliment*.

the verificatioune thair of, product the proces subscryuit be Neilfoun, clerk thairto : And thairfoir the said allegiance aucht to be repellit.

The Judge continewis Interlocutor to the morne.

Feb. 16.—The Justice continewis this mater to the morne.

Comperit the hail personis of Assyse, and declairit that thai haif onwaittit this tua dayis vpon thair call, and ar superexpendit ; and protestit that thai be nocht vnlawit heirefter, in cais of thair non-compeirance.—Continued to 17th, and afterwards to 18th.

PERSEWAR,¹ Mr Thomas Hammiltoune.

PRELOCUTOR for the pannell, Mr Johne Scharp.

Feb. 18.—The Aduocat askit instrumentis of the productione of the Rolment of Court, product be the pannell, subscryuit be Mr Johne Foullertoun, and protestis (that) the samyn remane in proces ; and adheris to the alledgences, that he is flylit of the cryme, be his awin Confessioune, be ane Assyse alreddie ; and defyres only that dome may be pronuncet aganis him, conforme to the lawis ; and that in respect of the Rolment product ; and consentis he pass to na Assyse.—It is anfuerit be the pannell, that na dome aucht of new to be gevin, becaus thair is a judgement alreddie gevin be the Judge, conforme to the Rolment of Court ; and that in respect of the Act of Parliament, quhair it is provydit, that a man anis being clanget, can nocht be of new persewit for that cryme —The Justice continewis this mater to Wednesday nixt.

Jun. 10.—SENTENCE. The quhilk day, Andro Reid in Bervie, being enterit on pannell, as he that was convict be ane Assyse, in ane Justice-Court halding in Stanehyve, the xv day of September, the yeir of God I^m. sex hundreth and tua yeiris, be Johne Keyth in Coltoun, Sheref-deput of the scherefdome of Kincardin, and Capitan Andro Stewart Judge, be vertew of our souerane lordis Commiffiounne, direct to my Lord Shereff of Kincardin, for cuming to George Sincleris housse, &c. ; quhairvpon na dome wes pronuncet : For the quhilk cause the Justice-depute decernit and ordanit the said Andro Reid to pass furth of this realme, betuix the day and dait heirof, and the tent day of August nixtocum ; and never to returne within the samyn ; bot to remane Baneifchit during all the dayis of his lyfe, vnder the pane of deid : And all his moveabill guidis to be escheit and inbrocht to our souerane lordis vse, as convict of the said crymes ; quhilk was pronuncet for dome.

Compeirit Capitane Andro Stewart, and protestit, that the sentence and dome of Baneifchment pronuncet aganis the said Andro Reid in Innerbervie, be na wayis preiudiciall to the actiounne of Errour, to be intentit aganis the Assyse, for Clangeing of the said Andro Reid of the crymes confest be him.

¹ In addition to those formerly entered.
10, 1603.

² No farther proceedings are entered, until June

Slaughter.

Feb. 24.—DONALD M^cANGUS of Glengarie, John Dou M^ckeane V^cdonill voir, Donald M^ckeane V^cdonill voir, Angus M^ckeane V^cdonill voir, his brether; Findlay M^cdonill V^cdonill voir, Alexander M^cdonill V^cdonill voir, John M^cdonill V^cdonill voir, thair brether; Rorie M^cmurchie V^cdonill oge, Donald M^cmurchie V^cquhonchie, Tormot M^cmurchie V^ckeane, Johne Moir M^cmurchie Vic doull oige, Johne Dou M^ckeane V^cdoull oige, Inving M^cindowy, in Glengarie, and Eweyne Ockerdane Carfar.

Compeirit Williame Makiefoun, and produceit our fouerane lordis letteris, deulie execute and indorfate, purchest be Angus M^cindowie, as brother to Donald M^ckeane V^cdoun, Johne and Dougall M^cmurdo Boweis, as nerrest of kyn to vmq^{le} Donald M^cdonald M^cvolddonich; Johne M^cdonald V^cJok, as brother to Donald M^cdonald V^cJok, with the kyn and freindis of the saidis vmq^{le} perfones; aganis Donald M^cangus of Glengarie, &c.; be the quhilkis Letteris thay ar denuncett rebellis and putt to the horne, in default of finding of fouertie to haif compeirit this day and place, to haif vnderlyne the law for the Slauchter of the saidis vmq^{le} perfones: Quhairvpoune he askit instrumentis; and proteffit for relief of Rorie M^ckenzie of Cultellan, cautioner.

Slaughter.

Mar. 3.—JAMES STEWART, fone to vmq^{le} James Stewart, Maifter of Buchan.¹

Sir James Scrymgeour of Dudop, kny^t, oft tymes callit, as cautioner and fouertie for James Stewart, fone to vmq^{le} James S. M^c of Buchan, to haif enterit and presentit him to haif vnderlyne the law, for airt and pairt of the felloune and crewall Slauchter of vmq^{le} Patrik Bryfone, tailzeour, burges of the Cannogait; committit in the moneth of October lastbypast, vpone set purpois, &c.: The Justice unlawit Sir James Scrymgeour in the pane of tua hundreth merkis, and als adjudget the said James Stewart to be denuncet, &c., and his moveabill guidis to be efcheit, &c.

Murder — Stouthrief, &c.

Apr. 28.—ALLASTER M^cKIE, Gilchrist Kittoche alias Makilmoyle,
 M^cynroyer, Fyndlaw Dow M^colean.

Dilatit of certane poyntis of Thift, and for cuming to the Laird of Luiffis

¹ 'Patrik Bryfone flaine in the Cannogate be ane James Stewart of Buquhane; quha wes apprehendit and wardit in Sir James Ballendine's hous; quhair he remanit still, till the 26 of November, on the quhilk day he brake ward out of Sir James Innes hous.'—*Birrel's Diary*, p. 56.

boundis, in companie with the Laird of M^cGregour, and airt and pairt of the Murthour and Reif committit thairon in Februar laft.

DITTAYS against the Pannels.

ALLASTER M^cKIE, ffor airt and pairt of the thiftious Steilling, conceilling and away-taking of foure 3owis, pertening to James Galbraithe in Bolgair, furth of Barroun M^cewins corrie or glen ; committit about Michaelmas laft. ITEM, for steilling fra the said James of tuelf schein furth of the said glen. ITEM, for the thiftious steilling of tua lambes in Balglafs, pertening to the Lady Keir. ITEM, for the steilling of tua meirs furth of the landis of Galgerrachene ; committit about Midfomer laft. ITEM, for the thiftious steilling of thre meiris or fillies furth of Campsie-mure. ITEM, for commoun thift, &c.—GILCHREIST KITTOCHE, &c., ffor being in company with the Laird of MakGregour and his complices, and airt and pairt with him of the crewall Murthour and slauchter of dyuerse the Laird of Lufes freindis, feruandis and pairtakeris, to the number of fevin scoir perfones ; committit within the Laird of Lufe boundis, in the moneth of Februar laft : And for the harieing and spuillzeing and reveing of the haill cuntrey thairabout ; and thifteous steilling and away-taking with thame, of the number of aucht hundreth ky, horfe, nolt, schein and vther bestiall ; committit be thame at the tyme foirfaid.

Quhairof the saidis perfones war airt and pairt, accoirding as thair Depositiones and Confessiones beiris.

VERDICT. The Assyse ffind, pronuncet and declairit the pannell to be ffylet, culpabill and convict of the haill crymes respectiue aboue specifeit.

SENTENCE. The Justice, be the mouth of James Henderfone, dempster of Court, ordanit thame, and ilk ane of thame, to be tane to the Burrowmure of Ed', and to be hangit vpon the Galloise thairof quhill thay be deid ; and all thair moveabill guidis to be efcheit, &c.

Intercommuning with the Clan-Gregor.

May 17.—AULAY M^cCAULAY of Ardincapill.

Compeirit Johnne Dunlop, seruitour to my Lord Duik of Lennox, and producet ane Warrant, subscryuit be his Maiestie ; quhairof the tennour followis.

REX,

JUSTICE GENERAL, 3our depute, Justice clerk, Aduocatt and 3our deputtis, We greitt 3ow hairtie weil : fforfamekill as our louit Aulay M^ccaulay of Ardincapill is summond at pe instance of 3ow our said Aduocat, to compeir on the xvij day of Maij nixtocum, to vnderly the law for the allegit intercommuning with *Allaster M^cgregour of Glenfra*, and vmq^o *Johnne Dow M^cgregour* his broper, our rebellis, and for certane vperis crymes and poyntts of Dittay, specifeit and contenit in pe summondis raist pairanent. And We, vnderstanding that the said Aulay M^ccaulay is altogidder frie and innocent of pe saidis allegit crymes laid to his charge ; and that he is to accompany ws to our realme of Ingland, with our darrest coufing the Duik of Lennox, his maister : Thairfoir, and for certane vperis guid cauffis and confiderationes moveing ws, it is our Will, and We command 3ow, to desist and ceife fra all calling or accuseing of the said Aulay M^ccaulay, the day foirfaid ; or ony wayes proceeding aganis him or his cautioner in the matter foirfaid ; bot suffer the dyett, appoyntit to that effect, to desert in it self, as gif ony sic Letteris had nevir bene raist ; naper 3it trubill nor molest pe said Aulay M^ccaulay, for the pretendit cause foirfaid,¹ at ony vper dyet paireftir, quhill the returning of our said

¹ See Note to the Laird of MacGregor's Declaration, Jan. 20, 1604.

derrest coufing furth of our realme of Ingland. As 3e will anfuer to us vpone 3our obedience ; and pat nochtwithftanding of ony vper Warrant gevin or to be gevin in the contrair : Quhairnent pir prefentis fall be to 3ow fufficient Warrant. Subfcryuit with our hand, att Beruik, þe fevint day of Apryle 1603.

(Sic fubfcribitur) JAMES R.

The quhilk Warrant the Juftice admittit, and defertit the faid dyet.

Adultery — Child-Murder.

May 18.—JOHNE RYBURNE of that Ilk.

Robert Montgomerie of Hefsilheid produceit our fouerane lordis letteris, purcheft at the instance of Mr Thomas Hammiltoune, aduocat to our fouerane lord, aganes Johne Ryburne of that Ilk, for Adulterie and the Murthour of ane infant bairne, gottin vpoun Agnes Dunlop : Be the quhilk Letteris the faid Ryburne of that Ilk is put to the Horne.

Murder of Seven Score Persons in the Lennox by the Clan-Gregor, &c.

May 20.—GILLESPIE M'DONALD M'INNES DOW, Donald M'clerich alias Stewart, and Johne M'coneill M'condochie.

Dilatit, accufit and perfewit for being in company with the Laird of M'gregour : AND for airt and pairt of the lait grit flauchter and crewall Murthour of fevin fcoir perfones in the Lennox,¹ all freindis and fervandis to the Laird of Lufe : AND of the thiftious Steilling and Reiffing of aucht hundreth oxin, ky² and vther beftiall, and herrieing the hail cuntrie ; committit in the moneth of Februare laftbypaft : ITEM, for the thiftious Steilling of tua horfe and ane meir furth of Strabrand, fra Johnne Stewart Neilfoun and his man ; committit at Lambes³ laft : AND for commoun Soirning,⁴ &c.—*Donald M. Clerich* dilatit and perfewit for airt and pairt of the thiftious Steilling of nine ky and oxin, tua yeir fyne or thairby, fra Patrik Stewart furth of Innervaik, in Athoill ; and for commoun Thift and commoun Soirning, &c.

VERDICT. The Affyfe, be the mouth of Johnne Douglas, burges (of Edinburgh), chancellor, ffand, pronunceit and declairit the faidis thre perfones to be culpabill and convict of the foirfaidis crymes.

SENTENCE. To be tane to the Caftel-hill of Edinburghe, and to be hangit thair on ane gibbett, quhill thay be deid, &c.

¹ See Apr. 28, Jul. 5 and 14, 1603, &c. ' The 9 of Februarii, the Laird of Macgregor, with four hunder of hes name and factioun, enterit in the Lennox ; quhair he maid Spulzie and flauchter to the number of sixty honest men, befyde wemen and bairnis. He spared nane quhair he came.'—*Birrel's Diary*, p. 58. ² Kine, cattle. ³ Lammas-day, 1st August. ⁴ Taking free quarters by force, (q. d. *sejournant*?)

**Invasion of a Minister, near the Tolbooth, where the Privy
Council were Sitting in Judgement.**

JUN. 29.—WALTER GRAHAME, seruitour to Mr Robert Williamfoun, wryter.

Dilatit, accufit and persewit be DITTAY of the crymes following, viz.

FORSAMEKILL as it is statute and ordanit, be oure souerane lordis Actis of Parliament, speciallie be ane Act maid in his Maiesteis ellevint Parliament, cap. 27, that quhatfumeur persone or persones Invaids ony Minister,¹ or putis ony violent handis in him for ony forget² querrell, fall be pwneift thairfoir with all rigour, and incur the payne of tynfall of all thair moveabill guidis for the said invasioun and violence allanerlie, albeit na slauchter nor mutilatioun follow thairvpoun; the ane half of the saidis guidis to be applyit to our souerane lordis vfe, and the vther to the pairtie invaidit or offendit, but preiudice of the gritter pwneifchment, gif ony heicher cryme concur with the violence and invasioun foirsaid: And als, Proclamatioun was maid, in our souerane lordis name and auctoritie, vpon the . . . day of Junij instant, in the yeir of God, J^m. Vj^c. and thre, befoir the Trinitie ffair, that na persone sould invaid or persew ane vther within this burch, during the tyme of the ffair, vnder the pane of deid: And forder, it is provydit be dyuerse Actis of Secreit Counfall, that na persone fall invaid ony man, be drawing of ane sword, within ane myle to the Kingis Palice, or to his hienes Counfall, vnder the pane of deid. AND trew it is, that the said Walter, in hie and manifest contempt of our souerane lordis Actis of Parliament and Proclamatiounes foirsaidis, vpon deidlie malice confaet be him aganis Mr Thomas Douglas of Stannypeth, Minister at Balmirrieno, and haifing forget a quarrell aganis him, for the revenge of certane injurious speiches, allegit gevin be the said Mr Thomas Douglas to the said Mr Robert Williamfoun, his maister, vpoun the xxj day of Junij instant, he, vpon the xxij day of the said moneth of Junij, preparit to him self ane grit foure-nuikit³ battoun, of aik, of purpois to haif fellit the said Mr Thomas Douglas thair: Lyk as the said Walter set vpon him, behind his bak, vpon the hie streit of the burch of Edinburghe, in the tyme of the said ffair, a lytill beneth the Stinkand-style,⁴ the Lordis of Secreit Counfall being within the said burch, and haifing sittin at Counfall in the Tolbut of the said burch, nocht passand ane half hour befoir the violence and invasioun following; and thair, maift schamefullie, barbaruslie and crewallie, without regard of the person of ane Minister, and haifing never spokin with him ane word of befoir, invaidit him for his slauchter with the said batoun, strak him thairwith tua straikis vpon the heid, behind the richt lug,⁵ and hurt and woundit him thairwith, to the effusion of his bluid in grit quantitie; vpon set purpois, persuasioune,⁶ precogitat malice and foirthocht felony. And efter the committing of the said crewall and schamefull Invasioun, and hurting of him, as said is, the said Walter fled and gat away; and thaireftir was tane and apprehendit for the said barbarus crewaltie; and he hes confessit the samyn. Quhilk batouning of the said Mr Thomas, fa neir to his hienes Counfall, mereittis gritter pwneifchment, nor gif⁷ he had drawin ane sword to the effect aboue specifeit, in respect of the vyle indignitie thair of: Quhairby he hes contravenit the tennour of the saidis Actis of Parliament and Proclamatioun foirsaid, and incurrit the payne of daith, quhilk aucht and sould be execute aganis him with all rigour, in exampill of vtheris, &c.

PERSEWAR.

Mr Johne Nicolfoun of Lefwaid, Aduocat, substitute to Mr Thomas Hammiltoun of Drumcaine.

VERDICT. The Affyse, be the mouth of James Lyndesay of Dowhill, chancellor, ffind, pronuncet and declairit the said Walter Grahame to be ffylit, culpable (and) convict of the saidis crymes.

¹ Clergyman. ² Forged, feigned, simulate. ³ Four-cornered, square. ⁴ Near the Tolbooth, and almost opposite the door of Haddo's-hold, to the eastward of the late New North, or 'Little Kirk.'

⁵ Ear. ⁶ In common style, this word is usually 'provision.' ⁷ Than if.

(Aug. 12.)—Mr Williame Borthuik, Justice-depute,¹ (pronounced Sentence against the pannel,) be vertew, and at command of ane Warrant of the Lordis of his hienes Secreit Counfall, quhairof the tennour followis :

APUD EDINBURGHE, vltimo Junij 1603. The Lordis of Secreit Counfall Ordanis þe Justice and his deputis to pronounce dome vpon Walter Grahame, for þe streking of Mr Thomas Douglas, Minister, with ane batoun ; in maner following, viz. : That þe said Walter fall be scurgit fra þe Castell hill to the Neper boll, throw þis bur^t, and his richt hand to be strukin af at þe Neper boll : And pairfester, Ordanis him to be Banischet his Maiesteis haill dominiones, and onnawwis to returne agane within þe samyn during his lyftyme, vnder þe pane of deid. And that he remove furth of þe saidis realmes betuix and þe last day of September nixtocum, vnder þe pane foirfaid.

(Sic subscribitur) MONTROIS CANRIUS. AL. VCHILTRIE. ELPHINGSTOUN. A. FYVIE. NEUBOTLE. J. COKBURNE. R. COKBURNE. JO. PRESTOUN. CRANSTOUNRIDDELL. QUHITTINGHAME.

SENTENCE. The Justice, be the mouthe of Walter Peirie, dempster of Court, decernit and ordanit the said Walter Grahame to be scurgit throw the bur^t of Ed^r,² &c., within tua moneth nixt following, vnder the pane foirfaid : Quhilk was gevin for dome.

Slaughter.

Jun. 30.—JOSEPH BONCLE, burges of Dumbar.

Dilatit and accusit for the Slauchter of vmq^{le} James Loche, induellar in Dumbar, committit vpoun the xxvij day of Junij instant, be the straik of ane sword in the lifk³ and the wambe.⁴

Compeirit Williame Kellie, Thesaurer of Dumbar, in name of the Proveist and bailleis thairof, and producet the letter vnderwritten ; quhairof the tennour followis.

PROVEIST and bailleis of the bur^t of Dumbar. It is our will, and for findrie guid respectis and considerationes moveing ws, We command zow, that ze caus saidie convoy, bring and present Joseph Bonkle befor our fouerane lordis Justice and his deputies, within þis bur^t of Edin^r, to vnderly the law and justice for þe slauchter of vmq^{le} James Loch, smyth, committit be him vpoun þe xxvij of Junij instant. Quhairanent þir presentis salbe zour Warrant : And but⁵ preiudice or ony derogation to quhatfumeuir zour liberteis and privilegis of Scherefschip, disponit and grantit be his Maiestie in zour fauoris, and contenit in zour new Infeftment, maid þairvpoun. Subscriuit with our handis, at Edinburghe, þe xxix day of Junij, 1603.

(Sic subscribitur) MONTROIS, CANRIUS. J. ELPHINGSTOUN. A. FYVIE. A. VCHILTRIE. QUHITTINGHAM. JO. PRESTOUNE. EDGELL. CRANSTOUNRIDDELL. R. COKBURNE. J. COKBURNE.

VERDICT. The Assyse, be the mouth of Patrik Nisbet in Dumbar, chancillar, ffand, pronunceit and declarit the said Joseph to be ffylit, culpable and convict of the Slauchter of the said vmq^{le} James Loch.

SENTENCE. To be tane to ane place beyde the mercat croce of Edinburghe,

¹ On Aug. 12, 1603.

² In terms of the above Warrant of the Privy Council.

³ The

groin or flank.

⁴ Belly.

⁵ Without.

and thair his heid to be strikin fra his body; and all his movabill guidis to be escheit, &c.

Treason — Forging and Uttering base Money.

ROBERT DOW *alias* MEINZEIS and Allester M'claren, smyth.

Dilatit ffor airt, pairt, red and counsale, and conceilling of the tressonabill fforgeing, counterfitting and outputting of fals and adulterat coinzie, sic as fyve-pound-pecis and foure-merk-pecis, quhilkis Arthour Smyth coinzeit fyve zeir fyne or thairby, in his smiddie beyde Banff: And for outing¹ of ane pairt thairof, amangis our souerane lordis liegis.

VERDICT. The Assyis, be the mouth of Williame Stalker elder, Goldsmyth, ffand them to be ffylit, culpabill and convict of the tressonabill conceling of the fforgeing, prenting and counterfitting of fals coinzie, prentit and forgeit be the said Arthour Smyth, in his smiddie beside Banff, conforme to thair Depositiounis.

SENTENCE. The said Allester M'claren to be tane to the gallow on the Borrowmure, and thairvpoun to be hangit quhill he be deid: And all his landis, heretageis, takis, ftedingis, rowmis and possessionis, guidis and geir, coirnis, cattell, infycht pleneiffing to be forfeitit and escheit, &c.

Continewis dome vpone Robert Dow to the morrow quhill he auise with the Counfall.²

Slaughter of the Laird of Russ's People by the Clan-Gregor, &c.

Jul. 5.—GILLIEMICHELL M'HISCHOK, seruand to vmq¹⁰ Johne Dow M'gregour, and Nicoll M'pharie Roy M'gregour.

Dilatit for being [' at the ffield of the Lennox³ aganis Sir Vmphray Colquhoun: And for airt and pairt of the Slauchter of sewin scoir perfounes,⁴] in cumpany with the Laird of M'gregour and his complices, at the ffeild of the Lennox, aganis Alexander Colquhoun of Lufe: And for airt and pairt of the slauchter of the said Laird of Lufe freindis, fervandis, afflisteris and pairtakeris, to the number of sevin scoir perfones or thairby: And for reifing and herreing of the haille cuntrey, and fteilling and away-taking of ky, oxin, horse, scheip, gaittis and vther bestiall, to the number of aucht hundreth bestiall or thairby; committit in the moneth of Februare lastbypast.

VERDICT. The Assyse, be the mouth of Robert Oifteane in Edinburghe, chancellor, all in ane voice, but⁵ variance, ffand, pronuncet and declarit the saidis

¹ Uttering, putting out. ² On Jul. 5, he is ordained ' to be tane to the Castellhill of Edinburghe, and thair to be hangit quhill he be dead; and all his moveabill guidis to be escheit, and his lands and heritageis, gif he ony has, to be forfeitit,' &c. ³ See Notice prefixed to the Trial of Allaster M'Gregour of Glenstrae, Jan. 20, 1604. ⁴ This sentence occurs at the first entry. See also Apr. 28 and May 17, &c. ⁵ Without.

Gillie-Mitchell M^cifchok, alias M^cgilliechallum, and Nicoll M^cfarie Roy M^cgregour to be ffylit, culpable and convict of airt and pairt of the crymes foirfaidis.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be hangit on ane gibbet quhill thay be deid ; and thair guidis to be efcheit, &c.

' Field of the Lennox' — Slaughter of the Colquhouns, &c.

Jul. 14.—JOHNE (DOW M^cANEVALICH) M^cGREGOUR, at the Kirk of Comerie.

Dilaitit for being in cumpanie with Allaster M^cgregour of Glenstra¹ and his complices, at the ffeild of the Lennox, againis the Laird of Lufe and his freindis : And airt and pairt of the Slauchteris, thiftis, robbereis committit be thame ; quhairin thair was flane vij fcoir perfonis ; committit the aucht day of Februlare laft.

VERDICT. The Affyfe, be the mouth of James Chalmer, burges of Edinburghe, chancellor, ffand the faid Johne Dow M^canevalich M^cgregour to be ffylit, culpable and convict of the faidis crymes.

SENTENCE. To be tane to the Castel-hill of Edinburghe, and thair his heid to be strikin from his body ; and all his movabill guidis to be efcheit, &c.

**Slaughter — Unmerciful Oppression — Shooting ' Hagbuttis,' &c.
Cattle and Sheep Stealing, &c.**

Jul. 19.—GEORGE TRUMBILL, of Belfis.

Dilatit, accusit and perfewit of the crymes *respectiue* following, viz.

FOR airt and pairt of the Slauchter of v^mq^{le} Johne Hammiltoun, callit of Cumnock ; committit the xxij day of Januare, I^m.V^c. threfcoir nyntene yeris. ITEM, of airt and pairt of the Slauchter of v^mq^{le} Williame Trumbill, sone lauchfull to v^mq^{le} Walter Trumbill of Raflat ; committit in the moneth of Apryle, I^m.Vj^c. yeris. ITEM, for Vfurpation of our souerane lordis autoritie, in taking of Adame Trumbill, sumtyme fervand to the faid v^mq^{le} Walter Trumbill of Raflat, he being his hienes frie subject, and binding him with fetteris, and hinging him be the feit and schouderis, ouer ane balk, for the space of xij dayis, quhairthrow his feit rottit fra him ; without Commiffioun gevin him to that effect. ITEM, for contravening of our souerane lordis Actis of Parliament, in beiring and weiring of hagbutis, dagis and pistolettis ; and in schuiting of Walter Trumbill, younger of Raflat, betuix the toun of Jedburgh and the place of Belfis, in the airme and thie ; committit in anno I^m.Vj^c. and tua yeris. ITEM, for the thiftious Steilling of four nolt fra Johnne Donaldsoun, in Melrois ; committit thre yeir fyne or thairby. ITEM, for airt and pairt of the thiftious Steilling of fax ky and oxin, xx schein, tua horfis, with the insycht pleneiffing and eidentis pertening to David Riddell, in St Bofuellis ; committit in the moneth of I^m.V^c.lxxxviiiij yeris, or thairby. ITEM, for the thiftious Steilling of xvj nolt, pertening to the Laird of Bemersfyde ; committit in anno I^m.V^c.lxxxvij yeris. ITEM, for the thiftious Steilling of tuentie nolt, ane yeir fyne or thairby, pertening to the Lady Newtoun. ITEM, for

¹ In the Verdict of the Assise, it is said to have been in company with ' the Laird of M^cGregour ;' so that Allaster of Glenstra was the Chief of this Clan, either by right of blood, or Chieftain for the time, by election, as was usual among the Clans. See Jan. 20, 1604.

the thiftious Steilling furth of the landis of Belfis, in the moneth of Im.Vj^c. and ane yeiris of fyve fcheip, pertening to ane fervand of George Daidfones. ITEM, for the thiftious Steilling and away-taking of ane meir, pertening to George Wilsoune in Langnewtoun, furth of his duelling hous in Langnewtoun; committit ane yeir fyne or thairby. ITEM, for a commone briggane¹ and notorious cowmone theif, refset of thift, outputing and inputing of thift.

PERSEWARIS, Ifobell Trumbill, as dochter (to Walter) and sifter (to Williame Trumbill); George Rutherford, as kinfman; Mr Johne Nicolfoune, substitute for our fouerane lordis aduocat.

PRELOQUUTOIRIS for the pannell, Mr Johne Ruffell, Mr Thomas Craig, Mr Williame Douglas, David Ramsay.

It is allegit be the pannell, that na proces aucht to be grantit vpone the Dittay, vnto the tyme he be fummond vpone xv dayis wairning, in respect the deidis contenit in the Dittay is done xxiiij yeir fyne.—It is anfuert be the Aduocat, that he was denuncet rebell and put to the horne for ane of the slauchteris contenit in the Dittay, viz. ffor the slauchter of v^mq^{le} Williame Trumbill, and ane Commiffioun grantit be the Kingis Maieftie and Counfall for taking of him; be vertew quhair of he was takin and apprehendit and presentit to the Counfale, vpone the fyft day of July; att the quhilke tyme, in prefens of the perfewer and defender, than present, this day (being that day xv dayis) was assignit to the perfewer to perfew him for that cryme and all vther crymes could be laid to his charge: And thairfoir, thair being xv dayis grantit to the Counsell to deliberat vpon his defence, thair aucht to be na forder citatioun grantit.—To the quhilke it is anfuert be the pannell, concerning the Hoirning, he is relaxt. *Secundo*, as to the Commiffioun, na Commiffioun can be grantit to preiudge him of his lauchfull defensis, *parte non citata*. As to the laft, he gat na coppie of the Dittay, and thairfoir man be fummond on xv dayis wairning.

As for the slauchter of v^mq^{le} Williame Trumbill, sayis he was flane be him in his awin defense, he being affageit within his awin hous. As to the slauchter of v^mq^{le} Johne Hammiltoun, denyis, and offeris him to the tryell of ane Affyse. As to the slauchter of Walter of Raflat, sayis he was flane at the horne, and producet the hoirning for verifeing thairof, raifit at the instance of Andro Comendater of Jedburcht, quhair the said Walter, for nocht removeing fra the landis of Raflat, and half ane quarter of the toun and landis of Belfis; quhilkis letteris ar of the dait the xx day of Apryle 1581, and of our fouerane lordis regne the xiiij yeire; denuncet the xij day of Julij, anno foirfaid.—It is alleget be the Aduocat, to the laft pairt, that albeit he was at the horne, the pannell aucht nocht to vsurpe the Kingis auctorite vpone him, to flay ony man at his awin hand.

THE JUSTICE continewis Interloquitour to the morne.

Jul. 20.—THE JUSTICE Remittis the hail poyntis of Dittay, except for the slauchter of v^mq^{le} Walter Trumbill of Raflat, to ane Affyse.

It is allegit aganis James Waddell, burges of Jedburghe, that he can nocht pas

¹ Robber; Fr. *brigand*.

vpon this Assyse, becaus thair is deidlie feid standand betuix the hail name of Trumbill, on the ane pairt, and the Laird of Pharniherft, the hail Keris, and the hail inhabitantis of the toune of Jedburghe, on the vther pairt, for the Slauchter of Thomas Ker, brother to the (Laird of) Pharniherft.

The Aduocat protestis for Wilfull errour, in caice that thay acquit George Trumbill of the slauchter of vmq¹⁰ Williame Trumbill, becaus he confest the committing of the Slauchter out of his hous, he being affageit, and allegeit in his defence.

The Aduocat, for instructing of the Dittay, producet ane Testimoniall, beiring the pannell to be excommunicat for Slauchteris, Murthouris, Incestis and Adultereis, &c.; subscryuit be Mr George Douglas, clerk of the Presbiterie of Jedburghe.

VERDICT. The Assyse, be the mouth of Walter Eleife, in Danieltoun, chancellor (be pluralitie of voittis), ffand, pronunceit and declairit the said George Trumbill to be ffylit, culpabill and convict of beiring, weiring and schuiting with hagbuttis and pistolettis, contrair the tennour of our souerane lordis Actis of Parliament; committit betuix the toune of Jedburghe and the place of Belfis, in anno I^m.Vj^c. and tua yeiris: And to be Clene, innocent and acquit of the hail remanent crymes aboue specifeit, mentionet in the said Dittay; and speciallie, of the slauchter of the said vmq¹⁰ Williame Trumbill, becaus the samyn was done in his awin defens.

Quhairvpoune the said George Trumbill askit instrumentis.

(Aug. 18.)—SENTENCE. The Justice decernit and ordanit the said George Trumbill to be tane ' to the mercat-croce of Edinburghe, and thair his richt hand to be strukin frome his airme, as convict of the said cryme; quhilk wes gevin for dome.¹

Sorcery—Charming—Abusing the People.

Jul. 21.—JAMES REID, sumtyme serveand to George Andersoun in Muffilbur^t.

Dilatit, accusit and persewit, be Dittay, of the crymes following, to wit,

FOR ane cowmone Sorcerer, charmer and abuser of Godis peopill, be geving him selff out to hail all kynd of seiknes: Quhilk craft he lernit fra the Devill, his maister, in Bynnie-craigis and Corstorphin-craigis, quhair he met with him and consultit with him to lerne the said craft; quha gaif him thrie penneis, at ane tyme, and a peice creifche² out of his bag, at ane vther tyme; he haifing appeirit to the said James dyuerse tymes, quhyles³ in the liknes of a man, quhyles in the liknes of a hors: with quhome he lykwayis dyuerse tymes consultit sen his first meiting, quhilk is threttene yeir fyne or thairby; quhilk lykwayis

¹ See Aug. 23, 1602.

² Grease, fat.

³ Sometimes, occasionally.

lernit him to tak soute-rynnand-watter¹ to cuir the saidis diseiffis. ITEM, for cureing of Sara Borthuik, be his Sorcerie and devilrie, quha was grevoullie trubillit and diseafit, be bringing of south-rynnand-watter fra the Schyreff-brayis-wall, and casting a certane quantitie of salt and quheit about hir bed; be the quhilk cuir scho was hailit. ITEM, fforfamekill as he, be the speciall persuaioune of Jonet Crystie, dochter to Johne Crystie at Crystiesounis mylne, and his mother, consultit with the Devill, for distructioun of Dauid Libbertoun, baxter, burges of Edinburghe, his spous, thair coirne and guidis; quha caufit him tak a peice raw flesche, quhairvpone he maid nyne nekkis,² and inchantit the samyn, quhilk he delyuerit to the said Jonet, and caufit hir lay ane pairt thairof vnder the mylne dur, and the rest vnder the stabill dur, for distructioun of his hors and cattell. And als, inchantit to him nyne stanis, quhilk the said James cuift vpone the said Dauid Libbertones landis, for distructioun of his coirnes. Lyk as, the said James and the saidis Jonet Crystie and hir mother infformet³ and maid ane pictour of walx, quhilk the Devill inchantit; and he and the wemen turnit the pictour at ane ffyre, in the said Johnne Crystiesones hous, for distructioun of the said Dauid Libbertones selff. ITEM, for cureing of the said Johnne Crystie, being diseafit of a fwalling, in putting of thre filk poyntis,⁴ in his devilisch maner, about his waift, quhilk remanit ten oulkis⁵ with him; and went away fra the said Johnne, be quhat way he knew nocht.

VERDICT. The Affyse, be the mouth of Johne Howie, merchand, chancellor (all in one voce), ffand, pronuncet and declarit the said James Reid to be ffylet, culpabill and convict of the haill crymes aboue specifeit.

SENTENCE. To be tane to the Castel-hill of Edinburghe, and thair to be wirreit⁶ at ane staik; and his body to be brunt in affis:⁷ And all his moveabill guidis to be escheit, and inbrocht to his hienes vse, as convict of the saidis crymes.

Murder — Robbery.

Jul. 27.—THOMAS HORSBURGH, burges of Peiblis.

Dilaitit and accusit of the Murthour and Slauchter of vmq¹⁶ Williame Chisholme in Peibillis, with his awin quhinger, vnder silence and clud of nycht: And als, of the thiftious steilling of ten sax li. peces,⁸ and tuentie merkis in quhyte filuer, pertening to the said vmq¹⁶ Williame, vnder the said Williames bed-heid; committit in the moneth of Marche lastbypast: And ficlyk, for the thiftious steilling of tuentie tua li.⁹ fra his guid-mother,¹⁰ committit nyne yeir fyne, or thairby.

¹ This superstition still obtains, in many remote places of Scotland; where the virtues of such water are firmly believed in. ² *Nicks*, notches. ³ Formed, constructed. ⁴ Laces, ties. ⁵ Weeks. ⁶ Strangled. ⁷ 'The 21 of Julij, James Reid brunt, for consulting and useing with Sathan and Witcheis; and quha was notably knawin to be ane counsellor with Witcheis.'—*Birrel's Diary*. ⁸ Ten £6 pieces. ⁹ £22. ¹⁰ Mother-in-law.

VERDICT. The Affyse, all in ane voce, be the mouth of Michell Hunter of Polmwid, chancellor, ffand, pronuncet and declairit the said Thomas to be ffylet, culpabill and convict of the saidis crymes.

SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair to be hangit on ane gibbett quhill he be deid ; and thaireftir his heid and richt hand to be strukin fra his body ; and the heid to be fet vpone ane prik vpoun the stepill-heid of Peiblis ; and his richt hand to be put on the Eift-pairt thairof : And all his moveabill guidis to be escheit, &c.

Usurpation of King's Authority — Hurting and Wounding.

Jul. 29.—ALEXANDER SEYTOUN, in Boigin-Johne.

Dilatit for the taking and apprehending of Mr Johne Cardno, convoying him to his hous in Boigin-Johne, and detening him captiue and presoner, be the space of xxiiij houris ; and hurting of him with ane rapper¹ in the body, and vsurpation of our souerane lordis autoritie vpoun him, in taking of the said Mr Johne ; committit in Nouember lastbypast.

The pannell askis instrumentis of his comperance on pannell, and protestis for releif of his cautioner ; and als, he offerris him reddie to vnderly the law for the said cryme, disaffenting till all continewatioune.

The Justice continewis to the Justice-air of ' Abirdene, tercio Itineris, (vel super premonitione) xv dierum.' James Chene of Straloch, cautioner.

Slaughter.

Jul. 30.—GEORGE HARRETT of the Coittis.

Dilatit for the Slauchter of vmq¹⁰ Williame Dowglas, in Muffilburgh, seruitoure to Williame Erll of Angus, lord Douglas, &c. ; committit in the moneth of Julij, the yeir of God I^m.Vj^c. and twa yeiris.

Marioune Wilfoun, the relict, producit our souerane lordis Letteris, dewlie execute and indorfat, &c. Thomas Harrett in Lintoune, his cautioner, vnlawit and americiat in the panis contenit in the Actis of Parliament, viz. in the payne of ane hundreth merkis ; and als adiudget the said George Harrett to be denuncitoure souerane lordis rebell, and putt to the horne ; and all his movable guidis ordanit to be escheit.

Murder.

Jul. 30.—MARIOUN WARDLAW, spous to Johne Kennedie, gantillet maker, burges of Edinburghe.

Dilaitit of airt, pairt, red and counfall of the Murthour committit be Williame Boirthuik, tutour of Boirthuik, Johne Boirthuik his brother, and vtheris

¹ Rapier.

thair complices, in cuming to James Frammis duelling-hous in the Cannogait, vnder scyence of nycht, and strykeing of him nyne straikis in the body and heid, to the effuifoun of his body ; and levand him for deid.

PERSEWAR, James Framme, gantillet-maker in Edinburghe.

Continued to the air of Edinburghe, 'tercio Itineris (vel super premonitione) xv dierum.'

**'Field of the Lennox'—Slaughter of Colquhouns—
Stouthreif, &c.**

Aug. 12.—DUGALL M'GREGOUR and Neill M'Gregour Pudrache.¹

Dilatit and accusit of the crymes following ; to wit, the said *Neill M'gregour* of airt and pairt of the Slauchter of vmq^o Patrik Layng and of vmq^o Johne Reid, wobster, servandis to the Laird of Lufe ; committit in December lastwas : AND scilyke, of airt and pairt of the thiftious Steilling of tuelf scoir guidis furth of the Laird of Luffes boundis, in the Lennox ;² committit the tyme foir-faid. AND scilyk, the said *Dougall M'gregour*, of airt and pairt of the Slauchter of foure men, servandis to the Laird of Lufe, in the lait feild of the Lennox ;³ and being in companie with the Laird of M'gregour and his companie at the same feild ; and airt and pairt of the Slauchteris, reiffis, thiftis and foirningis committit that day, in the moneth of Februare last.

VERDICT. The Assyse, be the mouth of James Broun, burges of Dumfreis, chancellor, ffand, pronuncet and declairit the saidis Neill M'Gregour Pudrache, and the said Dougall M'gregour to be fylit, culpabill and convict of the hail crymes aboue specifeit.

SENTENCE. Thairfoir the said Justice-depute, be the mouth of Walter Peirie, dempster, decernit and ordanit the saidis Neill and Dougall M'gregour to be tane to the Burrow-mure of Edinburghe, and thair, vpone ane gibbet, to be hangit quhill thay be deid ; and all thair moveabill guidis to be escheit, &c.

Incest—Adultery—Theft, &c.

Aug. 23.—GEORGE TRUMBILL, in Belfis.⁴

Dilaitit, accusit and perfewit, be DITTAY, of the crymes following, viz.

FORSAMEKILL as it is expresse provydit, statute and ordanit be our fouerane lordis Actis of Parliament, that all notorious and manifest Adultereris and Incestuous perfones sould die the daithe, and thair hail moveabill guidis to be escheit to our fouerane lordis vse ; and all sic perfones quha ar excommunicat for Adulterie, ar be Act of Parliament estemit for notorious and manifest adultereris ; as the saidis Actis at mair lenth beiris : And trew it is, that the said George Trumbill hes in the monethis of Januare, Februare, Marche, Apryle, Maij, Junij, Julij, August, September, October, November and December, in the yeiris of God I^m.V^c.lxxxviiij, lxxxix, 1600, 1601, and I^m.V^c. and tua yeiris ; at the leif in ane or vther of the saidis monethis and yeiris, abufet his body in the filthie cryme of Incest and

¹ Pudrache signifies of the country or district of Balquhiddier. ² See Mar. 20, 1603, &c. ³ See Jan. 20, 1604.

⁴ See Jul. 9, 1603, and Aug. 18, when he had his right hand struck off for shooting pistolets, &c.

Adulterie with Marioun Trumbill, spous to Jok Trumbill in Belfis, his brother sones wyfe; ffor the quhilk fact he is excommunicat within the Presbiterie of Jedburcht; as the sentence of excommunicatioune proportis. ITEM, for the thifteous steilling of ane gray horse furth of the landis of Raslat, pertening to vmq^{le} Walter Trumbill of Raslat; committit in the moneth of September, 1577. ITEM, for the steilling of xx oxin and ky furth of the landis of Raslat, fra the said vmq^{le} Walter; committit in the moneth of September lxxix yeiria. ITEM, for the thiftious stelling and reising of foure horse, fra foure mylleris of Jedburcht; committit thre yeir syne, or thairby. ITEM, for the steilling of ane naig fra Walter Trumbill now of Raslat.

PERSEWERIS.

Sir Thomas Hammiltoun of Monkland, kny^t, aduocat to our souerane lord; George Rutherford.

PRELOCUTORIS for the pannell, Mr Johne Russell, Mr Williame Douglas.

It is allegit be George Trumbill, that he sould nocht be putt to ane Assyis for the crymes of Thift in the Dittay; becaus, within this moneth, he wes chargeit befor your lordships of findrie particuler poyntis of thift and commoune thift; comprehending all pointis of thift, except itt wer for pointis of thift committit sen his clangeing. The Aduocat alledgis it is nocht relevant.

THE JUSTICE ordanis George Trumbill to be putt to the Assyse, for all crymes contenit in the Dittay, except sic as he is alreddie clangeit of.

The Aduocat takis instrumentis of the swerking of the Inqueist; and of production of the Presbiteries Testimoniall, testifeing George Trumbill to be excommunicat for Incest and Adulterie, contenit in the Dittay: And protestis Wilfull Errour, in caice thay acquit. And further, produceis Letteris of Hoirning, to verifie the vther foure poyntis of Dittay, and of his lang remaning vnrelaxit; and protestit for Wilfull Errour, in caice thay acquit, in respect foirsaid.—The pannell takis instrumentis of Halyburtoone of Moreislaw comperance, and swerking of the twa pointis of the Dittay, viz. of the mylleris naigis, and Watt Trumbillis naig. The Aduocat askis instrument of the swerking of the Dittay, be the Guidman of Morislaw.

VERDICT. The Assise, having 'be pluralitie of voitis' chofen Williame Cokburne of that Ilk chancellor, thay ffind, pronuncet and declairit the said George to be ffylet, culpabill and convict of the haill crymes *respectiue* aboue writtin.

SENTENCE. And thairfoir the said Justice-depute, be the mouth of Robert Scott, dempster of Court, decernit and ordanit the said George to be tane to the Castell-hill of Edinburgh, and to be hangit on ane gibbett quhill he be deid; and his haill landis, heritageis, tenementis, annuelrentis, possessionis, coirnis, cattell, infycht pleniffing, guidis and geir, to be forfaltit and escheit to our souerane lordis vsē, as convict of the saidis crymes.

Slaughter — Houghing Oxen — Stouthreif, &c.

Sep. 23.—JOHNNE JOHNNESTOUN, callit of Loch-hous.

Dilatit, accuset and persewit be Sir Thomas Hammiltoun of Monkland, knycht,

aduocat to our fouerane lord, ffor airt and pairt of the slauchter of vmq^{le} Johnne Cunninghame, fervand to the Erle of Glencairne ; committit in the yeir of God I^m.V^c.lxxxxvj yeiris, or thairby, within the burch of Edinburgh. ITEM, for airt and pairt of the slauchter of vmq^{le} Gilbert Roriesoune. ITEM, for airt and pairt of the hoching¹ of Robert Cuninghames oxin. ITEM, for airt and pairt of the maisterfull and stouthfull reveing fra James Lichtoun, Johnne Kello, Johnne Byres, George Cuninghame, merchandis burgefiss of Edinburgh, . . . Hunter in Glesgow, and Williame Walker at Bellis-mylne, of thair purffis and money being thairin, estimat to thre thousand (and viij^c) merkis ; and away-taking of thair nagis fra thame ; committit in the moneth of Julij 1602 yeiris, at the Rowne-tre-barne, betuix Air and Wigtoune.

ASSISA.

Charles Campbell of Horfleuch,
Charles Campbell of Skeringtoun,

George Campbell of Gelt,
Williame Campbell of Walwoid.²

VERDICT. The Affye all in ane voce, be the mouth of the said Charles Campbell of Horfleuch, chancellor, ffand, pronuncet and declairit the said Johnne Johnnestoun of Loch-hous, accoirding to his awin Confessioun, maid in judgement, and Depositiones subscryuit with his hand, to be ffylit, culpabill and convict of the haill poyntis of Dittay aboue reherfit.

SENTENCE. To be tane to ane scaffald at the mercat-croce of Edinburgh, and thair his heid to be strukin fra his body. And all his moveabill guidis to be escheit, &c.

[*Mr Andrew Kneilland, Justice-Depute.*³]

Diet continued owing to Plague in Edinburgh.

Nov. 8.—JOHNNE COLQUHOUN, younger of Campstradden,⁴ Dougall M^cFarlen, and Johnne M^cConeill V^cneill M^cFarlane and others.

Compeirit Antoun Whyte, wryter, and producet ane delyuerance grantit be the lordis of Secretit Counfall, subscryuit be my Lord Chancellor, &c. as follows.

MY LORDIS OF COUNSALL, vnto your lordschipis humlie menis and schawis we your seruitouris, Sir Johnne Murray of Tulliebarden, kny^t, and James Hadden of Glennageis : That quhair, we and ather of ws haif purchest lettres, quhairwith we haif causet charge *Johnne Colquhoun, younger of Campstradden*, Dougall M^cFarlane, Johnne M^cConell V^cneill Makfarlane, and certane vtheris perfonis thair complices, specifeit in the saidis letteris direct thairvpoune, to find caution, that thai fall compeir befor our fouerane lordis Justice and his deputis within the Tolbuthe of Edinburgh, the aucht day of November instant, to vnderly the law for certane crymes mentionet in the saidis letteris : At the raising of the quhilkis letteris, we and ather of ws ffand caution actit in the buikis of Adiornall, for repointing of the saidis letteris, deulie execute and indorfate, at the day foirsaid, vnder the panes contenit in the Actis of Parliament. And be reffone of the fuspitioune and danger of the plaige of pestilence

¹ Hamstringing. ² James Johnstone of Lochwood beheidit at the crosse of Edinburgh, for oppression, slaughter, and raising of fyre and vthir maney crymes.—*Birrel*. ³ The rest of the Assise composed of merchants. ⁴ This Judge is first noticed, Nov. 3, 1603. ⁵ See p. 432, where he is said to have been *killed*, 7th February preceding!

within the said burcht of Edinburgh, quhilk hes intervenit sen the raising of the saidis letteris, we nor the personis summond on the Assyse of the persones dilaitit, may nocht guidlie repair thither, for feir of the said plaigue. Quhairthrow, necessar it is that the day foirsaid be prorogat and continewit to ane certane vther competent day thairefter, that (gif it pleis God to stay the said plaigue) we may faillie refoirt and repair to the said burcht of Edinburgh, to the effect aboue specifeit. Heirfoir, we besaik your lordschipis, that ye will give command to our souerane lordis Justice, Justice-clark and thair deputis, to continew the day foirsaid, to ane certane vther lauchfull competent day thairestir; and to wairne the partie and the persones summond vpon the said Assyse thairto; quhairthrow we may the mair faillie repair to the said burcht to the effect aboue writtin: Quhairnent it will pleis your lordschipis to dispense with us, and all panes and vnlawis, quhairinto we or ather of ws, or ony of the persones summond vpon the said Assyse, may ony maner of way be vnlawit or adiudget, for our non-compeirance, at the said viij day of November instant: And your lordschipis anfuer humlie we besaik. [FIAT UT PETITUR.] (Sic subscribitur) MONTROISS, CANBIUS. M. R. YOUNG.

According to the quhilk Warrant, the Justice continewit the said dyet to the said xxij day of December nixtocum; and ordanit the parteis to be summond, and ane Assyse also to be summond to the said day; and the cautioner to stand obleist for repoirting of the saidis letteris, deulie execute and indorfate, agane the said day.

Slaughter.

Nov. 17.—JAMES KYNNAIRD in Inchtur, Williame Haitlie in Balgay, and Williame Kynnaird, sone to the Laird of Kynnaird.

Patrik Bruce of Fyngask and Johnne Kynnaird, fear of that Ilk, americiated in the pane of ane hundreth merkis, for ather of the saidis James, &c. for nocht entrie of thame to haif vnderlyne the law, for airt and pairt of the felloun and crewall Slauchter of vmq^{le} Johnne Scherp, seruitour to the Laird of Ruthven; committit vpon the first day of July lastbypast, vpon set purposis, prouisioun and foirthocht felony. And James Kynnaird, &c. to be denunciect rebellis, and put to the horne, &c.

Slaughter.

Nov. 23.—JAMES CUMING, fear of Alter, Johne Cuming, his seruand.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Thomas Hay of Edinvaill; committit the xx day of July lastbypast, betuix the place of Alter and the toun¹ of Edinvaill, vpoun sett purposis, provisioune and foirthocht felony.

Williame Hay, as brother, and Robert Hay, as sone, to vmq^{le} Thomas Hay, produced the letteris, dewlie execute, &c.—Alexander Rychardfoun, Minister of Dolese, declarit vpoun his grit aith, tane vpoun ane buik, that the said James Cuming wes heavelie diseifit with ane flux of natour, and ane flux of his body, and that he wes subiect to the said seiknes: And Mr Alexander Cuming offered to prove that 'he may nocht travell,' &c.—Williame Cuming, fear of Ernfyde,

¹ Farm-steading.

as cautioner, was vnlawit for non-entrie of the said James Cuming, in the pane of ane thowfand mark, and for nocht entrie of Johne Cuming, in the pane of ane hundreth merks; and they ordanit to be denunceit, &c.

Nov. 24.—Letters of Horning given in by Robert Hay, feruitour to Frances Erle of Erroll, to be registrate against the pannell, with executions and denounciatounis, &c.

[*CURIA tenta per Archibaldum Ergadie Comitem, Justiciarum Generalem et Magistrum Willelmum Hairs ejus deputatum principalem.*]

Treason — Hamesucken — Oppression — Stouthreit, &c.

Jan. 12, 1604.—GEORGE MELDRUM, younger of Dumbrek.

Dilatit, accuset and persewit be Sir Thomas Hammiltoun of Monkland, aduocat to our fouerane lord for his hienes entreis, of the crymes following, to witt.

FORSAMEKILL as the said George, haifing confaut ane deidlie feid, rancor and malice aganis Andro Meldrum, his brother, he, accompaneit with dyuerse vtheris his complices and sermandis, to the nümber of ten perfones, or thairby, all bodin in feir of weir,¹ with hagbutis, dagis and pistolettis, expresse prohibeit to be borne, worne, vsed or schot with, be our fouerane lordis Actis of Parliament, in the moneth of or thairby, the yeir of God I^m.V^c. fourfcoir nyntene yeiris, being four yeir syne, or thairby, come to the Mylnetoun of Dumbrek, quhair the said Andro was, in sober and quyet maner for the tyme, &c.; and thair set vpon him, and crewallie inuidit him for his Slauchter, and hurt and woundit him in his hand, schoulder and face, to the effusioune of his bluid in greit quantitie: And thaireftir tressonabillie tuik the said Andro captiue and prissoner, had and convoyit him to the place of Dumbrek, quhair the said George detenit him as captiue, be the space of aucht oulkis, or thairby, in strait firmance and captiuitie; and thaireftir transportit him to the place of Ernesyde, quhair the said George and his sermandis keipit the said Andro in strait firmance, be the space of fyftene or tuentie dayis, quhill he escaipit fra thame perforce: Vfurpand thairby our fouerane lordis auctoritie vpon him, in taking of the said Andro, his hienes frie lege man, but² Commiffiounne, and detening him in captiuitie, be the space foirfaid; committing thairby manifest Tressone: AND als, for contravening the tennour of the Actis of Parliament, in beiring, weiring and vseing of the saidis hagbuttis and pistolettis. ITEM, fforfamekill as the said George, haifing confaut ane deidlie feid, rancour and malice aganis Andro Meldrum of Achqubarteis, laitlie, in the monethis of September or October, the yeir of God I^m.Vj^c. yeiris, being accompaneit with Patrik Scheill and Alexander Meldrum, his sermandis, bodin in feir of weir, with hagbuttis and pistolettis, contrair the tennour of the Actis of Parliament, come be way of Hamesukkin to the place of Achqubarteis, vnder silence and clud of nycht, about foure houris in the moirning, befor day; and thair, the said George darnit³ him self and his sermandis in ane out-hous, belanging to the said Andro, neir to the said place, quhair he remanit quyet, quhill about elleuin houris of the day, that the said Andro Meldrum come furth to ouersie his awin turnes,⁴ and thair set vpon the said Andro Meldrum, and tressonabillie pat violent handis in his persone, tuik him captiue and prissoner, and convoyit him away with him as ane malefactour, fra his said duelling-hous, and brocht him south ouer to Andro Fyfes hous, in the Burrow-mure of Edinburgh, besyde Merchinstoune; quhair the said George detenit him captiue, be the space of thre or foure dayis thairefter, quhill the said Andro ('*eschewit*,' or '*escaipit*'⁵) furth of the said hous, by⁶ his knowledge and aganis

¹ Arrayed in warlike manner. ² Without. ³ Hid, concealed. ⁴ Concerns, business, affairs.
⁵ Until the said Andro escaped. A word is omitted in the Record. ⁶ Beside, without or contrary to his knowledge, unknown to him.

his will : Vfurpand thairthrow our fouerane lordis autoritie vpon him, in taking and keeping captiue of the said Andro Meldrum of Acquhartis, his hienes frie liege man, but¹ commissioun or auctoritie, and committing thairby manifest Treffone : AND als, for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbutis and pistolettis. ITEM, fforfamekill as the said George, haifing confauct ane deidlie feid, rancour and malice aganis Mr Alexander Gibfone, ane of the Clerkis of our fouerane lordis Counsell and Seffioune, he, accompaneit with Nicoll Jardane, Robert Jardane, Johnne Johnftoun, callit *Swyne-fute*, Johnne Ker, sone to the Tutour of Gradane, and Alexander Bartilmo, with tua fute-boyis, ane company of cowmoune and notorious thevis, brigandis and murtherouris, all bodin in feir of weir, with fuordis, hagbutis and pistolettis, expresse prohibeit to be borne or worne, as said is, laitlie, in the moneth of October or September, the yeir of God, I^m. fax hundreth and ane yeiris, being adverteit of the said Mr Alexanderis dyett, be ane fellow callit Craik, the said George Meldrumis awin man, quhome he send to espy the said Mr Alexanderis dyet within the Citie of St Androis ; at the quhilk tyme, he fet vpon the said Mr Alexander Gibfone, Mr Alexander Levingstoun, aduocat, and Robert Guthrie, seruant to the said Mr Alexander Gibfone, within the boundis of the schereflome of Fyffe, besyde the Watter-syde of Dundie, quhair thay war in sober and quyet maner rydand for the tyme, dreidand na harme, iniurie, or persute of ony perfonis, bot to haif leuit vnder Godis peax and our fouerane lordis : and thair crewallie Invaidit thame for thair Slauchteris, and compellit thame to rander thame selfis to the said George and his compliceis foirfaidis ; and tressonabillie pat violent handis in thair perfonis, tuik thame captiues and priffoneris, had and convoyit thame away with him out of the way, and besyde Couper-in Fyfe, (he being ane landit gentilman,) tressonabillie, be way of maisterful Stouthreif, rest fra thame thair purffis, with certane gold and siluer being thairin, extending to the quantetie of thre hundreth merkis or thairby ; and thaireftir convoyit thame to the toun of Kinghorne, quhair he demittit² the saidis Mr Alexander Levingstoun and Robert Guthrie : And thairfra convoyit the said Alexander Gibfone, and brocht him with thame selfis ouer the fierrie of Kinghorne to Leyth, and convoyit him captiue to Williame Kayis houfe in Leyth, quhair Serjand Moffet come to thame ; and thairfra the said George maist tressonabillie convoyit the said Mr Alexander Gibfone captiue by³ the Palice zet of Halyrudhous, throw ane gritt pairt of Louthiane and throw Tueddell, to the toun of Melrois ; and befor thair entrie within the said toun, the said George, with his complices, devydit the gold that was in the tua purffis amangis thame, quhair of ilk ane of thame gat tuentie merkis, or thairby, for thair pairtis ; and fra the said toun of Melrois thay convoyit the said Mr Alexander captiue vnto Ingland, to George Ratleiffis houfe ; quhair thair detenit him captiue and priffoner be the space of aucht dayis or thairby : Vfurpand thairby our fouerane lordis autoritie vpon thame, in taking the saidis perfonis, thay being his Maiesteis frie leigis ; haifing na power nor Commissioun to that effect ; in manifest contempt of his Maiestie : committand thairby manifest Treffone : LYK AS, the said George, being ane landit Gentilman, committit maist tressonabill Thift and Stouthreif, in reiffing of thair purffis, and gold foirfaid being thairin ; AND siclyk, for beiring and weiring of hagbutis and pistolettis, contrair the tennour of the Actis of Parliament. Off the quhilkis crymes *respectiue* aboue writtin, the said George was speciall actour ; at the leif, airt and pairt thairof. AND last, the said George being indytit and accusit, fforfamekill as he, accompaneit with Johnne Meldrum, his brother, and dyuerse vtheris, his complices, laitlie, in the moneth of November lastbypast, being bodin in feir of weir, with hagbutis, dagis and pistolettis, prohibeit to be borne or worne, as said is, be our fouerane lordis Actis of Parliament and Secreit Counsell, come to the place of Dumbrek, pertening heritable, and being in the lauchfull possessioun of Andro Meldrum, his brother, keipit be him and his servandis, and tuik the samyn place perforce, and held and detenit the samyn be the space of fevin oulkis or thairby.⁴

¹ Without. ² Suffered to go, dismissed. ³ Past. ⁴ This latter part of the Dittay is thus shortly given in another place of the Record : ' And for taking of the place of Dumbrek, and keeping of the samyn aganis the Kingis gaird, quha, be vertew of ane Commissioun, was commanded to pas to the said hous and chairge him to rander the samyn ; quhilk he disobeyit.

ASSISA.

James Tennent of Kairnes, Williame Foullertoun of Arde, Jo. Crèichtoune, Y^r of Strathurd,
 J^r Kynneir, younger of that Ilk, Alex^r Falconer of Halkertoun, Da.Haddene, tutour of Glennageis,
 Mr Patrik Balfour of Pitcullo, Johnne Veitche of Dawik, Thomas Ker of Caveris,
 George Murray of Brochtoune, Williame Burnet of the Bairnes, Geo. Hereis of Kirktone of Eshe,
 Archebald Ogilvie of Keillour, Aulay M'caulay of Ardincapell, Johnne Boyle of Kelburne.

For verificatioun quhairof, the said Sir Thomas Hammiltoun producet the said George Depositiones, subscryuit with his hand, beiring his Confessioun of the haill crymes aboue specifeit. The Aduocat askit instrumentis, (1.) Of the sweiring of the Affyis : (2.) That George Meldrum declairis he becumis in his Maiefteis will, for the taking and hurting of his brother, and for the taking of the Guidman of Acquhariteis. (3.) Of George Meldrumis cuming in will, for the offence done to Mr Alexander Gibsoun and his company. (4.) Of the reiding of the pannellis Depositiones to the Affyse judiciallie : And (5.) In respect thair-of, and of his Confessioune thairof, in judgement, and becuming in will for the haill Dittay, protestis for Wilfull Errorr, in cais thai acquit.

VERDICT. The Affyse, be the mouth of the said Alexander Falconer of Halkertoun, chancellor, ffand, pronuncet and declairit the said George Meldrum, younger of Dumbrek, to be ffylet, culpabill and convict of the haill crymes aboue specifeit.

SENTENCE. And thairfoir, the said Justice-generall and Mr Williame Hairt, his principall depute foirsaid, be the advyse of John Erll of Montrois, chancellor of this realme, and dyuerse vtheris Lordis of his Maiefteis Secreit Counfall and Sessioun, than sitting in judgment, as Assessoris, (ffinding the saidis crymes to be tressonable), be the mouth of Robert Scott, dempster of Court, Ordanit the said George Meldrum to be tane to ane scaffold, belyde the mercait croce of Edinburghe, and thair his heid to be strukkin fra his body ; and all his landis, heritageis, takkis, steidingis, rowmes, possessiones, coirnes, cattell, inficht pleniffing, guidis and geir to be fforfalt, escheit and inbrocht to our souerane lordis vsè, as convict of the saidis tressonable crymes.—Quhilk wes pronunceit for dome.¹

[*Mr Williame Hairt, Justice-Depute.*]

'Field of the Lennox,' or 'Conflict of Glenfruin' — Slaughter of the Colquhouns — Stouthreit — Treason — Fire-raising, &c.

[THE proscription and the cruel and systematic persecution of the CLAN-GREGOR, for a long series of years, although, in the abstract, a subject familiar to every reader of Scottish History, has hitherto been very imperfectly explained. The Criminal Records, and the Acts of the Privy Council, throw much light on all the various branches of this extraordinary event. To save the necessity of future repetition, it appears to the Editor to be necessary, at the outset of these proceedings, to give a very brief sketch of the circumstances which led to 'THE FIELD OF THE LENNOX'—or 'THE RAID' or 'CONFLICT OF GLENFRUIN'; and of those events which ultimately terminated in the Execution of

¹ 'The 12 of Januar, Geo^r Meldrum of Dumbrek behedit, for Oppression and uther odious crymes.'—*Birrel*.

the Laird of MacGregor, and of many others of his name. All the future oppression and persecution of the race of the MacGregors ostensibly take their rise from this Conflict.

The Clan-Gregor, which, from whatever causes, had been for some time looked upon as an unruly tribe, was, for some years previous to 1603, placed under the control of ARCHIBALD (seventh) EARL OF ARGYLE, who, as King's Lieutenant in the ' Bounds of the Clan-Gregor,' was invested with very extensive powers, and who, by his acceptance of the office, was made answerable for all excesses committed by the Clan. In these circumstances, it might be supposed that it was Argyle's interest, as it certainly was his duty, to have done all in his power to retain the Clan-Gregor in obedience to the laws; but, on the contrary, it appears that, from the time he first, as King's Lieutenant, acquired the complete control of the MacGregors, the principal use he made of his power was artfully to stir up the Clan to various acts of aggression and hostility against his own personal enemies, of whom, it is known, COLQUHOUN of LUSS was one. It is to this crafty and perfidious system of the Earl, therefore, that we must solely trace the feud between the Colquhouns and MacGregors, which proved, in the end, so hurtful to both; a result, no doubt, all along contemplated by this powerful but treacherous Nobleman. But it is unnecessary to enlarge upon this point, as the Dying Declaration of the Laird of MacGregor places in a very clear light the cruel and deceitful policy pursued by Argyle, and which was too frequently resorted to by others, in those days, for *quieting* the Highlands. It may be remarked, that this interesting document, besides undoubtedly bearing internal evidence of truth, is corroborated, in almost every part of it, by the Public Records.

It is also to be remarked, as particularly worthy of notice, that at the period of this fatal Conflict, both of the contending parties were, in a manner, equally armed with the Royal authority; the Laird of Luss having raised his forces under a Commission, emanating from the King himself; while the Laird of MacGregor marched to invade the Lennox, under the paramount authority of the King's Lieutenant!

The popular accounts of this transaction charge the MacGregors with two atrocities, committed after the battle, viz. the Murder of Sir Humphrey Colquhoun, who had fled from the field of battle, and had taken refuge in the Castle of Bannachra; and the Slaughter of a number of defenceless boys, from the Grammar School or ' College ' of Dumbarton,¹ who, from curiosity, came to see the fight, and had, by Colquhoun's order, been put into a barn for safety; where, on the success of the Highlanders, they were said to have been murdered. In justice to the Clan-Gregor, it is but fair to mention that, on investigating this subject, it clearly appears that Sir Humphrey was murdered in his Castle of Bannachra, in July 1592, above eleven years before this Conflict, by some of the MacFarlans, under circumstances of extreme atrocity. He was succeeded by his brother Sir Alexander, who was alive *anno* 1610. The then Laird of Luss must therefore have fled from the field of battle, leaving his vassals to be cut to pieces by their victorious antagonists. As to the Slaughter of the schoolboys, it is enough to state that this circumstance forms no point of any of the Dittays against those of the MacGregors who were tried for their share in this battle, although every criminalact which could possibly be adduced against each of them is carefully inserted in their Indictments. Such an atrocious fact could not have escaped the notice of all his Majesty's Advocates, for such a length of time—and there was no lack of informers. It is thought that this massacre is alluded to in the Records of the Privy Council, Jan. 5, 1609, where it is stated, that ' Allan Oig McIntnach, in Glenco,' when aiding the Clan-Gregor at Glenfrune, ' with his awne hand, murdered, without pity, the number of forty poor persons, who were naked and without armour.'

According to the Editor's usual plan, some passages from contemporary MSS. are appended, in illustration of the facts.]

¹ So called, probably, from their education being conducted in the Collegiate Church there, or under the auspices of the Clergy of that establishment, by virtue of some charitable endowment.

Jan. 20.—ALLASTER M'GREGOUR of Glenftra, Patrik Aldoche M'gregour, Williame M'neill his feruand, Duncan Pudrache¹ M'gregour, and Allaster M'gregour M'kean.

Dilatit, accusit and perfewit, at the inflance of Sir Thomas Hammiltoun of Monkland, knycht, aduocat to our fouerane lord, &c. off the crymes following : FORSAMEKILL as thay and ilkane of thame, accompaneit with vmq¹⁰ Johnne Dow, brother to the said Allafter M'gregour of Glenftra, and vtheris thair kin, freindis, and of thair counsall, haifing concludit the distructione of Alexander Colquhoune of Lufe, his kyn, freindis and alya, and the hail furname of the Balquhannanis, and to herrie² thair landis ; thay convenit to thamefelfis the Clanhamrone,³ the Clananverich,⁴ and dyuerse vtheris brokin men and foirneris,⁵ to the number of foure hundreth men, or thairby, all bodin in feir of weir, with hagbuttis, pistolettis, murrionis, mailzie-coittis, pow-aixes,⁶ tua-handit-swoirdis, bowis, darloches, and vtheris wappones, *invasiue*, incontreire the tennour of the Actis of Parliament : And, for the performance of thair wicked concludioun, vpon the sevint day of Februare lastbypast, come fordward, in arrayit battell, to the Landis of Glenfrwne, pertening to the Laird of Lufe ; quhair the said Laird of Lufe, accompaneit with certane of his freindis, war convenit, be vertew of our fouerane lordis Commiffioun, to resist the saidis persones crewall interpryses ; and thair set vpon him, his kyn and freindis, and crewallie inuidit thame for thair slauchteris, schamefullie, crewallie and barbaruslie murdreift and slew Peter Naper of Kilmahew ; Johnne Buchannane of Buchlyvie ; Tobias Smallet, bailzie of Dumbarten ; David Fallefdaill, burges thair ; Thomas and James Fallafdaillis, his fones ; Walter Colquhoun of Barnehill ; Johnne Colquhoun, fear thairof ; Adam and Johnne⁷ Colquhones, fones to the Laird of Campstradden ; Johnne Colquhoun of Dalmure, and dyuerfs vtheris persones, our fouerane lordis leigis, to the number of sevin scoir personis or thairby ; the maist pairt of thame being tane captiues be the saidis M'gregouris befoir thai pat violent handis in thame, and crewallie slew thame : And tressonabillie tuik Williame Sempill and dyuerse vtheris, our fouerane lordis frie legis, and convoyit thame away captiue with thame, and be way of maisterfull Stouthreif, staw, rest and away-tuik sax hundreth ky and oxin, aucht hundreth scheip and gait, fourtene scoir of horse and meiris, with the hail pleniffing, guidis and geir, aff the fourfcoir pund land of Lufe ; and at the samyn tyme, tressonabillie raifit ffyre in the houffis and barne-zairdis thairof, brunt, waifit and distroyit the samyn, with the coirnis being thairin. And the foirsaidis persones and ilk ane of thame ar airt and pairt

¹ Of the country of Balquhidder.

² Spoil, plunder and devastate.

³ Clan Cameron.

⁴ Quere, the Clan Ian Averiche (Abroch), viz. the MacDonaldis of Glencoe ?

⁵ Sorners, persons

who violently took free quarters, and committed acts of violence, having no fixed home.

⁶ Morions,

coats of mail, poll-axes.

⁷ See Note, Vol. II. p. 426.

of the saidis crewall, horrible and treffonabill crymes; the lyk quhairof was nevir committit within this realme: Committing thairby manifest Treffone, in hie and manifest contempt of our souerane lord, his hienes auctorite and lawis.

ASSISA.

Sir Thomas Stewart of Garnettillie, Johnne Blair younger of that Ilk, Thomas Fallafdaill burges of Colene Campbell younger of Johnne Grahame of Knokdoliane, Dumbartene, Glennorchie, Moyfes Wallace burges of Ed^r, Johnne^r Herring of Lethindie, Alexander Menzeis of Weyme, Sir Robert Creychtoun of Clwny, Williame Stewart, Capitane of Robert Robertfoun of Strowane, kny^t, Dumbartene, J^{no} Naper fear of Merchinstoune, Robert Robertfoun of Faskeilzle, Harie Drummond of Blair, Johnne Blair elder of that Ilk.

For verificatioun quhairof, the said Sir Thomas Hammiltoun of Monkland, aduocat, producet the saidis perfonas Depositiones and Confessiones, maid be thame in presens of dyuerse lordis of his hienes Secreit Counfall and Sessoun, subscryuit with thair handis.—The Aduocat askit instrumentis, (1.) Of the sweiring of the Assyse, and protestit for Wilfull Errour aganis thame, in cais thay acquit. (2.) Of the sweiring of the Dittay be the Laird of Lufe. (3.) Of the productione of the pannellis Depositiones to the Assyse.

VERDICT. The Assyse, all in ane voce, be the mouth of Johnne Blair, elder of that Ilk, ffand, pronuncet and declairit the saidis Allaister M'Gregour of Glenftra, &c. to be fylet, culpable and convict of the crymes aboue specifeit.

SENTENCE. And thairfoir, the Justice-depute, finding the saidis crymes to be treffonabill, be the mouth of James Henderfoun, dempstar of Court, Ordanit the saidis perfonas to be tane to the mercat-croce of Edinburgh, and thair to be hangit vpon ane gibbet quhill thay be deid; and thairefter thair heidis, legis, airmes and remanent pairtis of thair bodeis to be quarterit and put vpon publict places, and thair haill landis, heritageis, annuelrentis, takis, steidingis, rowmes, possessiones, coirnes, cattell, guidis, geir and fowmes of money pertening to thame, to be fforfaltit, escheit and inbrocht to our souerane lordis vse, as convict of the saidis treffonabill crymes.

DOCUMENTS *illustrative of* 'THE FIELD OF THE LENNOX,' or 'CONFLICT OF GLENFRUNE,' and of the *Proceedings against* THE LAIRD OF MACGREGOR and his CLAN.

(I.) EXTRACT from *Calderwood's MS. Church History, Advocates' Library*, (Vol. V. p. 677.)

UPON the eight of Februar, a great company of forners and brocken Highland men of the CLANE of MACKGRIGORE, the number of 400 men, came down to Lennox, to reave and spoyle. The people of the country conueened to make impediment. There were slaine of the country people, specially of the furname of COLQUHOUN, to the number of fourscore persons or therby; of which number were landed men of good rank.² The Laird of Luce himself, Chief of the Colquhouns, escaped narrowly.

¹ In another place called *David*. ² The matter is thus noticed by Birrel and Fleming. 'THE 9 of Februar (1603,) the Laird of Mackgrigour, with four hunder of his name and factioun, enterit in the Lennox, quhair he maid spuilzie and slauchter, to the nwmber of 60 honest men, besyid wemen and bearnis. He spairit nane quhair he come.'—*Birrel's Diary*. ('Apr. 9.) Proclamatioun sumonding all the McGregouris to comper and wnderly the law for the slauchter of the Laird of Luss, and the men of Dumbartane.'—*Fleming's MS. Chronicle*.

They carried away a thousand head of cattell, beside other infight and plenifhing. It was reported, that that was done at the instigation of the Duke of Lennox his lady, seeking the wrack of the Laird of Luce, who held of the King, and not of the Duke !

(II.) EXTRACT from *MS. History of Scotland, Anon. Advocates' Library*, (A. 4. 35.)

NOW, on the secund day of October (1603), THE LAIRD OF ARKINLES takis in hand to THE ERLL OF ARGYLL, to tak THE LAIRD OF MACGREGOUR ; and callis him to ane bankatt¹ in his hous, quhilk hous stuid within ane Loche ; and thair takis him priffoner, to send him to Argyll. And putting him in ane boitt, with fywe menne with him, by² thame that rowit the boitt ; he, seing him selff betreisfit, gettis his handis lowfe ; and striking him our burd that was narrest him, he lowpis in the watter, and out-fowmis³ to the land. And so escheappis wntene,⁴ for the presentt. Now the Erll Argyll, perseaffing that he wes eschapitt, he fendis to him, desyryng him to cum to him, that he mycht confer with him, wnder promiseis to lett him gang frie, gif thay culd nocht agrie. Wpoun the quhilk, the Laird McGregor come to him ; and, at his cuming, was weill reffaut be the Erll ; quha schew him, that he was commandit be the King to bring him in ; bot he had no doubt bot his Majefty wald, at his requeist, pardoun his offence ; and he suld, with all diligenfe, send tua Gentill menne to Ingland with him, and suld with all diligenfe follow him selff. Wpoun the quhilk fair promiseiss he was content ; and come with the Erll of Argyll to Edinburgh ; quhair, on the 10 day, he was be the Gaird conwoyit to Berwick, within Inglis grund, and syne brocht back to Edinburgh. And on the 20 day was hangitt at the Corfe, with tenne of his kin and freindis hangit with him ; to the gritt discredeit of the Erll Argyll, quha wes the doare of the famin.⁵

(III.) EXTRACT from *Robert Birrel's Diary, MS., Advocates' Library*, (p. 138.)

THE 2 of October (1603), ALLESTER M^cGREGOUR of Glainfre tane be the Laird of Arkyntes, bot escapit againe ; bot efter, taken be the Earle of Argyll the 4 of Januar ; and brocht to Edinburge the 9 of Januar 1604, with 18 mae of his freindis, M^cGregouris. He wes convoyit to Bervick be the Gaird, conforme to the Earlis promese ; for he promesit to put him out of Scottis grund. Swa he keipit ane Hieland-manis promes ; in respect he sent the Gaird to convoy him out of Scottis grund : Bot thair wer not directit to pairt with him, bot to fetche him bak agane ! The 18 of Januar, at evine, he come agane to Edinburge ; and vpon the 20 day, he wes hangit at the Croce, and ij (*eleven*) of hes freindis and name, upone ane gallous : Himselff, being chieff, he wes hangit his awin licht aboue the rest of hes freindis.

(IV.) EXTRACT from *Calderwood's MS. Church History*.

UPON the 18 of Januar, MAKGREGORE was conveyed be the guard who attended upon the Counsell to Berwick, because Argyle promised to him, when he rendered himself, that he sould be caried to Ingland : But a post was appointed to meet him to caus bring them back againe, which was done ! Immediatly, upon the 20 of Januar, he and fundrie of his Clane were hanged in Edinburgh. Sevine of thair number came in, long before, as pleadges for performance of certaine conditions, which were to be filled by their chief ; but they were hanged with the rest, without the knowledge of ane Assyse. They were young men, and reputed honest, for their own parts. The Laird of Makgrigore was hanged a pinne above the rest. A young man, called James Hope, beholding the execution, fell down, and power was taken from the half of his body. When he was caried to ane house, he cryed, that ' one of the Highland men had fhott him with ane arrow !' He died upon the Sabbath-day after.

¹ Invites him to a banquet. ² Forbye, over and above, besides. ³ Swims out, outstrips the boat by his swift swimming. ⁴ Untaken. ⁵ Fleming, in his Chronicle, (MS. Adv. Library,) thus records the event. 'The Laird of McGregor hangit at Edinburgh and xj of his onhappie kin. They hang all nicht on the gallous.'— This almost unexampled act of perfidy, on the part of Argyle, the King's Lieutenant, and the Justice-General of Scotland, gives a lamentable picture of the features of those unhappy times ; and it would appear that the government seemed to think it no discredit to take advantage of such an infamous breach of trust.

(V.) THE LAIRD OF MCGREGOURS DECLARATIOUN, *producit the tyme of Conviction.*¹

I, ALLESTER MAGRIGOUR of Glenstra, CONFESSE heir before God, that I have bein persuadit, movit and intyfit, as I am now presentlie accusit and trublit for; also, gif I had usit counfall or command of the man that hes Intyfit me,² I wald have done and committit findrie heich Murthouris mair; ffor trewlie, sen I was first his Majesteis man,³ I culd never be at ane eise, by my Lord of Argylls falschete and inventiones; for he causit M^cClaine and Glenchamrowne⁴ committ herfchip and slauchter in my roum of Rennoche, the quhilk causit my pure men therefter to bege and steill: Also, therefter, he moweit my brother and sum of my freindis to commit baith herfchip and slauchter upone the Laird of Lufs: Also, he persuadit myselve, with message, to weir⁵ aganis the Laird of Boqubanene, quhilk I did refuse; for the quhilk I was contenowalie hostit⁶ that he sould be my unfreind; and quhen I did refuse his desire in that point, then he intyfit me with uther messingeris, as be the Laird of M^cknachtane and utheris of my freindis, to weir and truble the Laird of Lufs; quhilk I behaffit to do for his fals boutgaittis:⁷ Then, quhen he saw I was at ane strait, he cawfit me trow⁸ he was my guid freind; bot I did perfade that he was slaw⁹ therin: Then I made my moyan¹⁰ to pleis his Majestie and Lords of Counfall, baith of service and obedience, to puneisfche faultouris and to faif innozent men;¹¹ and quhen Argyll was maid forefein¹² thereof, he intyfit me to stay and start fra thay conditionns, causing me to understand, that I was diffavit; bot with fair wordis, to put me in ane snair, that he mycht gett the lands of Kintyre in feyell¹³ fra his Majestie, begane to putt at me and my kin:¹⁴ The quhilk Argyll inventit, maist schamfullie, and persuadit the Laird of Ardkinlafs to diffave me, quha was the man I did maist trest into; bot God did releif me in the mean tyme to libertie, maist narrowlie.¹⁵ Neuertheless, Argyll maid the oppin brutt,¹⁶ that Ardkinlafs did all that falsheid by¹⁷ his knowlege; quhilk he did intyfe me, with oft and findrie messages, that he wald mak my peace and saif my lyfe and landis, only to puneis certane faltouris of my kin, and my innozent freindis¹⁸ to renunce thair surname, and to leif peaceable. Vpone the quhilk conditionns, he was fuorne be ane ayth to his freindis; and they fuorne to me; and als, I haif his warrand and handvrytt therevpon. The quhilk promiseis, gif they be honestlie keipit, I let God be Juge! And at our meting, inoure awin chalmer, he vas fuorne to me, in witness of his awin freind. Attour,¹⁹ I Confess, befor God, that he did all his craftie diligence to intyfe me to slay and destroy the Laird Ardinkaippill, M^ckallay,²⁰ for ony ganes kyndness or freindschip that he mycht do or gif me.²¹ The quhilk I did refus, in respect of my faithfull promiseis maid to M^ckallay of-befor.²² Also, he did all the diligence he culd, to mowe me to slay the Laird of Ardkyndlas, in lyk

¹ THE Original of the very interesting and important Paper now given, is preserved in the General Register House, and is in the hand of the then Clerk of Secret Council, James Primrose. It is marked as—'PRESENTIT BE MR WILLIAME HAIRT,' (of Levilands) as an article of evidence of his guilt, at his Trial. It will be recollected that this person officiated as Justice Depute on the occasion. Glenstray had surrendered to Argyll, on condition of his being permitted to go to England; by which the former meant that he should visit the English Court, and have, if possible, access to the King. It was obviously Argyll's policy to prevent this; but, that he might fulfill his promise, he sent him, under a strong escort of troops, to beyond the river Tweed, at Berwick, where the soldiers, wheeling to the right about, made MacGregor retrace his steps. He was two days only in Edinburgh, after his return from England, when he was executed.—See *Sir James Balfour's Annals*, and Nos. II. and IV. of these illustrative documents. ² The Earl of Argyll, King's Lieutenant in the Bounds of the Clan-Gregor, since July, 1596.—*Records of Secret Council*.

³ He had taken the usual oath to be his Majesty's 'household-man,' 27th July 1596, as appears from the Record of Secret Council. ⁴ Clan-Cameron. ⁵ Wage war. ⁶ Threatened. ⁷ Deceitful courses; literally, 'round-about ways.' ⁸ Believe. ⁹ Slow, slack. ¹⁰ Did my endeavour, *moyen*. ¹¹ This point is illustrated by an *Original Paper*, preserved in the General Register House, of date Jul. 24, 1599. ¹² Advertised, informed. ¹³ Fee, feufarm. ¹⁴ This refers to the Royal promise of reward to Argyll, after Feb. 7, 1603, for apprehending Glenstray; which reward, as he had earned it, he afterwards received; and it was confirmed to him by the Parliament, 1607.

¹⁵ This refers to that escape from Campbell of Ardkinglass, hereditary Sheriff of Argyllshire, mentioned by *Sir James Balfour* and by *Birrel*. ¹⁶ Report. French, *bruit*. ¹⁷ Without, contrary to his knowledge. ¹⁸ Such of them as were innocent of the crimes charged against the Clan generally. ¹⁹ Moreover. ²⁰ Awlay MacAwlay. ²¹ In the *Lord Treasurer's Books of Scotland*. Nov. 1602, is the following entry: 'Item, to Patrik McOmeis, messenger, passand of Edinburgh, w^t Lettres to charge Ar^d Earle of Argyll to compeir personallie befor the Counsall, the xvj day of December next, to ansuer to sic thingis as salbe inquirit at him, tuiching his lying at await for the Laird of Ardincapill, vpon set purposis to have slane him, xvj li.

²² GLENSTRAY and MACAULAY had entered into a Bond of Clanship, May 27, 1591, in which the latter owns his

maner; bot I neuer grantit therto:¹ Throw the quhilk he did invy me grettumly.² And now, séing God and man seis it is greidenes of warldlie geir quhilk causis him to putt at me and my kin, and not the weill of the realme, nor to pacifie the samyn, nor to his Majesteis honour, bot to putt down inno-
sent men, to cause pure bairnes and infantis bege, and pure wemen to perisch for hunger, quhen they ar hereit of thair geir: The quhilk, I pray God, that thais faltis lycht not upon his Majestie heirefter, nor upon his successione. Quherfor, I wald befeik God that his Majestie knew the weratie, that at this hour I wald be content to tak Baneifment, with all my kin that was at the Laird of Luffis slauchter, and all utheris of thame that ony falt can be laid to thair charge: And his Majestie, of his mercie, to lat pure inno-
sent men and young bairnes pas to libertie, and lerne to leiff as innocent men: The quhilk I wald fulfill, but ony kynd of fail;³ quhilk wald be mair to the will of God and his Ma-
jesteis honour, nor⁴ the greidie, cruell forme that is devyfit, only for lenf of geir, haueing nether respect to God nor honestie!

Field of Glenfrune — Murder — Fire-raising, &c.

Feb. 17.—JOHNNE DOW M^cEWIN M^cGREGOUR, Patrik M^cilvarnoch, his man, Duncan M^cenham M^cgregour, Duncan M^cAllester Vrek, Allester M^cEwin V^ccondochie, Johnne M^cean V^cgre-
gour, Ewin M^ccondochie clerich, Johnne Ammonoche M^cgre-
gour, Duncan Beg M^cgregour V^ccoull chere, Gregour M^cNicoll in Dalveich, Johnne Dow M^ccondochie V^cewin.

Dilatit of certane crymes of Murthour, Thift, Soirning; and for being at the ffeild of Glenfrune, in companie with vmq^{le} Allafter M^cgregour of Glenfra,⁵ his kyn and freindis; and of the Slauchteris, ffre-raising, Reif and Herschippis committit in the moneth of ffebruare 1603 yeiris, aganis the Laird of Lufe, his freindis and pairtakeris, viz. (1.) *Johnne Dow M^cewin M^cgregour*, for his intercowmoning with vmq^{le} Allafter M^cgregour of Glenfra, vmq^{le} Patrik Aulauch M^cgregour and vtheris thair complices, quha war at the tressonabill burning of Robert Watterfones barne of Kallechoit, and at the steilling of the Laird of Merchinstounes oxin; committit in September last. ITEM, of airt and pairt of the thiftious steilling, furth of Andro Allanes house in Kipine, of fyve ky; com-
mittit in October last. ITEM, for airt and pairt of the slauchter of vmq^{le} Johnne Drummond in Drony of Cowgask; committit in August last. ITEM, for airt and pairt of the steilling of ane milk zow⁶ fra Patrik M^cboricht, furth of his duelling-hous of Glenmawak; committit in September last. AND siclyk, of cowmone Thift and cowmone resset of thift.—(2.) *Patrik M^ckilvarnoch*, servand to the said Johnne Dow, of airt and pairt of the hail crymes aboue writtin; as being in companie with his said maister thairat.—(3.) *Duncan M^cinham V^cgregour*, ffor airt and pairt of the thiftious steilling fra Eduard Reidochie of

being a Cadet of the House of the former, and promises to pay him 'THE CALP.'—*Paper in the General Register House.* This instrument had, as would seem, been discovered by the Government, and led to the suspicion, alluded to in a former part of this work (See May 17, 1603), that MacAulay had aided Glenstray in the feud of Glenfruin. Mac-
Aulay seems to have escaped death, by being under the protection of the Duke of Lennox, and forming one of his train or 'Tail,' in the King's journey to England, to take possession of the English Throne.

¹ Ardkinglass, as appears from the *Book of Taymouth*, was Glenstray's near kinsman.

² Bore a great or mortal grudge at me.

³ Without failure or evasion.

⁴ Than.

⁵ See Jan. 20, 1604.

⁶ Ewe.

fyve horfe and meiris ; committit in the moneth of I^m.V^c. fourfoir and fourtene yeiris. ITEM, of airt and pairt of the thiftious steilling fra Allaster M^ccondochie Vic James Robiesone, in Callewin, of ten horfis and meiris ; committit in the moneth of yeiris.—(4.) *Duncane M^cAllaster Vrek* in Farne, ffor airt and pairt of the thiftious steilling furth of the landis of Air-
 liewicht of fourtie ky, pertening to the Laird of Bandrane ; committit ten yeir fyne or thairby. ITEM, for the thiftious steilling furth of the Laird of Strowanes crandoche¹ of his haill inficht, worth I^m. lib.² ITEM, for airt and pairt of the slauchter of vmq^{le} Donald Dereif. ITEM, for airt and pairt of the thiftious steilling furth of the landis of Downance in Menteith, of fourtie ky, tuelf horfis ; committit in the yeir of God I^m.V^c. fourfoir aucht : And for intercowmoning with the Laird of M^cgregour : And for cowmone Thift and cowmone resset of thift.—(5.) *Ewin M^ccondochie Clerich*, ffor his tressonabill intercowmoning with the Laird of M^cgregour, and schawing of faour and supple to him : And for cowmone thift, and cowmone ressett of thift.—(6.) *Johnne Dow M^ccondochie V^cewin*, ffor tressonabill intercowmoning with vmq^{le} the Laird of M^cgregour, and geving him supple and conforte.—(7.) *Johnne Ammonache M^cgregour* in Kingart, ffor airt and pairt of the thiftious steilling of sax schein furth of Schandballie ; committit aucht yeir fyne or thairby. ITEM, for cowmone Thift and cowmone ressett of thift.—(8.) *Allaster M^cewin V^ccondochie*, in Couldar, ffor airt and pairt of the heirschip of the Downance in Menteith ; and of the slauchteris than committit ; and specialle of the slauchter of vmq^{le} Andro Grahame.—(9.) *Gregour M^cneill* alias *Cowanache*, ffor airt and pairt of the crewall Murthour and Slauchter of vmq^{le} the ffidler M^ckillope, within his awin hous in Dalvey ; committit at Anderfmes,³ I^m. sax hundreth and tua yeiris. ITEM, ffor the thiftious resseting and tressonabill intercowmoning (of vmq^{le} the Laird of M^cgregour ?) eftir he wes discharget be proclamatioune.—(10.) *Johnne M^ckean V^cgregour*, in Glenogill vnder Tawie-barne, ffor the crewall Murthour, slauchter and drowning of M^ckillopis wyfe, that duellt in Glenartnay, being in company with vmq^{le} Patrik Aulach ; committit in harvest last. ITEM, for resset of the brokin men of the M^cgregouris, within his duelling-hous, and tressonabill intercowmoning with thame, aganis his hienes Proclamatioun.—(11.) *Duncan Beg M^cgregour V^ccoull Chere*, ffor airt and pairt of the crewall Murthour and slauchter of fevin scoir perfones flane at Glenfrwne ; and heirschip than committit thairin, in the moneth of februarye 1603. ITEM, for cowmoun thift and cowmoun ressett of thift : And for the tressonabill intercowmoning with vmq^{le} the Laird of M^cgregour, eftir he wes discharget be proclamatioune.

¹ Or *crandoche*, a Highland gentleman's dwelling-house.
 Andrew's-mass, the 30th day of November.

² £1000.

³ St Andrew's day,

ASSISA.

Mr Moreis Drummond of Cul-Mungo Buchannane in Tullie-Jacobi¹ Edmestoun of Newtown,
 cherie, chewin, Daid Drummond in Drymmen,
 James Spreull ffear of Cowden, James Dennyftoune of Cowgrane, Johnne Naper of Kilmahew,
 Colene Campbell of Aberuchill, Thomas Fallafdail in Ardoche, Johnne Muschet at the mylne of
 Mungo Lyndfay of Ballull, Daid Muschet of Orchardheid, Tor,
 Robert Naper of Blakzairdis, Johnne Buchannane of Ibert, Harrie Mitchell in Darra.

The Aduocat askit instrumentis of the sweiring of the Assyse; of Johnne Dowis Declaratioune, that Patrik M^cilvarnoch his man hes bene with him this tua yeir bygane, and is pairtaker of all his factis. The Aduocat, for verifeing the poyntis of Dittay, producet the Kingis Proclamatioune, Actis of Secreit Counfall, contenit in the buik of Secreit Counfall producet, and askit instrumentis thairvpoune: And protestit for Wilfull Errour aganis the Assyse, in caife thai acquit.

VERDICT. The Assyis, be the mouth of Daid Drummond, chancellor, ffand, pronuncet and declairit the saidis perfones to be ffylet, culpable and convict of the perticuler poyntis of Dittay aboue writtin.

SENTENCE. The Justice-depute decernit and adjudget the said John Dow, &c. to be tane to the mercait-croce of Edinburgh, and thair to be hangit vpoun ane gibbet quhill thai be deid; and all thair moveabill guidis to be escheit and inbrocht to our souerane lordis vs^e, as convict of the saidis crymes.²

'Field of Glenfrune' — Slaughter of the Colquhouns, &c.

Mar. 1.—NEILL M^cGREGOUR in Meirie (Mewie,) Patrik Gair M^cgregour, Donald Roy M^cgregour, Duncane M^cgregour, Donald Graffiche M^cCadanich.

Dilatit, accuset and perfewit for being in company with vmq^{le} Allafter M^cgregour of Glenstra and his complices, at the ffeild of Glenfrwne,³ and of airt and pairt of the slauchter of sevin fcoir perfones, being all freindis, servandis, affisteris and pairtakeris with the Laird of Lufe at the said ffeild, and of the heirschipis thair committit be the said Laird of M^cgregour and his complices: And of the tressonabill raising of ffyre and burning of dyuerse houffis, within the boundis foirfaid; committit in the moneth of Februare, the yeir of God I^m.Vj^c. and thre yeiris: And ficlyk, for intercowmoning with the said Laird of M^cgregour and perfones foirfaidis, his complices, that war at the said slauchter and heirschip, sen the committing thairof.—AND als, the said *Patrik Gair M^cgregour* being indyttit and accuset for the hounding out of his thre fones to the said ffeild, and murthouris and slauchteris than committit vpone the said Laird of Luffis freindis: And of airt and pairt, red, counfall, foirknowledge, assistance and ratihabitoune

¹ This person is so named in various places of the Record. ² 'The 18th of Februar, 9 of the name of MacGregor hangit, quho had lain lang in the Tolbuith.'—*Birrel*. ³ See Jan. 20, 1604.

of the said murthouris and heirschippis : And siclyke, for the ressett and intercowmoning with the Laird of M^cgregour and his complices that war at Glenfrune, and ressettting of thame with the bludie hand, sen the tyme foirsaid of the said heirschip and slauchteris.

ASSISA.

Mungo Lyndfay of Ballull,	Constene Moirtoun,	Robert Buchannane in Kippen,
Johnne Buchannane, burges of Dumbarten,	Hew Glen of Lynthillis,	Robert Buchannane Walterfoune,
George Buchannane in Ladrifch,	Johnne Buntene of Ardoche,	Dougall M ^c farlen in Murnagane,
Thomas Fallafdaille, burges of Dumbarten,	Thomas Naper of Barriekynrayne,	Walter Blair of Fynnech,
	Johnne Naper of Kilmahew,	Dauid Hadden (Haldene,) Tutour of Glennageis.
	Johnne Sempill of Foulwoid,	

VERDICT. The said Assyse, all in ane voce, be the mouth of the said Robert Buchannane Walterfoune, ffand, pronuncet and declairit the saidis fyve perfones to be ffylet, culpable and convict of the haill crymes aboue specifreit.

SENTENCE. And thairfoir, the Justice-depute, be the mouth of Robert Scott, dempstar of Court, decernit and ordanit the saidis perfones to be tane to the galloufe of the Burrow-mure of Edinburghe, and thairupoune to be hangit quhill thay be deid ; and thair haill moveable guidis to be escheit and inbrocht to his hienes vse, as convict of the saidis crymes.

Chest — Reset of Laird of MacGregor — ‘ Field of Glenfrune,’ &c.

Mar. 2.—MALCOLME M^cCOULL CLERICH (M^ccherich,) in Innerlochlarg ; Duncan M^cfadrik V^ccoull Chere, in Innerlochlarg, vnder the Laird of Tulliebardin ; Johnne M^ccoull Chere, in the Bray of Balquhidder, and Neill M^cWilliame V^cNeill.

Dilaitit of certane poyntis of Thift ; and for Intercowmoning with vmq^{le} the Laird of M^cgregour, sen the Raid of Glenfrune, viz. (1.) *Malcolme M^ccoull Cleriche (Cheriche)*, ffor airt and pairt, and being on the grundis at the crewall Slauchter of vmq^{le} Hew Stewart, serveand to my Lord Athole ; committit threttie yeir syne, or thairby. ITEM, for airt and pairt of the slauchter of vmq^{le} Patrik M^cgregour, in Glenbokie ; committit in the moneth of September, the yeir of God I^m.V^c. threscoir faxtene yeiris. ITEM, for geving of counsall to vmq^{le} the Laird of Makgregour, his kyn and freindis, to pas fordward aganis the Laird of Lufe to Glenfrune ;¹ and for convoying² the said Laird of M^cgregour agaitwart³ to the fyd of Lochloun, afoir the ffeild : And for airt and pairt of the slauchteris and heirschippis committit at Glenfrune be the said Laird of M^cgregour and his complices, in the moneth of Februare 1603 yeiris. ITEM, for the tressonable Intercowmoning with the said Laird of M^cgregour, and Ressett of him and his freindis and pairtakeris that war at the ffeild of Glenfrune, and geving of thame herbrie, help and supplie, in melt, drink and bedding, wittinglie and willinglie,

¹ See Jan. 20, 1604.

² Escorting.

³ On the way or *gait*.

at dyuerse tymes, fen thai war denuncet our fouerane lordis rebellis and declairit tratouris, and fen his Maiesteis Proclamatioune, inhibeiting all our fouerane lordis leigis to intercowmone, reffett or gif countenance or schaw fauour to the saidis rebellis.—(2.) *Duncan M^cfadrík V^ccoull cheir*, ffor airt and pairt of the Slauchter of the said vmq^{le} Patrik M^cgregour ; committit in September 1576 yeiris. ITEM, for geving of counfall to the Laird of M^cgregour to pas forward to the ffeild of Glenfrune aganis the Laird of Lufe, and convoying him to the fyde of Lochloun, agaitward, to the said ffeild. ITEM, for wilfull Intercowmoning and geving of counfall to the Laird of M^cgregour, and convening with him in dyuerse meittingis and conventiounes, had and keipit be him and his freindis, fen thai war denuncet his Maiesteis rebellis, for the Murthour, Slauchteris and heirfchipis committit be thame at the said ffeild of Glenfrune, incontrair to his Maiesteis proclamatioune.—(3.) *Neill M^cWilliame V^cNeill*, ffor the treffonabill Intercowmoning with the Laird of M^cgregour, his kin and freindis that war at the murthour and heirfchipis in Glenfrune, and reffett of thame within his hous, and geving meit and drink to thame wittinglie and willinglie, at dyuerse tymes fen thai war denuncet rebellis, &c.—(4.) AND ficyk, *Johnne M^ccoull Cheire*, ffor airt and pairt of the crewall Murthour and Burning of auchtene houshalderis of the Clanlawren,¹ thair wyves and bairnis ; committit fourtie sax yeir syne, or thairby. ITEM, off airt and pairt of the Slauchter of vmq^{le} Hew Stewart, ferveand to my Lord of Athole ; committit threttie yeir syne, or thairby : And in taking pairt with the Clan-Gregouris at the Heirfchip, committit the tyme foirsaid, aganis the Tutour of Bofrak. ITEM, for Intercowmoning with the Laird of M^cgregour and his complices that war at the ffeild of Glenfrune, fen thair denunciatioune ; and geving of conforte, fupplie and freindschip to thame, contrair the tennour of the Proclamatioune. ITEM, for cowmone Thift, cowmone reffett of thift, outputing and inputing of thift fra land to land, fra cuntrey (to cuntrey), baith of auld and new.

VERDICT. The Assise, be the mouth of Mungo Lyndfay of Ballull, chancellor, ffand, pronuncet and declairit the saidis Malcolme, Duncan and Neill to be ffylit, culpable and convict of the haill crymes and poyntis of Dittay aboue writtin : And the said Johnne M^ccoull Cheire to be Clene, innocent and acquit of the saidis crymes.

SENTENCE. And thairfoir the said Justice-depute, be the mouth of Robert Scott, dempstar of Court, decernit and ordanit the saidis Malcolme M^ccoull and Duncane M^cFadrík to be tane to the gibbet at the mercat croce of Edinburghe, and thair to be hangit quhill thay be deid ; and all thair moveabill guidis to be efcheit and inbrocht to his Maiesteis vfe, as convict of the saidis crymes.

¹ The M^cLawrens, or Maclarens, a Clan residing in Balquhidder.

Slaughter — Fire-raising.

Mar. 2.—DAVID ARMESTRANG, sone to *Sandeis Niniane*.

Dilaitit, accuset and persewit of airt and pairt of the Slauchter of vmq^{le} Johnne Johnnestoun, Persone of Tunnergarth. ITEM, for airt and pairt of the Slauchter of Robert Currie, fervand to the Baillie of the Watter of Leyth, and thre mafones with him, at the Oisleris-hous in the Lwn : And for the tressonabill Raifing of ffyre, and Burning of the said Oisleris-hous.

VERDICT and SENTENCE. The same Affise, as in the above case, pronounced a similar Verdict of Guilty against Armstrang, who was hanged along with M^ccoull and M^cfadrik.¹

Masterful Stouthreit — Theft, &c.

Mar. 10.—THOMAS HARDIE, sone to James Hardie of Bounmylnerig.

Dilaitit of the crymes following, viz. Forfamekill as he, with his complices, laitlie, in the moneth of Apryle lastbypast, vnder sylvence and cloud of nycht, betuix nyne and ten houres att ewin, vmbesett the hie way and passage, betuix Leith and Edinburghe, to Jaques De la Berge, ane Fleming and strangear, he being rydand, in peceabill maner, vp fra Leith to the burgh of Edinburghe ; and thair sett vpon him, tuik his horse be the heid, and caufit him lycht fra his horse, and thaireftir rypeit him ; and thifteouslie, be way of maisterfull stouthreit, stall, rest and away-tuik fra the said Jaques De la Berge twa purfis, ane mair and ane vther lefs, with ane grit quantitie of gold and siluer contenit thairin, being for the maist pairt Inglis money : togidder with ane gold ryng, sett with ane dyamond, with ane broun naig quhairon he raid : And he wes airt and pairt of the thifteous steilling, reiffing, ressetting and away-taking thairof. ITEM, ffor the thifteous steilling, conceiling, ressetting and away-taking of ane blak horse fra James Libbertoun, in Nethir Libbertoun ; quhilk horse he fauld thaireftir in Bow-castell, in Inghland.

VERDICT. The Affise, be the mouth of . . . Cokburne of Chouflic, chancellor, ffind, pronunceit and declarit him to be ffylit, culpabill and convict of the poyntis of Dittay, &c.

SENTENCE. To be tane to ane gybbet, standand beneath the mercat croce of Edinburghe, and thairvpoun to be hangit quhill he be deid ; and all his moveabill guidis, takis, steidingis, &c. to be escheit, &c.

Horse, Cattle, and Sheep-stealing.

Mar. 10.—WALTER DAUIDSOUN, callit of Callelie.

Convicted by the same Affise, and ordained to be hanged along with Hardie,

¹ *Birrel* remarks, ' 7 MacGregors and Armstrangs wer hangit at the croffe.'

for stealing of horfes, oxen and sheep, &c. from lands of Pittalisheuch, belonging to Dickfoun of Buchtrig, Sir Johnne Cokburne of Ormiftoun, kny^t, Justice clerk,¹ &c.

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter.

Mar. 15.—HECTOUR TRUMBILL of Stanyledge; Hector Trumbill of Barnehillis; George Trumbill, his brother; and Gawin Trumbill, thair father-brother.

Dilatit for airt and pairt of the Slauchter of vmq^{le} Williame, James, Robert, Johnne, Andro and Thomas Gramelawis, fones to vmq^{le} Johnne Gramelaw of Lytill Newtoun.

Mr Robert Home of Carolfyde, Hectour Trumbill of Belfis and James Douglas of Caveris, as cautioners, amerced for non-entry of the pannels, viz. the two first in 400 merks; and Douglas of Cavers, along with Trumbell of Barnehillis, in 1000 merks, 400 merks, and 400 merks. The pannels ordained to be denounced rebels, &c.

Cattle-stealing — Stouthreif, &c.

Mar. 20.—JOHNNE RENTOUN of the Scheillis.

Dilatit of airt and pairt of the Steilling of ffourtene nolt fra James Burnet, &c. LYK AS, in the moneth of September, the yeir of God I^m.V^c. fourfcoir aucht yeiris, or thairby, vmbefet the hie way and passage to certane cadgeris at the Brokin-mofs, quha war dryveand thre or four pakis of Inglis clayth, pertening to certane merchandis, inhabitantis of the burgh of Edinburghe, and thair, be way of Maisterfull stouthreif, staw, rest and away-tuik fra the saidis cadgeris foure pakis of Inglis clayth, and speciallie ane pak of Inglis clayth, pertening to Gray, mercheand burges of Edinburghe, estimat worth the fowme of Thre thousand merkis, money of this realme, &c. &c.

VERDICT. The Assyse, be the mouth of Mr James Home of Goddicroft, all in ane voce, ffand the said Johnne to be Cleane, innocent and acquit of the haill crymes.

Willfully hearing Mass celebrated.

May 9.—ARCHIBALD MACBREK, burges of Perth.

Dilatit, accuset and persewit, be Mr Robert Lyntoun, Aduocat substitute to Sir Thomas Hamiltoun, &c. for the crymes contenit in the DITTAY following.

ARCHIBALD M^cBREK, burges of Perth, Ye ar indyttit and accuset; fforfamekill as it is statute and ordanit, be our fouerane lordis Actis of Parliament, and speciallie, be ane Act of his hienes fourtene

¹ 'The 10 of Marche, twa notabill thieffes hangit at the crosse, ane Thomas Hardie, and ane Davidson.'—*Birrel*.

Parliament, haldin and begwn at Edinburghe vpon the aucht day of Junij, the yeir of God I^m.V^o. fourfcoir fourtene yeiris, that in all tymes cuming, all wilfull heiraris of Mefs and conceillaris of the fame fall be execute to the death, and thair haill guidis and geir efcheitit to his hienes vfe, as thay fall be fund giltie and convict thairof, or declairit fugitiue for the fame, befoir the Justice or his deputtis, or the lordis of his Maieftis Previe Counfall, as the faid Act at lenth beris : And trew it is, that Mr Robert Abercumbie, ane Jefuite and Preift, in the moneth of Marche lafbypaft, in the oulk (*week*) befoir Palme Sondag laft, being reffet and ludget, with his man, in the faid Archibaldis duelling hous in Perth, ane haill nicht ; the faid Mr Robert maid the faid Archibald foirfene, that he was to fay ane Mefs vpon the morne, airtie in the moirning, in George Bofuallis hous in Perth, quhair my lord Inclaffera and his famelie war ludget, and perfuaidit the faid Archibald to cum and heir the famyn : Lykas, vpon the morne, airtie in the moirning, in ane of the dayis of the oulk befoir Palme Sondag, the faid Mr Robert paf first over to the faid George Bofuallis houfe ; and the faid Archibald followit him, and paf vp to the vpper Eifter chalmer of the faid ludgeing, quhair the faid Mr Robert Abircumbie faid ane Mefs : And ye, the faid Archibald, wilfullie and willinglie (being of the trew Religioun befoir your away-paffing furth of this cuntrie, and in your abfence furth of the famyn, made defection thairfra to Romifch Religioune), hard the faid Mefs, and reffaut the Communioun after the Romane maner ; and conceillit the faying and heiring thairof, quhill ye was challanget. For the quhilk wilfull heiring of the faid Mefs and conceilling thairof, ye, the faid Archibald, being convict of the famyn, befoir the Justice-generall and his deputis, be Act of Parliament, ye aucht to be pwneifchet to the daith ; and your haill moveabill guidis and geir efcheit to our fouerane lordis vfe : To the taikin,¹ ye haif confeffit the haill premiffes to be of veritie, be your Depofitiones, fufcryuit with your hand ; quhilk ye can nocht deny.

VERDICT. The Affyfe, be the mouth of James Nicolfoune, tailzeour in Edinburghe, chancellor, ffand, pronuncet and declairit the faid Archibald to be ffylet, culpabill and convict of the Wilfull heiring of Mefs, wittinglie and willinglie, but² compulfion ; and conceilling of the fame, quhill he was challanget ; accoirding to the faid Dittay, and accoirding to his Confeffioun maid thairof in judgement, and Depofitiones producet, fufcryuit with his hand.³

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter—Horse and Cattle-stealing, &c.

May 15.—**JOHNNE BATESOUN**, alias *Jok of the Scoir* ; Archibald Batiesoun, alias *Prikie vp Archie*, brother to the faid Johnne ; and Adie Batiesoun, brother to the faid Johnne and Archie.

JOK OF THE SCOIR, dilatit, ffor airt and pairt of the flauchter of vmq^{te} Williame Tuedie of Olipher and thiftious fteilling of ane grit number of ky, oxin and naigis furth of Tueddell ; committit threttie yeir fyne, or thairby. **ITEM**, ffor airt and pairt of the fteilling of foure naigis furth of Sandiehillis ; and of threfcoir nolt furth of Langvrd. **ITEM**, ffor airt and pairt of the fteilling of four ky and tua horfe, with certane inficht, furth of Bankend in Craufurd-Johnne, pertening to Thomas Weir ; committit tua yeir fyne. **ITEM**, ffor airt and pairt of the fteilling fra William M^ccalla, in Glenbaithe, of ane meir, and certane inficht

¹ In evidence, or testimony whereof.

² Without.

³ The sentence is not recorded.

of his house; and hurting and wounding of the said Williame. **ITEM**, for airt and pairt of the steilling of tua naigis fra ane servand of Sir Johnne Keris, furth of the Spittellis. **ITEM**, for airt and pairt of the steilling of fyftene scoir of ky and oxin, with ane grit number of vther guidis, furth of my Lord zesteris boundis; committit a xvij yeir syne, or thairby. **ITEM**, for steilling and away-taking of tua naigis fra Johnne Symfoun, with his cloik, quhinger and purse, quhairin thair was xxx s. **ITEM**, for cowmoun thift and cowmoun resset of thift. —**PRIKIT VP ARCHIE**, dilaitit of airt and pairt of the thiftious steilling of fourtie nolt, furth of the Schereff of Airis boundis; and hurting and wounding of ane servand of the Schereffis, in redding thairof. **ITEM**, for airt of the steilling of tuentie naigis furth of Sandiehillis fra the puir cadgeris;¹ committit a thre yeir syne: And for airt and pairt of the Slauchter of ane of the puir cadgeris, at that samyn tyme. **ITEM**, for airt and pairt of the steilling of sax nolt furth of the Nethir Snab; committit aucht yeir syne, or thairby. **ITEM**, for airt and pairt of the steilling of ane grit number of schein furth of Brigend, pertening to the Laird of Fawfydes servandis. **ITEM**, for airt and pairt of the steilling of xxxij oxin furth of Lammermure, pertening to the Laird of Innerleith. **ITEM**, for cowmoun thift and cowmoun resset of thift, &c.—**ADIE BATESOUN**, dilaitit for airt and pairt of the Slauchter of vmq^{le} Johnne Naper, in company of the said Johnne his brother; and steilling of ane grit number of ky and oxin furth of Clydheid. **ITEM**, for airt and pairt of the steilling of the said Williame M^ccall his meir, and hail inficht of his house; and hurting of the said Williame. **ITEM**, for airt and pairt of the steilling of ten schein furth of the Hill-hous of Clyde, fra Gilbert Johnnestones men; committit a yeir syne. **ITEM**, for the steiling of tua naigis a foure yeir syne, furth of Sandiehillis, fra certane puir cadgeris. **ITEM**, for cowmoun thift, cowmone resset of thift, outputing and inputing of thift, fra land to land, fra cuntrey to cuntrey, baith of auld and of new.

VERDICT. For the quhilkis crymes, the saidis thre perfones wer put to the knowlege of ane Assyse, and thair all, in ane voce, be the mouth of Donald Thornetoun, burges of Edinburghe, chancellor, ffand, pronuncet and declairit the saidis Johnne, Archie and Adie Batesones to be ffylit, culpabill and convict of the crymes aboue specifeit, accoirding to thair Depositiones, gevin vp be thame thairof, and Confessioun of the samyn in Judgement.

SENTENCE. To be tane to the mercait croce of Edinburghe, and thair to be hangit on ane gibbet, quhill thair be deid; and thair hail moveabill guidis to be escheit and inbrocht, &c.

¹ The Carriers, who, for hire, transported goods on pack-saddles, &c. By means of this useful class, most part of the merchandise and heavy carriages were conveyed to all parts of the kingdom. They usually travelled in companies, for mutual protection; but were often overpowered, and in many cases slain, in faithfully defending the property committed to their charge.

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter — Bearing and Wearing of Pistolets.

May 16.—HECTOR TRUMBILL of Lylsie (Lilliesleaf.)

Dilaitit for airt and pairt of the Slauchter of vmq^{le} Thomas Ker (of Craling), brother to the Laird of Farnihirst, and George Glaidner, his servand : And for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of Pistolettis : And vtheris crymes contenit in our fouerane lordis letteris direct thairvpoun.

Hectour Trumbill of Belfis vnlawit and amerciat, as cautioner, for nocht entrie of the said Hectour, in the panes contenit in the Actis of Parliament ; and the pannel adiudget to be denuncet rebell and put to the horne, and all his moveabill guidis to be escheit, as fugitiue fra his hienes lawis for the saidis crymis.

Slaughter.

May 18.—WILLIAME STEWART, brother to my Lord Vchiltrie, Williame Stewart, sone to Sir Williame Stewart of Carstairs, kn^t.

Dilaitit for the Slauchter of vmq^{le} Robert Cathcart, wryter.¹

Mause Aikman, relict of the said vmq^{le} Robert, producet our fouerane lordis letteris, deulie execute ; and offerit hir selff reddie to persew.

THE JUSTICE continewis to the thrid day of the nixt Justice-air of Air, quhair thay duell, or soner vpon xv dayis wairning. Andro Lord Stewart of Vchiltrie and James Stewart of Lekprevik, become pleges and fouerties, coniunctlie and feuerallie. Johnne Grahame of Knokdoliane relieved of his caution.

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Jun. 6.—WILLIAME MYDDILMEST of Lillie-Chappell and James Myddilmest, his brother-germane.

Dilaitit for airt and pairt of the Slauchter of Thomas Ker of Craling, &c.²

Thomas Trumbill of Mynto, as cautioner, vnlawit in the pane of ane thousand merkis and four hundreth merkis for nocht entrie of the saidis pannels. The Justice ordainit thame to be denuncet rebell and put to the horne, and all thair moveabill guidis to be escheit, &c.

Murder of the Laird of Warristoun — Punishment of breaking on the Wheel.

[FEW Cases of MURDER have excited so lively an interest in the public mind, at the time of their occurrence, as that of THE LAIRD OF WARRISTON. He was a person of considerable note in Edinburgh, and nearly connected with the ancient family of Kincaid of that Ilk in Stirlingshire, then in

¹ See Mar. 4, 1600.

² See May 16, 1604.

possession of extensive estates in the counties of Edinburgh, Linlithgow, &c. JEAN LIVINGSTOUN, the young and beautiful murdress, was likewise a person of considerable rank, being a daughter of John Livingstoun of Dunipace, and related to many of the first Families in Scotland.

The property of Warriston being situated about a mile from the City of Edinburgh, news of the Murder instantly reached the proper authorities. Officers were dispatched, who succeeded in taking, 'red-hand,' THE LADY WARRISTOUN, 'the fause nourife,' as usual, the prime mover of this deed of darkness and treachery, and her two 'hyred women.' Weir alone, the actual perpetrator, escaped for a time, having refused to take the Lady along with him, in his flight; saying, 'You shall tarry still; and if this matter come not to light, you shall say, "he died in the gallery," and I shall return to my Matter's service: But if it be known, I shall fly, and take the cryme on me; and none dare pursue you!' Being taken 'red-hand,' the parties were immediately put to the knowledge of an Assise (without the formality of serving a Dittay, &c., as in ordinary cases), before the Magistrates of Edinburgh; or the Trial may have perhaps taken place before the Baron-bailie of the Regality of Broughton, within whose jurisdiction the property of Warristoun was situated, and sentence of death was passed upon them. Unfortunately, the greater part of the Criminal Records of the City of Edinburgh are lost; and, after many fruitless searches, no trace of the proceedings in these Cases can now be elsewhere obtained. The result is thus briefly and quaintly stated by two contemporaneous writers:— 'JOHNE KINCAID of Waristoun murderit be his awin wyffe and servent man; and her nurische being also upone the conspiracy: The said gentilwoman being apprehendit, scho was tane to the Girth-crosse,¹ upon the 5 day of July, and her heid struk fra her bodie, at the Cannagait-fit; quba deit very patiently. Her nurische wes brunt at the same tyme, at 4 houres in the morneing, the 5 of July.—*Birrel's Diary.* 'UPON Fryday the 4 (5) of July,² (1600) THE LADY WARISTOUN, daughter to the Laird of Dunipace, was beheaded in the Cannogate, for the Murther of her husband. The Nurife and ane hyred woman, her complices, were burnt in the Castlehill of Edinburgh. The horse-boy fled, being guiltie.'—*Calderwood's Church History*, MS. Advocates' Library.

An authentic and extremely interesting 'MEMORIAL' of her 'Conversion,' 'with an account of her carriage at her Execution,' was privately printed, in small Quarto, pp. 48, Edinburgh, 1827, from a paper preserved among Wodrow's MSS. in the Advocates' Library, by Charles Kirkpatrick Sharpe, Esquire, to whose learning, ingenuity, and high accomplishments, the Public has been so often indebted. The very limited impression of this *morceau recherché*, may plead the Editor's apology for stating, as briefly as possible, that this 'Tractate' is entitled, 'A Worthy and Notable Memorial of the great Work of Mercy, which God wrought in the Conversion of Jean Livingstoun Lady Warristoun; who was apprehended for the vile and horrible Murder of her own husband, John Kincaid; committed on Tuesday, July 1, 1600; for which she was execute, on Saturday following: Containing an Account of her obstinacy, earnest repentance, and her turning to God; of the odd speeches she used, during her imprisonment; of her great and marvellous constancy; and of her behaviour and manner of her death: Observed by one who was both a seer and hearer of what was spoken.' From internal evidence, the writer seems to have been Mr James Balfour, the colleague of the notable Mr Robert Bruce. They were the appointed Ministers, in the North-west part of Edinburgh.

¹ The Cross, situated near the *girth*, or sanctuary of Holyrood, an ancient place of refuge, and still affording protection to debtors, when properly registered; who have liberty to walk within the precincts, free from the molestation of their creditors.

² It is probable that the sentence bore, that the pannels should be executed on the evening of Friday the 4th day of July. The subsequent early execution, at sunrise next morning, was effected, at the solicitation of the family of Dunipace, who indecently urged the Magistrates precipitately to lead Lady Warristoun to the scaffold, before sunrise, shortly after three o'clock in the morning. Owing to a plan, evidently preconcerted, the 'nurische' and 'hyred woman' were burnt on the Castlehill at four o'clock, so that the populace, who might be so early astir, should have their attentions distracted at two opposite stations, nearly a mile apart from each other, and thus, in some measure, lessen the disgrace of the public execution. It is recorded that the Laird of Dunipace behaved with much apathy towards his daughter, whom he would not so much as see previous to her execution; nor yet would he intercede for her, through whose delinquency he reckoned his blood to be for ever dishonoured.

A great portion of this Memorial is occupied with a very affecting account of the state of her mind, and a faithful and striking delineation of its gradual opening and developement, through the patient and affectionate attentions of her spiritual advisers, from a state of perfect callousness and indifference to every thing connected with Religion and the awful situation in which she was placed, to perfect resignation to her fate, and a cheerful, but unfeigned repentance for all her past offences and crimes. So far as relates to her CONFESSION, it cannot be better related, than by quoting her own energetic words.—‘ I think I hear presently the pitifull and fearfull cryes which he gave when he was strangled ! And that vile sin which I committed, in murdering mine own husband, is yet before me. When that horrible and fearfull sin was done, I desyred the unhappy man who did it, (for my own part, the Lord knoweth I laid never my hands upon him to-do him evil ; but as soon as that man gripped him and began his evil turn, so soon as my husband cryed so fearfully, I leapt out over my bed, and went to the Hall ; where I sat all the time, till that unhappy man came to me and reported that mine husband was dead ;) I desired him, I say, to take me away with him ; for I feared Tryall ; albeit flesh and blood made me think my father’s moen¹ at Court would have saved me ! ’ ‘ As to these weemen who was challenged with me, I will also tell you my mind concerning them. God forgive the Nurse, for she helped me too well in mine evill purpose ; ffor when I told her that I was minded to do so, she consented to the doing of it ; And upon Tuesday, when the turn was done, when I sent her to seek the man who would do it, she said, “ I shall go and seek him ; and if I get him not, I shall seek another ! And if I get none, I shall do it myself ! ” (This the Nurse also confessed, being asked of it before her death.²) ‘ As for the other two weemen, I request that you neither put them to death, nor any torture, because I testify they are both innocent ; and knew nothing of this deed before it was done, and the mean time of doing of it : And that which they knew, they durst not tell, for fear ; for I had compelled them to dissemble. As for mine own part, I thank my God, a thousand times, that I am so touched with the sense of that sin now : ffor I will confesse this also to you, that when that horrible Murder was committed first, that I might seem to be innocent, I laboured to counterfeit weeping ; but do what I could, I could not find a tear : And so now I suffer ; for the Lord would not have that high sin concealed, but would have it manifest, as it is his gracious will to be done.’

Owing to the rank of Lady Warristoun, and the powerful influence of her father and his friends, the *manner* of her death was, on their intercession, mitigated to decapitation by the well-known ‘ Maiden.’ The usual form of death, for females, in such cases, was of the most ignominious and shocking description,—burning, after being strangled at a stake,—and in atrocious instances, the Criminal was ‘ brunt quick ! ’ A very unbecoming zeal was displayed by her relations, to have her executed as *privately* as possible, and at such a time as would be unknown to the populace. They had first intended and applied for the unusual hour of 9 o’clock on Friday evening, as the time for her execution ; which, however, was overruled. The ‘ Memorial’ states, that, ‘ After 3 o’clock in the morning, upon Saturday, the Magistrates wer brought into prison by her friends,³ to take her forth to suffer. Amongst them, some were too earnest to hast her away, that she might be execute, before any should know of it ; albeit she was far otherwise minded, herself ; for she purposed not to have gone furth till between 5 and 6 in the morning. On this, many, whom I will not name, came and said, “ Will you deprive God’s people of that comfort which they might have, in that poor woman’s death ? And will you obstruct the honnour of it, by putting her away, before the people rise out of their beds ? You do wrong in so doing ; for the more publick the death be, the more profitable it shall be to many ; and the more gloriouse, in the sight of all who shall see it,” &c. The Magistrates granted also, that she might stay till sun-rising ; but her friends⁴ were so importunate that it was not granted ! ’

The youth and beauty of Lady Warristoun have been much expatiated upon, in the whole of the

¹ Fr. ‘ *moyen*,’ influence, interest.
before the burning of the Nurse.

² This is remarked by the writer, for the Lady Warristoun was beheaded
³ Relations. ⁴ Blood-relations.

numerous popular ballads which were made on this occasion; several of which are *still* sung and recited in various parts of Scotland! To those who feel curiosity in such matters, reference may be made to *Jamieson's Ballads*, I., 109, *Kinloch's Ancient Scottish Ballads*, p. 49, *Buchan's Ballads*, I., 56, &c.—Although, as the 'Memorial' expresses it, she was 'but a woman and a bairn, being the age of 21 years,' 'in the whole way, as she went to the place of Execution, she behaved herself so cheerfully, as if she had been going to her wedding, and not to her death! When she came to the scaffold, and was carried up upon it, she looked up to the Maiden with two longsome looks, for she had never seen it before, &c. This I may say of her, to which all that saw her will bear record, that her only countenance moved,¹ although she had not spoken a word! For ther appeared such a majesty in her countenance and visage, and such a heavenly courage in her gesture, that many said, "That woman is ravished with a higher spirit than a man or woman's!"'

'THE *summ of her* CONFESSION, which almost was in a form of words, upon the four parts of the scaffold, to which she presented herself, was this.²

"THE occasion of my coming here, is to shew that I am, and have been a great sinner, and hath offended the Lord's Majesty; especially, of the cruell murdering of mine own husband; which, albeit I did not with mine own hands, for I never laid mine hands upon him all the time that he was murdering; yet I was the divider of it, and so the committer! But my God hath been alwise mercifull to me, and hath given me repentance for my sins; and I hope for mercy and grace at his Majesty's hands, for his dear son Jesus Christ's sake. And the Lord hath brought me hither to be an example to you, that you may not fall into the like sin as I have done: And I pray God, for his mercy, to keep all his faithfull people from falling into the like inconvenient as I have done! And therefore, I desire you all to pray to God for me, that he would be mercifull to me!"'

Her conduct on the scaffold appears to have been most heroic. After her devotional exercises were completed, 'then came to her one of her friends, with a clean cloath, to bind about her face.' To the fastening thereof, she took out of her mouth a pin, and gave it out of her own hand. The minister, after receiving her last farewell, 'could not abide longer beside her; but immediatly left the scaffold and departed. But she, as a constant faint of God, humbled herself on her knees, and offered her neck to the axe, laying her neck, sweetly and graciously, in the place appointed; moving to and fro, till she got a rest for her neck to lay in. When her head was now made fast to the Maiden, the Executioner came behind her, and pulled out her feet, that her neck might be stretched out longer, and so made more meet for the stroak of the axe; but she, as it was reported to me by him who saw it, and held her by the hands at this time, drew her leggs twice to her again, labouring to fitt on her knees, till she should give up her spirit to the Lord! During this time, which was long, for the axe was but slowly loofed, and fell not down hastily; after laying in of her head, her tongue was not idle, but she continued crying to the Lord, and uttered with a loud voice, those her wonted words, "Lord Jesus, receive my spirit! O, Lamb of God, that taketh away the sins of the world, have mercy on me! Into thy hands, Lord, I commend my soul!" When she came to the middle of this last sentence, and had said, "Into thy hand, Lord," at the pronouncing of the word "LORD," the axe fell; which was diligently marked by one of her friends, who still held her by the hand, untill this time, and reported this to me.']

Jun. 26.—ROBERT WEIR, sumtyme fervande to the Laird of Dynniepace.³

Dilaitit of airt and part of the crewall Murthour of vmq^{1o} Johnne Kincaid of Warieftoune; committit (on Tuesday) the first of Julij, 1600 yeiris.

PERSEWERIS.

Patrik Kyncaid, tutour of Warieftoune, Thomas, Archibald and Adame Kyncaid, all brether to the defunct.

¹ Her countenance alone would have excited emotion, although, &c. ² That is, she repeated her Declaration or Confession at each of the four corners of the scaffold; which was a stage or platform erected in the centre of the street, at the foot of the Canongate, near the Girth-cross. ³ On the margin, 'Convict and brokin on the row,' (*wheel*.)

ASSISA.

George Dewer in Plefance,	Dauid Hoipis smyth,	John Couttis skynner,
Johnne Gairdner thair,	Henrie Kello in Leyth-wynde,	William Chalmer in Brochtoun,
Johnne Henderfoun thair,	Johnne Roger, Maifter of fence,	John Myller in the Canno-mylne,
James Nicolfoun tailzeour,	Robert Taillifeir maltman,	Williame Bannatyne thair,
Johnne Airmour merchand,	Thomas Galloway of Cairnehill,	George Roife thair.

The Affyse cheiffis Thomas Galloway chancellor.

QUHILKIS perfones of Affyse, being chofin, fworne and admittit, efter accusatioun of the said Robert Weir, be Dittay, of the crymes following, to witt: FOR-SAMEKILL as vmq^{le} JEANE LEVINGSTONE, Guidwife of Warieftoune, haifing confauct ane deidlie rancour, haitrent and malice aganis vmq^{le} Johnne Kincaid of Warieftoune, for the allegit byting of hir in the arme, and streking hir dyuerfe tymes, the said Jeane, in the moneth of Junij I^m.Vj^c. yeiris, directit Jonet Murdo hir nwreife to the said Robert, to the Abbay of Halyrudhous, quhair he was for the tyme, desyreing him to cum down to Warieftoune, and speck with hir, anent the crewall and vnnaturall taking away of hir said husbandis lyfe. And the said Robert haifing cum down twyfe or thryfe to the said vmq^{le} Jeane, to the said place of Warieftoune, he could get na speich of hir. At last, the said vmq^{le} Jeane, vpon the first day of Julij, 1600 yeiris, directit the said Jonet Murdo hir nwreife to him, desyreing him of new agane to cum down to hir; quhairto the said Robert grantit: Lykas, at eftir none the said day, the said Robert cam to the said place of Warieftoun, quhair he spak with the said vmq^{le} Jeane, and conferrit with hir, concerning the crewall, vnnaturall and abhominable murthing of the said vmq^{le} Johnne Kincaid. And for performeance thair of, the said Robert Weir was secreitlie convoyit to ane laich feller, within the said place, quhairin he abaid quhill mydnycht: About the quhilk tyme, he, accompaneit with the said vmq^{le} Jeane Levingftoun, cam furth of the said laich feller vp to the hall of the said place, and thairfra cam to the chalmer quhair the said vmq^{le} Johnne was lyand in his bed, takand the nychtis rest; and haifing enterit within the said chalmer, persaveing the said vmq^{le} Johnne to be walknit out of his fleip, be thair dyn, and to preife ouer his bed stok, the said Robert cam than rynnand to him, and maist crewallie, with thair faldit neiffis gaif him ane deidlie and crewall straik on the vane-organe,¹ quhairwith he dang the said vmq^{le} Johnne to the grund, out-ouer his bed; and thaireftir, crewallie strak him on his bellie with his feit; quhairvpoun he gaif ane grit cry: And the said Robert, feiring the cry fould haif bene hard, he thaireftir, maist tyrannouffie and barbarouffie, with his hand, grippit him be the thrott or waisen, quhilk he held fast ane lang tyme, quhill he wirreit him; during the quhilk tyme, the said Johnne Kincaid lay struggilling and fechting in the panes of daith vnder him.² And sa, the said vmq^{le} Johnne was crewallie

¹ The jugular vein. It has often, but improperly, been supposed to signify the flank or iliac vein.

² This is precisely the mode which was, more than two centuries afterwards, adopted by the infamous

murdreift and flaine be the said Robert; and he is airt and part thairof: As at mair lenth is contenit in the said Dittay.

VERDICT. The Assyse, all in ane voce, be the mouth of the said Thomas Galloway, chancellor, chofin be thame, ffand, pronuncet and declairit the said Robert Weir to be ffylit, culpable and convict of the crymes aboue specifeit, mentionat in the said Dittay; and that in respect of his Confessioun maid thairof, in Judgement.

SENTENCE. The said Justice-depute, be the mouth of James Sterling, dempster of Court, decernit and ordanit the said Robert Weir to be tane to ane skaf-fold, to be fixt befyde the croce of Edinburgh, and thair to be brokin upoune ane Row,¹ quhill he be deid; and to ly thairat, during the space of xxiiij houris. And thaireftir, his body to be tane vpon the said Row, and set vp, in ane public place, betuix the place of Wareftoun and the toun of Leyth; and to remane thairupoune, ay and quhill command be gevin for the buriall thairof. Quhilk was pronuncet for dome.

Burning of House of Langholm — Horse and Cattle Stealing, &c.

Jan. 11, 1605.—INGRIE AIRMESTRANG, in Inzieholme; Archie Airmestrang, *the Mercheand*, in the Hoilhous; Niniane Airmestrang, in Tortwne; Johnne Airmestrang, in the Hoilhous; Johnne Michelfoun, in Tortwne; Cristie Airmestrang, thair, callit *Nanfe Cristie*; Johnne Thomefoun, in Dwmescheilburne; Archibald Airmestrang of Flaskholme; Archibald Airmestrang, callit *Nanfe Archie*; Niniane Airmestrang, callit *Roweis Niniane*, in Murthome; Cristie Airmestrang, fone to the Guidman of Langholme (Johnne Airmestrang;) Mathow Twrnour in Hoilhous, and Johnne Couthird.

Dilaitit for airt and pairt of the tressonable Burning of the House of the Langholme; and taking of Harbert Maxwell of Cavenfe captiue and priffoner: And for the thiftious steilling of certane horse, nolt, scheip, gait: And burning of certane coirnis, pertening to the said Harbert, Alexander Bell in Eikinholme, Williame Bell in Gallofyde and George Irwing in Holmeheid; committit in the

Burke and his gang, at the West-port of Edinburgh, to suffocate the wretched victims of their bellish traffic. The quaintness of the ancient style even aggravates the horror of the scene.

¹ The cruel and horrible punishment of death on the wheel, has ever been very infrequent in Scotland. Weir was literally broken upon a *cart-wheel*, as appears by the following entry in Robert Birrel's Diary: 'Robert Weir broken on ane cart-wheel, with ane couler of ane pleuch, in the hand of the hangman, for murdering the Laird of Warriston, quhilk he did, 2 Julii 1600.' The case of Weir is the first recorded instance of such punishment having been inflicted. This lingering and agonizing manner of execution, borrowed from the practice of France, Germany, &c. had perhaps been suggested by the unprovoked and barbarous nature of the murder. It was well calculated to make a deep impression on the minds of the people, corresponding in some measure to the great excitement created in the public mind, by the occurrence of a deed of so deep a die, and perpetrated so near to the metropolis.

moneth of September, I^m.V^c. fourfoir ane yeiris ; and vtheris crymes spcifeit in our fouerane lordis letteris.

PERSEWARIS, Harbert Maxwall of Kavenfe, Alexander Bell in Ekieholme, Williame Bell in Gallofyde, George Irrving in Holmeheid.

PRELOCUTOR for the pannell, Mr Johne Ruffell, (advocate.)

It is allegit be the pannell, that be the lawis and Actis of Parliament, in all criminall actiones, the pairtie defender aucht to haif ane autentik coppie of the Dittay and contentis of the summondis : Bot trew it is, that thair is na coppie delyuerit to the defenderis, bot only tikkettis ; and for verifeing thairof, producet the saidis tikkettis, viz. four in number : And thairfoir na proces.

THE JUSTICE repellis the allegation, in respect of the executiones.

The pannell askis instrumentis, that the Guidman of Kavenfe abydis at the letteris and executionis, and of the vñing thairof.—It is allegit, that Johnne and Cristie Airmestrangis, defenderis, the tyme lybellit of the crymes lybellit, war within yeiris (*in minority*;) the said Johnne of the age of viij yeiris, and Cristie of the age of foure yeiris ; and sa war nocht *doli capaces* ; and be the law of this realme, can nocht be put to the tryell of ane Affyse.

The hail perfeweris, vnderstanding that Archie Airmestrang *the mercheand*, Agnes Cristie Airmestrang and Anneis Archie ar Innocent of the crymes lybellit, passis fra thame: Quhairupone thay askit instrumentis. The perfeweris also passis fra Roweis Niniane Airmestrang *simpliciter* ; quhairupon he askit instrumentis.

Mr Airthour Scott of Newburcht and Gemilscleuch become pledge and fouertie that Harbert Maxwall, his wyfe, bairnis, &c. fall be harmeles and skaythles in thair bodeis, landis, guidis and geir of the saidis Johnne and Cristie A., sones to Johnne A. of the Langholme ; the said Johnne vnder the pane of ane thowfsand pundis, and the said Cristie vnder the pane of fyve hundreth pundis.

Continued to the air of ‘ Dumfreis, tertio Itineris, (vel super premonitione) xv dierum.’ (See Vol. II. p. 479.)

Burning the Castle of Langholme, &c.

Jan. 11.—JOHNNE AIRMESTRANG of Langholme.

Dilaitit of airt and pairt of the treffonabill Raifing of fyre about Harbert Irwingis hous in Murthholme, and burning ane grit pairt thairof : And lykwayis for airt and pairt of the treffonabill Raifing of ffyre at the Castell of Langholme, and burning of ane grit pairt of the barnes, byres, stables and vther office-houffis of the said Place of Langholme : And burning of the hail inficht pleneiffing being thairin ; togidder with thre barnes full of beir and corne ; and xxiiij stakkis of corne, standing in the barne yaird ; and fourfoir dargis¹ of hay, with

¹ Darg usually signifies a day's work, as much as one man can accomplish in a day, or ‘ *dayis-werk*.’

ane kilfull¹ of malt : And for airt and pairt of the thiftious steilling of threttie nolt, with sax or sevin horse and naigis, furth of the said Place of the Langholme : Quhilkis all and findrie guidis, geir, coirnes, horse, nolt and remanent guidis, pertentit to Harbert Maxwell of Kavenfe : committit be the said Johnne, the moneth of September, I^m.V^c. fourfcoir ane yeiris: And siclyk, for airt and pairt of the tressonabill vsurpation of his Maiesteis autoritie vpon him, in taking in of the said Harbert Maxwell of Kavenfe captiue and prissoner ; and tranfporting him in Ingland, at the tyme foirsaid. ITEM, for Burning of Williame Bellis houfe in Gallowfyde, with tua barnes full of beir, and tua flakkis of aittis standing in his barne-zaird : AND for the thiftious steilling fra him of tuentie nolt, threscoir schein and tuentie gait, &c. ITEM, for Burning of Alexander, Richerd and Fergie Bellis houffis in Dikinholme, and steilling threscoir nolt, tua hundredreth schein and threscoir gaittis : ITEM, for Burning and destroying of Daid and George Irwingis duelling houffis in Holmeheid, with sax barnes full of beir and corne, and aucht roukis of corne, standing in thair corne-zaird, and tuentie dargis of hay ; committit the tyme foirsaid ; vpoun set purpois and prouifoun.

Sir James Johnnestoun of that Ilk of Dunskeillie, kny^t, as cautioner, vnlawit and amercciat in the pane of ane thousand merkis money.—The Justice adjudget the said Johnne Armestrang of Langholme, to be denuncet our souerane lordis rebell, and put to the horne ; and all his moveabill guidis to be escheit, &c.

Resetting Denounced Rebels, &c.—Resisting his Majesty's Guard.

Mar. 12.—RINGANE² AIRMESTRANG, callit *New-maid Ringane*, and Will Airmestrang of Rowan-burne.

Dilaitit of contravening the Actis of Parliament, in Resetting and assisting the Kingis Maiesteis rebellis, &c.

DITTAY at the instance of Sir Thomas Hammiltoun of Monkland, knycht.

FORSAMEKILL as it is statute and ordenit be our souerane lordis Actis of Parliament, that nane rebell aganis his Maiesteis perfoune nor his autoritie ; and quha fa makis the said rebelloun, falbe pwneist thairfore, estir the quantitie³ of that rebelloun ; As the said Act beris. And als, be ane vther Act of Parliament, it is statute and ordanit, that na maner of man, within this realme, wittanlie or wilfullie resset, supplie, mantene, defend or do favouris to ony of our souerane lordis rebellis, and att his hienes horne, vnder the pane of deid and confiscation of all thair moveabill guidis ; and to be accustit heirvpoun att particuler dyettis ; as the said Act beris. And trew it is, that Johnne Murray of Stable-Gortonne, Cuddie of the Bankhous, Cristie of Langholme, Andro of the Langholme and Johnne Baittie of the Scheill, fugitiues and outlawis, being denunceit rebellis and att the horne, att the instance of Bernard Lyndfay of the Grange, for nocht making redres and payment to the said Bernard, of the particuler guidis contenit in the Decreit obtenit be the said Bernard aganis thame, for thair maisterfull stouthreiff and Murthoure, committit be thame, viz. For the maisterfull stouthreiff fra Archbald Lyndfay of his horse and armour ; and fra Williame Lyndfay, brother to the Laird of Co-

¹ Kilnfull.

² Ninian.

³ Extent, measure.

vintoune, of his horſe and armour; and fra James Baillie, guid-ſone to the Laird of Covintoune, of his hors and armour; and fra James Lyndſay, of his hors and armour; fra Jok Braidwod, of his hors and armour; fra Thomas Fiſcher, of his hors and armour; fra Robert Gybfoun, of his hors and armour; fra Williame Thomſoun, his hors and armour; Jok Fiſcher, his hors and armour; Jok Kay, his hors and armour; fra Alexander Lyndſay, his hors and armour; Johnne Tod, his hors and armour; Robert Kay, his hors and armour; George Brown, his horſe and armour: Cuthbert Boyd, his horſe and armour; Andro Haddo, his hors and armour; Jok Lyndſay of the Myll, his hors and armour; vmq^{le} Johnne Lyndſay and Edward Tynto, thair horſis and armour: Quhilkis vmq^{le} Johnne Lyndſay, Edward Tynto, togidder with Symone Fiſcher, ſeruitour to Sir James Hammiltoune of Libbertoune, wer crewallie ſlayne be the ſaidis perſones, in following of thame, to red^l leill mennis guidis, in oppin day-lycht; the ſaidis rebellis being rynnand ane day forrow² and heirſchip throw the countrey: AND Robert Hepburne of Aulderſtoune, Leutenent of his Maieſteis Gaird, accompaneit with ane number of the ſaid Gaird, being direct to aſſiſt and concur with the ſaid Barnard Lyndſay, vpoune the . . . day of Nouember laſtbypaſt, to poynd and diſtrein³ the ſaidis rebellis guidis and geir, for the valour⁴ of the ſaidis hors and armour, conforme to ane Decreit gewin aganis thame be Andro Lord Stewart of Vchiltrie, Leutenent and Warden of the Weſt Marchis of this realme, in ane Court of Redres, hauldin in the Tolbuith of Drimfreis, the xxix day of December, 1^m.V^c.lxxxvij yeiris: IT IS of veritie, that thay and ather of thame, being foirfene of the ſaid Robertis cuming, thay being accompaneit with the ſaidis rebellis, with convocatioun of our ſouerane lordis liegis, all bodin in feir of weir, with jakis, lanceis and vtheris wappinis, *invafue*, raiſe in hoſtile maner foirſaid, vpon the day foirſaid, at aucht houris before ſone ryſing, within the boundis of Esk,⁴ and thair mantenit, defendit, ſuppleit and aſſiſtit the ſaidis rebellis, and ſett vpon the ſaid Robert Hepburne and remanent his Maieſteis Gaird, in executioun of our ſouerane lordis authoritie, in poynding of the ſaidis rebellis guidis; perſewit thame of thair lyves, and chaiffit thame be the ſpace of aucht myles for thair ſlauchteris: And ſua, thai and ather of thame hes committit manifeſt rebellioun aganis his Maieſteis authoritie; and he (they) oppinlie mantenit and defendit the ſaidis rebellis, being at his Maieſteis horne, for the ſaidis crymes: And thairthrow, hes contravenit the tennour of the ſaidis Actis of Parliament; and the panis thairin contenit aucht to be execute aganis (them.)

The Aduocat takis instrumentis of the ſweiring of the Affyſe, and proteſtis for Wilfull Errour, in cais they acquit. The Affyſe takis instrumentis of the pannellis Confeſſioun maid be thame, that thai arraiſe and perſewit the Gaird.

VERDICT. The Affyſe, be the mouth of Johnne Weir of Clowburne, chancellor, ſſand, pronunceit and declarit the ſaidis Ringan and Will to be culpabill, ffylit and convict of the crymes aboue writtin.

SENTENCE. The Juſtice-depute, be the mouth of James Henryſoun, dempſtar of Court, decernit and ordenit the ſaidis Ringan and Will to be tane to ane gibbet befyde the mercat croce of Edinburgh, and thair to be hangit quhill thay wer deid; and all thair movabill guidis to be eſcheit, &c.

‘ Falſet’ — Perjury — ‘ Man-ſwearin’ — Cruel Oppreſſion.

Mar. 15.—ALEXANDER CHENE, in the Haltoun of Balhalvie, Alexander Waſtland, his ſerveand, and Alexander Croy, ſeruitour to the Laird of Auchterallane.

¹ To get reſtoration, &c. ² Literally, running a day-foray through the country, openly carrying on their violence and depredations in broad daylight. ³ Value, ‘avail.’ Lat. *valor*. ⁴ Eskdale.

Dilaitit of Periurie and menfweiring of thame felffis, in prefens of the Lordis of Secreit Counfall.

DITTAY, at the instance of Sir Thomas Hammiltoun of Monkland, Aduocat.

FORSAMEKILL as thay and thair complices, being perfewit befor the Lordis of his hienes Secreit Counfall, ffor cuming vpoun the xxvj day of December laft, att mydnycht, to George Duncanis duelling hous in Ardo, quhair he, with his wyffe and famelie, wer in peciabil and quyete maner for the tyme, takand the nychtis rest, lipning¹ for na iniurie nor oppreffion to haif bene offerit to thame; and thair, violentlie brak vp the dur of the faid Georgis duelling hous, enterit thairin, and tuik the faid George and his wyffe, fcho being grit with chyld, out of thair naikit beddis, band thame with coirdis, and maift crewallie and vnmercifullie, but² pitie or compaffion of the faid Georgis wyffis estait, fcho being grit with chyld, as faid is, strak and dang thame with rounGIS³ and batounis brocht with thame for the purpoife; fa that the faid George wyfe almaift pairtit with bairne; and haifing maift fchamefullie strukin and leifchit the faid George him felff with beltis: Committing thairby maift oppin Oppreffionne. FOR the quhilk Oppreffion, the faid George, haifing rafit oure fouerane lordis Letteris, and thairwith fummond the faid Alexander Chene to compeir before the Lordis of his hienes Secreit Counfall, the fourtene day of March instant, to anfuer to the faid Complaint; and haifing, be vertew of the faidis Letteris, lykwyfe fummond the faid Alexander Waflland and Alexander Crag to beir witneffing in the faid mater; quhom the faid Alexander Chene, haifing fallie subornit to periure and menfweir thame felffis, to depone fallie aganis thair knowledge and confcience in the faid mater, and to conceill the treuth thairof: The faid Alexander Chene and remanent perfounes, compeirand before the Lordis of Secreit Counfall, the faid xiiij day of March instant, and being deiplie sworne, be thair grit aithis, to depone and tell the treuth in the faid mater, and to beir leill and fuitheft witneffing thairin; being vnmyndfull of thair dewtie towardis God, and haifing na regaird nor reverence to our fouerane lordis auctoritie and lawis, and his hienes maift honorabill Counfall, fallie, be thair Depofitiounes, Periureit and Menfweir thame felffis; the faid Alexander Croy and Alexander Waflland deponing, that thay wer nather present att the faid deid, nor knew nathing in the faid mater; and the faid Alexander Chene, be his Depofitiounis, declairit, that he fould be content to be hangit,⁴ in caice it fould be provin or tryit that he strak the faid George Duncan or his wyffe: And lykwyfe denying that he had subornit the faidis witneffis, or instructing thame to deny or conceill the treuth: AND nochtwithftanding thairof, the faid Alexander and the faidis witneffis being re-examinat, hes all deponit that thay wer all present att the faid ffact and Oppreffionne, and that the faid Alexander Chene strak the faid George Duncane with ane rung, and beltit him naikit with ane sword-belt; and wer all present att the faid manifft Oppreffionne: And als confeffit, that the faid Alexander Chene had instructit, seducit and subornit the faidis Alexander Croy and Alexander Waflland to Periure and Menfweir thame felffis, and depone before the Lordis of Secreit Counfall, that thay wer nocht present with him att the faid fact, and knew na thing thairof: AND SA, thay and ilk ane of thame hes nocht only committit manifft Oppreffion be the faid fact and hes Periureit and Menfworne thame felffis: bot als, hes committit manifft ffalfett; and as periureit and fals perfonis ar nocht worthie to leue; aucht and fould be pwneift, conforme to the Lawis of this realm and to the Commoun-Law; in terrour and example of vtheris faull-les⁵ perfounes, to committ the lyke Periurie and ffalfet in tyme cuming.

ASSISA.

Robert Hog, fumtyme feruitour to my Lord of Marfchell, Johnne Ramsay of Quhytehill,
 Dauid Wod, brother to the Laird of Balbegnocht, James Stewart, agent for my Lady Atholl,
 Robert Crawford of Caverhill, Johnne Mowbray, portioner of Crawford.

The remainder are burgeffes, &c.

¹ Trusting that no injury, &c. ² Without. ³ Cudgels. ⁴ Other instances are on record of witnesses per-juring themselves, and making this awful asseveration, being taken at their word. ⁵ Soul-less, devoid of conscience.

VERDICT. The Affise, be the mouthe of the said Johnne Ramsay, chancellor, ffand, pronunceit and declairit the pannell to be ffylit, culpable and convict of the crymes aboue writtin, conforme to thair Depositionis and Confessioun.

SENTENCE. The Justice-depute, be the mouth of James Stirling, dempftar of Court, decernit and ordained the said *Alexander Chene* to be tane to the mercat croce of Edinburghe, and thair his heid to be strikin fra his body: And the said *Alexander Wasland* to be tane to ane gibbet besyde the mercat croce of Edinburghe, and thair to be hangit quhill he be deid: And the said *Alexander Croy* to be skurgeit throw the toun; as he that fyrst confest the veritie: And all thair movable guidis to be escheit and inbrocht to our fouerane lordis vfe, as fugitiue fra the lawis for the saidis crymes.

Slaughter.

Mar. 28.—JOHNNE SPOTTISWOID OF THAT ILK.

Dilaitit for airt and pairt of the felloun and crewall Slauchter of vmq^{le} Thomas Quhippo of Leyhouffis; committit in the moneth of Junij, the yeir of God I^m.V^c.lxxxxv yeiris; vpoun fet purpois, provisioun and foirthocht felony.

James Tennant of Lynhous, as souertie, ordanit to be vnlawit and americiat in the pane of ffyve hundreth merkis for nocht entry of the said Johnne, to vnderly the law, &c.; and als, adiudget the said Johnne to be denunceit our fouerane lordis rebell and put to his hienes horne, and all his moveabill guidis to be escheit, &c.

Messenger Forgeing and Signeting False Letters and Executions, &c.

Mar. 28.—WILLIAME STRAUCHANE, messinger.

Dilaitit ffor the ffalsiefeing, fforgeing, Counterfuteing, devyfeing, fubscriyveing and signetting of foure fals Charges and Executiones, with the Denunciatioun of Hoirning following thairupoune, ffalslie vset and execute be him. Quhilkis charges and denunciatioun, and everie ane of them, are, be Decreit of the Lordis of Sessioun, of the dait the sevint day of Marche instant, civillie and lauchfullie Improvin, and ffund be the saidis Lordis to be ffals and ffeinzeit in thame selffis, &c.

VERDICT. The Affise, be the mouth of Peter M^cDowell of Machermoir, chancellor, ffand, pronuncet and declairit the said Williame (in respect of the said Lordis Decreit, producet aganis him, ffinding the saidis Executiones to be ffalse and ffenzeit) to be Fylit, culpabill and convict thairof.

SENTENCE. The Justice-depute, be the mouth of James Henderfoun, dempfter, decernit and ordanit the said Williame to be scurget throw this burgh; and to be depryuet of his office of messingerie and notarie, and nevir to vfe the samyn in ony tyme cuming; vnder the pane of hanging, but (*without*) faour; as he that was convict of the crymes aboue writtin.

Hurting — Wounding — Mutilation.

Apr. 9.—PATRIK CARKETTILL of Markill, George Carkettill, his brother, Johnne Broune, brother to the Laird of Colstoune, and Robert Smyth, servand to the said Patrik.

Dilaitit of airt and pairt of the Hurting, Wounding and Mutilatioun of James Libbertoun, servand to James Lord of Balmirrienoche of his left eie; and remanent crymes contenit in the Letteris.

PERSEWARIS, James Libbertoune, Mr Thomas Hoip, Aduocat-substitute.

PRELOCUTORIS for the persewer.

The Laird of Henderstoun, Mr Robert Lyntoun, Aduocat-substitute for the Kingis Aduocat. PRELOCUTORIS for the pannell, the Laird of Wauchtoun, the Laird of Innerleyth, the Laird of Craigmiller, Sir Johnne Prestoun of Valafeild, Mr Johnne Ruffell, Mr Alexander King, Aduocattis.

My Lord President¹ producet the Kingis Maiesteis Warrant; quhair of the tennour followis.

JAMES R.

JUSTICE, Justice Clark and zoure deutes, We greit zow weill. In þe tryell of þe particuler mater perfewit before zow, at þe instance of James Libbertoun in Neper Libbertoune aganis Patrik Carkettill of Over Libbertoun and his complices, for þe mutilatioun of þe said James; committit be þame in þe moneth of . . . lastbypast: In cais (it) be fund be zow that ze can nocht, for þe present, reffraue þe tryall of þe said mutilatioun, in respect of þe schortnes of tyme interuening, and before the expyring of zeir and day eftir þe committing of þe fact; and swa ze falbe forceit to continew zour proceding in þe mater: In quhilk cais, it is our speciall will and pleasour, that ze fall command the saidis perfonnes to enter pair perfonnes in waird, within þe Castell of Blaknes, thairin to remane, quhill thay be ffynit be our Counfall pair, for pair cryme and offence committit be þame; and frome þame obtene Warrant for pair releif. Quhairanent thir presentis falbe zour Warrant. Gewin att Grenewiche, this twentie day of March, 1605.

THE Justice continewis this dyet to the faxtene day of Maij nixtocum; and ordanis the perfonnes on pannell to entir in waird, within the Castell of Blaknes, within xlvij houris; and to find caution to that effect.²

Sir George Prestoun of Craigmiller, kny^t, become pledge and fouertie, &c.; and that thay fall enter in waird, &c. thairin to remane, and onnawayis to depart furth thairof, quhill thay be fred be ane Warrant; and that vnder the panes following, viz. ffor the said Patrik ane thousand merkis, the saidis George and Johnne ffyve hundreth merkis, and the said Robert tua hundreth merkis.

Intercommuning with MacGregors.

Apr. 26.—COLENE BRUCE in Middilhauch of Ruthven (Huntingtour,) Patrik Bruce thair and Alexander Bruce thair.

Dilaitit ffor the tressonable Resset, Supplie and Intercowmoning with Johnne Dow Galt M^cgregour, Johnne Dow M^cewin M^cgregour and Gregour M^cewin,

¹ James Lord Balmerinoch, President of the College of Justice. ² The case was farther delayed to May 29, but no entry occurs of that date; so that it is likely the parties compounded with the Treasurer and private party, by payment of a stipulated fine.

cowmone theivis, tratouris and rebellis to his Maiestie ; and that within thair houffis in the Middill-hauch of Ruthven and dyuerse vtheris places, mony and dyuerse tymes, in the yeiris of God, I^m.Vj^c. and thre and four yeiris ; eftir the Murthour of Glenfrwne,¹ and eftir the saidis perfones war declairit rebellis and tratouris, and all our fouerane lordis leigis war lauchfullie prohibeit and discharged to reffett, supplie, affist or intercommown with the saidis M^cgregouris, rebellis and fugitiues, as said is, vnder the pane of Treffone.

For the quhilkis crymes aboue writtin, the saidis perfones on pannell becum in our fouerane lordis will. Quhairupone Sir Thomas Hammiltoune (of Monkland, kny^t, Aduocat to our fouerane lord) askit instrumentis.

Aug. 6.—THE KING'S WILL was this day declared against the pannels, as follows.

JAMES R.

JAMES, be ye grace of God, King of Gritt Britane, France and Ireland, defender of the ffaith. To our Justice, Justice clerk and your deputis, greting. Forfamekill as Colene, Patrick and Alexander Bruces in the Mydilhauch of Huntingtour, being callit and conuenit befor you, for the Assisting, Reffett, Supplie and Intercowmoning with the CLANGREGOUR, aganis the tennour of our Proclamationes maid pairanent ; thay ar becum in our will for the same : And albeit thay haif incurrit and mereit the pane of deathe, for that cryme, git We, of our speciall grace and mercie, ar content to dispense with the rigour of the law ; and haif declairit and declares our Will as followis, to witt : That ye saidis perfones fall be Baneift the hail boundis of our dominiones, during ye hail dayis of pair lyftymes ; vnder the pane of deid, and to be hangit but forder proces : And that thay find sufficient and responfall cautioneris and fouerteis, actit in the buikis of our Adiornall or Secreit Counfall, that betuix the day and dait heirof, and the tuentie day of August nixtocum, thay fall depairt and pass furth of our dominiones ; and nocht returne agane within ye samyn, during thair lyftymes, vnder the pane of ffyve thousand merkis, to be payit be the saidis cautioneris coniunctlie and feuerallie, in cais ye saidis perfones or ony of thame failzie in the premisses ; the ane half of the said pane to ws and our Thefaurer in our name, and ye vper half to Dauid Lord Scone,² our Comptroller, besydis the pane of deid to be incurrit be ye criminallis pame selfis ; with this prouisioun, that in caice the saidis criminallis or ony of thame fall happin to returne within our dominiones, and nawayis commit ony violence, harme or iniurie aganis ony of our subiectis afoir pair apprehensioun, in that caice pair cautioneris perseward and apprehendand thame, and presenting thame to Justice, the executioun of ye saidis criminallis fall liberat ye saidis cautioneris of all payment of the pecuniall sowme foirfaid : And gif thay fall happin to commit ony violence or harme aganis ony of our subiectis, eftir pair returning within our dominiones ; in that caice, pair cautioneris to be subiect to the payment of the pecuniall sowme foirfaid, and the criminallis thame selfis to vnderly the personall pwnschment foirfaid : Commanding heirby you our said Justice to pronounce this our Will judiciallie ; and to caus thir presentis be insert in the buikis of our Adiournall. Gevin att Grenewiche, the . . . day of Junij, 1605.

(Sic subscribitur) MONTROIS, Commissiounar. AL. Cancell.³

Patrik Bruce of Fingask and Mr Alexander Bruce, fear of Cultmalindie, become cautioners, and the Bond is registerd at length ; the witnesse are George Bruce of Carnok, Sir Johnne Bruce of Airthe, knycht, Johnne Kincaid, writer, and Johnne Kemp, his seruitour.

¹ See Jan. 20, 1604. ² Sir David Murray of Gospertie, afterwards Viscount Stormont, whose name so frequently occurs in the matter of Gowrie's Conspiracy. ³ Alexander Lord Fyvie, Chancellor, afterwards Earl of Dunfermline.

Hurting and Wounding — Mutilation.

May 9.—GEORGE FORRESTER, sumtyme servand tomy Lord of Roxburcht.

Dilaitit, accusit and perfewit be James Skirving in Gilkerstoun of the DITTAY following, viz.

FORSAMEKILL as the said George, haifing consauet ane deidlie feid, rancour and malice aganis the said James Skirving, sumtyme in Humbie and now in Gilkerstoun, for the allegit hurting of him ; the said George, to be revenged thair of, without regard of justice, in the moneth of Januar, the yeir of God 1^o. V^o. fourfoir fyftene yeiris, vnderstanding that the said James was to cum furth of the Place of Humbie, and to pas hame to his awin duelling-hous, than in Humbie mylne, he darnit him self in ane bourtrie bus,¹ at the heid of Wolfatt ; and in the said James bycuping, sett vpon him, and be way of brigancie,² vnder silence and clud of nycht, betuix aucht and nyne houris at evin, with ane sword and quhinger in his hand, maist crewallie perfewit him for his slauchter, hurt and woundit him in his richt arme and richt hand, and hes mutilat and made him impotent of the famyn ; and gaif him auchtene bludie and deidlie woundis ; and left him lyand for deid vpon the grund : And the said George was airt and pairt of the hurting, wounding and mutilatioune of the said James Skirving ; committit in maner and at the tyme foirsaid, vpon set purpos, prouisioun and foirthocht felony.

PERSEWER, James Skirving, sumtyme in Humbie, and now in Gilkerstoune.

PRELOCUTOUR for the perfewer, Mr Walter Bellenden.

PRELOCUTOURIS for the pannell.

Mr Johnne Ruffell, Sir Jedione Murray, My Lord Cranstoune, Mr Laurence M^oGill.

It is allegit be the perfewer, that the pairtie defender is at the horne ; and thairfoir na prelocutouris can compeir and defend in this perfute.—It is anfuert be Mr Johnne Ruffell, that albeit he be at the horne, and lauchfullie at the horne, yit he may compeir for the rebell. *Secundo*, the Hoirning is null, becaus the pannell being than servand to my Lord of Roxburcht,³ the denunciation at the mercait croce of Edinburghe, and registratioune in the Schereffis buikis of Edinburghe is nocht lauchfull, nor accoirding to the Act of Parliament, bot fould haif bene denuncet at Jedburcht, and registrat in the Schereffis buikis of the Scherefdome of Roxburcht.—It is replyt be the perfewer, that my Lord of Roxburcht duelt, the tyme of the denunciatioune, within the burgh of Edinburghe ; and thairfoir the Hoirning, in the hail poyntis thair of, is sufficient ; and the Hoirning standis vnreducet, quhairin he was charget, personallie apprehendit, to haif fund cautioune for his compeirance, vpon xv dayis wairning.

It is allegit be the pannell, that this matter can nocht be put to ane Assyse, becaus he is perfewit for Mutilatioune, and nocht tane *in recenti crimine*, and nocht charget vpon xv dayis wairning, nor na coppie of the Dittay is geuin him. Anfuert be the perfewer, that he is summond alreddie, vpon xv dayis wairning, personallie apprehendit, and a coppie delyuerit, and put to the horne, and be vertew of Letteris of Captioun, tane and apprehendit and presentit to pannell.—It is allegit that he is nocht summond to this day vpon xv dayis wairning ;

¹ Concealed himself in an elder bush.

² Robbery. Old Fr. *briganderie*.

³ Sir Robert

Kerr of Cessford was created Lord Roxburghe, anno 1600 ; and Earl, in 1616.

and gif he was fummond of befoir for this cryme, be vertew of vther letteris, and put to the horne, the samyn Hoirning is null ; for the caufis aboue writtin. It is anfuerit, the Hoirning standis vnreducet.—It is forder allegit be the pannell, that befoir this matter pafs to ane Affyse, this mutilatioune man be tryit be Chirurgenes. It is anfuerit be the defender, that he referris the cognitioun of the Mutilation to the Affyse.

THE JUSTICE findis this matter to be put to ane Affyse, nochtwithftanding the former allegeances.

It is allegit, that my Lord Justice Clerk and his deputis can nocht be Clerkis in this proces, becaus this perfewer is Tennent to my Lady Humbie, spous to my Lord Justice Clerk,¹ to quhome he payis maill and deutie, and thairfoir na proces ; and Mr Walter Bellenden, as prelocutour for the perfewer, is brother-in-law to my Lord Justice Clerk ; and thairfoir my Lord Justice Clerk can nocht be Clerk in this proces.—It is allegit be Mr Johnne Ruffell, that, in respect Mr Walter Bellenden, prelocutour for the perfewer, compeiris and perfewis, and the perfewer is Tennent to my Lady Humbie, his lordshipis spous, my Lord Justice Clerk can nocht be Justice Clerk in this proces. It is anfuerit, that Mr Patrik Bannatyne is ordiner clerk to the Justice, to all the legis.

THE JUSTICE Ordanis Mr Patrik Bellenden, ordiner Clerk, to proceid as Clerk in this proces.

Forder, it is allegit that na proces can be grantit, becaus my Lord Justice Clerk can nocht be Clerk in this proces, feing Mr Walter Bellenden, the prelocutour for the perfewer, is his brother-in-law ; as also, the perfewer is Tennent to my Lady Humbie of the landis of Gilkerftoun and Gilkerftoun-mylne ; as also, is tennent to my Lord him selff. Anfuerit, thair is ane ordiner clerk, viz. Mr Patrik Bannatyne, aganis quhome thair is na exceptioun, quha is ordiner Clerk to all our fouerane lordis leigis.—The anfueris foirfaid meittis nocht the declinatour, becaus the alledgeance is proponit aganis the Justice Clerk, without ony mentioun of Mr Patrik Bannatyne.

THE JUSTICE findis proces, and Mr Patrik Bannatyne to be clerk, vnles he propones a relevant alledgeance aganis him as ordiner clerk.

Thaireftir the pannell and prelocutouris declairit that thai only propone the declinatour foirfaid aganis my Lord Justice Clerk, quhy he fould nocht be clerk ; and ar content, that quhan his lordship is removet furth of Jugement, in respect of the declinatour foirfaid, gif fa be fund, Mr Patrik fall remane as clerk ; but² preiudice of sic lauchfull exceptiones as may be proponit aganis him, the faid

¹ Sir John Cockburn of Ormistoun, Lord Justice Clerk, married Elizabeth, the eldest daughter of Sir John Bellenden of Auchnoule (by his second wife, Janet Seton), and widow of James Lawson of Humbie.

² Without.

declinatour being first discussit. It is allegit be the pannell and his prelocutouris, vnder protestatioun that the former declinatour be first discussit, and na vtherwayis, that Mr Patrik Bannatyne can nawyis be admittit to be clerk in this proces, for tua cauffis; first, because he is Depute to my Lord Justice Clerk, aganis quhome the former exceptioun declinatour is proponit, and hes his office only of his lordship presentlie; and sua the exceptioun competent aganis the Clerk-principall, man be also competent aganis his Depute: Nixt, becaus Mr Walter Bellenden, quha is prelocutour, and Mr Patrik is thridis or ferdis of kyn to Sir Johne Bellenden of Auchnoull, and James Bannatyne of Newtyle ar thridis or ferdis of kyn; and declairis that Sir Johnne Bellenden,¹ father to Mr Walter, and James Bannatyne, father to Mr Patrik, ather thair guidfchiris or grandfchiris war brether.—And Mr Patrik Bannatyne being sworne, declairit that the former alledgeance of kynreid was nocht trew.

THE JUSTICE findis proces; and ordanis Mr Patrik Bannatyne to be Clerk to this proces, quha is ordiner Clerk to all our fouerane lordis leigis, to the Justice.

The pannel takis instrumentis of the Justice Interlocutour; and protestis for remeid of law.

The Defender declairis he will nocht feik the perseweris ayth, vpon the verificatioun of the Dittay; bot ony craves quhat the persewer produces to verifie. The persewer declairis that he fall schaw his mutilatioun to the Assyse.

VERDICT. THE ASSYSE, be the mouth of Williame Johnnestoun in Over Keyth, chancellor, be pluralitie of voittis, ffand, pronuncet and declairit the said George Forrester to be ffylit, culpable and convict of the Hurting, Wounding and Mutilatioun of the said James Skirving of his richt airme and richt hand, in maner specifit in the said Dittay.²

Slaughter.

May 22.—WILLIAME THOMESOUNE in Reddene.

Dilaitit of airt and part of the Slauchter of vmq^{le} Niniane Edzer.²

Sir Andro Ker of Hietoun, knycht, become pledge and fouertie that he fall compeir befor the Justice or his deuttis in the Tolbuth of Edinburghe, the tuentie-fyve day of July nixtocum, to vnderly the law, &c. vnder the pane of Ten thousand markis; quhair of the ane half fall be payit to the Kingis Maiesteis Thefaurer, and the vther half to the pairtie perseweris.—On Jul. 25, the Justice continued the case to the air of Roxburcht, ‘tertio Itineris (vel super premonitione) xv dierum, Plegio, Joanne Ker de Bowdene.’

Slaughter — Shooting with Pistolets and Guns.

May 31.—JOHNNE MURE of Auchindrane,³ Johnne Mure of Craigskene,

¹ Of Auchnoule. ² The Sentence is not contained in the Record. ³ See the Trial of this infamous man, Jul. 7, 1600, &c., for the atrocious Murder of Sir Thomas Kennedy of Culzeane, &c.

Moyfes Lokhart, brother to the Laird of Bar, James Bannatyne in Chapel-Donall, Daudid Kennydie, younger of Maxwallow, Charles Dalrumpill, burges of Air, George Campbell, younger of Schankstoune, and Gilbert Kennydie in Machar.

Dilatit, accusit and perfewit, be Richart Spens, in Vgftoune, as father to vmq^{le} Richart Spens, feruitour for the tyme to Johnne Erll of Caffillis, and Sir Thomas Hammiltoune of Monkland, Aduocat to our fouerane lord, for his hienes interes, ffor airt and pairt of the Slauchter of the said vmq^{le} Richart Spens; and for bering, wering and schuteing of pistolettis and gunnis,¹ contrair the tennour of the Actis of Parliament; committit vpoune the nynt day of December, the yeir of God I^m.Vj^c. and ane yeiris, vpoun the landis of Pennyglenne.

PERSEWER, Richerd Spens in Vgftoune, Sir Thomas Hammiltoune of Monkland, Aduocat.

PRELOCUTORIS for the pannell, My Lord Vchiltrie, The Laird of Drumlanrig, The Laird of Rowallane, Jofias Stewart (of Boningtoun), Mr Johnne Ruffell, Mr Williame Oliphant.

(The two Mures, Lokhart and Bannatyne,) tuik thame to our fouerane lordis Respett,² produceit, vnder the Previe Seil, of the daitt, att Falkland, the tuelff day of Junij, the yeir of God I^m.Vj^c. and tua yeir, for the saidis crymes. Quhilck Respett the Justice admittit; and ordanit thame to find caution and fouertie to satisfie the pairtie, for airt and pairt of the said slauchter: Lyke as, Matho Stewart of Dunduff, Jofias Stewart of Boningtoun, and George Campbell younger of Schauleftoun become cautioneris and fouerteis with thame selffis, coniunctlie and feuerallie, to satisfie the pairtie, for airt and pairt of the Slauchter of the said Richard Spens.

George Campbell also obtained 'oure fouerane lordis Respett, produceit, vnder the Prewie Seill; of the dait, at Halyruidhous, the last day of November, 1602.' Matho Stewart of Dunduff, Jofias Stewart of Boningtoun and Johnne Mure of Auchindrane become pledgeis, &c.

The case was continued, as to the remainder of the perfons on pannel, to the Justice-air of 'Air, tertio Itineris (vel super premonitione) xv dierum.'

[*Mr William Hairt of Levelandis and Mr William Borthuik, Justices-Deputes.*]

Mutilation and Demembration.

Jun. 11.—EDUARD JOHNESTOUNE, younger, merchand burges of Ed'.

Dilaitit of airt and pairt of the Demembring of Johnne Broun, goldfmyth, of the thombe of his left hand; committit vnder nycht, the sevintene of May last.

PERSEWERIS, Johnne Broun, goldfmyth, Sir Thomas Hammiltoune of Monkland, Aduocat.

PRELOCUTORIS for the pannell, The Laird of Johnnestoune, The Laird of Waftraw, Mr Alexander King, Mr Thomas Gray and Mr Johnne Johnnestoune (Advocates.)

It is allegit be the pannell, that this matter can nocht be put to the knowlege

¹ This is the first instance in the Record of the term 'gun;' 'hagbut' being the prevalent name for that weapon.

² Remission, respite.

of ane Affyse ; becaus the fact lybellit is committit vnder scilence of nicht, and the said Johnne Broune, being conventit befor the Lordis of his hienes Secret Counfall, he is convict on ane manifest Ryote, for the wrangus invaiding, trub-billing and molesting of the defender, his wyf and servand, vnder filence of nycht, and sua, quhatfumeuir fell out be that occasioun, the falt was in the per-fewer ; and of the law, albeit he had been flane, the said defender had bene in na danger : In respect quhairof, the samyn aucht nocht to be put to the know-ledge of ane Affyse. For verificatioun quhairof, producet the Lordis of Secret Counfellis decret, daitit the xxij day of Maij last, 1605. It is anfuert, that the allegeance nawayis meittis the Dittay ; seing the Dittay is the said Johnne Brounes perfute, for redres and pwneifchment of the Mutilatioun and Dismem-bring of him, quhairof thair was nather complent nor tryell, befor the Secret Counfall ; nather can ony thing, done in that judgement, stay the puting of ane relevant Dittay to ane Affyse, befor the Justice ; seing, the Counfall could nocht be Judges to the samyn ; and the matter being put to ane Affyse, the Affysouris will try, quhither the fact was done in lauchfull defense of the pannell or nocht.

THE JUSTICE continewis this Interlocutour to the xvij of this instant. ‘ Plegio, Waltero Ker, portionario de Diriltoun.’

(Jun. 18.)—On xvij June,¹ The Justice ffindis proces, nochtwithstanding of the allegeance proponit the last dyett, and left at Interloquoutour. And eftir the pronouncing of the said Interloquoutour, of consent of bayth the parteis, continewis this perfute (quhill the) xxvij day of Junij instant. ‘ Plegio, M^{ro} Joanne Johnnestoun, aduocato.’

DITTAY against Edward Johnnestoun, Younger.

FORSAMEKILL as, vpon the sevintene day of Maij lastbypast, vnder nicht, thair fell out ane debait betuix the said Eduard Johnnestoun and Patrik Robertfounne, feruitour to George Cuninghame, gold-smyth, burges of the Cannongait, vpon the hie streit of the burgh of Edinburghe, aboue the Stink-and-flyle² thair of : and for eschewing of hurt that nicht haif fallin to aither of the saidis parteis, the said Johnne Broune, amangis vther honest nichtbouris, preissit to red⁴ thame : Nochtwithstanding, it is of veritie, that the said Eduard Johnnestoun, persaveing the said Johnne Broun to cum and resist and stay his furie, he left the said Patrik, and but⁵ offence gevin be the said Johnne Broun to him, ather be word or deid, he sett vpon the said Johnne with ane drawin swoird, and maist crewallie invaidit him for his slauchter, hurt and woundit him in his left hand, to the effusione of his bluid in grit quantitie ; and hes Mutilat and dismemberit the said Johnne of the thombe of his said left hand, and cuttit the samyn away ; and sa hes maid him alluterlie vhabill to wyn his leving, in his airt of goldsmyth-craft ; to his vtter wrak, and to the grit contempt of our souerane lord, his hienes autoritie and lawis : And the said Eduard Johnnestoun is airt and part of the said Mutilatioun, demembring and cuting away of the said Johnne Brounes thombe of his said left hand. For the quhilk he aucht and sould be pwneifhet, conforme to the lawis of this realme, in exampill of vtheris to commit the lyk, in tyme cuming.

¹ Mr Williame Oliphant is added to the *Prelocutouris*, and on 27 June, Mr Thomas Craig. ² An altercation and scuffle. ³ A narrow passage to the eastward of the entrance to Haddo's-hold, New North Church, and celebrated for similar rencontres. ⁴ Separate. ⁵ Without provocation, excepting the proverbial fate of those who indiscreetly interfere in such matters. The ‘ *redding-straik*’ was no child's play in those days, when sword and dirk were the swift ministers of vengeance !

VERDICT. The Assyse, be the mouth of Daid Fairlie, merchand burges of Edinburghe, chancellor, for the maist pairt, ffand, pronunceit and declairet the said Eduard to be Clene, innocent and acquit of airt and pairt of the Mutilatioune, &c. ; in respect, vpone thair consciences, as thay haif tryit and confidderit, the famin proceidit vpone the said Johnne's awin default ; and was committit and done be the said Eduard, the tyme foirsaid, in defence of him selff, his wyfe and fervand, quha war invaidit and molestit be the saidis Johnne Broune and Patrik Robertsfoune, vnder nycht. Quhairupoune the said Eduard askit instrumentis.

' Umbesetting'—Rape — Child-murder.

Jun. 18.—**JOHNNE BROUNE**, goldsmyth, burges of Edinburghe.

Dilatit for Vmbesetting of Katherene Rae, spous to Eduard Johnnestoune, younger, merchand burges of Edinburghe, and preiffing to fforce hir ; and cauffing hir to pairt with bairne.

PERSEWAR, Eduard Johnnestoune, younger, merchand burges of Edinburghe.

PRELOQUOUTOURIS for the pannell, The Laird of Phillorth, Mr Johnne Ruffell, Mr James Donaldsfoune.

THE JUSTICE continewis this matter to the xxvij day of Junij instant.

DITTAY against Johnne Broune.

(Jun. 27.)—**FORSAMEKILL** as, vpone the sevintene day of May lastbypast, the said Katharene and Eduard, hir husband, haifing souppit in pair faperis hous, and being returning eftir supper, about ten houris at evin, fra pair said faperis houfe to pair awin ludgeing, in peceable and quyet maner, lipning for na harme, iniurie or persute of ony perfones, bot to haif past in peceable maner throw the Hie-streit of pe said burgh of Edinburghe to pair said ludgeing, vnder Godis peax and our fouerane lordis ; it is of verritie, that pe said Johnne Broun, goldsmyth, accompaneit with Patrik Robertsfoune, burges of Aberdene, perfaueing the said Katharene to be hir selff, allane, accompaneit allanerlie¹ with ane fervand woman ; and finding pe gait² to be quyet, sa that nane was pairupone, to mark pair doingis, or to stay thair intendit schamefull and villanuse interpryse ; the said Johnne Broun and Patrik Robertsfoune resoluēt violentlie to haif fforcet pe said Katharene and hir fervand woman : And for pis effect, the said Johnne come to the said Katharene, and brak furth in findrie vncumlie and vnhonest speiches to hir, beleifing to haif perswaidit hir to haif yeildit to his filthie lust and beistlie appetite ; and finding him self dispointit of pat meane, he, in his beistlie rage and furie, as ane posselt with ane wikket spreit, maist schamefullie and crewallie grippit pe said Katharene Rae be the gorget, and violentlie drew hir aff pe hie streit to ane cloife-heid,³ vnder ane stair ; and pair crewallie, with his faldit neiffis, strak and dang hir in the face, and caufet hir to bleid at mouth and neife in grit quantitie ; raif hir courche⁴ and remanent ornamentis of hir heid, and cuist pe samyn vnder his feit ; and, with his kneysis, punchet pe said Katharene in the bellie, scho being grit with chyld ; and had nocht faillit to haif abuset hir chastitie, gif pe said Eduard, hir husband, and vperis nychtbouris (heiring hir and hir said fervand gif pe sprache and cry⁵) had nocht cum, with diligence, and releiuit hir furth of his cruell grippis. Be occasioun qubairof, the said Katharene was led hame to hir awin hous, quhairin scho hes layne continuallie bedfast sensyne, in grit pane and dollour, vnder pe cuir of Doctouris and chirurganes ; sa that, vpone the xxj day of May lastbypast, or pairby, scho pairtit with ane deid bairne ; and scho hir selff hes bene, and as

¹ Only. ² Street, way. ³ The numerous narrow alleys running downwards from the north and south sides of the High-street of Edinburgh, are termed *closes* ; the close-heid signifies the entrance to one of these passages. ⁴ Tore her curtche, a sort of cap or head-dress. Old Fr. ⁵ Give the alarm ; the hue and cry.

3it is, in grit haizard and danger of hir lyfe: Committing pairthrow manifest villany, vnder nycht, within the said burch of Edinburghe, vpone þe Hie-streit pairof, quhilk fould be ane faitie and place of refudge to all honest men and wemen; speciallie, to the honest nychtbouris, inhabitantis pairintill; Lyk as, þe said Johnne Broune is airt and pairt of the samyn villany and barbarus cryme: As also, is airt and pairt of the Slauchter and distructione of the said Katharenes infant bairne, quhairwith scho hes pairtit, be occasioun foirfaid. For the quhilkis, the said Johnne aucht and fould be pwneifchet, conforme to the lawis of þis realme, as ane brigane¹ and Murtherour vnder nycht; to the terrour and exampill of vtheris to commit the lyk, in tyme cuming.

It is allegit that the Summondis is nocht relevant; in respect the fact lybellit is only ane naikit intentioun. It is anfuert be the perfewer, that he conioynis the haill crymes lybellit togidder, to be tryt be the Assyse.

THE JUSTICE findis the summondis relevant, in respect of the anfuert.

It is forder alledgit, that this matter can nocht pass to ane Assyse, in respect it is tryt alreddie, befor the Secret Counfall, and ane Sentence gevin thairin alreddie. It is anfuert be the perfewer, that the Secret Counfall ar nocht Judges Criminall, and that na Precognition tane be thame can be in preiudice of decifioun to the Justice, to put crymes to ane Assyse; as was laitlie decydit betuix Johnnestoune of Newbie contrair Williame Maxwell.²

THE JUSTICE remittis this matter to the tryall of ane Assyse.

VERDICT. The Assyse, be the mouth of David Fairlie, merchand burges of Edinburgh, ffand, pronuncet and declairit the said Johnne Broune to be ffylet, culpable and convict of the Invaiding and molesting of the said Katharene Rae, vnder nycht; committit the tyme foirfaid, contenit in the said Dittay: And declairit the said Johnne to be Clene, innocent and acquit of the Murthour and distruction of the said infant bairne, committit the tyme foirfaid; in respect thair was nathing productit for verifeing thair of: Quhairupoun aither of the saidis partejs askit instrumentis.³

[*Mr Williame Hairt, Justice-Depute.*]

**Hamesucken — Besieging the Tower of Newbie — Shooting Pistolets
— Taking Captive, &c.**

Jun. 21.—WILLIAME MAXWALL of Gribtoun, Barbara Johnnestoune, his spous, Elizabeth Johnnestoune, relict of vmq^{le} Johnne Johnnestoune, appeirand of Newbie (mother to the said Barbara.)

Dilaittit, accufit and perfewit, be vertew of THE DITTAY following, viz.

FORSAMEKILL as, albeit be dyuerse guid Actis of Parliamant and Secret Counfall, *respectiue*, oure fouerane lord hes prohibeit and dischargit the beiring and weiring of hagbuttis and pistolettis vnder certane panes mentionet in the saidis Actis; nochtwithstanding, it is of treuth, that sic is the wicket dispositioun of sum perfonis, quha preferring thair awin inordinat appetite and reuenge, to the dew reuerence and obedience of his hienes saidis lawis, thay and thair domestik servendis daylie and conti-

¹ Fr. *brigand*.

² See Jun. 21, the following Case.

³ The Sentences are not Recorded.

nualle beiris and weiris hagbuttis and pistolettis, as thair ordiner and accustomet wappones; of set purposis and prouisioune to put thair vngodlie determinatioun to executioun, aganis sic of his hienes peceable subiectis, aganis quhom thay beir ony querrell or haittrent: As nanelie, the saidis Williame Maxwall of Gribtoun, Barbara Johnnestoun his spous, and Elizabeth Stewart hir mother, haifing, this langtyme bygane, borne ane secreit and hid malice aganis the said Robert Johnnestoun of Newbie, in respect of the dependance of certaine actiones, depending befor the Lordis of Counfall and Seffioun, movet be aither pairtie aganis vtheris; and speciallie, ane actioun of Reduction intentit, and the Summondis thair of lauchfullie execute, at the instance of the said Robert aganis the said Williame Maxwall, Barbara his spous, and the said Elizabeth hir mother, for Reductioun of the Retour of vmq^{le} Johnne Johnnestoun of Newbie, that last deceifit, spous to the said Elizabeth, and for Reductioun of his Seafing following thairupoun, and of certane vtheris pretendit Infestmentis, allegit maid be him to the said Elizabeth his spous, and to the said Barbara his dochter: And ane vther actioun and cause, persewit be the said Barbara and the said William hir spous, for his entreis, aganis the said Robert Johnnestoun, for randerung to thame the Toure and ffortalice of Newbie: And the samyn actioun being oft and dyuerse tymes callit, in presence of the saidis Lordis, and dyuerse guid exceptiones and defensis proponit be the said Robert and his procuratouris in his name, quhilk as yit ar vndiscuffit, the saidis Williame, Barbara his spous, and the said Elizabeth hir mother, nocht being content to abyde the event of the saidis Lordis Judicatorie in the saidis cauffis, bot rather to contempne our souerane lordis authoritie and lawis, and to tak Justice at thair awin handis, as gif thair war na ordiner justice within this realme; thay, during the saidis dependances, and estir raising and lauchfull executioun of the saidis Summondis, in maner aboue writtin, haifing consulit and devyfit with Johnne McBrair, Robert Johnnestoun callit of Brwme, seruitouris to the said Williame Maxwall, Thomas Jardane callet of Birmok, Eduard Maxwall, brother to the Laird of Conhath, and Thomas Jardane, servitour to Johnne Lord Hereifs; the saidis fyve perfonis immediatlie befor namet, being all bodin in feir of weir,¹ with jakis, fuordis, steilbonnetis, lang gwnes, pistolettis, and vtheris wappones *invasiue*, prohibeit to be worne in maner foirsaid, laitlie, vpon the xix day of Merche lastbypast, be directioun, causing, command, hounding and convoy, reffett, affistace and ratihabitoun of the saidis Williame Maxwall, Barbara Johnnestoun his spous, and Elizabeth Stewart hir mother, come ryding to the place of Neubie, perteneng to the said Robert Johnnestoun, and being in his peceable possessioun, than, and dyuerse monethis ofbefoir; qubair the said Robert was deidlie feik for the tyme: Estir thay had send bak thair horfis fra thame, qubairby thair being thair sould nocht be knawin, thay privatlie, be the moyane of the said Elizabeth Stewart and Barbara Johnnestoun, convoyit thame selfis, vnder clud and silence of nycht, within the laiche² hall and houffis of the said place of Neubie, inhabeit be the said Elizabeth Stewart and Barbara Johnnestoun, be quhome thay war reffett within the saidis houffis; and thair, the saidis perfonis, awaiting thair awin opportunitie, be way of foirthocht ffellony and hamefukin, and vsurping vpon thame our souerane lordis authoritie, besaiget and inuidit the said Tour,³ thay being in the said Robert Johnnestounis possessioun, as sone and appeirand air mail and of tailzie⁴ to the said vmq^{le} Johnne Johnnestoun of Neubie, his faither: And the saidis fyve perfonis maift schamefullie, crewallie and vnmercifullie preissand, be violence and vnlawfull force, to assage and tak the said Tour and fortalice, inuidit and hurt the said Eduard Johnnestoun, brother to the said Robert, and maift crewallie schot him throw the body with ane pistolet; and also maift crewallie inuidit, hurt and woundit the said Airthour Johnnestoun, servand to the said Robert, in the face, with the schot of ane vther pistolet; to the effusioune of thair bluid in grit quantitie, thay being in cumpany and seruice with the said Robert, and in defence of him and his Tour and fortalice of Newbie; and than, per force, be way of foirthocht ffellony and Hamefukkin, as said is, and vsurpeand and takand vpon thame our souerane lordis authoritie, thay enterit within the said Robertis Tour and fortalice of New-

¹ In warlike array.² Low or under-hall.³ Tower.⁴ Son and apparent heir-male and of entail.

bie, and tuik the said Robert and the said Airthour, his servand, captives and priffoneris; the said Robert being lyand deidlie feik and bedfast within the samyn; crewallie invaidit thame, band thair handis behind thair bakis, and violentlie and perforce schot¹ thame and thair haille cumpanie furth of the said Tour, thay being our souerane lordis frie subiectis. **QUHILKIS** crewall, schamefull and abhominable crymes aboue writtin, viz. Vfurpatioun of our souerane lordis auctoritie, Hamesukkin, Beiring and weiring of pistolettis, and remanent Invasiones, factis and deidis *respectiue* aboue specifit, was done and committit be the foirsaidis fyve perfonis, of the speciall command, hounding out, directione, consulting, devyse, reffett, assistance and ratihabitoune of the saidis Williame Maxwell, Barbara Johnnestoun his spous, and the said Elizabeth his moder: And thairby, thay, and everie ane of thame, ar airt, pairt, red and counfall, and ratiefearis of the saidis haille crymes aboue expremit, and everie ane of thame, viz. Vfurpatioun of our souerane lordis auctoritie and Befageing and taking of the said hous, Convocatioun of his Maiesteis leigis, Beiring and weiring of hagbuttis and pistolettis, contrair the tennour of the saidis Actis, Invaiding, schuiting, hurting and wounding of his hienes frie lieges and subiectis, and Invaiding and taking of thame captives and priffoneris, be way of Hamesukkin and ffoirthocht ffellony, binding of thair handis behind thair bakis, schuiting and expelling of thame violentlie furth of thair awin houffis, but² Commissioun; thay being our souerane lordis frie legis and subiectis, in maner foirsaid.

PERSEWARIS.

Robert Johnnestoune of Newbie, Eduard Johnnestoune his brother, Airthour Johnnestoune, servand to the Laird of Newbie, Sir Tho³ Hammiltoune of Monkland, kny⁴, Aduocat to our souerane lord.

PRELOCUTOURIS for the pannell.

The Laird of Gairleis,
Mr Alexander King,

The Laird of Hempisfeild,
Mr Robert Lyntoun,

Andro Ker of Fentoun,
James King.

It is allegit be Mr Alexander King, prelocutour for Barbara Johnnestoun, that na proces can be led aganis hir, becaus scho being convenit ofbefoir, befor the Lordis of Secreit Counfall, vpone the haille contentis of this lybell, factis and deidis lybellit, at the instance of my Lord Aduocat and Robert Johnnestoune, perseweris, scho is affoilzeit⁵ *simpliciter*, be Decreit of the Lordis of Secreit Counfall; and that thairefter the said Lybell was admittit to the said Aduocat and Robert Johnnestoune's probatioun, and thair succumbit⁶ thairintill: For verificatioun quhairof, thay producet the said Decreet-absolutour, of the dait, at Edinburgh, the secund Maij last.—It is anfuert be the perseweris, the allegeance aucht to be repellit, becaus nathing done befor the Secreit Counfall, ather be Sentence absolutour or condampnitour can stay the Justice to proceed in ane Criminall caufe; as was practiket⁵ betuix Eduard Johnnestoune Younger and Johnne Brone:⁶ And gif the Counfall can nocht judge vpone sa heich crymes as ar lybellit, or geve ony penall sentence vpone the samyn, conforme to the law, thair precognitioun can nocht stay the proceeding of the Justice. Last, the summondis befor the Counfall was fund relevant, and the absolutour proceedit vpone nocht probatioun; and as crymes capital can nocht be provin be Wit-

¹ Thrust, ejected. ² Without. ³ Absolved, acquitted, freed. ⁴ Yielded. ⁵ Decided, made matter of precedent or pratique. ⁶ See the preceding Case, Jun. 18 and 27, 1605.

nesses, bot be the tryell of an Assyse, sa the nocht probatioune of the samyn, befoir the Counfall, can nocht stay the same to pas to ane Assyse.

It is anfuert be the pannell, that the absoluitour befoir the Lordis of Secretit Counfall will stay the Justice of ony forder proceeding: And as to the Practique betuix Eduard Johnnestoune and Johnne Broune, the samyn militatis nathing in this caice. That in that caice, Johnne Broune was convenit befoir the Counfall, for the wrangus Invaiding of Eduard Johnnestoune's wyfe, vnder clud and silence of nycht; and the proces befoir the Justice was ane perfute, perfewit at the instance of Johnne Broune aganis Eduard Johnnestoune, for Mutilatioune; sua that the Decreit of Secretit Counfall naways met that perfute befoir the Justice: And als, as for the authoritie and power of the Lordis of Secretit Counfall, the perfeweris can nevir be hard to oppone the samyn; in respect thay authorizet that judgement, callit and perfewit befoir thame, as Judge-ordiner, for the factis lybellit, led and deducet probatioune eftir that the summondis was fund relevant in their faouris, and thaireftir succumbit, as said is; and thairby, can nevir be hard to impunge the said Decreit and sentence. In respect quhairof, the allegeance standis relevant.—The Aduocat adheris to his former anfuert.

The Justice findis proces. Quhairupoune the Aduocat askis instrumentis.

It is forder allegit, that we ar nocht disputing heir vpon the authoritie of the Counfall or of the Justice, bot infistis only on this poynt, that thai ar maid fré of the fact afoir the Counfall.—It is anfuert be the Aduocat, he is nather acquit be ane Assyse, nather yit be ane Remiffioun.

The Justice Repellis the allegeance, *locoquo*; reserving the pannelis informatioun thair of to the Assyse.—The Aduocat takis instrumentis of the Justice interlocutour.

It is allegit that the Summondis is nocht relevant, in respect that the factis and deidis lybellit ar nocht capital, and can nocht be put to the knowlege of ane Assyse.—The Aduocat anfuert, aucht to be repellit, in respect of the Summondis.

The Justice findis the summondis relevant; and ordanis the samyn to be put to the knowlege of ane Assyse.—The Aduocat takis instrumentis of the Interlocutour.

ASSISA.

George Hadden of that Ilk,	Robert Frenche younger of	William Hay of Lynplum,
Thomas Portious of Glenkirk,	Frencheland,	Johnne Tennant of Kairnis,
Williame Twedie of the Wrae,	James Flemyng of Spittel,	Williame Sincler of Roiling,
Mr Alex ^r Menzies of Culterrawis,	James Crawford, goldsmyth, bur-	George Hay of Monktonne,
Patrik Lanctoun elder of Erles-	ges of Edinburgh,	Ja ^r Cranstoun of Monktonhall,
hauch,	Alex ^r Fairlie elder of Braid, Sydlerff of Ruchlaw.

The Aduocat takis instrumentis of the sweiring of the Assyse; and Protestis for Wilfull Errorr, gif thay Acquit.

The Pannell repeatit the allegeance proponit of befoir to the Assyse; and in respect that the Decreit of Secretit Counfall gevin aganis the perfeweris, efter probatioun

led be thame, *in foro contradictorio*, vpoun thair awin perfute, Barbara Johnestoune is declairit ffrie of the hail factis lybellit, the Assyse can nawayis ffyle hir. As lykwyis, Williame Maxwell and Elizabeth Steuart are ffund Clene and innocent of the deidis and factis lybellit; that the samyn was nocht done of thair causing, command, (or) assistance, but only of ratihabitoun,¹ eftir the committing of the factis: That thai can nawayis be convict, be the Assyse, of the deidis lybellit, as done be thair causing, command and assistance, airt and pairt: And gif thai be clanget, as thai man be of necessitie, of the premissis, thay can nawayis be convict of this lybell, because ratihabitoun *per se* nather is relevant, nor induces a cryme: And forder, befor the Stewart² of Annandaill, the hail pannel being accuset, as culpable of the factis and deidis lybellit, and thairfoir to haif incurrit the vnlawis for sshedding of bluid; thay ar Clanget be ane condigne Inqueift, and fund innocent, baith of the bluid and bludwyte;³ as the Decreit, heirwith producet, beiris. In respect quhairof, the Assyse nawayis can ffyle or convict thame; and in cais thay do, Protestis for manifest and Wilfull Errour.

The Aduocat, for informatioun of the Assyse, and to the effect thay be nocht led and inducet to commit Errour, acceptis the Decreit of Secreit Counfall producet be the pannell, togidder with the Testimoniall of the clangeing of the pannell befor the Stewart of Annandaill, in sa far as the samyn makis for the persewaris, and na vtherwayis: And first, allegis that the summondis persewit befor the Lordis of Secreit Counfall was ffund relevant be the Lordis thairof, and the samyn ffund provin, in effect and substance, aganis the said Williame Maxwell and Elizabeth Stewart; and gif ony appeirance be of absolutour gevin in faouris of ony of the defenderis, the samyn proceidit vpoun the Depositiones of the Witnesses; becaus Depositiones of Witnesses can haif na forder fayth nor⁴ thay depone to knaw of thair certane knowlege; and thairfoir, that quhilk is nocht deponit be the Witnessis to be done, in thair presence, sicht and certane knowlege, is nocht ffund provin, quhairupoun absolutour may be gevin: Bot becaus crymes, as thai ar vnavowabill of thame selfis, sa thai are devyset and done secreitlie, in sic maner as na Witnessis can knaw the samyn; and thairfoir, can nocht depone thairintill; thairfoir, be the lawis of this cuntrie, it is provydit, that crymes neidis nocht, nor may nocht be provin be Witnessis, bot are referrit to the knowlege of ane suorne Assyse; quhais determinatioun, according as thay ar persuadit in thair consciences, is ane sufficient warrand to thame selfis, and ane just cause of convictioun of the pannell; and it is sufficient to thame to convict, gif thai find nocht cleirlye, thay can iustlie quyte:⁵ And thairfoir, albeit⁶ the Witnesses knew nathing, that was first vsset, and thairby thair Depositiones

¹ Confirmation or approval; from the Law Lat. *ratihabere*.
the bloodwit was a fine paid for the shedding of blood.

² Steward, *Senescallus*.
³ The
⁴ Than.
⁵ Acquit.
⁶ Although.

gaif occasioun of sum absolutour, for laik of probatioun be thame; yit that warrandis nocht the Assyse; bot thai man ather ffyle, or commit Wilfull Error, in respect of the notorietie of this Dittay; to witt, that the House of Neubie was tane, in maner contenit in the Summondis, be the perfonis quha for the samyn hes bene continuallie fugitiue senfyne; tua of thame being Williame Maxwellis seruands, and the vther thre his speciall freindis, haifing na entreis nather to tak nor keip the house for thame selffis, on thair awin respect, bot only at the desyre and be the causing and to the behuif of the said Williame and haill remanent defenderis: Quhilkis defenderis, pretending rycht to the said house and landis; as the verificatioun of tua feuerall dependances for the samyn befor the Lordis of Sessioun, heirwith producet, beiris. The saidis defenderis, expresse aganis the Act of Parliament maid anent the slauchter and trubbling of parteis, in perfute and defence of thair actiones, being the 219 of the Kingis xiiij Parliament, and vtheris Actis maid thairanent, intyset and causet the saidis ffugitiues violently to Affage and tak the said house, persew, in vaid and demane¹ the said Robert Johnestoune and his assistaris being thairintill, in maner contenit in the summondis; quhilk being committit be thame, thay nather pretendit nor retenit ony richt or possessioun thair of; bot only keipit the samyn, quhill² Williame Maxwell come to thame in all haift; to quhais behuif thay haifing tane the said house, thay incontinent delyuerit the samyn to him; quha send thame away vpon his awin horse, and his freindis that come with him. And as to the Gentilwomen, the said fact being lykwayis done to thair behuif, thay resset and hid the committeris, being of intentioun and preparatioun to commit the samyn; and thai ran out of the ane into the vther; and thairby suppryset the said Tour, vpon the occasioun, to the behuif, and of the ratificatioun foirsaid: Lykas, be the Decreit, it is fund to be done of the ratificatioun of the said Williame Maxwell and Elizabeth Stewart; quhilk ratihabitoun, of Law, in ane matter done to the behuiff of ony man, is compairit and pwneifchet as ane preceeding command, be the first Law *de vi et vi armata*, in the xiiij paragraph, in thir wordis: ‘*rectius enim dicitur in maleficio ratihabitionem mandato comparari*’; to wit, it is richtlie said, that ratihabitoun in crymes is richtlie comparet to ane preceeding command: And the thrid Law of the said Tit. in the tent paragraph, in thir wordis, ‘*cum procurator armatus venit, et ipse dominus armis dejicisse videtur, siue mandavit, siue ut Julianus ait, ratum habuit*’; that is to say, quhan ane mannis servand cumis airmitt, his maister is reput to haif expellit or reiectit with airmes, quhither he commandit, or, as Julian sayis, he ratifeit the samyn. And thairfoir, feing thir servandis and freindis come airmet and did this violent deid, be ratihabitoun of the pannell, togidder with the

¹ Treat, use, handle.² Until.

Decreit finding the famyn, makis thame giltie thair of. Lyk as, the Act 151 of the Kingis 12 Parliament, makis ane criminall Summondis to be relevant, gif it beiris that the defenderis ar airt and pairt of ane relevant cryme ; and it is trew that that cryme is fund relevant be the Justice, and remittit to the Assyse ; and the notorietie of the pannellis being airt and pairt thair of is befoir deducet, feing thair knowlege of the said fact, thair benifeit rypet¹ thairby, and ratihabitoune thair of, is manifest. And as to the clengeing producet, the famyn makis aganis the producer ; becaus the perseweris, as pairtie grevit, and the Kingis Aduocat, for his hienes entreis, being necessar and only parteis, and the defenderis knawing thair awin giltines, purchest and deducet ane led Tryell, befoir thair awin freindis, being bayth Judges and Assyfouris ; na pairtie haifing entreis being present nor wairnit thairto. In respect quhair of, gif the Assyse Clenge, the perseweris protestis for Wilfull Error.—The Aduocat askit instrumentis of the sweiring of the Dittay be the perseweris, in prefens of the Assyse ; as lykwyis the taiknis² producet, also fuorne be thame.

It is ansuerit for the pannell, to the alledgeance immediatlie preceeding, that the Aduocat wald haif the Assyse, quha kennis³ nathing of the factis and deidis lybellit, bot the commone bruit,⁴ and be thair awin allegeance, to ffyle, nocht-withstanding that the multitude of the Witnessses producet be the perseweris could nawayis preve the fact ; thay being Witnessses, duelleris vpon the landis, and round about the famyn ; and ane grit number of thame come to the deid, and yit thay wad nocht tak it vpon thair consciences to depone ony thing by⁵ the verritie ; sua, the Assyse, quha kennis far less, can nocht convict vtherwyis nor⁶ accoirding to the first probatioun. As to the secund pairt of the allegeance, the famyn contenis only ane repetitioun of the Dittay and taikinis, and mereitis na forder ansuer nor is ansuerit of befoir. As to the thrid pairt, beiring that Ratihabitoune *equo paratur mandato*, and allegeing the first and thrid lawis *de vi et vi armata* ; to that, it is ansuerit, that as, *in criminalibus*, Ratihabitoune is never relevant *per se*, sua the famyn can be comptit na cryme, nor na grund to convict the pannell ; ffor in crymes, thair is thre thingis to be confidderit, airt, pairt, and ratihabitoune : *Airt*, is command, or devyse, or counfell of doing of the deid ; quhair of we ar declarit innocent : *Pairt*, is participant of the ffact ; quhair of we ar lykwayis declairit innocent : *Ratihabitoune*, is allowing of the ffact, eftir the famyn be committit ; quhilk is nawayis drawin bak to ony of the premisses, in criminall matteris : And albeit the said Williame had allowit in taking of the house, eftir it was tane and the deid committit, yit that makis thame nocht giltie of the ffactis or deidis committit be the personis takeris of the house, the tyme befoir or eftir the taking thair of. And feing the Witnessses

¹ Reaped. ² Tokens, evidence. ³ Knows. ⁴ Excepting the common report or talk of the country. Fr. *bruit*. ⁵ Past, besides. ⁶ Than.

examinat, be thair grit ayth, hes maid the pannell Innocent and clene of the ffactis lybellit ; as lykwayis, thay ar declairit Innocent, be ane condigne fuorne Inqueist, befoir thair Judge-ordiner ; the Assyse can nawayis ffyle thame, except thay commit manifest Errour, and declair contrair to the probatioun alreddie led and deducet, and depone contrair to thair awin conscience and knowledge.

SPECIAL VERDICT *of the Assise.*

THE ASSYSE removet altogidder furth of Court to þe Counfall-hous, quhair þai, be pluralitie of voittis, electit and choisit the said Alexander Fairlie of Braid in¹ Chancellor of the said Assyse ; and pairefter reffonit and voittit vpone the haill heidis and poyntis of the said Dittay ; and being ryplie and at lenth advyset pairwith, and with the haill taikines and writtis producet for verificatioune þairof, allegeances and answers maid, *hinc inde*, in the said matter ; thay re-enterit agane in Court, quhair thay, be þe mouth of þe said Alexander Fairlie, ffand, pronuncet and declairit the saidis Williame Maxwell, Barbara Johnnestoun his spous, and þe said Elizabeth Stewart hir moper, to be ffylet, culpabill and convict, as followis, viz. THE said *Williame Maxwell* of Gribtoun, to be ffylet, culpabill and convict off airt and pairt with the saidis Eduard Maxwell, broper to þe Laird of Couhaithe, Thomas Jardane callit of Birnok, James Jardane, servand to the said Johnne Lord Hereis, Johnne M^cBrair and Robert Johnnestoun callit of Brwme, of the violent taking of the said Tour and ffortalice of Newbie ; committit be the saidis fyve perfones, the tyme contenit in the said Dittay. THE said *Elizabeth Stewart*, to be ffylet, culpable and convict off þe reffet of the saidis fyve perfones, quha committit þe crymes specifeit in the said Dittay, and of the Ratihabitoune of þe violent taking of þe said Tour and ffortalice of Newbie : AND þe said *Barbara Johnnestoun* to be ffylet, culpable and convict of the Ratihabitoune of the violent taking of þe said Tour and ffortalice of Newbie, be þe saidis fyve perfones takeris þairof. AND siclyk, ffand and declairit þe saidis Williame Maxwell, Barbara Johnnestoun his spous, and þe said Elizabeth Stewart hir moper, to be Clene, Innocent and Acquit of the haill remanent crymes and poyntis contenit in the foirsaid Dittay, viz. of airt and pairt of þe vsurpation of our souerane lordis autoritie, in besageing of the said hous, convocatioun of his Maiesteis leigis, beiring and weiring of hagbuttis and pistolettis, contrair the tennour of the Actis of Parliament, Invaiding, schuitting, hurting and wounding of þe saidis Robert Johnnestoun, Eduard Johnnestoun and Airthour Johnnestoun, his hienes frie subiectis ; and Invaiding and taking of thame captiues and priffoneris, be way of Hamefukkin and ffoirthocht ffellonie, binding of þair handis behind þair bakis, and schuitting and expelling thame violentlie furthe of the house and ffortalice foirsaid ; committit be þe saidis fyve perfones, takeris þairof, þe tyme and in maner aboue writtin, mentionet in the said Dittay.

Jun. 25.—The Justice continued the case to the 28th of Junij. ‘ Plegio, Alexandro Stewart de Gairleis, sub pena in Acto predict.’

Jun. 28.—Alexander Stewart of Gairleis become pledge and fouertie for Williame Maxwell of Gribtoun, &c. to enter and present thame befoir the Justice and his deputis, in the Tolbuith of Edinburgh, the thrid day of Julij nixtocum, in the hour of cause, to heir dome pronuncet vpon thame ; vnder the panes following, viz. ffor the said Williame, vnder the pane of V^m li. (£5000,) and for the saidis Elizabeth and Barbara coniunctlie, vnder the pane of vther fyve thousand pundis.

Jul. 3.—Alexander Stewart of Garleis of new becomes pledge and fouertie, that thai and ilk ane of thame fall compeir befoir the Justice or his deputes,

¹ To the office of.

quhair evir thay or ony of thame fall be charget, vpone xv dayis wairning, to heir and fie dome pronuncet, &c. ilk ane of thame vnder the pane of tua thousand merkis. Maxwall binds himself to 'warrand releif and keip skaythles' the said Alexander Stewart.

Slaughter.

Jun. 26.—JAMES GLEDSTANES of that Ilk.

Dilaitit ffor airt and pairt of the Slauchter of vmq^{le} Thomas Peiblis, burges of Peiblis; committit in the moneth of Februare, I^mV^c.lxj yeiris, vpone the landis of Kaidmure, besyde the said burgh of Peiblis; vpone fet purpois, pro-uifione and ffoirthocht ffellony.

PERSEWERIS.

Thomas and Johnne Peiblie, as fones; Johnne and Dauid Peiblis, fones to the said Thomas, (Junior.)
PRELOCUTORIS for the pannell, Laurence Scott.

The pannell tuik him to our fouerane lordis Respett, producet be him, vnder his Maieftis Priuie Seill, of the dait the . . . day of Junij instant.

It is allegit be the perfeweris, that the Respett producet be the pannell aucht nocht to be admittit, in respect the samyn is grantit contrair to the Act of Parliament; na Letter of Slanes being grantit be thame, for Affythement of the partie.—It is anfuerit be the pannell, the allegeance aucht to be Repellit, in respect of the Respett; and that thai ar willing to fatisfie, conforme to the lawis of this realme, and offeris Cautiounne to that effect.—Quhilk Respett the Justice admittit, and ordanit the said James to find cautiounne, &c. : Lyk as, Johnne Gledstanes of Wynningtoun-hauch and Mr Johnne Rutherford, bailzie and burges of Jedburgh, become bundin and obleift, coniunctlie and feuerallie with the said James Gladftanes of that Ilk, his selff, to fatisfie the partie for the Slauchter of the said vmq^{le} Thomas Peiblis.

Murder under Trust.

Jun. 27.—JAMES KYNNAIRD, fone to the Laird of Incheture,¹ Williame Haitlie in Balgawie, Williame Kynnaird, fone to the Laird of Kynnaird.

Dilaitit, accufet and perfewit be Siluefter Chopman in Kinclevin, conforme to our fouerane lordis Letteris, raifit and direct at the instance of Marioun Chopman, as mother, Margaret Scherp, as sifter, the said Siluefter Chopman and Thomas Chopman in Ragolny, as mother-brether,² with the remanent kyn and freindis of vmq^{le} Johnne Scherpe, feruitour to the Laird of Ruthven, aganis the saidis Williame, &c. and als aganis James Ramsay in Flacraig-mylne; as thay that war culpable and giltie of the crymes contenit in the DITTAY following.

¹ Vmq^{le} Patoun Kynnaird.

² Maternal uncles, mother's brothers.

FORSAMEKILL as the saidis Williame Kynnaid, &c. haifing lailie, vpon the ffyft day of July, the yeir of God, I^m. fax hundreth and thre yeiris, convent thame felfis within the toun of Rait, quhair the said vmq^{le} Johnne Scharp was for the tyme, attending¹ the cuming of certane his freindis and gentilmen that war at the buriall of the Laird of Bandane, and doand vtheris his lauchfull effairis and buffines, lipning for na harme, iniurie or perfute of ony perfones, bot to haif levit vnder Godis peax and our fouerane lordis: And thair, in all hamelie and freindlie maner, come to the said vmq^{le} Johnne, and requeistit him to pas with thame to the drink; quha, vpon meir simplicitie and benevolence, past to ane drinking hous with thame, and haifing fallin in reffoning with the said vmq^{le} Johnne, anent sum speiches that past betuix him and the said James Ramsay in Flacraig-mylne a few dayis befor; the saidis perfones in the meane tyme directit one of thair companie for the said James Ramsay, desyreing him to cum to thame, and thay fould assist him to be revenget on the said vmq^{le} Johnne: At quhais cuming, the foirsaidis perfones, togidder with the said James Ramsay, being all bodin in feir of weir, with fuordis, quhingeris, gantilletis, plait-slevis and vtheris wappones, *inuafue*, incontrair the tennour of the Actis of Parliament, sett vpon the said vmq^{le} Johnne Scherp, vnder trest, and maift trateruslie and barbaruslie, everie ane of thame with thair drawin wappones foirsaidis, perfewit him for his slauchter; and as murthereris, thevis and brigganis, haifing drawin the said vmq^{le} Johnne to drink, as said is, strak the said vmq^{le} Johnne in dyuerse pairtis of his body, and gaif him nyne bludie and deidlie woundis, viz. thre straikis in his heid, thre in his bak, ane throw his wambe, ane vther vnder his okfter, and tua vpon his schoulder blaid: Off the quhilkis straikis and crewall woundis the said vmq^{le} Johnne immediatlie deceiffit amangis thair handis. And the saidis perfones, and ilk ane of thame, ar airt and pairt of the said crewall Murthour and Slauchter, committit vnder trest, vpon set purpois, prouifoun and foirthocht felony; in hie and manifest contempt of our fouerane lord, his hienes auctoritie and lawis; and to the evill exampill of vtheris, his Maieftis obedient subiectis, to commit the lyk schamefull and barbarus crueltie and Murthour, in tymes cuming, gif the foirsaidis perfones committeris thair of be sufferit to remane vnpwneifchet.

VERDICT. Lauchfull tyme of day biddin, and (the perfeweris) nocht compeirand,² the Justice-depute patt the saidis Williame, &c. to the knowledge of ane Affyse, who all in ane voce, be the mouth of Robert Hog in Gally, sumtyme fervand to my Lord Marschell, chancellor, ffind the saidis Williame, &c. to be Clene, innocent and acquit of airt and pairt of the felloune and crewall Slauchter of the said vmq^{le} Johnne Scherp, and haill circumstances aboue writtin. Quhair-upoune the saidis defenderis askit instrumentis.

[*Mr Williame Hairt and Mr Williame Borthuik, Justices-Deputes.*]

Masterful Theft — Stouthreif — Lifting of Cattle, &c.

Jun. 28.—JOHNNE ELLOTE of Copschaw, Robert Ellote, his sone, Johnne Rutledge and Adam Rakefe, servandis to the said Johnne.

Being enterit on pannell, quha war summond be vertew of our fouerane lordis letteris, purchest at the instance of Hectour Trumbill of Wauchope, Thomas Trumbill, younger of Wauchope, George Trumbill, secund lauchfull sone to the said Hectour, George Trumbill in Wauchope, Thomas Scheill thair, Hob Olipher thair, Harie Trumbill thair, Pait Trumbill thair, Gawin Trumbill in Bullerwall,

¹ Waiting. Fr. *attender*. ² The matter had been compromised with the relations of the deceased, &c. and by the absence of the pursuer, and no evidence being produced, the Jury acquitted the pannel.

Adame Trumbill in Wauchope, and Eduard Scheill in Langhauch : And perfewit be the faidis Thomas T. younger, and George his brother, for thame selffis, and in name and behalf of the faid Hectour Trumbill of Wauchope thair fader, and hail remanent perfoness aboue writtin, thair tennentis, of the crymes following.

DITTAY against the Pannels.

FORSAMEKILL as the faidis Johnne Ellote, &c. with thair complices, to the number of ane Hundreth perfoness, als well brokin-men and borderaris of Ingland, as of Scotland, all bodin in feir of weir, with jakis, speiris, steil-bonnettis, lances, lang-hagbuttis, daggis and pistolettis, exprellie prohibeit to be borne, worne, vsed or schote with, be the Actis of Parliament, laitlie, in the moneth of September, the yeir of God, I^m. sax hundreth and tua yeiris, come opinlie, in the day lycht, to the landis of Wauchope; and thair, be way of Maisterfull thift and Stouth-reif, staw, rest and away-tuik, of the faidis landis, fourfoir of ky and oxin, ane hundreth scheip, and tuelf horse and meiris, pertening to the faidis perfeweris; had and convoyit the samyn away with thame, and disponit thairupoun at thair pleasour: And thay and ilk ane of thame ar airt and pairt of the faidis crymes of Thift and Stouth-reif; for the quhilk thay aucht and fould be pwneshet, conforme to the lawis of this realme, in exampill of vtheris.

PERSEWERIS, Thomas Trumbill, younger of Wauchope, George Trumbill, his brother.

PRELOCUTORIS for the pannel, Mr Alexander King, Robert Elliot, Mr Thomas Henderfoune.

The perfeweris protestis for Wilfull Errour, in caice thay acquit; in respect of the notorietie of the fact, and that thay haif gewin thair aithes thairvpoune.

Hectour Trumbill, elder, and the remainder of the pursuers, find Robert Home, younger of the Heuch, as cautioner, that they shall ratify whatever Thomas and George Trumbill do in their names, in this perfeit; and 'William Erle of Angus band and obleift him, his airis, executouris and successouris to warrand, releif and keip skaythles the faid Robert Home, his airis, executouris and assignais, of his cautiounrie foirfaid, and of all danger, perrell and expensis that he may incur thairthrow.'

VERDICT. The Assyse, be the mouth of Robert Wauch of Keip, chancellor, find the faidis perfoness to be Cleane, innocent and acquit, &c. Quhairupoun the faidis perfoness on pannel askit instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Mutilation and Demembration.

Jul. 2.—JOHNNE HAMMILTOUNE, Perfone of Crawford-Johnne, Airthour Colquhoun, than his servand, now in Kirmure, Gawin Murray of Vdstounheid.

Dilaitt of airt and pairt of the Hurting, Wounding and Mutilatioune of Alexander Lokhart, Tutour of Wikketschaw, of his left hand, and demembring of him of his mid-finger, nerrest his littill finger, of his faid hand: And beiring and weiring of pistolettis; committit in Apryle, I^m.V^c.lxxxv yeiris.

Robert Chancellor of Sheilhill become pledge and fouertie, that thai and ilk ane of thame fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of Lanerk, or soner, vpone xv dayis wairning, to vnderly the law, &c.

Slaughter.

Jul. 3.—CHAIRLES CARUTHERIS of Warrambie.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Roger Gordoun in Lochinkitt.

PERSEWER, Roger Gordoune, brother-sonne.

Continued to the air of ‘ Annandaill, tertio Itineris, (vel super premonitione,) xv dierum.’

Forcing (Rape.)

Jul. 3.—WILLIAME BELL, workman in Edinburgh.

Dilaitit, accuset and persewit be Jonet Falconer in Karingtoun, ffor the fforcing of hir aganis hir will ; and drawing hir furth of the way at Boddorne-mure, betuix Caringtoun and Lefuaid, and abusing hir in ane coill-pott-hoill ; scho being ane 3oung maid of tuelf 3eiris of age, or thairby, &c. ; committit the xxj day of Junij lastbypast, about tuelf houres in the day.

VERDICT. Eftir accusatioun of the said Williame Bell, be Dittay, of the saidis crymes, and verificatioun thair of be the said Williamis Depositiones ; the Assyse, be the mouth of James Ramsay in Caringtoun, chancellor, fand, pronuncet and declairit the said W^m Bell to be ffylet, culpable and convict of the saidis crymes.

SENTENCE. To be tane to the mercait-croce of Edinburgh, and thair to be hangit vpone ane gibbet, quhill he be deid ; and all his moveabill guidis and geir to be efcheit, &c.

Slaughter.

Jul. 4.—JAMES TAIT in Kelfo, brother to George Tait of Bairerfe.

Dilaitit, accuset and persewit by Williame Tait of Chirritreis, as father, Williame and Johnne Taittis, his sones, as brether, with the remanent kyn and freindis of vmq^{le} James Tait, sone to the said Williame Tait of Chirritreis, off airt and pairt of the crymes following, viz.

FORSAMEKILL as the said James Tait in Kelfo, with his complices, being all bodin in feir of weir, with fuordis, knapska-bonnettis,¹ lances and pistolettis, exprellie prohibeit to be borne, worne, vslet or schot with be our fouerane lordis Actis of Parliament, in the moneth of July, the yeir of God I^m.Vc. lxxxvij yeiris, haifing consaueit ane deidlie feid, rancour and malice aganis the said vmq^{le} James Tait, come to the Grene of Chirritreis, quhair the said James was, in sober and quyet maner, &c., and thair set vpone him, and with thair pistolettis and fuordis, maift schamefullie, crewallie and vnmercifullie slew the said vmq^{le} James Tait : And the said James Tait in Kelfo is airt and pairt of the said slauchter ; committit vpone sett purpois, prouisioun and foirthocht fellony, in hie and manifest contempt of our fouerane lord, &c.

PERSEWERIS, Williame Tait, Johnne Tait, as brether.

PRELOCUTOURIS for the pannell, Mr Thomas Craig, Mr Thomas Henderfoune.

VERDICT. The Assyse, (amongst whom, Thomas Ker of Pryoraw, Thomas

¹ A steel bonnet, or skull-piece.

Tait of the Hoill, and Johnne Ryddell, appeirand of that Ilk¹) be the mouth of Johnne Mow of that Ilk, chancellor, ffand the said James Taitt in Kelfo, to be Cleane, innocent and acquit of airt and pairt of the said Slauchter. Quhairvpone he askit instrumentis.

[*Mr William Boirthuik, Justice-Depute.*]

Perjury before the Lords of Council and Session.

Jul. 10.—MR WILLIAME CARBRAITHE (GALBRAYTHE), sumtyme Minister at Pennycuik.

Dilaitit of Periurie, in deponing contrair to his former Depositiones, eftir he was re-examinat thairupone, in the cause persewit be the Tennentis of Laffudane, contrair Sir Johnne Ker of Hirfell, knycht.

DITTAY against the Pannel.

FORSAMEKILL as the said Mr Williame Galbrayth, compeirand befor the Lordis of Counfall and Seffion, vpone the thrid day of July instant, as he that was summond to compeir befor the saidis Lordis, to heir witnessin in the cause persewit be the Tennentis of Lessudane aganis Sir Johnne Ker of Hirfell, knicht, anent the resait of certane evidentis and writtis be the said Sir Johnne, pertening to the saidis Tennentis, maid his Depositione as followis, viz.—‘ MR WILLIAME GALBRAITHE, Minister, of the age of fourtie yeiris, or thairby, *solutus*,² Deponis, that in the yeir of God Im.Vc. fourfoir sevintene yeiris (the speciall tyme and day rememberis nocht,) the Deponar, being in James Kingis chalmer in Edinburghe, quhair he presentlie duellis, quhair he saw present, for the tyme, Sir Johnne Ker of Hirfell, knicht, ane of the defenderis; Oliver Sincler of Ravinsnuk; Enoche Dewar, servand to the said Olipher; Adame Scheill, servand to vmq⁶ Mungo Tennent, and the said James King; and in all the saidis perfonis prefens, Oliuer Sincler presentit vpone the buird,³ in all thair prefens, ane littill box, coverit with ledder, of Flanderis mak;⁴ and the said Oliuer said to the said Laird of Littildane, “ Thir ar the writis quhilk I promeiffit to lat zow fie;” and then the box being opnit, James King tuik out all the saidis evidentis furth of the said box, in all thair prefens, and red the samyn, ane be ane. *Interrogatus*, vpone the perticuler contentis and daitis of ilk ane of the saidis evidentis, rememberis perfytlie, that all the evidentis than red be the said James King maid mentioun and dispositioun of the landis of Lessuddane and Newtoun; and rememberis that ane of the saidis Chartouris bure dispositioun of the foirsaidis landis of Lessuddane and Newtoun to Airthour Sinclair, and his airis mentionat thairin; and rememberis nocht of ony forder particuler contentis of the foirsaidis evidentis; bot sayis, that thair was ane grit quantitie of thame, all in parchement, and haiffand seillis: And immediatlie ester the reiding of the saidis writis, thay war all put within the said box agane; and ane Obligatioun maid and writtin in all the foirsaidis parteis prefens, beirand the said Sir Johnne Ker to be bundin and obleift to the said Oliver Sincler in the sowme of Fyve hundreth merkis money, how sone he or ony of his sould obtene the richt of the landis of Lessuddane: And this Deponer saw the said Sir Johnne Ker subscryue the said Obligatioun; and James King and this deponer subscryuit the same Obligatioun, as witnes: And at the samyn tyme, Sir Johnne Ker and his servandis tuik away the said box with thame, and the said Oliuer Sincler tuik the said Sir Johnne Keris Band with him; and sen that tyme, the deponer newer saw ony of the foirsaidis evidentis, in ony of the defenderis handis, nor in nane vther perfonis handis; *reddens causa scientie*, becaus this Deponer was present, hard and saw as he deponit.—ESTIR the making of the quhilk Depositione, the said Mr Williame Galbraythe being re-examinat, vpone the fourt day

¹ The remainder are feuars.

² According to more modern form, ‘purged of malice and partial counsel.’

³ Board, table.

⁴ Manufacture, workmanship, *make*.

of July instant, in prefens of my Lord Chancellor and hail remanent Lordis of Seffioune, he past fra his former Deposition, maid be him the said thrid day of July, and declairit the samyn Deposition to be altogidder ffals and vntrew in the self; and that he was nevir in James Kingis Chalmer, quhair he saw the eidentis delynerit to Sir Johnne Ker, nather yit saw he euir Oliver Sincler and Sir Johnne Ker, togidder, in James Kingis chalmer; nor newir saw ane Obligatioun subfcryuit be Sir Johnne Ker to Oliuer Sincler; nor nevir subfcryuit the samyn as witness: And being inquyret, quha movit him to mak the said Depositionne? Declairit, that Dandie Plumber schew him ane Obligatioun, extractit and subfcryuit be the Clerk of Register, allegit subfcryuit be Sir Johnne Ker, quhairin he was witness, as was allegit; and bad him Depone, conforme to the Obligatioun: The quhilk Obligatioun, estir the ficht thairof, movet the deponer to depone as he deponet; and said, that he gat only fra Dandie Plumber his dennar, yisterday, and fourtie schillingis estir his denner. As at mair lenth is contentit in the saidis Depositiones. Be the making of the quhilkis tua contrair Depositiones, the said Mr Williame Galbraithe hes schawin him self to be manifestlie Periuret, ffalse, and vntrew: For the quhilk Periurie and ffalset he aucht and fould be puneischet, conforme to the Lawis of this realme, in exam-pill of vtheris.

Quhilk cryme aboue writtin, the said Mr Williame confeffit to be of veritie; and offerit him self, and become in our fouerane lord and his hienes Counfallis Will for the samyn; quhome the Justice reffautit in will. And thairfoir the said Justice-depute, at command and for obedience of ane Warrant directit to him, of the dait, the tent day of July instant; subfcryuit be my Lord Chancellor and vtheris Lordis of his Maiesteis Secretit Counfall; quhair of the tennour followis.

DECIMO Julij, 1605. THE Lordis of Secretit Counfall ordanis the Justice-generall and his deputis to gif this dome following, vpoun Mr Williame Galbraithe, estir that he be convict of Periurie befoir thame, or pat he becum in will, viz. That he fall be tane to the mercait-croce of Edinburghe, with ane paiper on his heid, declairand him to be Men-fworne, Perjuret and Infamous, and to Banishe him the Ile of Britane for euir: And that he depairt furth of the said Ile, betuix and the fyftene day of August nixtocum; and gif euir he repair within the samin Ile agane, without the Kingis Licence, or zit fall remane within the samyn, and nocht depairt furth pairof, betuix and the said fyftene day of August nixtocum, that he fall be execute to the daith, without any forder dome to be gevin vpone him.

(Sic subscritur) AL. CANCELL(arius,) SECRET(arius,) QUHITTINGHAM, R. COKBURNE.

SENTENCE. The Justice, be the mouthe of James Hendersfoune, dempfter of Court, decernit and ordanit the said Mr Williame Galbraithe to be tane to the said mercait croce of Edinburghe, and thair to stand, for the space of ane hour, or thairby, with ane paper vpone his heid, contening thir woirdis, in grit letteris, ' MENSUORNE, PERIURET AND INFAMOUS: ' And to be Banischet the Ile of Britane for euir, &c.¹

[*Mr Williame Hairt, Justice-Depute.*]

Sorcery — Witchcraft, &c.

Jul. 23.—PATRIK LOWRIE, in Halie (Ayrshire.)

Dilaittit, accuset and persewit, be Sir Thomas Hammiltoun of Monkland, knycht, aduocat to our fouerane lord, for his hienes entreis, off the crymes fol-

¹ The terms of the Council's Warrant are recited.

lowing, viz. FOR consulting with vmq^{le} Jonet Hunter, ane notorious Witche, and quha was execute to the daith for Sorcerie and Witchcraft: Quhilk vmq^{le} Jonet and the said Patrik, at Witsonday, in the yeir of God I^m.V^c. and four yeiris, convenit thame selffis vpon the cownoun waist Sandhillis in Kyle, maist ewest¹ to the burgh of Irwing; quhair the Devill appeirit to thame and conferrit with thame, vmq^{le} Katharene M^cTeir, ane vther Witche in Halie, and Margaret Duncane in Lones being also in companie with thame, at the samyn tyme. AND siclyk, the said Patrik, being in company with the saidis vmq^{le} Jonet Hunter, Katharene M^cTeir and Margaret Duncane, Witches, Sorcereris and abuferis of the peopill, att Hallowevin, in the yeir of God foirsaid, assemblit thame selffis vpon Lowdon-hill, quhair thair appeirit to thame ane devillische Spreit, in liknes of ane woman, and callit hir selff Helen M^cbrune; att the quhilk tyme, efter lang consultatioune had be thame with the said wikkit Spreit, the Devill, in the liknes of the said Helen M^cbrune, presentit to the said Patrik ane hair belt; in ane of the endis of the quhilk belt appeirit the similitude of foure fingeris and ane thombe, nocht far differrent frome the clawis of the Devill: Lyk as, the samyn belt, being presentit be the said Jonet Hunter to the perfonas that past vpone hir Affyse, the tyme of hir Convictioun for the said cryme of Witchcraft, was brunt in ane ffyre. LYK AS, at dyuerse tymes thaireftir, thay assemblit thame selffis, in dyuerse Kirkis and Kirk-3airdis; quhair the said Patrik, and remanent his associatis foirsaidis, raifit and tuik vp findrie deid perfonas furth of thair graves, and difmemberit the saidis deid corporis² for the practizeing of thair Witchecraft and Sorcerie. ITEM, for airt and pairt of the Bewitcheing, be Inchantment and Sorcerie, of Bessie Saweris coirnes, and taking away the substance and fisnowme³ thairof, be the space of ten yeiris, yeirlie aftir vtheris.⁴ ITEM, for airt and pairt of the Bewitcheing of certane milk ky, pertening to Johnne Fergushill, younger in Halie, at Beltane, I^m.Vj^c. and foure yeiris; quhairby the said ky gaif na milk bot bluid and worfome⁵ thaireftir. ITEM, ffor cureing, be Inchantment and Sorcerie, of vmq^{le} Margaret M^cguffok, callit 'the Witch of Barneweill,' hir horse, quhairon scho raid; committit a tuentie yeir syne, or thairby. AND siclyk, ffor laying on of Sorcerie and Inchantment and devillery vpone Jonet Lowrie, the streking of hir blind; and be cureing and taking af of the said Witchcraft af hir agane, and restoiring hir to hir former sight. ITEM, for cureing and helping, be Inchantment and Sorcerie, of Elizabeth Craufurdis bairne in Glesgow, quha had bene deidlie seik of ane strange incureabill diseise, be the space of aucht or nyne yeiris ofbefoir, be taking ane clayth af the said bairnes fface, and sayneing and

¹ Nearest. ² This seems to have been a favourite practice. It is elsewhere called '*jointing*,' (jointing) as may be seen in the description of the midnight orgies of Annie Samson and others of the unhappy wights who suffered for their deceptions of this sort. ³ '*Fushion*' (*foison*,) pith, strength, flavour, &c. ⁴ For ten successive years. ⁵ Blood and purulent matter.

croceing with his hand the said bairnes face; keiping of the said clayth, be the space of aucht dayis; and thaireftir, haifing returnit to hir with the said clayth, couerit hir face agane thairwith, quha sleipit a tua dayis altogidder, and walknit nocht; and at the tua dayis end, ane of the said barnes eyne, that was ofbefoir tynt, throw the said diseafe, was restoirit to hir; and within fyve dayis thaireftir, the said barne was, be the said Inchantment, curet and mendit be the said Patrik. AND finallie, for ane Cowmone and notorious Sorcerer, Warlok and abuser of the peopill, be all vnlawfull charmes and devillische Incantationes, vset be him, this xxiiij yeir bygane.

For the quhilkis crymes *respectiue* aboue writtin, the said Patrik Lowrie was put to the knowlege of ane Assyse.—The Aduocat askis instrumentis of the fweiring of Assyse.

MR DAVID MYLL,¹ being sworne, att the desyre of Patrik Lowrie, to mak Declaration of his brute² and behaviour; deponit that he wes bruteit and comounlie callit ‘Pait þe Witch!’ And declaris, he gatt his fatheris malefoune,³ and said he wald mak ane ill end: And declaris, that he wes ordanit to mak his repentance, for the brute and sklander he sustenit; and that he maid his repentance.

And thaireftir the said Patrik Lowrie desyrit the Justice and Assyse to trow⁴ the said Mr David Myll.

My Lord Aduocat protestis for Wilfull Errour, in caice thay acquit him of the Dittay.

VERDICT. Eftir accusation of the said Patrik, be Dittay, of the crymes *respectiue* aboue specifit, and verificatioun of the samyn, be production of certane writtis be the said Sir Thomas Hammiltoun, aduocat; the Assyse, all in ane voce, be the mouthe of Johnne Wallace in Lonese, chancellor, ffand, pronuncet and declairit the said Patrik to be ffylet, culpabill and convict of the hail crymes *respectiue* aboue specifit.

SENTENCE. The said Justice-depute decernit and ordanit the said Patrik Lowrie to be tane to the Castell-hill of Edinburgh, and thair to be wirreit at ane staik, quhill he be deid; and thaireftir, his body to be brunt in asches; and his hail moveabill guidis and geir, gif he ony hes, to be escheit, &c.

Fire-raising — Taking Captive and Prisoner, &c.

Jul. 24.—INGRIE AIRMESTRANG in Inzieholme;⁵ Archie Airmestrang of Flaskholme.

Dilaitit of airt and pairt of the tressonabill Raifing of ffyre, [within the Houfe of the Langholme?] burning and destroying thairof, pertening to Harbert Max-

¹ Probably the Minister of the parish where this unhappy creature dwelt. reputation. Fr. *bruit*.

² Curse, malediction.

³ Credit, believe.

⁴ Report, fame.
⁵ See Vol. II. p. 450.

wall of Kavenſe : Taking of the ſaid Harbert captiue and priſſoner : Schuiting of hagbutis and piſtolettis, &c.

Mathow Findlaſoun of Killeyth become pledge and ſouertie for Ingrie, and Archibald Batie, burges of Dumfreis, for Airchie Airmeſtrang, that thay fall compeir befor the Juſtice or his deputis, the thrid day of the nixt Juſtice-air of the ſcheref dome of Dumfreis or Stewartrie of Annandaill, quhair thay duell ; or ſoner, vpon xv dayis wairning, to vnderly the law, &c. ; aither of the ſaidis perſones vnder the pane of Fyve hundreth merkis money.

Slaughter.

Jul. 25.—GEORGE ANGUSE, notter ; James Blair, burges of Air ; David Kennydie of Corffis ; and Gilbert Grahame, younger of Craig.

Dilaitit of airt and pairt of the Slauchter of vmq^{re} Richerd Spens, ſervand to the Erle of Caffillis.¹

PERSEWERIS, Richerd Spens, in Vgftoun, as father ; Robert Spens, his ſone, as brother.

The perſeweris paſſis *ſimpliciter* fra the ſaidis George Anguſe, &c. and declairis thame to be Innocent of the ſaid Slauchter : Quhairupoun the ſaidis perſones on pannell aſkit instrumentis, and proteſtis for releif of thair cautioneris ; and that thai be nocht callit or perſewit for the ſaid cryme, in tyme cuming.

Slaughter.

Jul. 26.—ALEXANDER BRUNTFEILD of Hardaikeris, and Nicoll Bruntfeild, ſone to the Guidman of Eiſtfeild.

Dilaitit of airt and pairt of the Slauchter of vmq^{re} Johnne Bruntfeild, younger in Tennendrie.

PERSEWER.

Robert Bruntfeild, as brother.

PRELOCUTORIS for the pannell.

Mr Johnne Ruſſell, Mr Williame Oliphant.

It is allegit be the pannell, that the defunct, for quhais ſlauchter thai ar perſewit, was flane at the horne, for four ſeueral cauffis, contenit in the four Hoirningis preſentlie producet be the pannell : Vpoun productioun quhair of, the pannell tuik instrumentis ; and the pannell proteſtit, that the producing thir Hoirningis ſould nawayis affirme thame to be culpable of the factis lybellit.—Continued to Nov. 24.

Nov. 28.—Robert Bruntfeild, fear of Todrig, and Nicoll B. of Quhytehouſe become pledge and ſouertie, conjunctlie and ſeueralie, that thay fall compeir befor the Juſtice or his deputis, the thrid day of the nixt Juſtice-air of the ſcheref dome, quhair they duell (Roxburghe,) or ſoner, vpon xv dayis wairning ; vnder the pane of ane thouſand merkis for the entrie of the ſaid Alexander, and 500 for the ſaid Nicoll.

¹ See Dec. 6, 1605.

Murder under Trust — Stouthreif — Adultery, &c.

Jul. 26.—WILLIAME ROISE of Dunskeithe.

Dilaitit, accuset and persewit be Sir Thomas Hammiltoun of Mounkland, kny^t, Aduocat to oure souerane lord for his hienes interes, of the crymes following, viz.

FORSAMEKILL as it is statute and ordanit be our souerane lordis Actis of Parliament, that the Murthour or Slauchter of quhatsumewir his Maiesteis liegis, quhair the pairtie is slayne vnder traift, credite, assurance and power of the slayer, all sic Murthouris and Slauchteris to be committit in tyme cuming, eftir the dait of the said Act, quhilk is of the dait the xxix day of Julij, the yeir of God, I^m.V^c.lxxxvij yeiris, the samin being lauchfullie tryit, and the persoune dilatit, ffund giltie be ane Affyise thairof, falbe Treasoun; and the persounes fund culpabill fall fforfalt lyffe, landis and guidis: As the said Act att mair lenth beris. AND trew it is, that the said Williame Roise, haifing concludit in his haert the crewall Murthour and Slauchter of v^mq^{le} Alexander Gybsoune in Nig; ffor performance of his wicket intentioun, he, accompaneit with Farquhair Roise, domestik seruitour to Nicolas Roise of Pitcalany, Andro Grassich, sone to Alexander McGilliepedder and Thomas Mcconchie, vpoune the fourt day of Februar lastbypast, being Monunday, he being vnder freindschip and familiaritie with the said v^mq^{le} Alexander, tryffit to meit the said v^mq^{le} Alexander, in Huchfoun Brabneris hous in Pitcallene; quhair the said Williame Roise and his compliceis foirfaidis, in ane maist freindlie and loving maner intertineit, vnder traift of assurance, the said v^mq^{le} Alexander all the day, till the ewening, drinking and making mirrie: And about aucht houris att ewin, vpoune the samin day, being ane dark nycht, baith mark and moneles,¹ convoyit and brocht the said v^mq^{le} Alexander furth of the said Huchfoun Brabneris hous, and caufit him to vnderstand that he wald transport him to his awin hous; att the quhilk tyme, he maist tressonable drew and convoyit the said v^mq^{le} Alexander out of the way, to ane burne-syde, nocht far distant fra the said Huchfounis hous, he being than vnder the said Williamis traift, credite and assurance, lipning for na harme, iniurie or hurt to haif bene done to him be the said Williame and his complices, that war with him in his cumpany, bot to haif bene preseruit and defendit be him thair. Efter the said Williame, in forme of freindschip and familiarite, desyrit the sycht of the said v^mq^{le} Alexanderis sword, the said Williame and his complices maist treasonable disarnit him of his armour and wappinnis that wes about him, and maist treasonable murdreift and slew him, ffyrst be stryking aff his . . . hand, nixt be gewing to him ane crewall and deidlie straik in his heid, with ane half lang sword, and diueris vtheris crewall and deidlie woundis in diueris vtheris partis of his body; and thairby, maist crewallie and tressonable, vnder traift, freindschip and assurance, murdreift and slew the said v^mq^{le} Alexander Gybsoune; and he wes airt and pairt of the said crewall and tressonabill Murthour; ffor the quhilk he aucht and sould be pwneift as ane Traittour, viz. be ffoirfaltung of his lyffe, landis and guidis. To the takin² that he wes culpabill of the said tressonabill fact, he immediatlie eftir the committing of the said crewall Murthour, and to the intent the samin sould nocht haif cum to lycht, he delyuerit to the said v^mq^{le} Williame McStein, his cotter, the soun of foure schilling, and the said Farquhar Roise gaif vther four schilling, to the said Andro Grassich, for bureing³ of the said v^mq^{le} Alexander in the eird,⁴ or casting of him in the sea: Lyke as, the said v^mq^{le} McStein and Andro Grassich, being thaireftir tane and apprehendit for the said fact, be thair Depositiounis, grantit and confessit that the said Williame wes the principall strykear and murdreifar of the said v^mq^{le} Alexander, with his awin hand; and att the place of execution, quhair thay sufferit, thay past to death thairwith. To the takin also, the said Williame Roise being persewit before our souerane lordis Justice, to haif vnderlyne the law for the said cryme, he past to the horne, and continewallie sensyne hes bene fugitiue thairfoir; as the Letteris presentit beris. ITEM, the said Williame, being indytit and accusit, ffor samekill as it is statute and ordanit, be diuerse our souerane lordis Actis of Parliament, speciallie, be ane Act of his

¹ Dark (*mirk*) and moonless.² In token or testimony.³ Burying.⁴ Earth, ground.

hienes ellewint Parliament, begun and hauldin att Edinburgh, the xxix day of Julij, 1^m.V^c.lxxxvij yeiris, that in caice it fall happin ony landit men to be lauchfullie and ordourlie convict of the crymes of Commoun Thift, Reffett of thift, or Stouth-reiff, in tyme cuming, thay fall incur the cryme and payne of Tressfoune, that is to say, tynfall¹ and fforfaltour of lyffe, landis and guidis; as the said Act att mair lenth beris. And trew it is, that the said Williame Roife of Dunskeith, being ane landit gentilman and heretour of the saidis landis of Dunskeith, accompaneit with the perfounes foirfaidis, his complices, immediatlie at the tyme of his tressonabill Murthering and slaying of the said v^mq^{le} Alexander Gibfoun, in maner and at the tyme aboue writtin; he, be way of Maisterfull Thift and Stouth-reiff, tressonablie, violentlie and thiftiouslie staw, conceillit, reffett, rest and away-tuik, fra the said v^mq^{le} Alexander, the fowme of ane hundreth merkis money, or thairby, quhilk the said v^mq^{le} Alexander had vpone him, and in his purse, the tyme of the said Williame Roife committing of the said tressonabill Murthour and Slauchter foirfaid: and the said Williame is airt and pairt of the Stouth-reif, steilling and away-taking of the said money; and thairthrow, the said Williame Roife, being ane landit gentilman, in maner foirfaid, hes committit manifest Tressfoune, and the panes and p^wneihment specifeit in the saidis Actis of Parliament, viz. tynfall and fforfaltour of his lyfe, landis and guidis, aucht and sould be execute aganis him with all rigour, in exampill of vtheris. To the taikin, that he, being culpabill of the saidis tressonabill crymes of Thift and Stouth-reiff and Murthour vnder trest, the said Williame was perfewit criminallie thairfoir, befoir the Justice and his deputis, to haif vnderlyne the law for the samyn, in the moneth of Maij lastbypast, he than past to the horne, and hes bene continuallie sensyue fugitive for the saidis crymes: As the saidis Letteris of Hoirning, producet judicillie be our said fouerane lordis aduocat, at lenth portis. Lykas, be his awin Depositiones, he hes confessit the Murthour aboue writtin, and that he was airt and pairt thairof. ITEM, the said Williame, being indytit and accuset, fforamekill as he, haifing thir dyuerse yeiris bygane interteneit and keipit in companie with him Marie Rannaldoche, ane harlot, committing Adulterie with hir, he being mareit with v^mq^{le} Agnes Rose, his lauchfull spous, and the said Marie being with bairne to him, scho and v^mq^{le} Williame M^cstene, servand and hyred man to the said Williame, togidder with the said Williame him selff, consultit and concludit, at diuerse thair tryftis and meittingis, the tressonabill Murthour of the said v^mq^{le} Agnes, his lauchfull spous, vnder trest, credeit and affurance; lyk as, for performance of thair wikket purpos and intentione, the said Marie, be the said Williame's directioun, gaif to the said v^mq^{le} Agnes, his spous, poysonet drinkis; qubilkis tressonabill drinkis, nocht haifing wrocht vpone hir to the deith, bot the samyn, at findrie tymes, being vometit bak agane be hir; and finding himselff difapoyntit be that tressonabill meayne,² and hir daithe postponit and delayit, he thairfoir of new consultit and devyfit with the said Marie Rannaldoche and Williame M^cStene, quha, in the moneth of May, 1^m.V^j^c. and foure yeiris, be the said Williame's speciall causing, directioun and command, maist tressonabillie, crewallie and vnmercifullie Strangallit and wirreit the said v^mq^{le} Agnes, his spous, in her bed, within hir awin hous, vnder silence and clud of nycht; ffor performance quhairof, he promiseit to the said Marie Rannaldoche to marie and tak hir to wyfe: Lyke as, the said Williame M^cStene, being apprehendit for the tressonabill Murthour of the said v^mq^{le} Alexander Gibfoun, and examinat be certane of the Ministrie³ and gentilmen of the cuntrie, Confessit and declairit that he, at the said Williame Rossis command and direction, accompaneit with the said Marie Rannaldoche, murdreift and tressonabillie strangillit the said v^mq^{le} Agnes, his spous; ffor doing of the quhilk tressonabill deed, the said v^mq^{le} Williame M^cStene Confessit he ressauf fra the said Williame, as ane rewaird for his panes, ane rig of beir,⁴ togidder with the haill clothing that was vpone the said Williamis bak the tyme of the said Murthour, viz. his bonet, fark, coitt, doublet, breikis, hois, fokis and buittis. Lyk as, for testificatioun of the treuth of the said tressonabill Murthour, and that the said Williame was airt and pairt thairof, the said Williame, be his Depositiones maid in presens of Mr Williame Hairt, Justice-depute, and the Bailleis of Edinburgh, the xxv of this

¹ Loss.² Mean, Fr. *moyan*.³ Clergy.⁴ Ridge of barley.

infant, hes confestit that the nycht appoyntit be him and his complices for performeing of the said treffonabill Murthour, he withdrew him self furth of his awin hous of Dunskeith, fra his said spous, to his chieff the Laird of Balnagounes house, quhair he remanit quhill midnycht; about the quhilk tyme, his conscience being fa tuichet and trubillit for the said treffonabill fact, quhilk, be his counfall and directioun foirsaid, was that nycht to be put in executioun, be the perones foirsaid, he arraise out of his bed, putt on his claithes and come to his awin house, of purpois (as he declairit) to haif stayit the said wicked fact: And he, finding the turne done afoir his cuming, he reterit him self bak agane. Quhilk treffonabill fact he hes continuallie sensyne conceillit to the tyme of his Examinatioun foirsaid. And thairthrow, he is airt, pairt, red and counfall of the said treffonabill Murthour and strangelling of the said vmq^{le} Agnes his spous, vnder trest, and aucht and fould be puneischet thairfoir, conforme to the tennour of the said Act of Parliament. ITEM, the said Williame, being indytit and accuset, that he, being ane landit Gentilman, as said is, with his complices, cowmone thevis, in the moneth of . . . the yeir of God . . . thiftioulie, and be way of Maisterfull Thift and Stouth-reiff, staw, rest and away-tuik, fra Williame Micain M^cWilliame in Gany, tua schein, had and disponet thairupoune at his pleafour; and he, being ane landit Gentilman, be committing of the said maisterfull thift and stouth-reiff, hes committit Treffone; ffor the quhilk, he aucht and fould be pwneischet, conforme to the said Act of Parliament. To the taikin, he being challanget for the samyn, maid redrefs and satisfacioun to the said Williame M^cean, at command of Hucheon M^cTullie, his maister. ITEM, for airt and pairt of the thiftious Steilling, conceilling, ressetting and away-taking of ane ox, fra James Corbett in Arkbole, in the moneth of . . . yeiris: And he, being ane landit Gentilman, hes thairby committit Treffone, &c. ITEM, for airt and pairt of the steilling, conceilling, ressetting and away-taking fra Findla Mansoun, Minister in Nig, in the moneth of October I^m. sax hundreth and foure yeiris, of sax geise, had and convoyit the samyn away with him, and disponit thairupoun: And the said Williame, being ane landit Gentilman, hes thairthrow committit Treffone, &c. ITEM, the said Williame, being indytit and accuset, ffor cuming with his complices, in the moneth of December, the yeir of God I^m.Vj^c. and foure yeiris, to Daud Fairnes barne in Nig, and thiftioulie, vnder silence of nycht, brak the said barne, and staw, conceillit, resset and away-tuik furth thairof ane sek full of victuall, contening sax sirlottis. To the taikin, he come to the said Daud Fairne, and offerit to get the samyn tryit furth¹ to him, for ane rewaird; and he was airt and pairt of the thiftious steilling, conceilling and away-taking thairof; and thairfoir, he being ane landit Gentilman, hes incurrit the cryme and pane of Treffone. ITEM, for airt and pairt of the steilling, conceilling and away-taking of saxtene schein, pertening to Alexander Mansoun, Donald Beroch and Andro Bane, in the moneths of October and November last-bypast, in the yeir of God I^m.Vj^c. and four yeiris, had and convoyit the samyn away with him to the Craigis of Dunskeith, quhair he slew the said schein and cast thair intrallis in the sea; and thairefter, careit the boukkis² thairof to his awin hous in Dunskeith, quhairin he and his complices did eit the samyn: And he, beand ane landit Gentilman, be committing of the said theft and maisterfull Stouth-reif, hes committit Treffone, and incurrit the panis contenit in the saidis Actis of Parliament. ITEM, for Cowmoun thift, cowmoun resset of thift, inputting and outputting of thift fra land to land, fra cuntrey to cuntrey, baith of auld and of new: And thairfoir, he being ane landit Gentilman, be committing thair-of, hes committit manifest Treffone, and aucht and fould be pwneischet conforme to the Actis of Parliament, viz. be ffoirfaltour and tynfell of lyfe, landis and guidis, in exampill of vtheris to commit the lyk in tyme coming.

For the quhilkis crymes, the Justice-depute ordanit the said William Roife to be put to the knowlege of ane Assy^e, of the perones following.

¹ Searched out, discovered.

² *Bulks*, carcasses.

ASSISA.

Hucheon Roife, fear of Balmukie,	Williame Dumbar of Hemprigis,	Mark Mawer of Staynies,
Alex ^r Bane of Wester Logie,	Walter Kynnaird of Cowbyn,	Mr James Dumbar of Tarbett,
Donald Thornetoun, burges of Edinburgh,	Johne Burgie in Haltoun,	Capitane Andro Bruce,
Mr Rannald Bane, burges thair	Alexander Watfoune in Grange,	Robert Dumbar of Burgie,
Ja Adamfoun, burges of Kinlofe,	Pynnrik,	Patrik Dumbar of Blarie.

The Aduocat takis instrumentis of the fwering of the Assyse; and that Williame Rose grantit the Slauchter of vmq^{le} Alexander Gybfoune.

The Pannel, befoir his Convictioun, declairis that Ferquhair Roife wes nocht in company with him at the slauchter of vmq^{le} Alexander Gybfoune; nather wes he ather airt or pairt of the said Slauchter.

VERDICT. The Assyse, be the mouth of the said Mr James Dumbar, chancellor, all in ane voce, ffand, pronuncet and declairit the said Williame Roife to be ffylet, culpabill and convict of airt and pairt of the tressonabill and crewall Slauchter and Murthour of the said vmq^{le} Alexander Gibfoune, indueller in Nig, committit the tyme foirfaid, vnder trest, affurance, freindschip and familiaritie, in maner aboue writtin: AND als, ffand, pronuncet and declairit him to be ffylet, culpabill and convict of airt and pairt, red and counfall of the tressonable Murthuring, strangling and wirrieing of the said vmq^{le} Agnes Roife his spous, committit the tyme foirfaid, vnder trest, credeit and affurance, in maner as is aboue writtin: AND lykwayes, ffand, pronuncet and declairit the said Williame Roife, to be Cleane, innocent and acquit of the haill poyntis of Thift, quhairof he wes accufit be Dittay, in maner aboue writtin, and of everie ane of thame.

SENTENCE. For the quhilkis tressonabill crymes of Murthour, of the quhilkis he was convict in maner foirfaid, the said Justice-depute, be the mouth of James Henderfone, dempfter, ordanit the said Williame Rose of Dunkeathe to be tane to the mercait croce of Edinburghe, and thair his heid to be struikin fra his body: And decernit and ordanit all his landis, heritages, takis, steidingis, rowmes, possessiones, coirnis, cattell, inficht pleniffing, guidis and geir, to be ffoirfaltit and efcheit to our fouerane lordis vsf, as convict of the saidis tressonabill crymes.

Slaughter — Shooting of Hagbuts and Pistolets.

Jul. 30.—DAUID JARDANE in Wandeldyke, Alexander Jardane in Wandell, Johne Symfoun in Mynhill, and twelve others.

Delaitit, accuset and persewit for the crymes following, viz.

FORSAMEKILL as the saidis Dauid, &c. with thair complices, with convocatioun of our fouerane lordis leigis, to the number of tuentie-foure perfones, or thairby, all bodin in feir of weir, with jakis, secreitis, speiris, steil-bonnettis, swoirdis, hagbuttis and pistolettis, expreslie prohibeit to be borne, worne, vsfet or schot with, be our fouerane lordis Actis of Parliament and Secret Counfall, vnder dyuerse panes

contentit thairintill; haifing confaueit ane deidlie feid, rancour and malice aganis vmq^{le} James Clelland¹ (in Vnder-the-bank,) in the moneth of Junij, the yeir of God I^m. fyve hundreth fourfcoir fourtene yeiris, came to Wandelholme, upon Clyde, befyde Davieschaw, quhair the said vmq^{le} James was, in fober and quyet maner for the tyme, ryding at the hunting, in company of Sir James Hammiltoun of Libbertoun, lipning for na harme, iniurie or perfute of ony perfones, bot to haif levit vnder Godis peax and his Maiefteis, and thair fett vpon him, fchot and dilafchet² thair hagbuttis and piftolettis at him, quhairby thay fchott him throw the body, and with fuoirdis, quhingeris and remanent wappones foir-faidis, hurt and woundit him in dyuerfe pairtis of his bodie, to the effufioun of his bluid in grit quantitie: Off the quhilkis fchottis and ftraikis, the said vmq^{le} James immediatlie thaireftir depairtit this lyffe; and fa, the said vmq^{le} James Clelland was crewallie and vnmercifullie flane be the saidis perfones: And thay being all vpon the grund, purfuing him with fuoirdis and remanent wappones aboue fpecifeit, thay and ilk ane of thame ar airt and pairt of the said crewall Slauchter, committit vpoun fett purpois, provifioun and foirthocht felony; in hie and manifet contemptioun of our fouerane lordis auctoritie and lawis, in ewill exampill to vtheris his hienes lieges to commit the lyk crewall Slauchteris.

PERSEWERIS, Gawin Kneiland, Roger Kneiland, as fones.

PRELOCUTOURIS for the pannell, Mr Johnne Ruffell, Robert Hammiltoun.

VERDICT. The Affyfe, be the mouth of David Blair in Corflaw, chancellor, ffand, pronunceit and declairit the saidis Dauid Jarden, &c. to be Cleane, innocent and acquit of airt and pairt of the Slauchter of the said vmq^{le} James, and of the hail poyntis of Dittay aboue writtin.³

[*Mr Williame Hairt et Mr Williame Boirthuik, Justices-Deputes.*]

Slaughter — Shooting of Pistolets.

Aug. 6.—ARCHIBALD MAXWALL of Cowhill,⁴ and Williame Maxwell, appeirand of Cowhill, his fone.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Robert Maxwell of Kirkhill (Kirkhous, or Croveftanes,) committit in the moneth of Junij 1583 yeiris: And for beiring and weiring of piftolettis, contrair the Actis of Parliament.

PERSEWERIS, Williame Maxwell (of Kirkhouse,) Chairles Maxwell, James Maxwell, Robert Maxwell, Dauid Maxwell, Sir Thomas Hammiltoune.

PRELOCUTOURIS for the pannell, Mr Williame Oliphant, Mr Johnne Ruffell, Mr Alexander King, Sir Rob^t Maxwell of the Schottis, Williame Maxwell of Gribtoune, Eduard Maxwell of the Hillis.

DITTAY against the Pannell.

FORSAMEKILL as the saidis Archibald Maxwell of Cowhill, and Williame Maxwell appeirand of Cowhill, with thair complices, with convocatioun of our fouerane lordis lieges, to the number of fax perfones, or thairby, all bodin in feir of weir, with fwoirdis, secreittis, gantillettis, plait-slevis, lang hagbuttis and piftolettis, expreflie prohibeit to be borne, worne, vset or fchot with, be our fouerane lordis Actis of Parliament, vnder dyuerse panes contentit in the famyn, in the moneth of Junij, or thairby, the yeir of God I^m. fyve hundreth fourfcoir thre yeiris, vpon deidlie feid, rancor and malice confaueit aganis the said vmq^{le} Robert Maxwell of Kirkhous, for teynding⁵ of the said Archibald Max-

¹ Kneiland. The name was indifferently spelt Kneiland and Cleiland, at this period.

² Old Fr. *deslascher*.

³ With regard to the rest of the pannells, the pursuers 'past fra' a number; and the remainder were 'repleget to the regalitie of Dalkeyth, be my Lord of Mortoune.'

⁴ See Nov. 6, 1605.

⁵ Tything his lambs and other small tythes, as having a heritable right to the teinds or tythes of Cowhill.

The drawing of small tythes was always considered an oppressive act in Scotland, and had for a long period been disused.

wall of Cowhillis lambes and vtheris small teyndis, thay fett vpon the said vmq^{le} Robert, vpon the landis of Redbank, lyand within the parochin of Kirkhous, and stewartrie of Kirkcubrycht, quhair he was, in sober and quyet maner for the tyme, doand his lefull effaires and buffines, in teyding of lambes; dredand na evill, harme, iniurie or perfute of ony perfonas, bot to haif levit vnder Godis peax and our fouerane lordis; and thair, schott thair hagbuttis and pistolettis at him, and maift crewallie, schamefullie and vnmercifullie slew the said vmq^{le} Robert Maxwell: And thai and aither of thame ar airt and pairt of the said crewall Slauchter; quhairby thay haif nocht only committit crewall Slauchter, vpon set purpois, prouisioun and foirthocht felony, bot in lyk maner hes contravenit the tennour of the said Actis of Parliament, in beiring, weiring and schuiting of hagbuttis and pistolettis, and hes incurrit the panes contenit thairin, quhilk aucht and fould be execute aganis thame with all rigour, in exampill of vtheris to abstene frome the lyk in tym cuming.

It is allegit for Williame Maxwell, younger of Cowhill, that the tyme of the committing of the fact lybellit, viz. in Junij, 1583, that he was nocht past xij yeiris of age, *et sic non doli capax*; and can nocht thairby be put to the knowlege of an Assyse, for the crymes lybellit; and offeris to prove his age instantlie.—It is anfuert be the Aduocat, the allegeance aucht to be repellit, as nawayis releuant to stay the mater to pas to the knowlege of an Assyse, becaus all thingis *in facto* man be tryit be the Assyse: And albeit he had been minor, the contrair quhairof is maift manifest, yit the samyn procures na impunitie, in crymes of this natour; speciellie, being committit eftir the manner lybellit.

THE Justice, nochtwithstanding of the allegeance, ffindis proces; and Remittis the cryme lybellit aganis Williame Maxwell to the knowlege of ane Assyse; and Remittis to the Assyse anent his age, to tak cognitioun thairin as thay think expedient.

It is forder allegit, that this matter can nawayis pas to the tryell of ane Assyse, becaus the pannell, in the moneth of Februare, yeir of God I^m.V^c. fourscoir aucht yeiris, hes obtenit our fouerane lordis Respett, quhairof thair is dyuerse yeiris as yit to ryn: As the Respett producet beiris.—The Aduocat takis instrumentis of the productioun of the Respett, be bayth the perfonas on pannell. It is allegit, that the Respett is null, becaus the samyn is nocht past be the Thesaurer and the Register, conforme to the Act of Parliament. It is anfuert, aucht to be repellit, in respect of the Respett, quhilk is past the Previe seill.—It is forder allegit, that the Respett producet is null, in respect of the Act of Parliament, quhilk makis all Respettis to be null, the samyn nocht being grantit be satisfioun of partie and Letter of Slaines¹ grantit be the pairtie thairvpone.—It is anfuert, that the Act of Parliament allegit, is only temporall.²

THE Justice declairis, during the tyme of this Respett, he will nocht, for the Slauchtir lybellit, put the pannell to ane Assyse.—Quhairvpoun the pannell askit instrumentis.

¹ A writ granted by the nearest relations of the deceased, acknowledging themselves to be satisfied for the slaughter. It frequently bore their consent to a free pardon by the King. ² Temporary.

The Aduocat producet the Kingis Maiesteis Letter, direct to the Justice, &c. ; quhairof the tennour followis.

JAMES R.

JUSTICE, Justice Clerk and your deputis, We greit you weil. Forasmuche as Archibald Maxwell of Cowhill and Williame Maxwell his sone, being summond to compeir befor you, in our Tolbuith of Edinburgh, the saxt day of August instant, to vnderly our law for airt and pairt of the Slauchter of vmq^{le} Robert Maxwell of Crovetanes, and for contravening our Actis of Parliament, in beiring, weiring and schuiting with hagbuttis and pistolettis, as We are informet, intendis to vse ane Respett allegit grantit to thame by us, quhairof we nevir had ony knowlege: And gif ony be producet be thame, the same is senisteruslie purchest by our knowlege,¹ and contrair to our lawis, Actis of Parliament, and equitie. Thairfoir, it is our will, and We command you, that incontinent estir the sicht heir-of, you put to ane knowlege of Assyse, for beiring, weiring and schuiting of hagbuttis and pistolettis: And gif thay be convict, that you caus pwneisch thame conforme to our Actis of Parliament, by cutting af pair rycht hand; and forder as our saidis Actis prescryues. And gif you delay the tryell of the Slauchter, vpoune the productionn of the said allegit Respett; than, estir pair tryell and pwneischment, for beiring and weiring of hagbuttis and pistolettis, in maner foirsaid, you fall put them in fure firmance and keeping within the Tolbuith of Edinburgh, quhill we be adverteist of your proceedingis, and our forder Will be signifeit vnto you pairament. This you fall nawayis fail to do, as you will anfuer pair-upoune: Quhairanent pir presentis fall be to you sufficient Warrant. GEVIN at Houghtoun, the penult day of July 1605.

And accoirding to the said Warrant, the pannell aucht to be put to the knowlege of ane Assyse.—It is anfuerit be the pannell, that the Kingis Maiesteis Previe Letter is na sufficient Warrant to derogat the Respett, past the Previe Seill; speciallie, in respect that sic privat Letteris ar reprobat be the Actis of Parliament.—It is anfuerit be the Aduocat, that sic previe Letteris as ar purchest for stay of justice, ar disallowit be Act of Parliament; bot this Letter is direct, of certane knowlege, and furtherance of justice, and pwneischment of ane odious cryme.

THE Justice findis as ofbefoir, for the Slauchter allanerlie.

It is forder allegit, be the pannell, that that pairt of the Dittay, concerning the schuitting of ane hagbut, can nawayis be put to the knowlege of ane Assyse, becaus thair is ane Respett producet for the Slauchter; quhilk Respett is fund relevant for the Slauchter, to stay the pannell to pas to ane Assyse; and thair is na thing contenit in the Dittay, for schuiting, beiring and weiring of pistolettis and hagbuttis, bot that the defunct was slane with ane hagbut; quhilk is the maner how the said fact was committit: And as the fact is elydit be Respett, sa the maner of the committing thairof is superceidit be the said Respett; sua that, during the said tyme comprehendit in the Respett, nather can the pannell be put to the knowlege of ane Assyse, for the slauchter, nor schuitting of the hagbut, quhilk was the instrument be the quhilk it is allegit the deid was committit.—It is declairit be my lord Aduocat, in respect of the Justice Interloquitour, he Restrictis his summondis only for persute of the pannell for beiring, weiring and

¹ By sinister means, procured without our knowledge.

ſchuitting of hagbuttis and piſtolettis : And allegis, that the Reſpett producet can nocht ſtay proces for that cryme; becaus Reſpettis, being odious of the Law, as grantit for impunitie of crymes and ſtay of juſtice to pairteis greivit, thay can nevir be extendit fauourabillie, be interpretatioun of the Judge, to ony forder nor (than) the expreſs woirdis thairof beiris : And thairfoir, the bering, weiring and ſchuiting with hagbutis and piſtolettis, being ane cryme pwneifheable of the Law, and nawayis mentionet in this Reſpett, the pardon of the cryme of Slauchter, content in the ſaid Reſpett, can nevir be extendit to the vther cryme of ſchuiting with hagbutis, &c. ; ſpeciallie, in reſpect of the woirdis of the Reſpett, pardon- ing the Slauchter allanerlie, and of his Maieſteis Warrant producet ; quhilk removes all doubt that evir his Maieſtie had intention to pardoun the cryme of the hagbuttis and piſtolettis to the pannell.—It is anſuerit, that the Aduocattis declaratioun alteris nathing the tennour of the Letteris, contentis thairof, and Interlocutour producet. Thair is na mentioun maid in the Letteris of beiring and weiring and ſchuiting, bot only of ane ſchot, be the quhilk it is allegit the Slauchter was committit : And forder, the Reſpett producet is nocht only extendit to the Slauchter, bot all that mycht follow thairupone ; quhilk was the ſchuit- ing of the hagbut, be the quhilk the Slauchter was committit : And quhair it is allegit, that the Reſpett grantit for ane cryme can nocht be extendit to ane vther, aucht to be repellit, in reſpect of the Reſpett, and the coniunctioun of the factis : And forder, of the Law and practik of this realme, ane Reſpett or Re- miſſioun grantit of ane gritter cryme comprehendis leſs crymes, albeit na men- tioun be maid of the leſs ; ſpeciallie, haifing conſideratioun, quhan the leſs crymes ar ane pairt of the gritt cryme, quhairfoir the Reſpett is gevin, and all done *unico contextu*, at ane tyme ; and the leſs cryme the inſtrument of the grit, quhilk is reſpettit.

It is forder allegit, that this Reſpett man comprehend the ſchuiting with the hagbut, in reſpect it is exprellie ſtatute, be Act of Parliament maid in the dayis of King James the Fourt, Parlamento ſexto, cap. 62, That in all Reſpettis and Remiſſiones, mentioun ſhall be maid of the gritteſt cryme, ſa that be the expreſs meaning of the ſaid Act, the gritteſt cryme being remittit and contenit in the Reſpett, the leſs crymes man be lykwayis comprehendit thairintill ; ſpeciallie, in thir crymes, quhilkis ar ſa coherent and conioynet togidder, that the Reſpett or Remiſſioun comprehending the gritteſt, of all neceſſitie man comprehend the leiſt.—It is anſuerit be the Lord Aduocat, that that Act of Parliament militatis only, quhair thair is Remiſſioun or Reſpet, tane only for ane perticuler cryme, and ane generall claufe of Remiſſioun ſubioynit thairto ; bot in this caice, the Reſpett producet contenis only the cryme of Slauchter allanerlie, without ony generall claufe of vther crymes ſubioynit thairto : In reſpect quhairof, the allege-

ance aucht to be repellit.—It is anſuerit, be the pannell, that the Reſpet nocht only comprehendis the ſlauchter, bot alſo all thingis that can follow thairupoun, quhilk is the ſchuiting.

It is forder allegit, be the pannell, that the cryme of ſchuiting and weiring of hagbuttis and piſtolettis was nevir *in viridi obſeruantia*, and ſic a cryme quhairupoun ony accuſatioun or puneiſchment followit, befor the Act of Parliament, in anno I^m.V^c.lxxxxvij; fra the quhilk tyme and Act, that cryme hes only bene obſeruet, and the pwneiſchment contenit in the ſaid Act hes only had place. And albeit, be Act of Parliament maid in anno I^m.V^c.lxvij, it is ſtatute and ordanit, that the weiring, vſing and ſchuiting of hagbutis and piſtolettis, ſall be tynfall (*loſs*) of the rycht hand, yit be ane poſterior Act, maid in anno I^m.V^c.lxxix, the pane of the ſchuiting and vſeing is only pecuniall, contening the ſowme of x li. and tynfall of the hagbut or piſtoll: And ſa, haifing confidderatioun that this fact is allegit to haif bene done in anno 1583, lang befor the yeir of God I^m.V^c.lxxxxvij, the panes of the ſaid Act can nawayis be extendit aganes thir defenderis. It is anſuerit be the Lord Aduocat, that the Act of Parliament, in anno I^m.V^c.lxxix, maid lang befor the committing of the cryme lybellit, levis to the Kingis Maieſtie, his optioun of the inflicting of the corporall pwneiſchment for the ſaid cryme; quhairanent, his Maieſtie hes declairit his will, be the Warrant producet.

It is forder allegit be the pannell, that the Act of Parliament, maid in anno lxxxxvij, declairis the penaltie of the former Actis to haif place, with the additioun; ſa that befor the tyme, the Kingis Maieſtie nevir declairing his Will, his Maieſteis Will and penaltie man be only extendit fra the dait of the laſt Act.—The Aduocat anſueris, the maift ſolempne Declaratioun of his Maieſteis Will is be Act of Parliament.

THE Juſtice Repellis the allegiance, in reſpect of the Act of Parliament, Reſpett producet, and his Maieſteis Warrant; and Ordanes forder proces.

It is forder allegit, be the pannell, that the pannell, for weiring and vſeing of piſtolettis, can nawayis be put to the knowlege of ane Aſſyſe, becaus it is confeſſit in the Dittay, that the weiring and ſchuiting of the hagbut or piſtolettis was committit vpoun the landis of Reidbank, quhair the defenderis duelt and remanit for the tyme; and it is nawayis prohibeit be the Act of Parliament, bot be the contrair, it is permitted to perſones to beir, weir and ſchuit hagbuttis and piſtolettis, within thair awin houffis, yairdis and cloiffis: And trew it is, gif ony hagbut was ſchott, borne or worne, the ſamyn was within the houſe of the ſaidis landis, at the leiſt, hard be the yettis and durris thairof: And albeit ony perſone wald ſchuit and weir within his awin houſe, or at the yettis or within the cloiffis

thairof, that is na cryme of the law. And now it man be respectit, that thair is na mair in our Dittay, bot only the beiring, weiring and schuiting, &c. ; vnder proteftatioun, that the pannell nawayis grantis the famyn.

ASSISA.

Johnne Lyndfay of Auchinfeach, Jo. Mertene, bailzie of Blaikfchaw, Michell Anderfoun, burges of George Reidik of Airdrie, Adame Strudgeoun of Myllerland, Dumfreis, Johnne Turnour of Ardwell, Harbert Strudgeoun of Towcroce, Clement Edzer of Kirkblane, Williame Williamefoune, burges Johnne Richiefoune, burges of Harbert M^ckie in Prestoun, of Dumfreis, Dumfreis, Robert Edzer of Blaikfchaw, Jobne Slowane¹ of Garroche, Johnne Gibfoun, burges thair. Robert Rediche of Barnehowrie.

OBJECTION to an Affisor.—It is allegit that *Williame Maxwell of Merfyde* can nocht pas of this Affyse, becaus he was nocht of perfyte age, viz. vpoun the age of xiiij yeiris, the tyme of the committing of the fact lybellit.—It is anfuerit, be the Aduocat, the allegeance aucht to be repellit, in respect of his present age.—The said Williame Maxwell being inquyrit be the Justice and fuorne, ‘Quhat age he was presentlie of?’ Declairit he was outwith xxv yeiris of age.—It is allegit be the pannell, that the said Williame Maxwell of Merfyde, the tyme of the committing of the fact lybellit, was nocht foure yeir auld.

THE JUSTICE Repellit *Williame Maxwell*, in respect of his awin confessioune, quha declairit that he was tennent to Harbert Maxwell of Kavenfe.

The Aduocat takis instrumentis of the sweiring of the Affyse, and proteftis for Wilful Errour gif thay acquit: As also of the sweiring of the Dittay be the perfeweris; and that the defunct was flane be Williame Maxwell appeirand of Cowhill, be ane schott.

SPECIAL VERDICT of the Affyse.

THE saidis perfonas of Affyse, be the mouth of the said Johnne Lyndfay of Auchinfeach, chancellor, ffand, pronuncet and declairit, all in (ane) voce, be the said ARCHIBALD MAXWALL elder of Cowhill to be Clene, innocent and acquit of the beiring, weiring and schuiting of hagbuttis and pistolettis, committit vpon the saidis landis of Reidbank, in the moneth of Junij, the yeir of God I^m.V^c. fourfcoir thre yeiris: AND sicklyke, ffand, pronuncet and declairit, all in ane voce, be the mouth of the said Chancellor, the said WILLIAME MAXWELL, appeirand of Cowhill, to be ffylet, culpabill and conviet of the beiring, weiring and schuiting of ane hagbut; committit in the moneth of Junij, the yeir of God I^m. fyve hundreth fourfcoir thre yeiris, vpone the grund of the saidis landis of Reidbank, within aue speir-lenth to the hous thairof, pertening than to the said Archibald Maxwell; the said Williame Maxwell than being within the age of fourtene yeiris. IN witness quhairof, the chancellor, for him self, and in name of the haill remanent perfonas of Affyse, hes subscriyuit thir presentis with his hand.

(Sic subscriptur)

JHONNE LYNDESAY.

Quhairupoun the saidis Archibald and William Maxwellis askit actis and instrumentis: and the said Charles Maxwell, in name of our said fouerane lordis Aduocat, Proteftis for remeid of Law and Wilfull Errour aganis the said Affyse.

¹ ‘Aslowane’ in another place. ‘A’ was then a common prefix to many names in the south of Scotland, as Amulligan, Acannan, Alasone, Ahannay, &c.

[*Per Comitem de Ergyle, Jusliciarium Generalem; et Magistrum Wilelmum Hairt, ejus Deputatum.*]

**Fire-raising — Burning the Place of Littlegill — Slaughter —
'Rapt' — Adultery — Theft, &c.**

Aug. 9.—THOMAS JARDANE of Birnok, Vmphra and Alexander Jardanes, his fones.

Dilaitit of airt and pairt of the tressonabill Raifing of ffyre, burning and distroying of the Place of Littillgill, with the hail laiche houffis, barnes and byres thairof, and hail inficht and pleniffing being thairin; and for the crewall Burning and flaying of vmq^{le} Alexander Bailzie of Littillgill, Rachael Bailzie, dochter to Mathow Bailzie, now of Littillgill, and vmq^{le} Achiefone, servand to the said Mathow; the saidis vmq^{le} thre perfones being all within the said place the tyme of the burning and distroying thairof; committit in the moneth of . . . the yeir of God, I^mV^c fourfcoir nyne yeiris. AND ficlyk, for airt and pairt of the Slauchter of vmq^{le} Robert Broun in Culter; committit in the moneth of Junij, the yeir of God I^mV^clxxxxvj yeiris: AND ficlyk, for airt and pairt of the Rapt and Raviefching of Katharene Johnnestoune, spous to . . . Airmeftang of Arkiltoune; committit in anno I^mV^clxxxxv yeiris: AND for the cryme of Adulterie, committit be him with hir, contrair the tennour of the Actis of Parliament,¹ &c. &c.

Williame Creichtoun of Darnehauche and Johnne Carmichell younger of Potiefchaw, as cautioners for the appearance of the pannels, vnlawit in the pane of tua hundreth merkis for ilk ane of thame. The Jardanes ordained to be denounced Rebels, and their moveables to be escheit, &c.

[*Mr Williame Borthuik, Justice-Depute.*]

Bestiality.

Sep. 17.—JOHNNE JAK, alias SCOTT, servand to Thomas Boirthuik, in Roifling.

Dilaitit of the abhominabill and monstrouous fact of Sodomie,² &c.

SENTENCE. 'To be tane to the Castell hill of Edinburghe, and thair, he to be first bund to ane staik and wirreit thairat; and thaireftir, with the said meir to be brunt in afches, as he that, vpone his awin Confessioun, was convict of the crymes aboue writtin; and his hail moveabill guidis to be escheit to his Maieftis vse,' &c.

¹ There are also numerous acts of theft of horses, cattle, sheep, &c. enumerated, but unnecessary to be noticed here. ² A case of a similarly disgusting description (the *only* instance in the early part of the Record) was purposely omitted, Sep. 1, 1570. The crime (Sodomy) is designated 'wyild, filthie, execrabil, detestabil and unnaturall.'—'Johnne Swan and Johnne Lifter, fmythis and feruandis to Robert Hannay,' the pannell, were likewise burnt on the Castle-hill of Edinburgh.

Slaughter.

Nov. 5.—WILLIAME JARDANE in Yle, Johnne Carfane in Erfik, Fergus Heroune at the Kirk of Glastrune, Johnne Aflowane in Tyllochbloun, Nicoll Dungalsoun in Claymadie, Robert M^cBay in the Maynes of Quhithorne, James M^cconene in Caringdone, and Harie Stewart in Lagane.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Harbert Maxwell, callit *Harbert of the Coittis*; committit in September I^mV^clxxxxvij yeiris.—Johnne Dumbar of Mynnieweik become plege and fouertie, that thai fall compeir befor the Justice, the xvij day of December nixtocum.

(Dec. 17.)—Johnne Dumbar vnlawit in the pane of ane hundreth merkis, for ilk ane of the saidis perfonas: The Justice ordanit that thay be denunceit rebellis, &c., and all thair moveabill guidis to be escheit.

[*Mr Williame Hairt, Justice-Depute.*]

Slaughter.

Nov. 6.—HARBART MAXWALL of Kavenfe.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Sir Robert Maxwell of Dynwiddie, knycht.

PERSEWARIS, Archibald Maxwell of Cowhill,¹ Williame Maxwell, appeirand of Kowbill, Archibald Maxwell, his brother, Sir Thomas Hammiltoun of Monkland, knycht.

The Guidman of Kavenfe takis instrumentis of this entrie, and protestis for releif of his cautioner.

The Justice continewis the matter to the Air of Dumfreis, or soner, vpone xv dayis wairning. Johnne Broune, of the Land, cautioner.—Archibald Myller, bailzie-depute to my Lord of Moirtoune, of the Regalitie of Moirtoune, Protestis, that the Guidman of Kavenfe finding of Cautioune, preiudge nocht the previledge of my Lord of Moirtoune's Regalitie; quhilk the Justice admittit.

Mutilation and Remembrance.

Nov. 23.—ROBERT M^cDOWELL and JOHNNE M^cDOWELL, fones to Peter M^cdowell of Machirmoir.

Dilaitit of airt and pairt of the Mutilatioune of Patrick Murdoche of Camloddene and Alexander M^ckie, his servand, of thair richt handis.

PERSEWER, Patrik Murdoche of Camloddene, Alexander M^ckie, his servand, Sir Thomas Hammiltoune (knycht), Aduocat to our souerane lord.

PRELOCUTOURIS for the pannell, Mr Alexander King, Peter M^cdowell of Machirmoir, The Laird of Mondurk, Robert Dougall, merchand.

Peter M^cdowell of Machirmoir become pledge and fouertie for Robert and

¹ See Aug. 6, 1605.

Johnne M^cdowellis, his sones, that thay fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of the Sherefdom of Kirkcudbrycht, or foner, vpone xv dayis wairning, to vnderly the Law,¹ &c.

[*Mr Williame Borthuik, Justice-Depute.*]

Slaughter.

Dec. 6.—DAVID MARSCHELL, meffinger.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Richard Spens.²

Continued to the Justice-air of ' Air, tertio Itineris (vel super premonitione), xv dierum. Plegio, Roberto Stewart de Pitheveles.'

[*Mr Williame Hairt, Justice-Depute.*]

Murder — Shooting of Hagbutts and Pistolets.

Dec. 11.—JOHNNE JOHNNSTONE of Auchrynnie ; James, Johnne and Patrik Forbes in Mylnebowie.

Dilaitit, accufet and perfewit off the crymes following, viz.

PERSEWER, Alexander Irwing, as fader.

PRELOCUTOURIS (for the pannell), Mr Laurence M^cgill, The Laird of Corfindae.

FORSAMEKILL as thai, with thair complices, with convocatioun of our souerane lordis leigis, to the number of ten perfones or thairby, all bodin in feir of weir, with jakis, secreitis, steil-bonnetis, plait-slevis, speiris, lance-stalfis, fuordis, quhingeris, gantilletis, hagbuttis, dagis and pistolettis, expresse prohibeit to be borne, worne, vset or schot with, be dyuerse our souerane lordis Actis of Parliament and Secreit Counfall, vnder dyuerse panes, mentionat thairintill ; haifng confauet ane deidlie feid, rancour and malice, caufeles, aganis vmq^{le} Robert Irwing in Baddis, laitlie, in the moneth of Februar last-bypast, come to the toun and landis of the Kirkcoun of Skene, quhair the said vmq^{le} Robert was for the tyme, accompaneit with certane freindis and nichtbouris in the cuntrey, at ane bankett, making mirrie, liping for na harme, iniurie or perfute of ony perfones, bot to haif levit vnder Godis peax and our souerane lordis ; thair, about ten houris at evin, vnder silence and clud of nycht, enterit within the said hous of the Kirkcoun of Skene, quhair the said vmq^{le} Robert was, as said is, and schot and dilaschet thair hagbuttis and pistolettis at him, quhairwith thai schot him throw the body ; and thairestir, with thair fuordis, hurt and woundit him in dyuerse partis of his body. Off the quhilkis schotis and crewall straikis, the said vmq^{le} Robert depairtit this lyfe ; and sa, was maist crewallie flane and murtherit, vnder nycht, be the saidis perfones ; and thai, and ilk ane of thame, ar airt and pairt of the samyn Slauchter and Murthour, committit vpoun fet purpois, prouisioune and foirthocht felony ; in hie and manifest contempt of our souerane Lord, his hienes auctoritie and lawis.

VERDICT. The Affyse, be the mouth of Robert Watfoune in Auchincloche, ffand, pronuncet and declairit, all in ane voce, the saidis Johnne, &c. to be Clene, Innocent and Acquit of airt and pairt of the Slauchter of the said vmq^{le} Robert Irwing ; and hail remanent poyntis of the said Dittay.

¹ ' James Gordoune, burges of Kirkcubrycht (and 26 others) amerciat in payne of ane hundreth merkis,' each, for not appearing to pass upon the Assise of the M^cdowells. ² See Jul. 25, 1605.

Hamesucken — Slaughter.

Dec. 11.—Mr ROBERT IRWING of Moncoffer, Daid Gray in the Lyn, Alexander Maynie in Adiestoune, and Andro Many in Auchquhartene.

Dilaitit of the crymes vnderwritten, viz.

PERSEWARIS, Johnne Forbes of Mylnebowie, as father; Patrik Forbes, James Forbes, brether; Sir Thomas Hammiltoune of Monkland, Aduocat.

PRELOQUOTOURIS for the pannell, the Erle of Home, the Maister of Marschell, the Maister of Moirtoune, Mr Johne Ruffell, Mr Robert Lyntoune.

FORSAMEKILL as thai, with thair complices, with convocatioune, &c. laitle, vpone the tent day of Februar lastbypast, haifing confaueit ane deidlie feid, rancour and malice aganis Johnne Forbes younger in Mylnebowie, be thame selfis and thair complices, of thair speciall caufing, fending, hounding out, reffetting with the bluidie hand, airt, pairt-taking, command, affistace and ratihabitoune, come be way of Hame-sukkin to James Hallis duelling hous at the Kirk of Skene, quhair the said vmq^{le} Johnne Forbes was for the tyme, doand his liefull effaires and buffines, traisting na evill, &c.; and thair violentie brak vp the darris of the said hous, enterit within the samyn, fet vpone the said vmq^{le} Johnne, and maist crewallie and vnmerciefullie slew the said vmq^{le} Johnne, be geving of him of dyuerse bluidie woundis, in the wambe; and thai and ilk ane of thame ar airt and pairt, &c.

The persfeweris passis *simpliciter* fra the persfute of Mr Robert Irwing, for the crymes contenit in the Letteris.—The persfones accuset denyis the hail Dittay, and hail circumstances thairof; alsweill of the Slauchter as of the beiring of piftolettis. Mr Johnne Ruffell, prelocutour for the pannell, declairis, that Daid Gray and Andro Many war absent fra the Slauchter; and Daid Gray, the tyme of the committing thairof, was sleipand in his bed, and knew nathing of the doing thairof, quhill¹ it was done.

VERDICT. The Assyse, be the mouth of the said chancillar, all in ane voce, fstand the saidis Daid, &c. to be Clene, Innocent and Acquit, &c.

[APUD LYNLYTHGOW, *Mr Williame Hairt of Levelandis, Justice-Depute.*] **Treason—Declining the Jurisdiction of the Secret Council—Holding a General Assembly of the Kirk, after being charged, &c.**

Jan. 10, 1606.—Mr JOHNNE FORBES, Minister at the Kirk of Airfurd, (Moderator,) Mr JOHNNE WELSCHÉ, Minister at Air, Mr ROBERT DURIE, Minister at Anstruther, Mr ANDRO DUNCANE, Minister at Carrail, Mr ALEXANDER STRAUCHANE, Minister at Creiche, Mr JOHNNE SCHERPE, Minister at Kilmanny.²

Dilaitit, accuset and persfuit be Sir Thomas Hammiltoun of Monkland, kny^t,

¹ Until. ² As the circumstances are so very fully detailed in the course of the following proceedings, it seems to the Editor only to be necessary to refer the enquiring reader to *Wodrow's Church History*, pp. 506—516; *Hailes' Memorials and Letters*, James I. pp. 1—4; *Cook's History of the Church of Scotland*, II. 160, &c. An elaborate account of this remarkable struggle is also given, by he learned *Dr M'Crie*, in his interesting *Life of Andrew Melville*, Vol. II. p. 201, &c.

Aduocat to our Souerane Lord, for his hienes entreis, off the crymes of Treffone fpecifeit in the DITTAY following, viz.

FORSAMEKILL as, be the first Act of our Souerane lordis Parliament, haldin at Edinburgh in the moneth of Maij, 1^m. V^c. fourfoir four yeiris, it is statute and ordanit, that our Souerane Lord, his airis and successeuris, be thame selfis and thair Counfallis, ar, and in tyme cuming falbe, Judges competent to all perones his hienes subiectis, off quhatfumeur estait, degre, functioun or conditionne that euir thay be, of spirituall or temporall, in all matteris quhairin thay or ony of thame falbe apprehendit, summond or charget, to answeir to sic thingis as falbe inquyret of thame, be our said Souerane Lord and his Counfall; and that nane of thame, quhilk fall happin to be apprehendit, callit or summond, to the effect foirfaid, presume ar tak vpon hand to declyne the Judgment of his hienes, his airis and successeuris, and thair Counfall, in the premisses; vnder the pane of Treffone: NOCHTWITHSTANDING it is of veritie, that the saidis Mr JOHNNE FORBES, &c. being charget be our Souerane lordis Letteris, raifit at the instance of his Maieftis Aduocat, for his hienes entreis, to compeir befor his Maieftie and the Lordis of Secretit Counfall, vpon the xxiiij day of October lastbypast, to haif ansuerit for thair vnlauchfull and contemptuous conuening, proceeding and halding of ane pretendit Generall Assëmblie,¹ at Aberdene, the secund day of July lastbypast; and appointing of ane new Generall Assëmblie, to be haldin at Aberdene, the last Tyfday of September thairefter; without the consent, and estir the expres refuseall of the Laird of Lowriestoun,² his Maieftis Commissioner, being than present in Aberdene; and in contempt of the charges of Hoirning, lauchfullie execute vpon the first day of the said moneth of July lastbypast, at the said mercait croce of the burgh of Aberdene, dischargeing, in our Souerane lordis name, all conuening and halding of ony sic Assëmblie, at that tyme and place, vnder the pane of rebelloun; and aganis the will and command of the Lordis of his hienes Secretit Counfall, signifeit to the saidis Ministeris be the Counfallis Letter than delyuerit to thame be the said Laird of Lowriestoun, befor thair said proceeding, beiring, that becaus thair Lordschipis vnderstuid that the halding of ane Assëmblie, thair, at that tyme, wald heichlie offend his Maieftie, and be estimat be his hienes ane heich contempt, thairfor it was thair Lordschipis will and plefour, that the saidis Ministeris sould nocht hald ane Assëmblie, at that tyme, nor mak ony indictionne of ane new Assëmblie, but suffer the samyn to desert. As lykwayis, the said Mr JOHNNE WELSCHÉ, Minister at Air, being charget to haif comperit befor the Loirdis of his hienes Secretit Counfall, the said xxiiij day of October lastbypast, to haif ansuerit for his vnlawfull resoirting to the said burgh of Aberdene, vpon the fourt, fyft and saxt dayis *respectiue*, of the said moneth of July lastbypast; and vnderstanding, as it was maist nottour and manifest to all men thair, how vndeutfullie and contemptuoullie the saidis Ministeris procedit, in the halding of thair said vnlauchfull pretendit Generall Assëmblie, to the contempt of his Maieftis autoritie, and of the directionne of the Lordis of his hienes Secretit Counfall, in maner aboue specifeit; neuertheles, the said Mr Johnne Welsche, without all ordour, forme, necessitie or proceeding exampill, conueinit vnlawfullie with ane number of his complices, within the Kirk of the said burcht of Aberdene, the time foirfaid, and Ratiefeit and approvet the proceedingis of thair said bretherene foirfaid, in halding of thair said vnlauchfull Assëmblie, and making indictionne of ane new Assëmblie, as said is, and tuik instrumentis thairupoune. And in respect of the premissis, all the foirfaidis Ministeris, being charget as said is, to compeir befor the Lordis of his hienes Secretit Counfall, to haif hard and sene it ffundin and declairit, that thai had verrie contemptuoullie conuenit thame selfis, and procedit in thair saidis actiones, the tyme foirfaid; and thairfor, the said Assëmblie, and approbatioun thairof, declairit vnlauchfull, and sua to be repute and haldin in tyme cuming; and thay to be punneifchit in thair perones and

¹ Of the Church of Scotland. ² Sir Alexander Straiton of Laurenstoun, knight, one of the Commissioners for the Union of England and Scotland, July 11, 1604. A Letter of Gift and Pension, for all the dayes of his lyfetye, of the blenche-deutie of the Lordschip of Scone, extending to 1000 merks, was Ratified by Parliament, July 11, 1606. Vid. *Acta Parl.* Straiton was appointed to represent the King, in Ecclesiastical Judicatories.

guidis, for thair vnlauchfull conuening, halding and approveing of the foirfaid Affemblie, in maner aboue writtin : AND the foirfaidis Ministeris, all compeirand befor the faidis Lordis of Secreit Counfall, the faid xxiiij day of October lastbypast, to anfuer in the faid cause, the samyn being ane actioun maift competent and propper to the Jurisdiction of the Lordis of Secreit Counfall, becaufe the samyn concernit the tryell and puneischment of ane heich offence, contempt of his Maieftie's authoritie, and disobedience of his Maieftie and Lordis of his hienes Secreit Counfall : Neuertheles, the foirfaidis Ministeris, and ilk ane of thame, tressonabillie declynit the judgement of his Maieftie and Lordis of his hienes Secreit Counfall *simpliciter*, be thair Declinatour, subscryuit be everie ane of thair handis, and gevin in be thame, in Judgement, befor the faid Lordis ; to the quhilk, it being replyit be the faid Aduocat, that the samyn sould be Repellit, in respect of the faid Act of Parliament, declairing all sic Declinatouris to be null, and the proponeris thair of to incur the pane of Tressone : And, in respect of the quhilk anfuer and reply, your faid Declinatour was repellit be the faidis Lordis of Secreit Counfall, all in ane voce : The faidis Ministeris, neuertheles, perfistit fa obstinatlie thairin, that eftir the samyn was repellit be the faidis Lordis, as faid is, quhairby thai could nocht pretend ony probable dout or ignorance of thair Jurisdiction, the faidis Ministeris gaif in thaireftir, thair remanent Defenssis, in writt, vnder protestatioun alwayis, that thai adheirit to thair faid Declinatour : Be proponeing quhair of, as also be adheiring to the same Declinatour, eftir that it was Repellit, thay, and euerie ane of thame, hes committit Tressone, and sould incur the panes thair of.

PERSEWER, Sir Thomas Hammiltoun, Aduocat to our souerane lord.

PRELOCUTORIS for the pannell, Mr Thomas Gray, Mr Thomas Hoip.

THE LORDIS OF SECREIT COUNSALL, vnderwritten, declairis thay will assift the Justice, as ASSESSOURIS in this cause.

ASSESSORS.

Johnne Erle of Montroife,	James Lord of Balmyrrienoche,	Mr Johnne Prestoun of Pennycuik,
Alexander Erle of Dumferme- ling, Lord Fyvie, Chancellor,	Secretar to his Maieftie, and President of his hienes College of Justice,	Collectour to his Maieftie, Sir Richard Cokburne of Clerking- toun, Lord Previe Seill,
Johnne Erle of Mar,	Mark Lord Neubottill,	Johnne Lord Murray of Tyllie- bairne,
Alexander Erle of Lynlythgow,	Walter Priour of Blantyre,	
George Erle of Dumbar,	Johanne Commendatour of Haly- rudhous,	Sir Robert Meluill of Mourdocar- ny, kny ^t ,
Patrik Lord Glamesis,	Sir James Douglas of Qubitting- hame,	Alex ^r Maister of Elphingstoune, Levintoun of Kilfythe.
Alexander Lord Elphingstoune,		
James Lord Abercorne,		
David Lord Scone, Comptroller to his Maieftie,		

It is allegit be the pannell, that thai aucht to haif bene charget vpon e xl dayis wairning, feing thay ar to be accuset for crymes of Tressone.—The Aduocat anfueris, that it is daylie practik, in bringing the perfonis put in waird to pannell, to put thame summerlie to ane Tryell ; and speciallie, the practik of the Laird of Bonytoun, quha was tane and put in waird for the breking of his fatheris house and cofferis, and steilling and away-taking of his fatheris eidentis, &c., was brocht fra the waird to the bar, and put to ane Assyfe.

THE Justice Repellis the allegiance, and ffindis forder proces :—Quhairupone the Aduocat askit instrumentis.

It is forder allegit be Mr Thomas Hoip, prelocutour for the pannell, that this

matter can nocht pass to ane Assyse, vpon the declinatour gevin in be thame aganis the summondis persewit contrair thame, befor the Lordis of Secreit Counfall, in sa far as thay ar persewit vpon the first Act of Parliament, haldin in May 1584 yeiris; becaus the meaning and intentioune of the said law is only to establische the Kingis Maiesteis royall power and Jurisdictione ouer all persones; quhilk the pannell, in all humilitie and submissioun, confessis: And albeit the said law appeiris to be generall, and vniuersallie to comprehend all matteris, yit the samyn can nocht be vniuersallie vnderstuid; becaus, quhairsoeur a law speikis generalle, gif vpon the generall speiking, ony absurditie or incommodie may follow, quhilk may tak away former lawis, or confound distinct and diuers¹ jurisdictiones, establischet be lawis of befor, the samyn, in that caise, man be restrictit to thais matteris that may fall vnder the compts of the law; quhilk specialle aucht to haif place, quhair the matter is odious: But sa it is, gif this law war vniuersallie vnderstuid, of all matteris, it sould follow, that the Jurisdictiones of the Secreit Counfall, the Lordis of Sessioun, and Justice Generall, quhilkis ar supreme, Jurisdictiones Ciuill sould be counfoundit, insofar as the woirdis of this law being attendit, na persone being conuenit befor the Lordis of Secreit Counfall for ane cryme quhilk is competent to the Justice, or for ane ciuill debt, quhilk is competent to the Sessioun, nicht nocht, nor could nocht, without the perrell of the Law, allege² that the Lordis of Secreit Counfall ar nocht Judges competent in Criminall or Ciuill caussis: Bot this is sic ane inconuenient, and sa impropper for the caise, mynd and intentioune of the law, that thair is na persone will mak questioune thairin: And as this war competent in the distinct Jurisdictione of the Lordis of Secreit Counfall, Sessioun, and Justice, sua the samyn is alsé competent in Jurisdictione Ecclesiasticall, quhilk is an feuerall and distinct Jurisdictione be the self, haifing the Warrant and grund of the word of God, and being autorizet be his Maiesteis lawis; specialle, be ane Act of Parliament maid in anno I^m.V^c.lxxix, ane vther in the lxxxj and lxxxij yeiris; sua that the pannell, being than conuenit befor the Lordis of Secreit Counfall, in ane matter quhilk was altogidder Ecclesiasticall, pertening to the Jurisdiction of the Kirk, quhair of the cheif poynt consistit vpon the lawfulness or vnlawfulness of the Assamble haldin be thame, thay nicht lauchfullie, without the perrell of this law, haif gevin in thar Declinatour, declyneing the saidis Lordis of Secreit Counfall, as nawayis Judges competent of the vnlawfulness or lawfulness of the Assamble; and in doing thair of, thay could nawayis, nor can nawayis be decernit to haif committit aganis the said law; seing the said law, possibillie, can nocht be extendit bot to sic caiffes quhilk hes nocht ane specialle, ane sepatat, or distinct Jurisdiction, be the self;

¹ Separate. ² Plead. This verb is almost universally made use of throughout these Records, and indeed in nearly the whole of the Forensic proceedings of that period, chiefly in that sense.

and quhair, it may appeir, that the pannell, in the Summandis befor the Secret Counfall, war nocht famekill ceitit vpon the vnlawfulnes or lawfulness of the Affemblie.—As for the contemptuous convening being dischargit be his Maiefteis Letteris, aganis the requeift of the Lordis of Secret Counfall, and the Commiffioner of the Kirk, quhilk matter mycht properlie appeir to pertene vnto the Jurisdictione of the Lordis of Secret Counfall, and that thairby the Declinatour man fall vnder the compas of this law; it is anfuerit, that it fould nocht be confidderit, quhat was the middis¹ quhairupone thay war convenit befor the Secret Counfall; bot the conclusioun of the Summondis man be attendit, feing it is the conclusioun and nocht the premisses that maks the natour of the actioun, quhairvpon ane caufe and grund²; and vpon ane fact thair may concur of the law twa actiones or ma,³ quhilk ar dinofcet⁴ be their conclusiounes; as in an actioun of spuilzie, perfewit ciuillie, the cognitioun thair of will pertene to the Lordis of Counfall, the lybell being fa formet, that it concludit the reftitutioun of the guidis spuilzeit; and vpon that fame fact, the spuilgear may be convenit befor the Lordis of Secret Counfall, for Oppreffion, the Summondis concluding to heir and fie ordour tane with him for committing of the faid fact; fa that albeit the fact be ane, yit tua diuerse conclusiounes produces tua feuerall actiones, the cognitioun quhair of pertenis to tua feuerall Jurisdictiones. And as this is trew, in all vther matteris Prophane, fa it is alyk trew, into the caufe intentit and perfewit aganis the pannell befor the Lordis of Secret Counfall, quhairin it aucht nocht to be respectit, quhat was the deid quhairupone thay war summond, bot it aucht to be confidderit quhat the summondis concludit: Sa that albeit the allegit fact or deid committit be thame mycht be punefchet be the Secret Counfall, and fa pertene to thair Jurisdictione; yit, feing the conclusioun beiris nocht allanerlie for the faid fact, quhilk gif it had bene fa confaueit, the pannell could nevir nor would nevir haif declynit, lyk as, *in facto*, thay haif nocht declynit the famyn; bot concludis to heir and fie the Affemblie haldin be thame vnlauchfull: Quhilk conclusioun makis the matter to be altogidder Ecclesiasticall, only fubiect to the Jurisdictione of the Kirk establischet be his Maieftie and be the lawis of this cuntrie; the actioun being comptit of that nature, quhair of the conclusioun is, of all deutie and conscience thay aucht and mycht haif declynet the famyn, without the perrell of the faid law; and thairfoir, &c. *Secundlie*, It is allegit, that the Act of Parliament can nocht be extendit to the Declinatour vset and proponit be the pannell; becaus in all Lawis, the intentione and reffone of the Law aucht to be attendit; bot fa it is, that the intentione and reffone of this Law was only maid, in sic matteris, quhair ony perfone was summond *super inquirendis*, as appeiris be the verrie expres woirdis of the Law, faying, in all matteris quhairin fall be apprehendit, &c. fua that the

¹ Medium, means.² Illegible.³ More.⁴ Lat. *dignoscere*, distinguished, judged of.

law being only confauet vpon ane fingular¹ caice, it can na wayis be extendit to ony vther caiffis or matteris, quhilk ar nocht expreffit in the Law; and confequentlie, can nocht be extendit to the actiounes perfewit aganis the pannell befor the Lordis of Secreit Counfall, becaus thai war nocht perfewit *super inquirendis*, bot vpon ane perticular fact and lybell; and the reffone of this Law, quhairfoir it fould nocht militat *super inquirendis*, becaus gif ony perfone, being fummond *super inquirendis*, wald declyne the Lordis of Secreit Counfall, the fact nocht being knawin to him, it war ane manifft contemptuous Declinatour of his Maieftis fouerane authoritie, and ane exeilling of his perfoun fra his Maieftis maift royall power, quhilk war maift worthie of the pane of Treffone; fua that this reffone, nocht being militat in the caufe of the perfute perfewit aganis the pannell befor the Secreit Counfall, the faidis perfones, in vring of thair Declinatour, hes nawayis fallin vnder the compas of the faid Law. And forder, the faid Law can nocht be perticulerlie extendit aboue the perticuler caife mentionet thairintill *quia odiofa funt restringenda*; and that, be the confent of all Doctouris, is countit odious, quhilk is aganis the difpofitiounes of the Cowmoun Law, or quhilk may preiudge a thrid perfones lauchfull rycht; quhilk is the nature of this Law; feing by it the puneifment of Treffone is imponet² vpon ane fact, quhilk nather be the Cowmoun Law, nor be the Lawis of this cuntrey is treffonabill. *Thridlie*, the pannell can nawayis be accufet for committing of Treffone, be proponing of the Declinatour, becaus, be the Law, the proponeing of the Declinatour is nocht comptit ane treffonabill deid, bot only prohibeit to do the fame, vnder the pane of Treffone; fa that the Affyfe, without committing manifft Errour, can nocht convict thame of the faid fact, as Treffone. *Finallie*, the pannell can nawayis pas to the knowlege of ane Affyfe, for the Declinatour, be vertew of this Act of Parliament, becaus, fen the making thair of, viz. in the moneth of . . . , anno 1592, all lawis, actis, statutes and ordinances, quhilk may derogat to the Jurifdictioun of the Kirk ar abrogat and annullit; lyk as, be the fame Law, it is declairit be his Maieftie and the thrie Eftaitis, that the foirfaid Act of Parliament quhairupovn the pannell is accufet, being the 129 Act of the Parliament haldin in Maij 1584, fall nawayis be preiudiciall, nor derogat ony thing to the privilege that God hes gevin to the fpirituall office-beiraris in the Kirk, concerning heidis of Religioun, matteris of errofie,³ excommunicatiounes, collatioun and deprivatiounes of Ministeris, and vtheris ficlyke effentiall cenfours ecclefiafticall, exprefflie groundit and haifing warrand of the woird of God; be the quhilk Law, the Kingis Maieftie and the Eftaitis hes declairit, that the faid Act of Parliament quhairupovne the pannell is accufet, fall nawayis be preiudiciall to ony Ecclefiafticall effentiall cenfours, foundit vpon the woird of God, being of that nature quhair of the particuleris preceding thairin contenit ar: Bot trew it is, that

¹ Special, individual.² Imposed.³ Heresy.

the Generall Affembly is an essentiall Ecclesiasticall cenfure, expresse warrandit be the word of God, and be that same Act in the fourcoir tuelf,¹ Ratiefcit and approvin be his Maiestie, and decernit to be lauchful and Godlie in the self, and is of the lyk natour with the particuleris contenit in the said Act; becaus the intreiting of the heidis of Religioune, matteris of errasie,² excommunicatioune, collatioune and depriuatioune of Ministeris, ar proper pairtis of the General Affembly, and of the office and Jurisdiction of the same, *et ejusdem est nature cum suis partibus*: And thairfoir, the pannell, in the proponing of the said Declinatour, haifing done nathing bot that quhilk pertenet properlie to the Jurisdiction of the Kirk, in desyreing the questioune anent the said Generall Affembly to be remittit to the Kirk, thay did na wrang in proponing of the said Declinatour, nor yit can the said Declinatour be drawin in questioun, be vertew of the said Act, quhilk be the foirsaid posterioir Act, in that poynt, is *tacite* abrogat be ane expresse declaratioune, that the samyn sall nawayis be extendit to the essentiall cenfours of the Kirk; sua that the pannell was *in optima fide*, in respect of the said posterioir Declaratioun, to vse the benifit of the samyn; and thairfoir, &c.

Thaireftir, the pannell for cleiring to his Maiestie of thair intentioun in vseing of the said Declinatour, hes declairit, and be thir presentis declairis, that thair nawayis thairby meanit to exeme³ thame selfis fra ony lauchfull subiectioun to his Maiestis royall authoritie, nor yit frome the Jurisdiction of the Lordis of Secret Counfall, in ony thing quhairin ony vther subiect is subiect to thair authoritie; bot only, to haif that cause, tuiching the lauchfulnes or vnlawfulnes of the said Generall Affembly, being ane mater meir spirituall, to be judget be his Maiestie and the Kirk, as only Judges competent thairto, accoirding to the law of God, and establischet Actis of Parliament within this realme; declairing be thir presentis, that his Maiestie sould judge Ecclesiasticall matteris with Ecclesiasticall persones, lyk as he judges Ciuill matteris with Ciuill persones; and acknowledgeing thame selfis, in all matteris Ciuill or Criminall, to be subiect to his Maiestie (and) all the lauchfull Jurisdictiones establischet for sic caiffis within this land; vnto the quhilkis, in all humble reuerance, thay submit thame selfis; lyk as, in all Ecclesiasticall matteris, thair ar reddie to be judget be his Maiestie with the Generall Affembly, and vtheris establischet ordouris of the Ecclesiasticall Jurisdictiones.

IT IS ANSWERIT to the *ffirft* allegiance, that the Actis of the Parliament lxxix and lxxxj can mak na derogatioune to the Act of Parliament maid in Maij, anno 1584, quhairupoun the Dittay is foundit, being posterioir to thame, geveing expresse Jurisdictione to the Kingis Maiestie and Lordis of his hienes Secret Counfall over all persones, ather spirituall or temporall, accoirding to the tennour of the said Act: And as to the nature of the caus perfewit aganis the pannell.

¹ A.D. 1592.² Heresy.³ Exempt, free.



befoir the Loirdis of Secreit Counfall, accoirding to the tennour of the Dittay and Decreit of Secreit Counfall producet, the Lordis of Secreit Counfall was maift competent Judges to the hail contentis thairof, alfweill anent the tryell and puneifchment of thair contempt, as of the vnlawfulnes of thair Affemblie, at that tyme and place, thay being expreflie difcharget be his Maieftis Letteris of Hoirning and be the Counfallis command, in writt, to hald na Affemblie at that tyme, or indict ane new Affemblie to ane new tyme and place: Lyk as, thay haifing proponit thair Declinatour befoir the faidis Lordis, the famyn was Repellit, and Decreit gevin in the hail caufe; in respect quhairof, the Dittay ftandis relevant.—To the *fecund* allegeance, anfueris, that the woirdis of the Act of Parliament, anent Declinatouris to be proponit in actiones *super inquirendis*, befoir the Secreit Counfall, can nocht exeme the caife contravertit, fra thair Jurifdictioun; albeit that fauour was fchawin to the pairtie, to foirwairne thame of the caufe thai war to anfuer: Bot generallie, the Law is vnderftand, and hes alwayis bene interpret, that all Declinatouris proponit in matteris competent to the Jurifdictioun of the Counfall ar of thame felffis treffonabill, as was folempnatlie decydet in the Kingis Maieftis awin prefence aganis vmq^{le} Mr Dauid Blak: And thairfoir the Declinatour proponit be the pannell, and adheirit to be thame, eftir the famyn was repellit be the Counfall, fallis vnder the woirdis, meaning and tennour of the Act of Parliament.—To the *thryd* allegeance, anfueris, that all crymes ordanit to be pwneift be the payne of Treafoun ar treffonabill.—To the *ffourt* allegeance, anfueris, that the claus of the Act of Parliament, in the yeir of God I^m.V^c.lxxxxij, being ane exceptioun frome the Act of Parliament, in the yeir of God 1583, confermis the famyn Act, in all heidis nocht expreflie exceptit; lyk as, the exceptioun is only of heidis of Religioun, materis of errafie, excommunicatioun, collatioun or deprivation of Minifteris, or ficlyke essentiall cenfours, specialle groundit and haifing warrand of the word of God; and it is of veritie, that the keiping of ane Affemblie at ane certane tyme and place, and appointing of ane new Affemblie, aganis the Kingis Maieftie expres charge vnder the payne of rebellioun, and aganis the will and command of the Counfale, and aganis the difaffenting of his Maieftis Commiffioner, is nather ane heid of Religioun, mater of errafie, excommunicatioun or essentiall cenfour; and thairfore, is nocht exceptit fra the faid Act, bot fallis vnder the prohibitioun and danger thairof: And thairfore, nochtwithftanding of the alledgance and declaratioun foirfaid, the Dittay fould be putt to the knowlege of ane Affyfe.

It is lykwyife allegeit be the Pannell, that the Iuftice can nocht putt thame to the knowlege of ane Affyfe, for Treafoun, becaus thay ftand at the horne vnrelaxit.—The Aduocat anfueris, that the Iuftice hes admittit the preloquouris to compeir in the faid mater; and thairfoir the Dittay for Treafoun fould be putt to ane Affyfe.

THE JUSTICE admittit the said preloquoutouris to compeir as preloquoutouris in the said mater : And with auife of the haill Affessouris, in ane voce, in respect of the anfuieris maid be my Lord Aduocat, Ordanis the Dittay to be putt to ane Assyse.—Quhairupoune my Lord Aduocat askit instrumentis.

ASSISA.

Sir Johnne Home of North-Ber- uik, knycht,	Sir Archibald Sterling of Keir, kny ^t ,	Gawin Home of Johnnescleuch, Johnne Levingstoune of Donypace,	Thomas Levingstoune of Pantoun,
Sir George Home of Broxmouthe, knycht, elder,	James Schaw of Sauchie,	Ro ^t Levingstoune of West-Quarter,	Mark Swyntoun in Innerkething,
Sir James Forrester of Carden, knycht,	Harie Stewart of Craigiehall,	Alexander Home of Rentoune,	James Gib younger of Carriber,
	George Home of Deanes,	Sir Patrik Home of Polwort, kny ^t .	

The Aduocat askis instrumentis of the admitting and fueiring of the Assyse, and eftir accusatioun of the personis on pannell, be Dittay.—The Aduocat, for verificatioun of the Dittay, produceit the Declinatour, subscryuit with thair handis acknowledged be thame selff in Judgement ; Repetit the Act of Parliament ; produceit the Decreit of Secreit Counfall, the charge of Hoirning, and the pretendit proces,¹ subscryuit be the pretendit Moderatour and the pretendit Clark of the Generall Assembly, granting the resait of the Counfallis Miffiue, of the tennour lybellit, and the Declaratioun of his Maiesteis Commiffioner, bering that he difassentit fra thair haill proceeding ; and feing my Lord Justice, be the auife of the haill Counsale present, hes discuffit the pannellis haill defenffis, and ffund the Dittay relevant ; and that thair restis na forder to the Assyse bot to declair, quhidder the factis contenit in the Dittay haif bene committit be the pannell or nocht, the samin fact being sa manifestlie provin be the writtis produceit, and nawyife denyit be the pannell, bot ratifeit and renewit in Judgement, as the proces beris ; in caise thay acquit the pannell, the Aduocat protestis for Wilfull Errorr and remeid of Law, with all regour.—The pannell protestis for Errorr aganis the Assyse, in caise thay ffyle thame of Treasoune.—The Aduocat askis instrumentis, that the pannell confessis to gefing in of the Declaratour.

VERDICT. The Assise, be the mouth of the said Harie Stewart of Craigiehall, chancellor, ffand, pronuncet and declairit the saidis sax Ministeris, and ilk ane of thame, to be ffylet, culpable and convict of the tressonabill declyneing of the Judgement of his Maiestie and Lordis of his Secreit Counfall, conforme to the Dittay aboue specifeit.

WARRANT and DOME of BANISCHEMENT² pronuncet aganis THE MINISTERIS, in Pretorio de Lynlythgow, xxij die mensis Octobris, 1606, per Magistrum Willielmum Hairt de Prestoune, Justiciarium Deputatum.

[Oct. 23.]—COMPEIRIT M^{rs} Thomas Henderfoun and Robert Lyntoune,

¹ The procedure which took place at their Assembly.
to insert the ' DOME' here, rather than under its proper date.

² It has been thought most convenient

substitutis to our souerane lordis Aduocattis, and producet to my Lord Justice his Maiesteis Warrant; quhilk the Justice causit be oppinlie red in Judgement, and ordanit the samyn to be infert in the buikis of Adiornall; quhair of the tennour followis.

JAMES R.

WHEARAS, in our Justice-Court, held at Lynlythgow, the tenth of Januare lastbypast, Mr Johnne Forbes, &c. war convicted of the cryme of Tressone, for pair contemptuous and tressonable declyneing pe Judgement of us and pe lordis of our Secreit Counfall, *simpliciter*, be a declinatour subfryuit with pair handis, and gevin in be pame, in Judgement, befor the saidis Lordis of our Counfall; as in the said proces of Convictione at mair lenth is contenit: And pe pronunceatioun of the Dome being by our Justice, vpon grave and wechtie respectis continewit, till our sarder plefour war knawin pairin, WE now considering pe grit insolence of that proud contempt, and quhat dangerus exampill it nicht be, if it fould pas vnpwneifched, haveing, in our accustomed lanity, gevin to thaise declared Traytouris moir pan sufficient tyme to haif implored and maid humble sute for our mercie; zit, finding in thame nathing bot a continwing obdured obstinacie and wilfulness, without likliehoid or appeirance of respifcence and repentance in thame, for pair former committed soleis: And albeit pe gritnes of pair offence, and speciallie in men of that functioun (quhais lyves fould be lanternes and lichtis to vperis, to cary thame felvis in all deutie and obedience, and pairfoir pair ouerfichtis requyreing pe moir seveir animaduersion and pwneifchment,) bath most iustlie demereited the extremitie of the regour to be inflicted vpon thame, for ane exampill to affray all vperis to attempt pe lyk; zitt, becaus heirtofoir that Law haith nevir bene putt to executioun, quhairby sum men may perhaps pretend that pai had pe moir probabill ignorance pairof, (albeit in reasone the same can be no excuse,) We haif with our wounted clemency, vpon that respect only, spared to inflict the rigour of the Law, at pis tyme: It being our Will and plefour, that our Justice or his depute fould fence and affix a Justice Court, to be held at Lynlythgow, or ony vper pairt else that our Counfall fall think expedient, the xxij day of October nixtocum, and pair cause Dome to be gevin out against the saidis traytouris, to be BANISHED all our dominiones, during all pe dayis of pair naturall lyves; vnder pane of daeth: And pe Dome being pronounced,oure Will and plefour is, that pai be returned to pair wairdis, thair to remane for pe space of ane moneth, for making pair preparatiounes for pair depairtour; befor pe expyreing quhair of, gif pai do nocht depairt, wind and wedder serveing,oure Will and plefour is, that pe ordinarie death vsuallie inflicted vpon Traytouris be directed to be execute vpon thame: And gif pai fall nocht depairte within pe said space, or being depairtit, fall returne intooure dominiones, without our License, thay fall incur pe pane of death, and all vper panes dew to persones convict of Tressone. Quhairanent these presentis fall be to our said Justice a sufficient Warrant. AND becaus this our spare dealing and grit clemencie, extendit towardis those aboue named offendouris, in this thair so haynous a cryme and offence, may perhaps move in sum vtheris sum presumptioun to think, that for trespassis of this qualitie no gritter rigour will be heireftir vsed: ffor removeing of which pair foolische opinione and conceate, and that everie ane may haif notice of our full determinatioun in any suche lyk case heireftir, Oure Will and plefour is, that in our said Justice Court, to be keipit pe said day, for pronunceing of pe said Dome, speciall intimatioun be maid, in open Court, by our said Justice, to all our leigis pair present, that it is our resolutioun, that gif any heirefter fall offend, in such a heich trespas, that pai fall be proceidit against with all seueritie; and that the death dew vnto Traytouris fall be inflicted vpon thame with all rigour; the example of this our present lenitie at pis tyme, nevir remayning any motiue to induce us to schaw any such clemencie to such as fall commit pe lyk offence heireftir: And our will is, that pir presentis be recoirdit in the buikis of Adiornall, and that publicatioun be maid heirof at the mercait croce of Edinburghe, and all vper places neidfull. GEVIN at our Court of Hamptone Court, the xxvj day of September, 1606.

Accoirding to the quhilk Warrant, the said Justice-depute, be the mouth of Henrie Wilfoune, dempfter of Court, pronuncet dome, and decernit and ordanit the saidis perfones to be Banifchet all our fouerane lordis dominiones, during all the dayis of thair naturall lyves : And ordanis thame to returne to thair wairdis, thairin to remane for the space of ane monethe, for making of thair preparatioun for thair depairtour ; befor the expyreing quhairof, gif thay depairt nocht, wynd and wedder ferving, the said Justice-depute, accoirding to the said Warrant, decernis and ordanis the ordinarie daeth vfuallie inflictit vpon perfones convict of Treffone to be execute vpon thame : And gif they fall nocht depairt within the said space, or being depairtit, fall returne within his hienes dominiones without his Maiesteis Licence, decernis and ordanis thame, accoirding to the said Warrant, to incur the pane of daeth, and all vther panes vfuallie inflictit vpon perfones convict of Treffone : Quhilk was pronuncet for dome.

[*Mr Williame Hairt of Prestoune, Justice-Depute.*]

Murder of the Warden of the West Marches.

[THE Clan or ' Name' of ARMSTRONG was perhaps the most distinguished of the warlike Thieves of the Scotch Border, having possession of the largest portion of Liddisdale and the Debateable Land. For the exploits of many individuals of this name, reference may be had to the Works of Sir Walter Scott, and especially to the Introduction to the Border Minstrelsy, and the Notices prefixed to '*Johnie Armstrong*' and '*Kinmont Willie*,' &c. The almost unparalleled act of bravery of the LAIRD OF BUCCLEUCH, who achieved the deliverance of *Kinmont Will* from the Castle of Carlisle, in April 1596, has been adverted to in a former part of this Collection.¹ A very interesting ' Relation' of this remarkable feat, taken from a contemporary MS., is also given in the Minstrelsy,² which the reader will find well worthy of perusal. This event is likewise narrated in the Anonymous History of Scotland, already quoted ;³ and as his Narrative is very brief, it has been thought proper to preserve a transcript here.—' NOW Auld WILL ARMISTRANG of *Kenmont* being tane be Inglis men, and is wairdit in the Castell of Cairleill, within ane strait priffoune, and yrnifs on him ; and being to thoill the tryall of the Law, knew perfytlie that thair was no faifty for him. He vrittis in Scotland to his freindis, to sie gif thay culd mak him releiff. Quhairupoun THE LAIRD OF BALCLEWCH past within⁴ thrie scoir tenne horse to the saidis Castell, and with ladders clam the same, and brak the priffoune ; and bringand the said Williame Kinmwnt hame with him, he cauffit blaw his trumpe and cry fum slughorns,⁵ puttis the toune and cuntry in sic ane fray, that nene durft stirr : Quhairby, he brocht the said Will Kinmont away, but⁶ ane fraik, to the grit honour of his cuntry. This wes done the sext day of Apryll, 1596.'

The Murder of SIR JOHN CARMICHAEL, knight, the Warden of the West Marches, sealed the fate of many of the Armstrongs, and led to the adoption of measures of the utmost severity against all those of the name who were thereafter convicted, or even suspected, of mal-practices.⁷ On Nov. 14, 1601, Thomas Armstrong, ' fone to Sandeis Ringane,' was convicted for being accessory to this barbarous act of butchery, and is the first instance on record, in Scotland, of a criminal having been hung in chains. The above mentioned Anonymous Historian⁸ narrates the event very quaintly, in the following terms. ' Now the Bordouris being werry euill brokin, thair war dyuerse Reidis⁹ in all fydis, bayth be Scotland

¹ Vol. I. pp. 363—365.
Library, A. 4. 35.

² See *Scott's Poetical Works*, 8vo. 1821, Vol. I. p. 180.

³ MS. Advocates'

pp. 450, 451, and 452.

⁴ Under the number of.

⁵ Slogans, war crys.

⁶ Without.

⁷ See Vol. II.

⁸ MS. Advocates' Library.

⁹ For Raids, hostile incursions.

and England; and THE ERL OF ANGOUS, heaffand gewin the famin owir, quha wes Wardane, the King makis THE LAIRD OFF CARMICHAEL Wardane; quha, finding *the Airmiftrayngis* to be the grittest occasioun of the trubbillis, wes myndfull to pvneife sum of thame, quha wes notorius theiffis; and thay heaffing intelligense thairoff, fendis to him ane broder of *auld Williame Airmiftrayngis of Kenmwnt*, quha wes callit Alexander Airmiftrayng, *alias Sandeis Ringand*. This Ringane being in his company, and entiring in conferance with the Wardanis, findis that thair wes na frendfchip to be luikit for at his handis; and also, thair wes sum young menne with the Wardane, quha begane to mok this *Ringan*, be steilling out of his fuord, and putting 3okis of egis in the skabert, quhairby the famin wald not draw; quhilk he perfaiffing, said, that "he awowit to God, that thai suld sie his fuord out, and (*if*) he and thay vent on the grond quhair he mycht be partie!"¹ And cuming hame to his awin hous, in this readge, sayis to his sonnis, that he wes "maid schame of som," awowing to God, "to be equall with the famin!" And knawing THE WARDANE to ryd on the morne, he and his sonnis settis for him with sum wtheris, and flayis him be the schott of ane hagbutt. And thaireftir, for the famin caus, this *Ringane* and his sonnis wer tane and execut to deith, as Tratouris to his Maiefty, be putting handis in the Kingis Wardane. This was done the 16 day of Junij, yeiris 1600.

Sir Walter Scott supposes the well-known verses, '*Armstrong's Good Night*,' to have been composed by Thomas Armstrong, who is called by him '*Ringan's Tam*,' previous to his execution, Nov. 14, 1601. The reader is referred to the *Minstrelsy* for the exploits of the Armstrongs, and of other Worthies of the Scottish Border, whose names frequently occur in the Criminal Records.]

Feb. 13.—ALEXANDER AIRMESTRANG, callit *Sandie of Rowaneburne*.

Dilatit and accuset be Johnne Commendater of Halyruidhous, sone-in-law to vmq^{le} Sir Johnne Carmichell of that Ilk, knycht.

FORSAMEKILL as he, accompaneit with Thom Airmstrang, sone to *Sandeis Ringane*,² the said Ringane and vtheris, his sonis and complices, to the number of fewintene perfonis, or thairby, commoune thewis and tratouris, the maift pairt being on horsbak, and he on fute; came all bodin in feir of weir, with hagbuttis and pistolettis, lance-ftalffis and vtheris wappinnis, invafue, to the Murthumleis; quhair thai, in the moneth of Junij, I^m.Vj^c., altogidder consultit and dewysit the crewall and treasonabill Slauchter of the said vmq^{le} SIR JOHNNE CARMICHELL of that Ilk, knycht, WARDEN OF THE WEST MARCHES;³ and for performance thairof, past fra Murthumleis to Coloneheid, quhair he and his complices lay att wait for the said vmq^{le} Sir Johnne passing by to ane Court; and as he wes, in sobir and quyet maner, passand by to the said Court, vpone the day of the said moneth of Junij, quhilk wes to be hauldin in Lochmabene, he and his complices fett vpoune him att the Raeknowis, quhair, with schottis of hagbuttis and pistolettis, thay schot him throw the body, and crewallie slew and murdreift the said vmq^{le} Sir Johnne Carmichell, being his Maieftis Wardene for the tyme: And the said Alexander Airmstrang wes airt and pairt of the said

¹ Where he might avenge his own quarrel.

² See Vol. II. p. 363, where he was sentenced to be 'hangit vp in *irne-cheinis*,' after having his right hand struck off.

³ Robert Birrel gives the following notice, in his Diary, Jul. 11, 1600. 'The Laird of Carmichael bureit; quha was slaine be the Airmstrangis and Carliles, he doing and executing his office of Wardanrie, vpone the 16 of Junij befor.'

crewall and treffonabill Murthour, he being than vpoun the ground with his complices, att the committing of the said vngodlie fact : To the takin¹ he confest the samin be his depositiounis ; lyke as, he, be Depositioun, declarit him selff to be innocent of ony vther haynous crymes, except the foirfaid innocent² Slauchter of the said vmq^{le} Sir Johnne ; quhilk he declairit he wes brocht vpoun aganis his will. ITEM, for commoun Thift, commoun Reflett of thift, inputting and out-putting of thift, fra land to land, fra countrey to countrey, baith of auld and new.

PERSEWER, My Lord (' Johnne Commendater' of) Halyrudhous.

ASSISA.

Robert Mcbrair of Almagill,	Andro Ker of Mylnerig,	Michell Adamefoun, flescheour in
Johnne Weir, brother to Auchtie-	Gylbert Halyday, merchand bur-	Edinburghe,
fardell,	ges of Edinburghe,	Williame Mow, hatt-maker thair,
R ^t Johnnestounne, burges of Ed ^r ,	Allane Cathcart, staibler thair,	Andro Greir, burges thair,
Vthrid M ^c donnell of Mondark,	Robert Dalzell, Y ^r of that Ilk,	Alexander Bowie, staibler thair,
. . . Hunter of Polmude,	James Johnnestounne or Waftraw, J ^{on}	Steill, fumtyme of Houftounne.

VERDICT. The Assyse, be the mouth of the said James Johnnestounne, chancellor, ffand, pronunceit and declarit the said Alexander Armstrang to be ffylit, culpabill and convict of airt and pairt of the crewall Slauchter and Murthour of the said vmq^{le} Sir Johne Carmichell, conforme to his Depositiounis. And als, to be ffylit, culpabill and convict of commoune thift, commoune refflett of thift.

SENTENCE. To be tane to the mercat croce of Edinburghe, and thair to be hangit vpoune ane gybet quhill he wes deid ; and all his movabill guidis to be escheit and inbrocht to our fouerane lordis vse, for the said crymis.

Slaughter — Shooting Hagbuts, &c.

Feb. 21.—ADAME BROUNFEILD, in Gordone maynes.

Dilaitit for airt and pairt of the fellone and crewall Slauchter of vmq^{le} Thomas Cranftoun ; committit vpone the xxij day of July, the yeir of God I^m.V^c. fourfcoir fyftene yeiris, within the boundis of the landis of Moriestoun, at that pairt thairof callit the Kame, be the fshot of ane hagbut throw his body ; vpone, set purpois, prouisioun and foirthocht felony.

PERSEWER, Johnne Cranftounne, as brother.

PRELOCUTOURIS in perfute, Sir Johnne Cranftounne of that Ilk, Mr Thomas Cranftounne.

PRELOCUTOURIS for the pannell, Mr Williame Oliphant, Aduocat, James Brounfeild of Nether Maynes.

It is allegit be the pannell, that he can nocht be put to the knowlege of ane Assyse, vpone this Dittay, and crymescontenit thairin ; becaus the Kingis Maiestie hes grantit his Remiffiounne, vnder the Grit Seill.³—It is anfuertit be the persewer, that this Remiffiounne, anent the tyme of the committing of the said (slauchter) lybellit, meittis nocht the tyme specifeit in the Dittay.⁴

¹ In token or testimony whereof. ² Sic. ³ Apud Edin. Dec. 20, 1605. ⁴ ' In menfe . . . 1594, commiss.'

THE Justice admittis the Remiffioun product.

It is allegit be the perfewer, that the Remiffioun vsset be the pannell, is contrair to the Act of Parliament, ordaning na Remiffioun to be grantit, without satisfioun of pairtie, and productioun of ane Letter of Slanes, vtherways to be null.—Anfuerit, the alledgeance aucht to be repellit, in respect of the Remiffioun; and offeris cautione to satisfie the pairtie, conforme to the Lawis of this realme.—James Brounfeild in Nether-maynes, Johnne Brounfeild in Gordone-maines and the said Adame (become) cautione, coniunctlie and feuerallie, for satisfioun of pairtie, &c.

Slaughter — Shooting Hagbuts and Pistolets.

Feb. 25.—HEW CAMPBELL in Mauchline, sone to vmq^{le} Thomas Commandator of Halywoid.

Dilaitit of airt and pairt of the fellone and crewall Slauchter of vmq^{le} Johnne Glencorfe of that ilk, be schottis of hagbutis and pistolettis; committit vpone the xiv day of September, the yeir of God 1581 yeiris, vpone the ground and landis of Gribtoun; vpone set purpois, prouifioun and foirthocht felonie.

PERSEWERIS, Iffobell Glencorfe, sifter; Robert Glencorfe, neir kynsman.

PRELOCUTOURIS for the pannell, Mr Robert Lyntoun.

Tuik him to our souerane lordis Remiffioun, for the said cryme. ('Apud Edinburgh, Feb. 14, 1606.') Williame Campbell in Grienock-maynes, Alexander Nisbet of Greneholme, and the said Hew, become cautione and fouertie, coniunctlie and feuerallie, to satisfie the pairtie, as law will.

Slaughter.

Feb. 26.—WILLIAME M^cINTOSCHE, sone to the Laird of M^cIntosche; Angus Williamsone of Termet; Donald M^cintosche, sone to Perfone M^ccondowie; Williame M^cJames, sone to James Glas; Angus M^cRannald, sone to vmq^{le} Johnne M^cAngus; Lauchlane Williamefone, eldest sone to Angus.

Dilaitit of airt and pairt of the slauchter of vmq^{le} Alexander Anderfoun in Balnaglak and vmq^{le} Johnne Barrone thair.

PERSEWER, Johnne Elphinstoun of Balnaglak, as neir kynsman to the saidis vmq^{le} perfones.

The said Johnne Elphinstoun, perfewer, for himself, and takand the burding on him for Thomas Anderfoun, brother to vmq^{le} Alexander Anderfoun, past fra the perfute of the perfones on pannell, *pro loco et tempore*. Lauchlane M^cintosche of Dynnachten becomes fouertie for the entrie of the perfones on pannell, the thrid day of the air (of 'Inuernese,') or soner, vpone xv dayis wairning; vnder the panes contenit in the Actis of Parliament.

Breaking the Place of Kilbirnie — Theft, &c.

Feb. 26.—JOHNNE CRAUFURD, fumtyme in Auchincloch, now in Auchinbothie.

Dilaitit of airt and pairt of the Breking of the Place of Kilbirnie; and steilling of certane eidentis and abulzimentis, pertening to Johnne Craufurd of Kilbirnie, &c. viz.

FORSAMEKILL as he, accompaneit with Thomas Wilfoun in Wallafe, with divers vtheris thair complices, cowmoun thewis, in the moneth of Nouember, the yeir of God Im.Vc. and twa yeiris, come to the Place of Kilbirnie, the Laird being than furth of this realme, and his Lady being than in Grenok, ten myle distant fra the said place of Kilbirny; and thair, vnder fylence and cloud of nycht, brak the said Place, at the North fyde thairof, enterit within the famin, and thiftioullie stall, concelit, reffett and away-tuik, furth thairof, and furth of the cofferis than standing within the said Place, ane figuret velvet goune, ane blew bend of taffetie, ane ryding cloik and skirt of broun cullerit clait, wrocht with filuer pafment; ane blak velvet dowblet, cuttit out and wrocht with filk cordounis; ane pair of broun velvet breikis, wrocht with cordounis of gold; ane lowfe gown of grograne, ane skirt of broune fatene, ane broun faittene dowblet, twa hwidis with craipis; togidder with ane pair of blankettis, qubairin be band all the saidis clathis and abulzements: Quhilkis guidis and geir pertenit to the said Johnne Craufurd of Kilbirnie and his spous. LYKE as, att the samyn tyme, he with his complices, brak vp the said Johnne Craufurd's Charter-kist, standing within the said Place, and thiftioullie stall, concelit, reffett and away-tuik, furth thairof, ane grit number of the said Laird of Kilbirne's speciall eidentis and writtis,¹ togidder with the saidis guidis and geir and abulzements, he and his complices had and convoyit away with thame, and disponit thairvpoun att thair pleasour; and he wes airt and pairt of the thifteous steilling, conceling, reffetting and away-taking of the saidis guidis, geir, writtis, eidentis and vtheris aboue writtin, and of the breking of the said Place, in maner, and att the tyme foirfaid; quhilk wes notourlie knawin. To the takin,² he, with his wyffe and seruand-wemene, delyuerit bak agane to the Lady Kilbirny, within the duelling house of Cuthbert Craufurd in Parkfut, in presens of the said Cuthbert Craufurd, Hew Gawin in Boig, Williame Allane in Manis, Thomas Harvie in Brokllirhill, Mungo Allane in Sarlie, Hew Starrie in Bankfyde, and George Kelfo in Brighill, the perticuler abulzementis following, viz. the saidis cuttit out velvet dowblet, the broun velvet breikis, the lowfe grograne goune, the broun fatene skirt, ane broune fatene dowblet, the said figurit velvet goune, the said broun ryding cloik and skirt, with the saidis twa hwidis, quhilkis wer thifteoullie stollin and away-brocht be him and his complices, furth of the said place, att the tyme foirfaid: To the takin also, he being examinat him self, in presens of the Minister, eldaris and deakinnis of the Kirk of Kilbirnie, he grantit and confessit the haifing of the said blew taffatie bend, with certane of the said Laird and Ladies writtis and eidentis, bot wald nocht declair how he came be thame; as the Extract of his Confessioun, heirwith produceit to schaw, beris: To the takin lykwayis, the said Johnne, being charget of befoir to find cautioune to haif comperit before the Justice, at ane certane day bygane, to vnderly the law for the foirfaidis crymes, he than, for disobediencie of the said charge, past to the horne; as the Hoiring lykwayis schawin beiris.

PERSEWARIS, Johnne Craufurd of Kilbirnie, Sir Thomas Hammiltoun of Monkland, kny^t, Aduocat. PRELOCUTOURIS for the pannell, Mr Johnne Ruffell, Williame Speir, wryter, Mr Patrik Hammiltoun.

The Laird of Kilbirnie takis instrumentis of the productioun of Thomas Wilfoun at the horne, and lykwayis of the productioun of the Letteris aganis

¹ Principal title-deeds and writings.

² In token, or proof.

the cautioneris for the Entrie of Johnne Craufurd, and of the roll of his Affise; and offeris him reddie to persew the said Johnne for the crymes contenit in his Dittay; and protestis, in respect thair of, that he be relevit of his cautionerie.

VERDICT. The Affise, be the mouth of Williame Orr in Lochrig, chancellor, for the maist pairt, ffand, pronuncet and declairit the said Johnne Craufurd to be Clene, innocent and acquit of airt and pairt of the breking, &c.

Slaughter — Demembration.

Mar. 7.—NINIANE AIRMESTRANG, callit *Niniane of Tueidane*, Andro Henderfoune, servand to the Laird of Mangertoune, Archibald Airmestrang, callit *Fair Archie*.

Dilaitit of the Slauchter of vmq^l Andro Smyth, and demembring of Thomas Tueidie of his neise (*nose*.)

PERSEWERIS, Johnne Smyth, sone to vmq^l Andro Smyth, Thomas Tueidie in Dwnfyre.

The perseweris passis fra the persones in pannel, *pro loco et tempore*.—Robert Scott of Hayning become souertie for the entrie of Niniane and Andro, and Sir James Johnnestoune of that Ilk, for the said Archibald, the thrid day of the air (of Dumfries) or sone, vpone xv dayis wairning, to vnderly the Law, &c.

Mutilation and Demembration.

Mar. 7.—GAWIN ELLOTE of Fiddeltoune, callit *Johne's Gawin*.

Dilaitit for Dismembring of Thomas Twiedie in Dunfyre of his nife (*nose*.)

Robert Ellote younger of Fallinesche oftymes callit, as cautioner for the said Gawin, to haif enterit and presentit him befor the Justice this day, vnder the pane of thre thousand merkis; as he that become souertie actit in prefens of Sir Williame Seatoun of Kylefmure, Sir Johnne Chairteris of Amisfeld, and Sir Jedione Murray of Elibank, knyth, his Maiesteis Commissioneris, in ane Court of Justiciarie held be thame, within the tolbutth of Peiblis, the tuentie tua day of December lastbypast. The said Robert vnlawit in the said pane.

Cattle and Horse Stealing — Slaughter — Fire-raising — Shooting of Pistolets — Cutting down Timber, &c.

Mar. 19.—HECTOUR TRUMBILL of Wauchope, George Trumbill his sone, Adame Trumbill in Bullerwall, ('*past fra*,'), George Trumbill in Howa, ('*past fra*,'), Johnne Trumbill, sone to Hectour of Wauchope, Hectour Trumbill of Stanyledge, ('*past fra*,'), Andro Trumbill, brother to Bullerwall, ('*past fra*,'), Hectour Trumbill in Clarielaw, and Thomas Trumbill of Hoppisburne.

Dilaitit, accuset and perfewit for airt and pairt of the crymes *respectiue* following, viz.

FOR the thiftious Steilling, conceilling, reffetting and away-taking, fra Margaret Trumbill Lady Apotefyde, furth of the toun and landis of Hairwood, tua hundreth ky and oxin, threttie scoir of schein, threttie horse and meiris, with the haill inficht and pleniffing, worth the fowme of ane thousand pundis money; committit in the moneth of Junij, the yeir of God I^m.V^c. fourfcoir auchtene yeiris (1598). ITEM, for airt and pairt of the thiftious steilling, conceilling, reffetting and away-taking furth of the landis of Apotfyde, of ane hundreth ky and oxin, tua hundreth schein pertening to the said Margaret, with hir haill infycht and pleniffing being within the said place, worth V^c lib.; committit in Junij, the yeir of God foirfaid. ITEM, for airt and pairt of the thiftious steilling, conceilling and away-taking, be way of Maisterfull thift and stouth-reif, furth of the saidis landis of Apotefyde, of xxx ky and oxin, pertening to the said Margaret Trumbill, with hir haill inficht pleniffing, worth the fowme of V^c merkis; committit in Januar, the yeir of God I^m.V^c. fourfcoir nyntene yeiris. ITEM, for airt and pairt of the treffonabill and awfull Raifing of ffyre about the place of Apotfyde, and burning and distroying of dyuerse houffis within the said place, togidder with tua horfis, price of the peice¹ V^c pund; with certane insight and pleniffing; committit in the moneth of Maij, I^m.V^c. fourfcoir nyntene yeiris: And for airt and pairt of the crewall Slauchter of vmq^{le} Williame Lorane,² ane young boy of xiiij yeiris of age; committit in the moneth of Julij, the yeir of God I^m.Vj^c. yeiris, within the wood of Lorane, vpon set purpois, prouifoun, auld feid and foirthocht felony. ITEM, for airt and pairt of the crewall Slauchter of vmq^{le} Hectour Lorane of Harwoid, with schotis of hagbutis and pistolettis; committit in the moneth of Junij, the yeir of God I^m.Vj^c. and foure yeiris. ITEM, for airt and pairt of the Slauchter of vmq^{le} Lyell Broun, serwand to the said Margaret: AND als, for airt and pairt of Steilling fra the said vmq^{le} Lyell, furth of his landis of Harwoid, of threttie ky and oxin, threfcoir schein, thre horse and twa meiris, with the haill inficht and pleniffing of his hous, worth the fowme of thre hundreth merkis; committit in the moneth of Junij, the yeir of God, I^m.V^c fourfcoir auchtene yeiris. ITEM, for contravening of the Actis of Parliament, in beiring, weiring and schuiting of hagbutis and pistolettis, vpon the saidis landis of Harwoid, Apotefyde and remanent places foirfaidis, schuitting and slaying of the saidis Hectour Lorane of Harwoid, and vmq^{le} Williame Lorane, his brother, the tymes *respectiue* aboue writtin of the committing of thair said Slauchteris. ITEM, for contrauening the Actis of Parliament, in cutting down and distroying, in the monethis of Januare, Februare, Marche, and remanent monethis of the yeiris of God I^m.V^c. fourfcoir auchtene, 1599, 1600, 1601, 1602, 1603, 1604 and 1605, at the leif in ane ar vther of the said monethis and yeiris of God, of the haill grit growand trayis,³ within the woidis of Apotefyde, pertening to the said Margaret Trumbill, viz. ane thousand birk treyis, fyve hundreth grit aikis, thre hundreth allouris, four hundreth haifailis;⁴ and hes waifit and destroyit the saidis woidis.

PERSEWERIS.

Margaret Trumbill, Lady Apotfyde; Mr Robert Lyntoun, Aduocat, substitute to my Lord Aduocat.

PRELOCUTORIS for the pannell, Mr Alexander King, Mr Lawrence M^cGill.

Compeirit personallie WILLIAME ERLE OF ANGUS, Lord of the Regalitie of Jedburghe-fforrest, and producet his Seafing, comprehending the said Regalitie, and desyrit to Repledge the particular perfones following, duelling within the said Regalitie, viz. The Laird of Wauchope, George and Johnne Trumbillis, his sones, and Thomas Trumbill of Hoppisburne, as household man to Thomas Trum-

¹ Price of each, £500.

² Brother to the Laird of Harwood.

³ Large growing timber.

⁴ 1000 birch trees, 500 great oaks, 300 allers (elder, or mountain ash), 400 hazels.

bill younger of Wauchope, all duelland within the said Regalitie. It is anfuert be the Aduocat, that the perfones defyrit to be repleget can nocht be repleget for Treffone, viz. ffyre-raifing,¹ contenit in the Dittay.—It is anfuert be Mr Alexander King, that thai aucht to be repleget, nochtwithstanding of the Aduocatis allegeance; becaus (thair is) na Treffone, bot that quhilk is committit aganis the kingis awin perfone.—It is duplyit be the Aduocat, that ffyre-raifing is Treffone; and thairfore the said perfones can nocht be repleget, böt fould pass to ane Assyse, quhither it be committit aganis his Maiesteis perfone, or for ony vther cryme impoiring Treffone.

THE Justice, estir probatioune led that the saidis perfones duelt within the Regalitie, Admittis my Lord of Angus Replegeatioun, repledeand thame for the haill crymes contenit in the Letteris, except the Treffone of ffyre-raifing: And my Lord of Angus, present, fand cautioune, viz. Adame Trumbill in Bullerwall, to administer Justice, in Lyntelleis, the xv day of Apryle nixt; and the said Adame become cautioune for the entrie of the saidis perfones.²

The perfewer passis fra Hectour Trumbill of Clarielaw, for the cutting and distroying of the greine-woid, contenit in the Dittay, *pro loco et tempore*.

Treasonable Fire-raising — Cattle-stealing — Slaughter, &c.

Mar. 19.—HECTOUR TRUMBILL of Wauchope, George Trumbill and Johnne Trumbill his fones, Hectour Trumbill of Clarielaw, and Thomas Trumbill of Hoppisburne.

Dilaitit, accufet and perfewit of the crymes *respectiue* following, viz.

THE said *Hectour Trumbill of Wauchope* and *Hectour Trumbill of Clarielaw*, of airt and pairt of the tressonabill and awfull Raifing of ffyre, vpon the landis of Harwod, and burning and distroying of fourtie dargis of turves,³ pertening to the said Margaret Trumbill Lady Apotefyde; committit in the moneth of Junij, the yeir of God, I^m.V^c.lxxxvij yeiris. ITEM, the saidis *Hectour Trumbill, elder of Wauchope, George and Johnne Trumbillis* his fones, *Hectour Trumbill of Clarielaw*, and *Thomas Trumbill of Hoppisburne*, ffor airt and pairt of the tressonabill Raifing of ffyre about the Place of Apotefyde, and burning of findrie houffis of the said Place, togidder with tua horfis, worth ane thousand pundis, and haill infycht and pleniffing within the saidis houffis, worthe ane hundreth pundis; committit in the moneth of Maij, the yeir of God I^m.V^c. fourfcoir-nyntene yeiris. ITEM, the said *Hectour Trumbill of Clarielaw*, for airt and pairt of the Steilling of tua hndreth ky and oxin, threttie fcoir of scheip, threttie horse and meiris, pertening to the said Margaret Trumbill Lady Apotefyde; with the haill inficht and pleniffing of hir houffis, worth the fowme of ane thousand pundis; committit in the moneth of Junij, the yeir of God I^m.V^c. fourfcoir aughtene yeiris: AND of the haill remanent crymes of Thift, Slauchteris, Cutting doune of grene growand treyis and vtheris contenit in the Act of adjudicatioun of Thomas Trumbill, of the dait of thir presentis.⁴

¹ Being one of the pleas of the Crown. ² This, evidently, is one of the instances which the Editor has before referred to of the evil effects resulting from the Heritable Jurisdictions possessed by the Barons of Scotland, before the Act, abolishing such powers, was passed. The purpose of the 'Replegiation' was undoubtedly to quash all proceedings, and suppress the administration of justice. ³ Darg usually signifies a *day's-work*. This may, therefore, signify a quantity of peats or turfs, equivalent to the labour of forty days' work, in casting, &c. ⁴ See the first Dittay.

VERDICT. The Assyse, be the mouth of Williame Ryddell in Woidhous, chancellor, all in ane voce, ffand, pronuncet and declairit the saidis Hectour Trumbill of Wauchope, &c. to be Cleane, innocent and acquit of airt and pairt of the crymes perticularlie aboue specifeit.

Theft — Slaughter — Fire-raising, &c.

Mar. 19.—THOMAS TRUMBILI, younger of Wauchope.

Dilaittit of airt and pairt of the thiftious Steilling, conceilling, resfetting and away-taking fra Margaret Trumbill Lady Apotefyde, &c.¹

THE Justice decernit and ordanit James Gledftanes, appeirand of Coklaw (as cautioner for his entry), to be vnlawit and americiat in the panes contenit in the Actis of Parliament, viz. ffor nocht entrie of the said Thomas, to the effect foir-faid, in the pane of Fyve hundreth merkis money: And ficlyke, Decernit and ordanit the said Thomas Trumbill, younger of Wauchope, for his non-compeirance, to be denuncet our fouerane lordis rebell and put to his hienes horne, and all his moveabill guidis to be efcheit and inbrocht to his Maieftis vse, &c.

Slaughter.

Mar. 20.—LAURENCE LORD OLIPHANT.

Dilaittit of airt and pairt of the Slauchter of vmq¹⁶ Gilbert Gray in North Bandidirrane; committit in the moneth of September laft.

PERSEWERIS.

Helene Rattray, the relict, Mr Thomas Henderfoun, Aduocat-substitute to his Maieftis Aduocat.

PRELOCUTOURIS for the pannell, Mr Williame Oliphant, Mr Alexander King.

My Lord Aduocat takis instrumentis of the productione and reding of his Maieftis Letter, direct to the Counfall; quhair of the tennour followis.

JAMES R.

RIGHT trustie and weilbelouit conseignis and counfallouris, WE greit zow hairtie weil. Quhairas it is heavilie complened vnto us, be Patrik Gray, of the crewall Slauchter of vmq¹⁶ Gilbert Gray his faper, by certane perfonis speciallie houndit out be pe Lord Oliphant, and sum of pame being his domestik feruitouris; quhich offence doith so muche pe moir greve us, that now, quhair as in the lait Bordouris and in pe verrie Hielandis of pat our realme, pair is such vniuerfall obedience, that nocht-peles in pe verrie hairt of pat cuntrey, and so neir to pe ordiner place of residence of our Justice pair, such ane vyld fact sould be committed, without pwneishment inflicted vpon the doaris pair of; and pat to delude our Justice, any of our nobilitie pair, absenting him self from pe action, sould hound out vperis to execute his privat revenge, and be his craftie conveyance of pe malefactouris out of pe way, sould tak away all meanis of pe tryell of his awin giltines in that cryme; quhich doing, inferring so dangerus ane preparatiue² as that nane of our subiectis, gif pis be nocht prevented, can be in furetie of his life. WE ar pairfoir to recommend to zour speciall care and dilligence, as ze respect our pleasour and seruice, that na menis be vnassayed by zow, to bring pe treuth of pis matter to light; ffor as WE ar most grevoullie offendit with pe cryme committed, so if pe doaris be nocht apprehendit, pe matter

¹ See the first Dittay.

² Example, precedent.

balylic tryit, and justice ministrat according pairto, it will so much þe moir discontent us. And so We bid 3ow fairweill. FROM our Court at Quhytehall, the eght of Januare, 1606.

Eftir the reiding of the quhilk Letter, my Lord Aduocat defyret, that, accoirding to the said Letter, this matter fould be tryit, and my Lord Oliphant committit, quhill¹ the perfonen contenit in the Letteris be exhibeit and presentit to justice.

The quhilk day, Lawrence Lord Oliphant, being enterit vponne pannell, be himself, with Mr Williame Oliphant and Mr Alexander King, aduocattis, his prelocutouris, exponet and declairit,² fforfamekill as he, being charget, be vertew of our fouerane lordis Letteris, purchest at the instance of Patrik Gray, in North Bandirrane, eldest sone, Gilbert and Johnne Grayis, also sones, with the remanent kyn and freindis of vmq^{le} Gilbert Gray, in North Bandirrane, and Sir Thomas Hammiltoune of Monkland, knycht, aduocat to our fouerane lord, for his hienes entreis, to find cautioun, actit in the buikis of Adiornall, that he fould compeir befor the Justice and his deputis this day, and place, in the hour of caufe, to vnderly the law, ffor airt and pairt of the felloun and crewall Slauchter of the said vmq^{le} Gilbert Gray, allegit done and committit be the said Laurence Lord Oliphant, vponne the . . . day of September lastbypast, vpon the landis of North Bandirrane; at the leif, the samyn being done of the speciall caufing, sending, hounding out, devyfeing, airt, pairt-taking, directioun, counsfalling, refsetting with the bludie hand, command, affistane and ratihabitoune of the said Laurence Lord Oliphant, as the Letteris beiris. For obedience of the quhilk charge, he than fand Williame Moncreif of that Ilk fouertie for his entrie, this day and place, to the effect foirsaid; ffor quhais releif and tryell of his innocencie in the said matter, he compeirit, and offerit him self reddie to abyde the tryell of the law for the saidis allegit crymes, quhair of he was maist innocent; disaffenting to all continuatioune. And in respect that the saidis Patrik, Gilbert and Johnne Grayis, perseweris specifeit in the saidis Letteris, being oft tymes callit, compeirit nocht to infist in his lordschipis persute, for the crymes aboue specifeit, protestit for releif of the said Williame Moncreif of that Ilk, his cautioner, of his cautionerie foirsaid; and that he be nocht callit nor persewit at the instance of ony partie, for the saidis crymes, in tyme cuming.

THE Justice continewis this matter to the thrid day of the nixt Justice-air of the sherefdome of Forfar, or soner, vponne xv dayis wairning: And ordanis my Lord Oliphant to find cautioune for his compeirance, to the effect and in maner foirsaid; quha fand Sir George Toures of Innerleyth, knycht, fouertie for his entrie, vnder the panis contenit in the Actis of Parliament.

¹ Until. ² It is thus expressed in a sentence immediately preceding, 'My Lord Oliphant offeris him self reddie to abyde the tryell of the Law, disaffenting to all continuatioune; and seing thair is ane sufficient number of noble men in this burgh to pas vponne his Assyse, defyres he may be put to the Tryell of ane Assyse, instantlie, for the crymes lybellit.'

Slaughter — Bearing and Shooting of Hagbuts, &c.

Mar. 22.—GILBERT GRAY of Bandirrane, Patrick Gray, his sone, and Williame Broun in Hagishall.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Johnne Maister of Oliphant and of James Reid, sone to David Reid of Thridpairt, &c.

Compeirit Hew Reid, and produceit our souerane lordis Lettres, deulie execute and indorfat, and askit instrumens of the production thairof; and protestit for his cautioneris releif, and offerit him selff reddie, with the assistance of the Kingis Maiesteis aduocat, to perfew Patrik Gray and Williame Broune for the slauchter of vmq^{le} James Reid, his brother. Compeirit Mr Johnne Russell and Mr Thomas Hoip, aduocattis, and presentit the Kingis Maiesteis Letter, quhair- of the tennour followis.

JAMES R.

JUSTICE, Justice Clerk and 3our deputtis, We greit 3ow weill. Forfamekill as it is vnderstand to us, that our vtheris Letteris ar direct at the instance of þe kyn and freindis of vmq^{le} James Reid, sone to David Reid of Thrid-pairt, and our Aduocat for our intreis, ffor calling of Gilbert Gray, &c. to vnderly our lawis befoir 3ow, for airt and pairt of þe Slauchter of þe said vmq^{le} James, as our saidis Lettres beiris: As lykwayis, for Convocatioun of our leigis in airmes, and beiring, weiring and schuiting of hagbuttis and pistolettis, aganis þe tennour of our Actis of Parliament and Proclamatiounes, maid and direct, expresse prohibeiting þe same: Nochtwithstanding, being informet þat þe said Slauchter was committit, and þe saidis forbidden wapones borne and vsed in the executioun of our Commiffioun, direct for searhing and apprehensioun of Gilbert Gray, sumtyme seruant to Gilbert Gray of Mekill Bandirrane, our denounced rebell, for þe crewall Slauchter of vmq^{le} Johnne Shiphird, for findrie crymes of Thift and vperis odious crymes committit be him: And that vmq^{le} Johnne Maister of Oliphant, and þe said vmq^{le} James Reid, in not withstanding of our saidis Commiffioneris, and assisting and plane partaking with þe said Gilbert our rebell, wer baith flane: ffor quhilk beiring, weiring and schuiting with þe saidis hagbuttis and pistolettis, our said Commiffioun, conteneing a special Remiffioun to our saidis Commiffioneris, and all vtheris our subiectis assisting þame, in executioun þairof: And considering þairwith, þat þe executioun of þis our Commiffioun, in þat foirt, may terrifie þe lyk malefactoris to continew¹ in thair wicked deidis, contempt and rebellious. IT IS þairfoir our Will, and We command 3ow, that vpone þe sicht heirof, 3e stay all maner of proceeding againt þe saidis Gilbert Gray of Bandirrane, Patrik Gray his sone, and Williame Broun, for þe said Slauchter of þe said vmq^{le} Maister of Oliphant and James Reid, the beiring, weiring and schuiting with þe saidis hagbutis and pistolettis, or ony vtheris crymes expresse in our saidis Letteris, alreddie raifit, or to be raifit aganis þame for þe same, in tyme cuming, sua þat þai may inioy þe benefeit of our Remiffioun, expresse in our Commiffioun foirsaid: As 3e will anfuer to vpone 3our office and obedience; Quhairnent þis present fall be 3our sufficient Warrant. Gevin at our Court, in Quhytehall, þe penult day of Maij, 1604.

Mr Robert Lyntoun, Aduocat, substitute to my Lord Aduocat, allegis *ante omnia*, the persones persewit aucht to be enterit on pannel; and thairfoir, in respect of thair nocht entry, desyres of the Justice that thair cautioner may be vnlawit, and thai, for thair nocht compeirance, adiuget to be denunciēt rebell and put to the horne; and that in ane Criminall persute, according to the daylie

¹ From continuing.

practik, the defenderis, befoir ony proces, fould be first enterit. The said Mr Johnne Ruffell allegit in the contrair, in respect of his Maiesteis Warrant; and forder, that his Maiestie, be his auctoritie, may ather command the Justice to hald Court or to continew the dyet, at his Maiesteis plesour.

THE Justice, in respect of his Maiesteis Letter, producet, continewis this matter to the thrid day of the air,¹ or soner, vpon xv dayis wairning, in the samyn estait as it was of befoir, aganis Patrik Gray and Williame Broune: And ordanis Johnne Lyndefay of Evlik, cautioner, in respect of thair nocht entrie this day and place, to remane still cautioner, conforme to the Act of Adiornall maid thairupone of befoir. Quhairupoun the saidis perfeweris and the said Mr Johnne Ruffell askit instrumentis.

Cattle and Horse-stealing.

Jun. 13.—ROBERT BEIROPE of that Ilk.

Dilaitit of airt and pairt of the Steilling of certane ky and oxin, pertening to Sir Johnne Ker of Hirfell, viz. fforfamekill as he, accompaneit with Robert Selbie of Bittilsdane, Loukie Daidfoun and diuers vtheris, his complices, common and notorious thewis, broken men, in the moneth of November 1596 yeiris, cam to the said Sir Johnnis place of Lytildane, and thair, vnder sylence and cloud of nycht, brak vp the byre-duris of the said place, and thifteoullie stall, concelit, resset and away-tuik furth thairof saxtene ky and oxin, with sax horse and meiris, &c.

PERSEWER, Sir Johnne Ker of Hirfell.

PRELOCOUTOURIS for the pannell, The Lairdis of Pharnihert, elder and y^r, Mr Johnne Ruffell.

VERDICT. Found by the Assyse² to be 'Clene, innocent and acquit.'

Slaughter.

Jun. 18.—JOHNNE M^cDOWELL of Freuchie; Johnne M^cdowell, his fer-vand; Eufame Dunbar, Lady Garthland; Alexander M^cdowell of Barjarg; Alexander Neilfoun, fear of Craiggaffie;³ Patrik M^cdowell of Creoches; Williame Bigholme in Galderioch; Gilchryft M^cmaister, thair; Vthreid M^ckie in Innermessene;⁴ and Nicol M^cgowne in Trottinoroche.

Dilaitit of airt and pairt of the Slauchter of vmq¹ Quintene Boyd; committit in the moneth of Apryle lastbypast.

¹ Of Perth. ² Chiefly feuars. The chancellor was Johnne Mow of that Ilk. Johnne Halyburtoun of Mertoun, James Ker of Steilstokbrayis, Johnne Robsfoun of Burvanes, and Patrik Dikfoun of Belchefer, are the only persons of note who appear on the Inquest. ³ 'Past fra simpliciter.'
⁴ 'Past fra simpliciter.'

PERSEWER, Adame Boyd, as brother.

The persones enterit on pannell askis instrumentis of thair entrie, and protestis for releif of the Laird of Mondurk, thair cautioner: And in respect of thair innocencie of the crymes lybellit, offeris thame selffis to the tryell of the law thairfoir, and disflamentis to all continuatioune.—The persewer passis fra the Lady Garthland *simpliciter*, in respect of hir innocencie.

THE Justice Ordanis the remanent Defenderis to find caution to the thrid day of the air, or foner, vpon xv dayis wairning.

QUESTION of the Pannels being entitled to their expenses.

It is allegit be the persones on pannell, that in matters Ciuill, protestatioun being admittit in fauouris of the defender aganis the persewer, the Lordis are in daylie vse to modifie the parteis expensfis; *multo magis*, in matteris Criminall, a partie being persewit and compeirand, offerand him selff to abyde the tryell of the law, for the cryme quhairof thay ar indytit, thair expensfis aucht to be modifeit, and the perseweris decernit to pay the samyn.

THE Justice declairis to this persewer, gif he raise Letteris of new agane, contrair thir defenderis, vpoune the crymes foirfaidis, gif thay fall happin to be clanget, he fall be adiudget to pay the defenderis expensfis, bayth for this dyet and the dyet following: And ordanis the Clerk to tak cautione of him at the raising of the Letteris to the effect ffoirfaid: Quhairvpoun the persones on pannell askit instrumentis.

The 'Affyfouris' also protested, that 'thai be nocht summond heirefter, for this cause.'

Oppression — Taking Captive — Murder.

JUN. 20.—THOMAS CALDER in Clwnes, Johnne Oir in Calder, and Walter M'robie Roife in Mekil Geddes.

Dilaitit of airt and pairt of the Taking and Apprehending of vmq^{le} Dauid Dumbar of Lochileis captiue and presoner; and convoying him captiue to Ergyll, and detening him in captiuitie, be the space of tuell oukkis.¹ And for airt and pairt of the Slauchter and Murthour of vmq^{le} Williame Lyoun and vmq^{le} Alexander Dauidfoun, seruandis to the said vmq^{le} Dauid; committit in the moneth of October, the yeir of God I^m.V^c.lxxviij yeiris, within the toune of Aulderne.

PERSEWARIS, Alexander Dumbar of Lochieleis, (as sone,) Johnne Lyoun, as sone to vmq^{le} Williame Lyoun, Andro Dauidfoun, as brother to vmq^{le} Alexander.

PRELOCUTOURIS for the pannell, Mr Thomas Henderfoun, aduocat, Mr Henrie Kynroife.

The saidis Thomas, &c. tuik thame to our souerane lordis Remiffioun, product, vnder the Greit Seill, of the dait, at Halyruidhous, the thryd day of Apryll,

¹ Weeks.

the yeir of God, 1^m.V^c.lxxx and nyne yeiris ; Quhilk Remiffioun, the Justice admittit, and Johnne Campbell of Calder, with thame felffis, become cautioneris and fouerteis, coniunctlie and feuerallie, to fatisfie the pairtie, as law will.

[CURIA JUSTICIARIE *f. d. n. Regis, tenta in Aula Inferiori de Ormestounhall, per M. Willielmum Hairt, Justiciarum Deputatum.*]

Murder of a Pregnant Woman — Child-murder.

Nov. 10.—PATRIK DEANIS, in Gilcherstoune.

Dilaitit of the crewall and vnnaturall Murthour and Slauchter of vmq^{le} Katharene Butler his spous, and of ane infant bairne in hir wamb ; be streking hir with his feit vpon the wamb, and with ane fwyngill-trie,¹ on the bak and schoulderis, and dyuerse vtheris pairtis of hir body, scho being with quik bairne for the tyme ; be occafioun quhairof, scho immediatlie thaireftir, with the said bairne in hir wamb, depairtit this lyfe : Committit the sevint of Nouember instant, at his awin hous-dur in Gilcherstoune, betuix aucht and nyne houris at evin, &c. ; conforme to his awin Confessioune.

VERDICT. The Assise, be the mouth of Johnne Harlaw in Laistoune, chancellor, ffand, pronuncet and declairit the said Patrik, conforme to his awin Confessioune, maid judiciallie in thair presens, to be ffylet, culpabill and convict of the said crewall and detaiftable Murthour.

SENTENCE. And thairfoir the said Justice-depute, be the mouth of Johnne Hammiltoun, dempfter of Court, decernit and ordanit the said Patrik to be tane to the ground quhair the said fact was committit, and thair to be hangit vpon ane gibbet, quhill he be deid ; and all his moveable guidis to be escheit, &c.

Slaughter.

Dec. 19.—EDUARD NISBET, merchand burges of Edinburghe, and Thomas Nisbett, sone to the Laird of Nisbet.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James Carmichell, sone to the Guidman of Vderine.

PERSEWERIS, Richerd Carmichell, brother, Williame Carmichell, father-brother, Marioun Carmichell, father-sister ; and Mr Johnne Ruffell, Aduocat, Mr Robert Boyd, curators to the said Richerd.

PRELOCUTORIS for the pannell, Mr Alexander King, Aduocat, Sir Williame Cranstoune, Mr Thomas of Moriestoune, Mr Johnne Nisbet, James Nisbet, merchand.

Compeirit Richerd Carmichell, &c. with Mr Johnne Ruffell and Mr Robert Boyd, curaturis to the said Richerd ; and the said Mr Johnne, as spous to the said Marioun ; and producet his Maiesteis Warrant to the Justice ; quhairof the tennour followis.

¹ The wooden-beam, or 'tree,' to which the plough-traces are attached.

JAMES R.

JUSTICE, Justice Clark and your deputies, We greit you weill. Having directit to continew the perfute of Thomas and Edward Nisbettis, for þe slauchter of vni^q James Carmichell, quhill the informatioun gewin vnto us of þair committing of þat fact in þair awin defence, war fyrst tryed by our Counfall; from quhom we have ressaunt ane cleir testimony of þair innocency of þat fact: And being most willing that Justice be administrat to all our lving subiectis: It is thairfore our Will, that you affix and keip your Justice Court against the saidis personis, att sic place as salbe maist convenient; and putt þame to þe knowledge of ane Inqueit; so that the accusatiounes and defences of both the parteis may be weill considered of by you, before that mater be adiudgite: And that, nochtwithstanding ony command or directione gewin by us or our Counfall in þe contrair; as 3e will answer to us vpoun your office and obedience: Quhairanent þir presentis salbe your Warrant. Gewin at our Court of Roystoun, the xiiij day of October, 1606.

And siclyk, producet our souerane lordis Letteris of Assyse and Dittay formet aganis the pannell; and tuik instrumentis of the productione thair of.—The pannell declairis, nochtwithstanding of thair innocencie of the Slauchter, they ar content to enter in cowmoning, and to offer satisfioun and assythement for the slauchter, at the sicht of freindis.—The personeris declairis, in respect that the bairne is minor quha persewis; and thairfor, the remanent personeris can nocht tak the burding of that mater vpone thame; and desyret proces. Thairafter Mr Alexander King, prelocutour for the pannell, producet his Maiesteis Warrant, direct to the Justice, for continuatioun of this matter to the xxviiij day of Januare nixt; quhair of the tennour followis.

JAMES R.

It is our pleassour and Will, that 3e continew all actione and proces before you, at þe instance of þe kyn and freindis of vni^q James Carmichell in Dyfert, aganis Edward and Thomas Nisbettis, for þe Slauchter of þe said vni^q James; committit in þe moneth of . . . lastbypast; and nawyise proceed and grant ony proces thairin, before the xxviiij day of Januar nixtocum: for þe quhilk your delay and continewatioun, thir presentis salbe to you sufficient Warrant. Gewin at our Court off Quhytehall, the nynt of Decemb^r, 1606. To our Ry^t trustie and weilbelouit, our Justice, Justice-clark, and þair deputis.

It is answerit be the personeris, that the said Warrant of continuatioun aucht nawyis to be respectit be the Justice; bot nochtwithstanding thair of, the persones now on pannell aucht presentlie to be put to the knowledge of ane Assyse; for tua caussis: *ffirst*, In respect of the former Warrant producet, quhairin tua speciall poyntis ar maist remarkable; *ffirst*, his Maiestie thairby hes declairit, that he hes ressaunt na cleir testimony of thair innocencie, be the tryell¹ tane at Leyth, befor the Counfall; and thairfor, accordring to his hienes good affection to justice, of his certane knowledge and proper motiue directit the first Warrant: The nixt, is the command gewin thairin to the Justice, with this qualite,² that he fall obey the samyn, nochtwithstanding of quhatfumeuir vther command thair gewin be his Maiestie or Counfall in the contrair. *Secundo*, the

¹ Examination, *precognition*.

² Qualification.

faid pretendit laft Warrant is direct expres contrair the Act of Parliament 1592, quhilk fayis, it is statute and ordanit, be his Maieftis speciall will and directioun, that na Warrant for continuatioun of Justice Courtis fall be admittit be the Justice and his deputis, in tyme cuming. *Laft*, nocht only is it expreis aganis the faid Act of Parliament, bot aganis the daylie ordour and practik obferuet baith befor the Lordis of Counfall, in Ciuill cauffis, and befor the Justice in Criminal cauffis, that Warrantis purchest be the fute of partie, finifter informatioun, and for stay of Justice, fall nevir be respectit; quhilk is also conforme to the cowmoun law.—It is anfuert, that the hail allegeances aucht to be repellit, in respect of the Kingis Maieftis Warrant.

THE Justice, accoirding to his Maieftis Warrant and directioun, continewis this matter to the xxviiij day of Januare nixt: And ordanis the perfonis on pannel to be wairdit within the Tolbuith of Edinburgh to the faid day,¹ and the Assyse, summond to this day, wairnit, *apud acta*, &c.

Cruel Slaughter.

Dec. 19.—JOHNNE and WILLIAME RUTHERFURD, fones to Stewin Rutherford in Chatto, boirne vnder James Ker of Greneheill.

Dilatit, accufet and perfewit be DITTAY,

FORSAMEKILL as, thay haifing confaut ane deidlie feid, rancour and malice aganis vmq^{le} Thomas Bell in Spiddope-fute, in England, becaufe he had hurt and lameit the faid Williame, vnderstanding the faid vmq^{le} Thomas to haif bene in his fomer-scheill beyde the fellis,² in the moneth of Junij, or thairby, laftbypaft, thay, vpoun callour and in a counterfute forme, feingeing thame selfis to be in feiking of ane kow that was tynt³ amangis the scheillis, come to the faid vmq^{le} Thomas Bell, in an howp⁴ callit Spittope-howp, quhair he wes, in fober and quyet maner for the tyme, with his wyfe and ane young lafs, milking thair ky; and thair, the faid William Rutherford, haifing ane grit grene kent and squar batoun⁵ in his hand, eftir sum wordis paf betuix the faid Williame and the faid vmq^{le} Thomas, he crewallie invadit him for his Slauchter, and gaif the faid vmq^{le} Thomas ane crewall and deidlie fraik in his heid, and claf the famin afunder: Off the quhilk fraik he immediatlie thaireftir fell doun deid. Lyke as, the faid Johnne Rutherford, for quhais caufe the faid deidlie feid was confaut, stude afyde, awaiting gif his brother had bene overthrawin, or the faid vmq^{le} Thomas, to haif forfeitit and affistit him. And immediatlie eftir the famin Slauchter wes committit, thay baith mett togidder at the nik of the fell,⁶ and hering the spraich⁷ ryife, and the countrey to follow thame, thay baith fled in England; quhair thay were fugitiue, quhill⁸ thair apprehensioun for the faid Slauchter. And fa, the faid Slauchter wes committit be thame; and thay and ather of thame ar airt and pairt thairof, vpoun fett purpois, provisioun, auld feid and foirthocht felony; in hie and manifest contempt of our fouerane lordis auctoritie and lawis, &c.

¹ There is no entry on Record of further proceeding in this case; but it is likely the Nisbets compounded with the private prosecutors, and obtained Letters of Remission.

² The summer scheills or *scheillings* on the 'fells' or hills, were temporary huts, for the use of those who attended the cattle during their grazing on commons, &c. They are still kept up in many parts of Scotland. It is the practice to dismantle them at the end of the grazing season.

³ Lost. ⁴ Or *hope*, a sloping hollow between hills, a common term in the south of Scotland. *Slack* is synonymous.

⁵ A large *rung*, staff, or bludgeon, and a batoun or stick made square, (i. e. with angular edges,) to give a more severe and deadly blow.

⁶ Nik is a narrow cleft or opening, at the summit of two hills. ⁷ Hue and cry. By reference to the Works of Sir Walter Scott, it will be seen with what astonishing alacrity the country was 'raised,' on such occasions. The pannels showed no small address in effecting their escape.

⁸ Until.

VERDICT. Eftir accusatioun of the pannell, be Dittay, of the crymes aboue writtin, quhilk wes grantit be the said Williame, and alluterlie¹ denyit be the said Johnne, the Assyse, be the mouth of Murray of Brochtoun, chancellor, fand and pronuncet the said *Johnne* to be Cleane, innocent and acquit of airt and pairt of the Slauchter of the said v^mq^{le} Thomas Bell, and of the hail heidis of the Dittay aboue writtin: And alse, ffand, pronuncet and declairit the said *Williame* to be ffylit, culpabill and convict of airt and pairt of the said Slauchter.

SENTENCE. For the quhilk cause, the said Justice-depute decernit and ordanit the said *Williame Rutherford* to be tane to the Castellhill of Ed^r, and thair, his heid to be strikkin from his body; and all his movable guidis to be escheit, &c.

Breaking into the Place of Torwoodlee — Taking Captive — Murder — Stouthrief, &c.

Jan. 8, 1607.—JOHNE ELLOTT of Cappschaw.

Dilaitit, accuset and perfewit be George Hoppringill of Torwoidlie, James and Daud Hoppringillis, as oyis,² with the remanent kyn and freindis of v^mq^{le} George Hoppringill of Torwoidlie, thair guidschir,³ of the crymes following, viz.

FORSAMEKILL as the said Johnne Ellote of Copschaw, Robert Ellote, callit *Mairtenis Hob*, and Jok Airmefrang, callit *the Lairdis Jok*,⁴ with thair complices, with convocatioun of the hail Clannis of the Airmefrangis, Ellotes, Batiefones, Grahames and remanent Clannis, duelland alweill on the Inglis as Scottis Bordouris, all cowmone thevis, outlawis and brokin men, to the number of thre hundredth perfonas or thairby, bodin in feir of weir, with jakis, speiris, steil-bonnetis, lance-stalfis, hagbutis and pistoletis, expresse prohibeit to be borne, worne, vsed or schot with, be dyuerse our Actis of Parliament and Secreit Counfall, in the moneth of December, the yeir of God I^m.V^o. threscoir sucht yeiris, (1568,) come fordwaird, in hosteill maner, baith on horse and fute, to the Place of Torwoidlie, and thair, vnder silence and clud of nycht, with foir-hammeris and geiftis,⁵ dang up the geittis⁶ of the said Place, and be force and violence enterit within the samyn; and tuik the said v^mq^{le} George [Hoppringill] furth of his bed, and convoyit him away, as captiue and priffoner with thame, to the Skaldeneife; within the Sherefdom of Selkirk; and thair maist crewallie and vnmerciefullie Murdreift and slew the said v^mq^{le} George: Committing thairthrow, nocht only crewall and abhominabill Murthour and Slauchter, bot also Vfurpation of our fouerane lordis auctoritie vpon thame, in taking of the said v^mq^{le} George Hoppringill captiue, but⁷ power or commiffioun, he being our fouerane lordis frie lega. AND siclyke, at the samyn tyme, the said Johnne Elliott and remanent perfonas, with thair complices, to the number aboue writtin, at the tyme foirfaid, brak up the hail kiftis, cofferis and lokfast houffis within the said Place, and thiftionflie staw, conceillit, refset and away-tuik with thame, furth of the said Place of Torwoidlie, and stabillis thairof, sevintene horfis pertening to the said v^mq^{le} George, price of the piece ourheid⁸ ane hundredth pundis money; togidder with the sowme of ane thousand pundis of gold and money furth of the said v^mq^{le} George Hoppringillis purse. ITEM, thre siluer peices,⁹ wey-

¹ Altogether, wholly. ² Grandchildren. ³ Grandfather. ⁴ A personage well known to the public, from various anecdotes contained in the *Border Minstrelsy*, and the graphic story contributed by Sir Walter Scott, in that exquisitely beautiful Annual, 'THE KEEPSAKE,' for 1829; to which publication (pp. 186-192) the Editor refers for interesting Notices of this Border worthy, his family and associates. ⁵ Forehammers, and joists or beams. ⁶ Broke up the gates. ⁷ Without power. ⁸ Overhead, on an average. ⁹ The nature of these massive pieces of plate is not elsewhere specified. They convey a favourable idea of the wealth and splendour in which many of the Border Chieftains lived.

and fourfoir vnces of filuer or thairby, price of the vnce fourtie schillingis. ITEM, tua duffane of filuer spvnes, ilk spwne weyand tua vnce of filuer, price of the vnce fourtie schilling: Togidder with the hail bedding, naiprie, clething, abuilzementis, inficht and pleniffing being within the said place, worth the fowme of fyve thousand merkis money of this realme, had and transpoirtit away with thame, and dispoit thairvpoun att thair pleafour.

THE Justice decernit and ordanit Williame Elliot of Fallinafch, cautioner and fouertie for the entrie of the said Johnne Elliot of Capfchaw, to be amerciat and vnlawit for his non-entrie, in the payne of fyve hundreth merkis: And als, adjudget the said Johnne to be denunceit our fouerane lordis rebell, and putt to the horne; and all his movabill guidis to be efcheit and inbrocht to our fouerane lordis vse, as fugitiue fra his hienes lawis, for the saidis crymes.¹

Justice-Depute appointed.

Jan. 20.—THE quhilk day Mr ROBERT COKBURNE, Aduocat, was creat JUSTICE-DEPUTE; and gaif his ayth *de fidei administratione*, during his office.

[*Mr Robert Cockburne, Justice-Depute.*]

Liability Anent the General Band.

Jan. 21.—SIR JAMES JOHNESTOUNE of Dunkellie, kny^t (of that Ilk). Compeirit the Laird of Johnnestoune, and producet the Warrant vnderwrittin, superscryuit be his Maiestie; quhair of the tennour followis.

JAMES R.

JUSTICE, Justice Clark and your deputis, We greit you weill. Forfamekill as it is knawin to us, that thair ar diuerse Criminall perfuitis movit at pe instance of findrie persones aganis Sir James Johnnestoune of Dunkellie, kny^t, his kyn, freindis, pairt-takeris, men, tennentis, fernandis, and sic vperis, for quhom the (said) Sir James is anfuerable, be pe Generall Band and law of our realme; and that, for diuerse crymes alledgeit committit be pame, befor pe moneth of Apryll, 1^m. V^c. thre zeiris, quhilk wes pe tyme of owre repair hither: Albeit it be naper our will nor mynd, that the regour of pe lawis be profecutit aganis thais persones for ony crymes or offences committit be thame before pe foirsaid tyme; hoping that our lenitie fall move pame to keip our peax, and be pe moir obedient subiects in tyme cuming: It is pairfore our Will, and We command you, that pe on nawyis gif proces in any of pe saidis Criminall perfuitis alreddie movet aganis the said Sir James, his kyn, freindis, pairt-takeris, men, tennentis, fernandis, and sic vperis for quhom he is anfuerable, be pe Generall Band and lawis of our realme; nor that ze on nawyis direct any Criminall Letteris, for perfuit of pe saidis persones, or any of pame, in tyme cuming, for any cryme or offence allegeit committit be pame or any of pame, preceding pe moneth and tyme aboue specifeit; nor nawyse gif proces pairvpoune heireftir: Dischargeing you pair of, and of all haulding of Courtis to pat effect, and of your office in pat pairt: Dispensand als wa with pe saidis persones and everie ane of pame, anent pair non-comperance att quhatfumewir dyettis. As ze will anfuer to us pairvpoun: Quhairanent thir presentis falbe your sufficient Warrant. Gewin at our Court of Quhytehall, the saxt day of Apryll, 1606 zeiris.

THE JUSTICE Depute continewis the admitting of this Warrant to the fourt day of Februar nixtocum: And ordanit the persoune that stand caution for

¹ The denunciation and letters are recorded, at full length, on Jan. 9.

their entrie to this day, to find new caution for thair entrie to the said fourt day of Februar nixtocum.

The famin day Sir James Johnnestoune (of Dunskellie, kn^t.) becom pledge and fourtie for Johnne Grahame in Dryffe, Mungo Johnnstoun in Lokarbie, &c.

(Feb. 4.)—Sir JAMES JOHNNESTOUN of Dunskellie, kny^t, is ‘americiat for nocht entrie of the saidis fyve perfounis, for ilk ane of thame in the payne of ane hundreth merkis.’ He is also americiated in 1100 merks, for the non entry of Johnne Johnnestoun in Howgill, and ten others.¹

THE Justice adjudgeit the principall perfonis nocht comperand to be denunceit our fouerane lordis rebellis, and all thair movabill guidis to be escheit.²

Cutting Growing Timber.

Jan. 28.—GEORGE HENDERSOUN in Wynningtoun.

Dilatit, accusit and perfewit be Robert Ellote of Reidheuche, of the crimes following, that is to say,

THAT quhair, it is expresse provydit, statute and ordanit be our fouerane lordis Actis of Parliament, speciallie, be ane Act of the ellevint Parliament, cap. lxxxij, that quhatsumewir perfoun or perfounis wilfullie cuttis doune and destroyis growand treis and coirnis, salbe callit and perfewit thairfore, before the Justice or his deputis, at Justice-airis, or perticuler dyettis; and being convict thairfore, to be pwneiffit as thewis to the death; as the said Act at mair lenth beris. And trew it is, that the said George Henderfoun, with his complices, expres contrair the tennour of the Act of Parliament, in the monethis of Junij, Julij, August, September and October *respectiue*, at the leift, in ane or vther of the saidis monethis, in the yeir of God I^m.Vj^c. and fyve yeiris; and siclyke, att the ffeift of Martimes last-bypast, come to the said Robert Elliottis wod, callit Birkwod, and thair, wilfullie, by³ the said Robertis knowlege or consent, cuttit doune and distroyit, at ilk tyme, the perticuler number and quantitie of growand treis following, to witt, ane hundreth grit growand birk treyis, thre hundreth grit growand allouris, thrie hundreth grit growand heiffillis, with foure hundreth grit growand fauch treis;⁴ quhilkis growand treis, the said George and his complices had and transpoirtit away with thame, and disponit thairvpoune att thair pleafour; and the said George is airt and pairt thairfore.

PERSEWER, Robert Ellote of Reidheuche.

PRELOCUTORIS for the pannell, Mr Thomas Henderfoune, Mr Johnne Dempfter.

It is allegit be the pannell, that this matter can nocht be put to the knowlege of ane Inqueist, becaus the persewer schawis na sufficient entreis to persew, nather is this perfute raifit at the Kingis Aduocatis instance.—Anfuerit be the persewar, that he referris the notorietie of his entreis to persew for the cuting of the treyis lybellit, to the defenderis ayth; in respect that he knawis him to be sufficientlie infest in the woid lybellit; and as to the secund pairt, anent the Aduocattis compeirance, anfuerit, he may persew without the Aduocatis compeirance. It is allegit be the pannell, that he can nocht be vrget, vpoune the

¹ (On margin) ‘Nota, ordanit to be gewin out be þe Counfall.’ ² Nota, ‘this nocht ordanit to be given out.’ ³ Without, contrary to. ⁴ Birch, *allar* (alder or elder), hazel, and willow trees.

perfewaris exceptiounne, to geve his ayth; feing the samyn will tend to the haird of his life.—The perfewer in the contrair.

It is allegit forder be the pannell, that this matter can nocht be Cryminallie tryet, without a Ciuill precognitiounne, before the ordinar Judge; becaus the samyn is a maisterfull depridatiounne.—It is anfuerit, that the perfewer repeitis the Act of Parliament, quhairupoune the fummondis is foundit.—It is anfuerit be the pannell, that the Act of Parliament of the 1587, concernis the punefchment allanerlie; and nawyis invertis nor derogatis the Act of Parliament made be King James fyft, Parlamento quarto; and speciallie, feing of the daylie practik, ffalfetis man be first Ciuillie tryet, befor it cummis to ane Criminal Judge; Wilfull error in Assyse in Reductioun of Retouris man be first Ciuillie tryit, befor it tak effect befor the Criminal Judge.—The perfewer, as of befor, repeitis the Act of Parliament.

THE Justice continewis this matter, and Interlocutour vpoune the allegeances foirfaidis, to the fourt of Februar nixt. The pairties and Assyse wairnit *apud acta*.

[*Mr Williame Hairt, Justice-Depute.*]

(Feb. 4.)—THE Justice, nochtwithstanding of the allegeances maid be the pannell, the laft dyet, Ordanis this matter to pas to ane Assyse.

VERDICT. The Assyse, be the mouth of Johnne Gledftanes of Winningtoun-law, chancellor, ffand, pronunceit and declarit the said George Henderfoune to be Cleane, innocent, acquit, &c.

[*Mr Robert Cokburne, Justice-Depute.*]

Slaughter.

Feb. 14.—JOHNNE BEK in Lytill Kirkbryde.

Dilatit of airt and pairt of the Slauchter of vmq^{le} James M^cCulloch of Barholme.

PERSEWER, Thomas M^cCulloch in Barholme.

The said Thomas tuke him to ane Remiffiounne vnder the Grit feill, of the dait the xxj day of Februar, 1606; and ficlyke, produceit ane Letter of Slaynes, subfcryuit be Elizabeth Kirkpatrik, relict of vmq^{le} James M^cCulloch of Barholme, Henrie M^cCulloch hir spous, and Thomas M^cCulloch now of Barholme, and Johnne M^cCulloch burges of Kirkcubreycht, off the dait at Edinburgh, and the xvij and . . . dayes of Februar, 1607 yeiris.

[*Mr Williame Hairt, Justice-Depute.*]

Witchcraft — Sorcery — Incantation, &c.

Mar. 10.—ISSOBEL GREIRSOUNE, spous to Johnne Bull, warkman in the Pannis.¹

¹ Prestonpans. Of all the Trials for Witchcraft, &c. hitherto published from the Record, this is perhaps the most absurd and *outré*; and the circumstantial detail is perhaps *unique*. It is of course

Indytit, accusit and perfewit of the crymes vnderwritten, viz. **FORSAME-KILL** as scho, haifing confaut ane crewall haitrent and malice aganis Adam Clark in Prestounpannis, scho has continewallie, this hail yeir and ane half by-gane, vfit all develifch and vngodlie meanis to be avangeit vpoun him ; speciallie, in the moneth of Nouember, the yeir of God I^m.Vj^c. and fax yeiris, betuix xj and xij houris at ewin, the said Adam being lyand in his bed with his wyffe, and his feruand woman being in ane vther bed ; att the quhilk tyme, scho, in the liknes of hir awin catt, accompaneit with ane gritt number of vther cattis, in ane develifch maner, enterit within hir hous, quhair thay maid ane grit and feirfull noyse and trubill ; quhairby the said Adam, than lying in his bed with his wyffe, and feruandis that wer than in the hous, apprehendit sic ane grit feir, that thay wer liklie to gang mad : At the quhilk tyme, the Devill, in liknes of ane blak man, apperit in the hous, eftir ane feirfull maner, com to the feruand woman, than standing in the flure, and drew hir vp and doun the hous be the hair, eftir he had cassin hir curfch² aff hir heid, and cassin the famyn in the fyre : Quhairvpoun the pure woman contractit sic ane grit feiknes, that scho lay bedfast, in grit danger of hir lyffe, be the space of fax oulkis³ thairefter ; and as yit hes nocht returnet to hir perfyte health ; quhilk is notourlie⁴ knawin.—**ITEM**, scho wes accusit, fforfamekill as scho, haifing confaut ane deidlie feid, rancour and ewill will, aganis vmq⁶ Williame Burnet in Prestoun-pannis, spous to Margaret Myller, wedow, scho dewyfit be all devillifch and vngodlie meanis to bereif him of his naturall lyffe ; and for performance thairof, sche, as ane manifest Sorcerer and Wich, in the moneth of Januar, I^m.Vj^c. yeiris, laid on aue feirfull and vncouth feiknes on him, be casting in of ane tailzie⁵ of raw inchantit flesch att his dur : And thaireftir, the Dewill, in liknes of ane naikit infant bairne, nichtlie, for the space of half ane yeir, appeirit in his hous ; quha appeirit befor the ffyre, haifing ane inchantit pictour in his hand : And thaireftir, the Dewill appeirit, in hir liknes, within the said vmq⁶ Williamis hous, before the ffyre thairof, and in diuers vtheris pairtis within the said hous ; quhair, in ane maifl vn-honest and filthie maner, scho pischit vpoun the said Margaret Myller, and in diverse pairtis of the said hous ; that in end,⁶ the said vmq⁶ Williame, haifing namit the said Isobell, be hir name, scho immediatlie thaireftir vaneifchit away : Eftir the quhilk tyme, the said vmq⁶ Williame Burnet continewallie dwynit and pynit away, in the said vnknawin feiknefs, for the space of thre yeiris, nocht habill to obtene ordinar cuir ; and at last, in the moneth of September, or thairby, I^m.Vj^c. and ffyve yeiris, he, in grit dolour and payne, departit this lyffe : And

given *litera ly* from the Books of Adjournal. The reader is left to draw his own inference as to the death (murder ?) of the luckless mate of *John Bull*. ² Curth, a kind of head-gear, or cap.

Fr. *courche*.

³ Six weeks.

⁴ Notoriously.

⁵ *Taille*, Fr. A piece, 'gobbet,' or cut.

⁶ At last.

fa, wes maift dewelifchlie bewichit be hir, in maner forfald; and fcho is airt and pairt of the faid vmq⁶ Williamis death and feiknes.—ITEM, accufit for cafting of ane greit feiknes, be hir develifch meanis, vpoun Robert Peddan, in the Pannis; and that in the moneth of October, I^m.V^c.lxxxiiij yeiris; quha, haifing remanit feik be the fpace of ane yeir and aughtene oulkis, fwerving and vaneifching away;¹ and vfang all ordiner meanis to recover his health, bot daylie growing war,² att laft he callit himfelf to remembrance, that he wes addettit to the faid Ifobell in nyne fchillingis and iiij d.; and that, befor the taking of the faid feiknes, becaus he refufit to pay hir the faid foume, vnto the tyme fcho delyuerit to him certane plaittis that fcho kepit of his; fcho then, eftir vtering of diuerfe blaſphemous ſpeichis to the faid Williame, faid, he ‘fould repent itt!’ And ‘fould nocht haif bayth his health and haill clathis togiddir!’ Quhairvpoun, he than come to hir, and fatisfeit hir the faid foume, and thryfe aſkit his health att hir, for Godis faik; faying, ‘Gif ze haif done me ony wrang or hurt, repair þe famin and reſtoir me to my health!’ And thaireftir, the faid Robert Peddane, within, xxiiij houris, recoverit his health.—ITEM, fcho wes accufit, that in the moneth of Junij laftbypaſt, or thairby, fcho, haifing wantit hir katt, be the fpace of half ane yeir befor, in hir bycumming the faid Robert Peddanes window, fcho patt in hir hand and drew furth hir catt; at the quhilk tyme, thar wes working in the fattis³ ane brewing of guid new aill, quhairof findrie honeft neychtbouris wes than drinkand; bot be hir develifch Incantatioun and Sorcerie, fra that tyme furth, the faid brewing of aill turnit,⁴ in fic foirt, that it becam altogidder rottin and blak, thik lyk gutter-dirt, with ane filthie and peſtilent odour, that na man mycht drink nor feel the finell thairof.—ITEM, being indytit and accufit, fforfamekill as fcho, haifing confaut ane deidlie ewill will, haitrent and malice aganis Margaret Donaldſoune, fpous to the faid Robert Peddane, about Hallowevin, in the yeir of God I^m.Vj^c. and fyve yeiris, fcho, in hir devillifch maner, come vnder ſcilence and cloude of nycht to the faid Robert Peddanes houſe, and enterit eſter ane devillifch and vnknawin way within the faid houſe, the faid Margaret Donaldſoune being than lying in hir bed with hir faid huſband, found ſleeping; at the quhilk tyme, fcho drew the faid Margaret be the ſpald⁵ out of her bed fra her huſband, and violentlie ruſchit hir to the fluir; be occaſioun quhairof, the faid Margaret hir ſpreit faillit hir, that fcho continewit ane lang ſpace aſound;⁶ and thaireftir, cuming to hir ſelf, fcho fell in ane feirfull and vncouth feiknes, that anes in ilk xxiiij houris, her hed and breift was fa vehementlie trublit, that fcho was, for the fpace of ane hour, mad, and knew nocht quhat fcho did; quhilk continewit the fpace of fyve or

¹ Swooning and fainting away. ² Worse and worse. ³ Vats or tuns. ⁴ Ale is ſaid to be *turned* when it is affected by lightning, &c.; milk, when ſoured by ſun or heat, &c. A large nail is uſually thrown into the churn, to prevent this diſaſter. By attracting the electric fluid, it is ſaid to preſerve the contents ſound. ⁵ Fr. *epaule*, the ſhoulder or ſhoulder-blade. ⁶ In a ſwoon.

fax dayes thairefter, in grit vehemencie : And at the fax dayes end, scho heiring hir felff to be bruyttit¹ with the said wicked and devellifch turne, scho defyrit the nyctbouris to caufe hir and the said Margret to drynk togidder ; quhilk being done, scho recoverit agane hir health, and fa continewit in perfyte health, the fpace of aucht or ten dayes : Eftir the quhilk time, scho heiring hir name to be fklanderit, and scho to be namit a Witche, quha had fkill to lay on and tak af feiknes ; scho, movit with rage and invy, of new agane, come to the said Margrattis hous, and fpak to hir mony devillifch and horribill wordis, faying to hir, ‘ The fagget of Hell lycht on thé, and Hellis culdroune may thow feith in !’² And with thais, and vther the lyk devillifch fpeicheis, scho pafte away. Eftir the quhilk tyme, the foirfaid feirful feiknes tuke the said Margaret ; quha continewit thairin ilk xxiiij houris, for the fpace of ane hour, be the fpace of nyne oulkis³ togidder, in maift feirfull maner ; vnto the tyme ane pure woman come to the said Margrattis hous-dur, to ask meit ; quha, feing the said Margret wiffet⁴ with the said feirfull feiknes, declairit to hir, that scho was witcheit, and had the rycht champ⁵ thair of : Eftir the quhilk tyme, the feiknes ceiffit, and came nocht to hir agane, quhill the beginning of December laft, that scho, cuming thair by hir dur, with ane creill⁶ on hir bak, faid to hir, ‘ Away theiff ! I fall haif thy hairt, for bruytting of me fa fallie !’ And immediatlie thairefter, the feiknes of new agane come vpoune hir ; quhairintill scho hes bene maift havelie vexit and trubillit fenfyne, to the xxvij day of Januar laft, that scho and scho war confrontit togidder, and examinat, in prefens of my Lord Justice, of your devillifche crymes abouewrittin.—ITEM, for ane commoune Sorcerer and ane Witche and abuser of the peple, be laying on and taking af of feiknes and difeiffes, and vfeing all devilleifch and vngodlie meanis to wyn hir levying ; and Vfer of charmes and vther devilleifch practizes.

PERSEWAR, Adam Clark, fmyth in the Pannis, Margaret Myller, relict of vniq^{1e} Williame Baraet, Robert Peddane, and Margaret Robiefone, his fpous.

PRELOCUTOR for the pannell, Robert Hammiltoune, John Ball in the Pannis.

VERDICT. The Affyfe, be the mouth of Daid Seatoun, (bailzie in Tranent,) chancellor, ffand, pronunceit and declairit the said Ifobell Grierfoune to be ffylit, culpabill and convict of all and findrie the heidis and poyntis of Dittay aboue writtin, and crymis contenit particulerlie thairin.

SENTENCE. The Justice-depute, be the mouth of James Henderfoun, dempftar, decernit and ordanit the said Ifobell to be tane to the Castell-hill of Edinburgh, and thair to be wirreit⁷ at ane ftaik quhill scho be deid ; and her body to be brunt in affis, as convict of the faidis crymis ; and all hir movabill guidis to be efcheit and inbrocht to our fouerane lordis vfe, as convict of the faidis crymes.

¹ Issobel hearing herself to be reported. Fr. *bruit*. ² Caldron may thou see the in. ³ Weeks.
⁴ Visited, tormented. ⁵ Stamp, mark, token. ⁶ Basket, *creel*. ⁷ Strangled.

Forestalling and Regrating.

May 19.—JOHNNE REULL, indueller in Leyth.

Dilaitit for contravening the Actis of Parliament, in ffoirstalling and regraiting of tymmer.¹

PERSEWER, Sir Thomas Hammiltoune of Monkland, knycht, Aduocat.

PRELOCOUTOURIS in defence, Mr Alexander King, James King.

It is allegit be the pannell, that he can nocht be put to the knowlege of ane Affyse for the cryme lybellit, becaus the tymmer lybellit was bocht be his ser-
vand in Norruay, enterit in the townes buikis, as his awin proper tymmer, and
hes payit his Maiesteis custome thairfoir: And for verificatioun thairof, producet
the entrie of the tymmer in the townes buikis of Edinburgh, as his proper tym-
mer, and quhair he payit the custome thairof.—It is anfuerit be my Lord Ad-
uocat, that the allegeance aucht to be repellit, in respect nathing is producet to
preve the bying of the tymmer, be him self or his serwand; and is contrair to
the fummondis, quhilk beiris the ffoirstalling of tymmer, befoir the samyn was
prefentit to marcat.

VERDICT. The Affyse, be the mouth of James Forman, (water bailzie,) chan-
celler, ffand, pronuncet and declairit the said Johnne Reull to be ffylit, culpable
and convict of cawmone Regraiting and ffoirstalling of all foirtis of tymmer,
cumand and aryveand at the said Poirt and hevin of Leyth, and sa to be repute
and haldin: And Clanget and acquit him of the hail remanent poyntes of the
said Dittay.—Edward Edzer, merchand burges of Edinburgh, become souertie
for the entrie of the said Johnne the morne, to heir dome pronuncet, &c.

SENTENCE. The Justice, being resoluet thairwith, and with the Act of Par-
liament maid thairanent, Decernit and Ordanit the said Johnne Reull to content
and pay to our souerane Lordis Thesaurer and his deputis, the sowme of fourtie
pundis money of this realme of North Britane,² as penaltie designat in the said
Act of Parliament aganis cawmone Regraiteris and ffoirstalleris, for the first
falt. And als, ordanit the said Johnne to find cautioune actit in the buikis of
Adiornall, to abstene fra all maner of foirstalling or regraiting of tymmer in
tyme cuming, vnder the pane of ane hundreth merkis.³

Appointment of a Justice-Depute.

Jun. 2.—MR ALEXANDER COLUILL, sone to Alexander, Commendator
of Culrois,

Gaif his ayth *de fideli administratione* in the Office of Justice-deputrie; and
thaireftir was creat and admittit Justice-depute.

¹ Timber. ² This is the first time Scotland is so designated in this Record. Indeed it is very
unusual, even for a century after this period. ³ Edzer again becomes his suretie.

Slaughter.

JUN. 26.—WILLIAME GUTHRIE of Ravensbie.

Dilatit of airt and pairt of the Slauchteris of vmq^{le} Patrik Gairdin of that Ilk, and vmq^{le} Robert Gairdin of Tullois, committit in the moneth of I^m.V^c. threfoir auchtene yeiris.

PERSEWER, Mr Robert Gairdin Younger of Blairtounne.

George Leslie, fear of Kincragie, become plege and fouertie that he fall compeir befor the Justice or his deputis, the thrid day of the nixt Justice-air of the scherefdome of Abirdene, or soner, vpoun xv dayis wairning.

Slaughter — Lebving ' Skatt' or Black-mail — Stouthreif, &c.

JUN. 27.—ALLASTER STEWART M^cGILLIECHALLUM, brother to Johnne Stewart, *alias Johnne Dow M^cgilliechallum* of Tennandrie.

Dilaitit, accuset and perewit be DITTAY following, viz. That is to fay, of airt and pairt of the Slauchter of vmq^{le} Johnne Stewart of Bonfkeid; committit in the moneth of December, the yeir of God I^m.Vj^c. and fyve yeiris, betuix Dunkeld and Atholl, vpoun sett purpois, provifioun and foirthocht felony. ITEM, for airt and pairt of the Slauchter of vmq^{le} Johnne Stewart, secund sone to the said vmq^{le} Johnne Stewart of Bonfkeid; committit about Paifch,¹ in the yeir of God I^m.Vj^c. and sax yeiris, vpoun the landis of Kilbrochene. ITEM, for airt and pairt of the Slauchter of vmq^{le} Williame Leith, att the Kirk of Crathie in Cromar; committ about tuell yeiris fyne, or thairby. ITEM, for cuming with Johnne Dow, his brother, to the boundis of Strathardill, in the moneth of July lastby-past, and compelling of the tennentis of the landis of Strathardill to pay to thame ane skatt² of foure hundreth merkis or thairby; committand thairby manifest Oppressioun. ITEM, for the thiftious Steilling and reving, be way of maisterfull Stouthreif, fra Donaldsoun, chapman, of his pak, with certane merchandice thairin; committit thre yeiris fyne or thairby.

PERSEWER, Mr Robert Lyntounne, Aduocat-subtitute.

ASSISA.

Alexander Dumbar, schereff of Murray,	Patrik Moncur of Chapelton,	Tho ^s Farguisoun of Bellewchane,
Sir Thomas Stewart of Garnetullie, knycht,	Johnne Moncur, sone to the Laird of Moncur,	Williame Stewart of Kynnauld,
Dauid Drummond, Chalmerlane to my Lord Drummond,	Mr Alex ^r Hay of Kynmwdie,	Colene Campbell of Bothe,
	Alexander Flemyng of Monefs,	Angus Williamsoun of Termet,
	Thomas Otterburne of Reidhall,	Robert Chrytie, tailgeour, burges of Edinburgh.

VERDICT. The Assyse, be the mouth of Thomas Otterburne, chancillar, ffand, pronunceit and declarit the said Alexander Stewart to be ffylit, culpable and con-

¹ Pash, Lat. *Pascha*, Easter.

² A compulsory tax, contribution, or fine, somewhat similar (in

vict of airt and pairt of ilk ane of the pointis of Dittay, *respectiue* aboue writtin, and of the crymes contenit in the famin, conforme to his Confessioun producet in judgement, quhilkis he ratifeit.

SENTENCE. And thairfore, the said Justice-depute, be reafoun thairof, and of his speciall Convictioun, of the thiftious steilling and reving, be way of masterfull Stouthreiff, fra Donaldfoun, chapman, of his pak and merchandice contenit thairin, be the mouth of Robert Montgomerie, dempstar, Ordanit the said Alexander Stewart to be tane to the mercat Croce of Edinburgh, and thair to be hangit vpoun ane gibbet, quhill he be deid; and all his landis, heretageis, takis, stedingis, rowmis, posseffiounis, coirnis, cattell, guidis and geir to be fforfalt and escheit, &c.

Slaughter of Alexander Lord Spynie.

Jul. 8.—DAUID LYND SAY, fear of Edzell; Thomas Lyndsay, sone naturall and seruitour to Dauid elder of Edzell; Harie Lyndsay, sone to Dauid L. of Kynnettillis; Mr Johnne Lyndsay, sumtyme Minifter at, sone to Johnne L. of Barrese, seruitour to the auld Laird of Edzell; George Lyndsay, brother to the Laird of Covingtoun, also seruitour to the Laird of Edzell elder; Mr James Lyndsay, sone to L. of Brodland; Andro Stratoun; Home, sone to Robert Home of the Heuche; Gawin Lyndsey, father-brother to the said Laird of Covingtoun.

COMPERIT George Guthrie, seruitour to vmq^{le} Alexander Lord Spynie, and producet our souerane lordis Letteris, dewlie execute and indorsat, purchest att the instance of Dame Jeane Lyoun Lady Spynie, the relict; Alexander Maister of Spynie, eldest sone; Dauid Erle of Craufurd Lord Lyndsay, &c., Sir Harie L. of Carriestoun, knyght, Sir Johnne L. of Woidwrae, knyght, as brether, with the remanent kyn and freindis of vmq^{le} Alexander Lord Spynie; to tak fouertie of the said David, &c., that thai sould compeir befoir the Justice or his deputis this day and place, in the hour of cause, to vnderly the law, for airt and pairt of the Slauchter of the said vmq^{le} Alexander Lord Spynie. Be the quhilkis Letteris, the saidis personis war denunceit our souerane lordis rebellis and put to the horne. Vpone the production quhairof, the said George Guthrie askit instrumentis, and protestit for releif of Harie Lyndsay of Carrestoun, cautioner for reproductioun thairof.

this instance at least) to *Black-mail*. *Scatt*, properly, was a feudal tax anciently paid, in Shetland, to the King of Denmark; and at present Lord Dundas draws a considerable sum of Scatt; which is understood to be payable chiefly in kind, *e. g.* butter and oil, &c.

Treason—Celebration of the Mass, &c.

Sep. 25.—WILLIAME MURDOCHE alias M^cKIE, Preift, borne in Dunkeld.

Dilaitit, accuset, and perfewit be Mr Robert Lyntoun, Aduocat, substitute to our fouerane lordis Aduocat, FOR contravening his Maiesteis Actis of Parliament, in the treffonabill faying of Mefs, at dyuerse tymes, within the houffis and places following, in the monethis of Januare, ffebruare, Marche, Apryle, Maij, Junij, Julij, Auguft, September, October, November and December, in the yeiris of God I^m.V^c. fourfcoir fourtene, fyftene, faxtene, fevintene, auchtene, nyntene, fax hundreth, fax hundreth ane, tua, thre, four, fyve, and fax hundreth and fax yeiris ; at the leift, in ane or vther of the faidis monethis and yeiris of God : And that within the places and houffis of Strabogie, Boig of Geicht, the Lady Sutherlandis houfe in Suderland, Dwnrobyn, the Lady Auchindownis houfe, in Mr Alexander Leslieis hous, Patrik Butteris houfe, befyde Aberdene. ITEM, for faying of ane Saul-mefs (*soul-mass*) for the Lady Auchindoun, in ane pur mannis houfe in Strabogie, a littill eftir hir deceife. ITEM, in the Guidman of Carrones hous, callit Grant, and in Williame Leslie of Conrakis houfe ; and in dyuerse vtheris places and houffis in the North ; being accompaneit with dyuerse our fouerane lordis leigis at the faidis Messis : Committing thairthrow the cryme of Treffone, and incurring the panes specifeit in the faidis Actis of Parliament, maid aganis the fayeris of Mefs, viz. tynfall and fforfaltour of lyfe, landis and guidis ; as at mair lenth is contenit in the Dittay and Depositiones maid be the said Williame thairupone.

VERDICT. The Assyfe, be the mouthe of Abrahame Hammiltoune, smyth, chancellor, in respect of his Confessioun, maid judiciallie, of the haill Dittay and Depositiones producet, ffand, pronunceit and declairit the said Williame Murdoche to be ffylit, culpable and convict of the crymes aboue specifeit.

Thairefter, the said Mr Robert Lyntoun, substitute to our fouerane lordis Aduocat, producet ane Warrant of his Maiesteis, vnder his hienes hand-writt, defyreand the Justice, accoirding thairto, to pronunce DOME aganis the said Williame Murdoche, Preift, quhair of the tennour followis.

To our right trustie and weilbelouit counsallouris, the Erle of Dumfermeling, our chancellor, and remanent Lordis and vperis of our Previe Counfall, in our kingdome of Scotland, these.

JAMES R.

RIGHT TRUSTIE and weilbelouit counsallouris, We greit 3ow weill. Whearas, ane Murdoch alias M^cKie, Preift, was apprehendit by the Bischope of Murray, and is presentlie in waird, within the tolbuthe of Edinburghe, whear he hes lyne this long tyme past : OUR pleasour and Will is, that 3ow cause him be proceidit aganis, in maner following : ffirft, that he be presentit befor our Justice pair, and abyde his ordiner tryell, whearin no dout he will be ffand culpable, vpon his awin Confessioun ; and than our pleasour is, that our said Justice do pronunce the judgement eftir following aganis him ; in appointing him to be tane to the mercat croce of Edinburghe, being clad in his Mefs-

claithes, in the same forme that he was takin; and eftir he hes bene presentit to the vew of the hole people, he than be strypped of all his Mefs-clothes; and the same, with all his vther Popisck baggadge that was apprehendit with him, to be presentlie cast into the ffyre, pair reddie for the purpose, to be confwmed and brunt to asches: And pairwith, that he be adiudget to be BANISCHET furth of all our dominions, indureing his naturall lyfe; vnder the pane of daith, in caice of his returne bak to ony part of pe same: And willing 3ow to give vnto our Justice particuler directioun heiranent, and to be cairfull to see the same, in everie poynt, execute, We bid 3ow hairtly fairweill. FROME our Court at Theobaldis, the xvij of September 1607.

SENTENCE. Accoirding to the quhilk Warrant and directioun, the Justice-depute decernit and ordanit the said Williame Murdoche, preift, to be takin, on Monoday nixt, to the mercait Croce of Edinburghe, cled in his Mefs-claythis, and thair to stand chenzzeit,¹ fra ten houris to tuelf befoir none; and thaireftir, ane fyre being kyndillit at the said Croce, the said Mefs-claithes to be caffin af him and brunt in the said fyre, with all his vther Popische baggadge that war apprehendit with him. Quhilk solemnitie being vset, Ordanis the said Williame to be Banischet furth of our souerane lordis haill dominions, during his lyftyme; and nawayis to returne within the samyn, vnder the pane of daith: And to be transportit bak agane fra the said mercait Croce to the said Tolbuith of Edinburghe, thair to remane quhill ane schip be in reddines to transport him. Quhilk was pronuncet for dome.²

Cruel Oppression — Murder.

Nov. 5.—WILLIAME BONAR, in Condy.

Dilaitit, accuset and persewit be Dittay following, viz. FORSAMEKILL as he, in the moneth of October, the yeir of God I^m.Vj^c. and fyve yeiris, haifing reuyret Patrik Philp in Condy, his coitter,³ to geve him the lane⁴ of his horse, for leiding of certane his schorne peis, than standing stoukit⁵ vpon ane part of the saidis landis of Condie, occupyit be him; lyk as, for satisfeing of the said Williames desyre, haifing directit his naig, with vmq^{le} Robert Quhyte, his servand, and ane sled,⁶ to the leiding of his peis. Trew it is, that the said Williame, vpon the . . . day of October, the yeir of God aboue writtin, at the said vmq^{le} Robertis cuming to the feildis, quhair the saidis peise war roukit,⁷ becaus the said Robert refuifit to tak on sic extraordiner burding as the said naig was vnhable to draw, he thairfoir maist prouddie and contemptiouflie loufet his belt, and with the bukillis and remanent irnes thairof, maist crewallie strak the said vmq^{le} Ro-

¹ Chained. ² 'Sept. 27, 1607.—A Preift, who had been a certaine time in waird before, in the Tolbuith of Edinburgh, was brought down, on the mercat day, to the Mercat-croce, with all his Messe-cloaths upon him, wherewith he was taken, with his chalice in his hand. He stayed at the Croce from ten hours till twelve. Then all his Masse-cloathes and chalice were burnt in a fire beside the Croce, and himself carried backe to waird.'—*Calderwood's M.S. Church History.* ³ Cottar.

⁴ Loan. ⁵ Put up in *stouks* or shocks, to *win* or cure. ⁶ Sledge, a sort of cart without wheels, still in use, in mountainous districts, for leading in meadow hay, turf, &c. ⁷ Put up in rucks, *richs*.

bert in the heid and face, and with his feit and kneysis strak him in his breift, bellie and fydis, and brak his haille intrallis within him: And thaireftir, schot¹ him fra him doun ane watter-bra,² quhair he fell in ane watter, and remanit bleiding thairin ane grit space thaireftir, at mouth and neife; be occasioun of the quhilkis crewall woundis and straikis, gevin to the said vmq^{le} Robert, he immediatlie thaireftir tuik bed, quhairin he continewit bedfast, in grit dollour and difeafe, be the space of tuentie dayis thairefter, or thairby; and at laft, vpon the . . . day of November thaireftir, he depairtit this lyfe, of the saidis hurtis and woundis; and fa, he was maift crewallie flane be the said Williame Bonar: And he is airt and pairt thairof; committit vpon fet purpois, prouifion and foirthocht fellonie.

VERDICT. The Affyse, be the mouth of Williame Birsoun in Clow, ffand, pronuncet and declarit, all in ane voce, the said Williame Bonar to be Clenget, innocent and acquit of the cryme aboue writtin, and haille circumstances thairof. Quhairvpoun the said Williame askit instrumentis.

Slaughter — Shooting of Hagbutts and Pistolets.

Nov. 6.—JOHNNE FORBES, brother to Williame Forbes of Corfunda.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Williame Broun, fervand to Johnne Irwing of Ardtanfurd, committit be him and his complices, callit 'THE COMPANIE AND SOCIETIE OF THE BOYIS,' vpon the landis callit the Peill of Lumfannen, in the moneth of November, the yeir of God I^m.Vj^c. and fyve yeiris. ITEM, for airt and pairt of the Slauchter of vmq^{le} Robert Merfar in Tombeg, committit be him and his complices foirfaidis, in the moneth of Junij lastbypast, at Magnus Garioches hous, in Drumnahoy. AND laft, for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbuttis and pistolettis, daylie and continuallie, this thre yeir bygane; speciallie, for invaiding and perfewing of Williame Irwing, brother to the Laird of Drum, and schuiting of ane pistolet at him, betuix his awin duelling hous and the Kirk of Kyncairdin, in the moneth of July or thairby, I^m.Vj^c. and fax yeiris.

PERSEWAR, Sir Thomas Hammiltoun.

PRELOCUTOR in defence, Mr Johnne Ruffell.

The Aduocat produceit the Dittay aganis Johnne Forbes, with the Letteris of Hoirning, and defyrit proces.—Mr Johnne Ruffell producet ane Letter of Relaxatioune, be the quhilk he is relaxit fra the horne, for the crymis contenit in the Dittay, and thairupoun askit instrumentis.—The pannell takis instrumentis that na partie infistis in the perfute of this Dittay, except my lord Aduocat. It is allegit, that na proces can be led in this matter, becaus he aucht to be summond vpoune xv dayis wairning, feing he is the Kingis frie fubiect; and for instruct-

¹ Forcibly pushed, *shoved*.

² A brae or sloping bank above a stream.

ing thair of, citit the practik betuix the Montgomeries and Cuninghame, and the vther of Newarkis.—It is anfuerit, aucht to be repellit, in respect of the Relaxatioune producet, beiring the pannell to haif bene at the horne of befoir, for the crymes contenit in the Dittay ; vpoun the quhilk Hoirning Commiffioun was direct to apprehend the pannell, rebell and at the horne ; and being apprehendit, is brocht fra the waird to the bar ; and thairfoir, na delay aucht to be grantit vpoun xv dayis.

THE Justice findis proces, nochtwithstanding of the Alledgeance : Quhair-upone the Aduocat takis instrumentis.

It is alledgit be the pannell, that the Justice can nocht proceid in the mater aganis *Johnne Forbes*, for the crymes contenit in the Dittay ; becaus, be Act of Secreit Counfall, my Lord Forbes was maid Justice to pronounce dome (of) Baneifment aganis the said Johnne ; quho hes pronunceit the said Dome, in ane Justice Court, hauldin be him ; and gif he hes nocht pronunceit the said dome, the said Johnne offerit him to be Baneift, and to find cautioun, actit in the Buikis of Adiornall, to pass aff the countrey, vnder sic panis (as) the Justice will moderate ; and thairfoir na proces : And for verificatioun thair of, produceit the Act of Counfall ; and eikis,¹ that he was tane before the expyring of the tyme appointit to his baneifment. The Aduocat anfuerit, that the Act of Counfall can nocht stay proces ; seing that (there) is na thing produceit, declaring him to be exilit ; nather yit is the Dome pronunceit : And siclyke, the said Johnne man² be putt to ane Assyse, except he can schaw Respett, Remiffioun or clangeing ; and alse, the Aduocat acceptis the Secreit Counfallis ordinance.

It is allegeit, that the pannell can nocht be putt to ane Assyse for *Merfar*, seing he wes ordanit to be Baneift for Brounis Slauchter ; and thairfoir the Sentence and dome of Baneifment standing, he can nocht be put to ane Assyse for *Merfar*. It is anfuerit be the Aduocat, the Argument makis him nocht lauchfull to flae in Junij, he being baneift in March. ITEM, it is allegeit that na proces for *Merfaris* slauchter, becaus he wes nocht apprehendit for the famin. It is anfuerit, he wes att the Horne for the Slauchter, and he may be challengeit for the famin ; and produceit the Hoirning.—The Commiffioun of apprehensioune being produceit, it is alledgeit, that Commiffioun fallis, in respect of Assythement, and ane Act, makeand Arthour Lord Forbes Justice, to pronounce dome of Baneifment. It is anfuerit be the Aduocat, that the caus of the Commiffioun wes rebelloun, quhilk wes nocht purget, quhill eftir his taking.

THE Justice findis proces, nochtwithstanding of the pannellis fyrst alledgeance maid, that Brounis Slauchter fould nocht be put to ane Assyse.

It is allegeit, of new, that gif ye will pitt the mater to ane Assyse, and be

¹ Adds farther, subjoins.

² Must.

convict, ye can nocht pronounce na forder Dome nor¹ according to the Act of Counfall. It is alleget for the Slauchter of Merfar and weiring of pistoletis, he can nocht be putt to ane Assyse, feing he wes nocht tane for that cryme; and that wes nocht *in rerum natura* quhen the Commiffioun wes grantit. It is anfuerit, that the pannell wes summond vpoun xv dayis warning, for the saidis crymes; and being in waird, he may be brocht out and put to ane Assyse. And the Aduocat produceit the Hoirning aganis the pannell for the Slauchter of Merfar.—The Letteris (of Hoirning being) produceit, it is alleget that the famin s null, becaus the said Johnne Forbes is summond only att the mercat croce of Abirdene. The Aduocat anfueris, that he aucht (to) reduce; and the Justice is nocht Judge to the nulling² of Hoirningis.

THE Justice Ordanis the mater to be putt to ane Inqueist, nochtwithstanding of the allegeances.—The pannell offeris him felf in his Maieftis Will, for the weiring and schuiting of pistolettis.

ASSISA.

James Cunningham, father-brother to the Laird of Barnis, James Dikfoun of Hirdrig, Andro Abircrumbie of Straruthie, Williame Sydferff of Ruchlaw, Johnne Airmour, mercheand burges of Ed.³

The Aduocat, for verificatioun of the Dittay, produceit twa Letteris of Hoirning, and the said Johnne Forbessis Depositionis, confessing the crymes contenit in the Dittay.—It is allegit aganis *Harie Skirving*,⁴ that he can nocht be reffaut on this Assyse, becaus thair is feid⁵ standing betuix the Laird of Drum, on the ane pairt, and the name of Forbes, on the vther pairt; and the Erle of Marfchell, to quhom this Assyse is vassall, is sifter-bairnes to the Laird of Drum. It is anfuerit, aucht to be repellit; in respect of the Act of Parliament discharging all feidis; and that thair is na deidlie feid qualifeit betuix the Erle Marfchell and this pannell.—The pannell, eftir reiding of the Dittay, denyis the Slauchter of Robert Merfar, or that he was ather airt or pairt thairof.—The Aduocat repeittis to the Assyse the pannellis Confessioun, with the Letteris of Hoirning for the crymes contenit in the Dittay and Act of Counfall. The Aduocat protestis for Wilfull Errour aganis the Assyse, in cais thay acquit; and that the Assyse be reteanit in the Tolbuth, quhill the Kingis Maieftie and his Counfallis will be knawin.—The pannell takis instrumentis of the Assyses determinatioun, in Clengeing of the pannell, for the Slauchter of Broun; and desyres the Justice to be advyset with the Counfall, anent the dome, in respect of the Act of Counfall, producet be him in this proces.

VERDICT. Eftir accusatioun of the said Johnne Forbes, be Dittay, of the hail crymes aboue writtin, and verificatioun thairof, be his Depositiones, sub-

¹ Than. ² Annulling, reducing. ³ The remainder of the Assise composed of 'mercheandis.'
⁴ Of that ilk. ⁵ Feud, deadly enmity.

ſcryuit with his hand, as alfo ſubſcryuit be my Lord Halyrudhous and Mr Johnne Preftoun, Collectour, producet be my Lord Aduocat, togidder with the Letteris of Hoirning, &c., the Affyfe, be pluralitie of voittis, be the mouth of the ſaid Williame Sydferf of Ruchlaw, chancellor, ffand, pronuncet and declairit the ſaid Johnne to be Clene, innocent and acquit of airt and pairt of the Slauchter of the ſaid vmq^{le} Robert Merfar : AND ffand, pronuncet and declairit, be pluralitie of voittis, the ſaid Johnne to be ffylit, culpabill and convict of airt and pairt of the ſlauchter of the ſaid vmq^{le} Williame Broun ; and for beiring, weiring and ſchuiting of piſtolettis, contrair the tennour of the Actis of Parliament. And that, in reſpect of his awin Depoſitiones and Confefſioun producet, ſubſcryuit with his hand.

SENTENCE. For the quhilk cauſe, the ſaid Juſtice-depute decernit and ad-iudget the ſaid Johnne Forbes, be the mouth of James Henderfoun, dempſter, to be tane to the mercait Croce of Edinburgh, and thair, vponne ane ſcaffold, his heid to be ſtrukin frome his body ; and all his moveabill guidis to be eſcheit and inbrocht to his hienes vſe, as convict of the crymes aboue-writtin : Quhilk wes pronuncet for dome.

Sorcery — Witchcraft — Incantation — Poisoning, &c.

[THE ſingularity of the following Trial cannot fail to be remarked by all who have beſtowed any attention upon the history of the Superſtitions of their native country. In illustration of ſeveral of the circumſtances detailed, the Editor conſiders that the CONFESSIONS of ISSOBELL HALDANE, preſerved amongſt the Warrants of the Privy Council of Scotland, will prove an acceptable accompaniment. The Editor has not yet diſcovered whether that unfortunate woman ſuffered the uſual death which awaited ſuch a Confefſion. It is, however, but too probable that ſhe was put to death, by being ‘brunt,’ at Perth, in terms of her own Depoſitions.]

Dec. 18.—BARTIE PATERSOUN, talker in Newbottill.

Dilaitit of the cryme of Sorcerie and Witchcraft, in abuſeing of the peopill with charmes and dyuerſe ſoirtes of Inchantmentis ; and miniſtring, vnder forme of medecine, of poyſoneable drinkis : AND of airt and pairt of the Murthour of Johnne Myller in ffurd-mylne, about Martimas laſt, and of vmq^{le} Elizabeth Robieſoune, be the ſaidis poyſonable drinkis, viz. FOR cureing of James Broun in Turnydykis of ane vnknawin diſeaſe, be miniſtrating to him of drinkis, rubbing him with ſawis¹ maid of dyuerſe grene herbis, and cauſing him pas hame to his awin hous : and at his bed fyde to fitt down on his kneis, thre ſeuerall nychtis, and everie nycht, thryſe nyne tymes, *to aſk his helth at all leving wichtis, aboue*

¹ Salves.

and vnder the earth, in the name of Jesus. And thaireftir, ordanit the faid James to tak nyne pickillis of quheit, nyne pickillis of falt and nyne peces of rowne-trie,¹ and to were thame continuallie vpone him, for his helth ; committing thairby manifest Sorcerie and Witchcraft. ITEM, for abufeing of the people, with ane certane watter, brocht be him furth of the Loch callit the Dow-Loche, befyde Drumlanrig, and cureing of his awin bairne with the faid Loche watter, be wafching of the faid bairne, at everie nuke thairof, thryfe ; and cafting in of the bairnis fark² in the faid Loche, and leveing of the fark behind him ; affirming, that gif any fould come furth of the Loche, at that tyme, the patient wald convalefe, and gif na thing appeirit to him, the patient wald die : AND for cayreing of the faid Loche watter to findrie of the cuntrie, that war viffeit with feiknes, or quhais beiftis war feik or foirspokin :³ Speciallie, for the miniftrating thairof to Alexander Clerk, in Creichtoun, for his helth ; be caufing him, at ilk tyme quhan he liftit the ftoupe,⁴ quhairin it was, to fpaik thir woirdis : ‘ *I lift this watter, in the name of the Father, Sone and Haly Gaiſt, to do guid for thair helth for quhom it is liftit ;*’ quhilkis wordis fould be repeitit thryfe nyne tymes. AND for vfeing of thir charmes following, for charmeling of cattell ; ‘ *I CHARME thé for arrow-ſchot, for dor-ſchot, for wondo-ſchot, for ey-ſchot, for tung-ſchote, for lever-ſchote, for lung-ſchote, for hert-ſchot, all the maiſt, in the name of the Father, the Sone and Haly Gaiſt. AMEN.*’ AND for behaifing him ſelf as ane cowmone Sorcerer, in abufeing of our fouerane lordis leigis, thir diuerſe yeiris bygane, be his devillifche practizes, vpone dyuerſe feik folk and feik beftiall ; and vfeing of dyuerſe vther foirtis of Inchantment, expres aganis the lawis of God and Actis of Parliament.

As at lenth is contenit in the faid Barteis Depositiones, maid in prefens of the Prefbiterie of Dalkeith, and Dittay formet thairupoune.

VERDICT. The Affyſe, be the mouth of Thomas Megget of Maiftertoun, chancellor, fand, pronuncet and declairit the faid Bartie to be ffylet, culpable and convict (conforme to his awin Confeſſioun) of the haill crymes aboue writtin.

SENTENCE. To be tane to the Caſtell-hill of Edinburghe, and thair to be wirreit at ane ſtaik, quhill he be deid ; and thaireftir his body to be brunt in afches ; and all his moveable guidis and geir, gif he ony hes, to be efcheit and inbrocht to his hienes vfe, &c.

¹ The mountain-ash. Its virtues are even yet held in great repute, as a charm against Witchcraft, &c. ² Shirt. The purpose of so doing was to leave the disease on the shirt, and to make an offering to the *genius loci*. In Ireland, at this day, ‘ Holy Wells’ are commonly resorted to by the sick, &c., who, after ablution and drinking of the spring, leave pins and pieces of rag, torn off some part of the patient’s dress. ³ Bewitched, charmed. ⁴ A sort of wooden bucket or pitcher, used for holding or carrying water.

DEPOSITIONES of ISSOBELL HALDANE, *suspect of WISHCRAFT,*
 CONFESSIT *be hir the 15 of Maij 1623, as followis.*

BEING convent befor the Sessioun of Perth, estir prayeris maid to God to oppin hir hairt and loufe hir tounge to Confes the treuth:—Being askit, ‘ Gif scho hed onye skeill of cureing men, wemen or bairneis that war diseisit?’ Scho ansuerit, that scho had nane. Being requirit, ‘ Gif scho cureit Andro Duncanes bairne?’ Ansuerit, that, according to the directioun of Jonat Kaw, scho went with Alexander Lokart dwyn¹ to the Turret-Port, tuik watter frome thence, being dwyn; brocht it to Andro Duncanes house; and thair, wpon hir kneis, in the name of the Father, Sone and Halye Gooft, weusch² the bairne! Estir that, tuik the watter, with the bairneis fark, accompaneit with Alexander Lokart, and kuit³ baith in the burne; bot in the going, scho skaillit⁴ fwm, quhilk scho rewis ane evill rew,⁵ becaus that if onye hed gone ower it, thay hed gottyn the ill.⁶ ITEM, being askit ‘ If scho hed ony conversatioun with the ffarye-folk?’ Ansuerit, that ten yeiris syne, lying in hir bed, scho wes taikin furth, quhidder be God or the Deuill scho knawis nocht; wes caryit to ane hill-syde: the hill oppynit, and scho enterit in. Thair scho stayit thrie dayis, viz. fra Thurisday till Sunday at xij houris. Scho mett a man with ane gray beird, quha brocht hir furth agane.

ITEM, that same day JOHNE ROCH deponit, that about that same tyme, he beand in James Chrystie the wrichtis buith, causing the wricht mak ane cradill to him, becaus his wyff wes neir the down-lying; the said Issobell Haldane com by, defyret him nocht to be sa haistie, for he neidit nocht; his wyff sould nocht be lichter⁷, till that tyme fywe oulkis,⁸ and then, the bairne fuld neuer ly in the cradill, bot be borne, bapteist, and never souk, bot die and be tane away. And as the said Issobell spak, so it cam to pass, in euerie poynt.

THE said Issobell being demandit, ‘ How scho knew that?’ Ansuerit, that the man with the gray beird⁹ tauld hir. ITEM, the said Johne Roch deponit, that Margaret Buchanan, spous to David Rind, being in helth, at hir ordinare wark, the said Issobell Haldane come to hir, and defyreit hir mak hir for deith;¹⁰ ffor befor Fastingis-ewin, quhilk wes within few dayis, scho fuld be taikin away. And as scho said, so it wes; befor that terme the woman died. Being askit, ‘ How scho knew the terme of hir lyfe?’ The said Issobell ansuerit, scho hed speirit at that same man with the gray beird, and he hed tauld hir.

THE *xvj day of May 1623.* PATRIK RUTHUEN, skynner in Perth, compeirit and declairit, that he being wifchit¹¹ be Margaret Hornisclench, Issobell Haldane com to sie him; scho com in to the bed and strauchit¹² hir self aboue him, hir heid to his heid, hir handis ower him, and so furth, mumbling sum wordis; he knew nocht quhat they war.

THE said Issobell Confessit the said cure; and deponit, that befor the said Patrik wes wifchit, scho mett him, and fairbad him to go till scho had gone with him.

THE *xix day of Maij 1623.* Compeirit STEPHANE RAY in Muretoune, and deponit, that thrie yeiris syne, that Issobell Haldane haueing stollin sum bere furth of the Hall of Balhouffye, he followit hir, and brocht hir bak agane; scho chaipit¹³ him on the schulder, saying, ‘ Go thy way! Thow fall nocht win thy self ane bannok of breid for yeir and day!’ And as scho threttinit, sa it cam to pas. He dwynnit,¹⁴ haulie diseiseit.

THE said Issobell Confessis the away-taking of the bere, the diseise of the man, and affirms, that onye scho said, ‘ He that delyueret me frome the ffarye-folk fall tak amendis (on) thé!’ ITEM, the same day scho confest scho maid thrie feuerall caikis, euerie ane of thame of ix curneis¹⁵ of meill, gotten fra ix wemen that wer maryit madynniss; maid ane hoill in the crowne of euerie ane of theme, and

¹ Down. ² Washed. ³ Cast, threw. ⁴ Spilt some. ⁵ Regrets or *rues* bitterly. ⁶ Had any one stepped over the place, the evil or disease would have been transferred from the sick child to him. ⁷ Lighter, i. e. delivered of her child. ⁸ Five weeks. ⁹ This familiar spirit seems to be the same as ‘*Thom Reid*,’ mentioned in the extraordinary Trial of BESSIE DUNLOP. ¹⁰ Prepare for death. ¹¹ Bewitched, *fore-spoken*.
¹² Stretched. ¹³ Clapped. ¹⁴ Pined away, without any apparent cause. ¹⁵ Handfuls, small quantities.

pat ane bairne throw it thrie tymeis, ' in the name of the Father, Sone and Halye Gooft,' to wemen that pat the saidis bairnes thryse throw bakward, wfeing the saidis wordis. ITEM, the said Iffobell confest, that scho went, filent, to the Well of Ruthuen,¹ and returneit filent, bringing watter from thence, to wafch Johne Gowis bairne: Quhen scho tuik the watter frome the Well, scho left ane pairt of the bairnes fark at it, quhilk scho tuik with hir for that effect; and quhen scho cam home, scho weufche the bairne thairwith. In lyk maner, scho Confest, scho had done the elyk to Johne Powryis bairne.

THE xxvij day of Maij 1623. THE said Iffobell confessit, that scho had gewin drinkis to cure bairneis; amongis the rest, that Daid Moreise wyff com to hir, and thryse for Goddis saik askit help to hir bairne that wes ane scharge :² And scho fend furth hir sone to gether fochsterrie leaweis,³ quhair-of scho directit the bairnes mother to mak a drink.—Bot the bairneis mother deponit, that the said Iffobell Haldane, on-requirit, cam to her house and saw the bairne; said, ' it wes ane scharge taikin away; ' take on hand to cure it; and to that effect, gaiff the barne a drink; efter the ressaie quhairof the bairne died.

WILLIAME YOUNG, Scribe to þe Presbiterie of Perth, at command of þe samyne, with my hand.
JONAT. DAVIDSONE, Notare Publict and Clerk to the Sessioane of Perth, at thair command and directionne, with my hand.

[*Mr William Boirthuik, Justice-Depute.*]

Slaughter.

Feb. 3.—JAMES MURE, Younger of Auchindrane.⁴

Dilaitit of airt and pairt of the Slaughter of vmq^{le} Sir Thomas Kennedyie of Cullane and Williame Dalrumpill.

PERSEWER, Sir Thomas Hammiltoune of Bynnie, knycht.

PRELOCUTORIS for the pannell.

The Lairdis of Blair, Cauldwall, Heiffilheid, Rowallane, Mr Johnne Russell, Mr Laurence Mcgill.

My Lord Aduocat producet the Letteris deulie execute and indorsat, quhairby the defenderis thairin contenit ar denuncet to the horne. Mr Johnne Russell producet Letteris of Relaxatioune, of the dait the thrid of Februare instant; be the quhilkis the pannell is relaxit for the crymes aboue writtin. The pannell takis instrumentis of his entrie; and efter reiding of the Summondis, offeris him self reddie to abyde the tryell of the Law, for the crymes contenit thairin-till; and disassentis fra all continewatioune. The Aduocat producet the Counfallis Warrant for continuatioune of this dyet to Fryday nixt; and committing the pannell to waird in the meane tyme.

THE JUSTICE, for obedience of the Counfallis Warrant, continewis this matter to Fryday nixt, and ordanit the pannell to be wairdit in the Tolbuith of Edinburgh, in the meane tyme.

¹ The superstition of fetching water from *Holy-Wells*, as they were and still are often called, was very prevalent in Scotland, as well as in all Catholic countries. Some shred of dress belonging to the diseased person was left on the brink of the well, in token of the disease having passed away along with it. In Ireland, the bushes near to such wells are entirely covered with rags of every colour, as offerings to the *Genius loci*. ² SHARG, a creature pined away, by Witchcraft, an evil eye, &c. A changeling. ³ Leaves of an herb. Perhaps star-grass, bog-star-grass. ⁴ Vid. Jul. 17, 1611.

[*Mr Williame Hairt, Justice-Depute.*]

Feb. 5.—THE JUSTICE continewis this matter to the secund day of Marche nixtocum; and ordanis the pannell to be wairdit in the Tolbuith, in the meane tyme.¹

Slaughter.

Feb. 5.—GEORGE MURRAY of Brochtoune.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James M^cCulloche, appeir-and of Torhouse; committit in November laft.

PERSEWARIS.

Johnne M^cculloche, as brother; William M^cculloche of Mertoune, Thomas M^cculloche of Barholme.

THE JUSTICE continewis this matter to the morne.²

Feb. 6.—The persewaris passis fra the perfute of the Laird of Brochtoun for the said Slauchter, conforme to the cowmoning.³

Mutilation.

Feb. 19.—JOHNNE DUNCANE, elder, myller in the Brig of Hailes, and Johnne Duncane, younger, meilmaker in Edinburgh.

VERDICT. Fylit, culpable and convict of airt and pairt of the Mutilioun of Robert Daidfoun of tua fingaris of his left hand; committit be thame in the moneth of September I^m.Vj^c. and fax yeiris, vpone fet purpois, prouifioun and foirthocht fellonie.

SENTENCE. To be wairdit within the Tolbuth of Edinburgh, thairin to remane vpone thair awin expenffis, ay and quhill thay haif satisfeit the said Robert Daidfoun, pairtie, for his hurt and skayth aboue writtin, and obtene his letteris of Slanes thairupoune: And alfe, Ordanit thair haill moveabill guidis to be efcheit to our fouerane lordis vs^e, as convict of the said cryme.

Slaughter.

Feb. 23.—WILLIAME KEITH, sone lauchfull to Alexander Keith of Auchquhirrk.

Dilaitit, accuset and persewit be Mr Thomas Henderfone, Aduocat, substitute to our fouerane lordis Aduocat, of the crymes following, viz. fforfamekill as, vpone ffryday the nyntene day of ffebruar instant, the said Williame haifing fallin out, in som iniurious speiches with vmq^{le} Thomas Colstoun, Inglifman, at the drink, in Griffell Russellis hous in Bruntieland; he thaireftir rancounterit with the said vmq^{le} Thomas, besyde the schoir of the said burch of Bruntieland;

¹ It is again continued; and Mure ordered to be kept in ward. ² Plegio, Johanne Vaufe de Barnebarroche. ³ Commoning. It is likely that the private parties compromised the matter, and that Letters of Remission were procured upon their joint application, on producing Letters of Slains.

and thair, maist crewallie, with his drawin swoird, strak the said vmq^{le} Thomas vnder the left pape, and slew him thairwith: And the said William is airt and pairt of the slauchter of the said vmq^{le} Thomas.

PERSEWERIS, Mr Thomas Henderfonne, Mr Robert Foullis, aduocat.

PRELOCUTOR for the pannell, Mr Johnne Ruffell.

ASSISA.

Aulay M ^c caulay of Ardincapill,	Arch ^d Edmestone of Ballintone,	Hew Dalzell, merchand burges of
George Murray of Brochtoun, ¹	Johnne Ahannay, Provoft of	Edinburgh,
James Lokhart of Ley,	Wigtoun,	Symone Brentoune, burges thair,
Williame Blair of Balgillo,	Patrik Somervel, merchand	George Redik,
. . . . Leith of Harthill,	burges of Edinburgh,	Geo. Rollok, portioner of Craigie,
Sir Alex ^r Colquhoun of Lufs, kny ^t ,	Donald Thornetoun, burges thair,	Vthreid M ^c dowell of Mondark.

VERDICT. The Assyse, be the mouth of the said Vthreid M^cdowgall of Mondark, chancellor, ffand, pronuncet and declairit the said Williame Keith to be ffylit, culpable and convict of airt and pairt of the Slauchter of the said vmq^{le} Thomas Colstoun; committit in maner and at the tyme specifeit in the said Dittay.

SENTENCE. To be takin to the mercait croce of Edinburgh, and thair, vpone ane skaffold, his heid to be strukin frome his body; and all his moveabill guidis and geir to be escheit and inbrocht to his Maiesteis vse, as convict of the said cryme. Quhilk was pronuncet for dome.

Child-murder.

Feb. 24.—ISSOBELL THOMESOUNE, dochter to Robert Thomesoun in the Watter of Leyth.

Dilaitit of the crewall and vnnaturall Murthour and distructioun of hir awin infant bairne; committit be hir, immediatlie eftir hir delyuerie thairof, vpone the aucht day of Februare instant, secretlie, within hir fatheris dwelling hous in the Watter of Leyth.

VERDICT. The Assyse, in ane voce, be the mouth of Thomas Clerkfoun, buterman, chancellor, ffand, pronuncat and declairit the said Issobell, conforme to hir awin Confessioun, to be ffylet, culpable and convict of the crewall Murthour and distructioun of the said bairn .

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit, quhill scho be deid; and hir haill moveabill guidis, gif scho ony hes, to be escheit, &c.

Treason — Murder under Trust, &c.

Mar. 2.—JAMES WATSOUN, sone in law to James Hammiltoun of Scheirell; and James Hinchelwoid, seruitour to James Hammiltoun Younger of Spittelcheill.

Dilaitit of airt and pairt, red, counfall and foirknowledge of the crewal Mur-

¹ See Feb. 5, 1508.

thour of vmq^{le} George Tuedie; committit be the said James Hammiltoun of Spittelcheill, vpone Sanct Leonardis-evin, in Nouember laft, within ane barne of Spittelcheill; the said James, the tyme of the committing thairof, haifing confultit and devyset the famyn with Robert Craufurd, his guid-brother, and with the saidis James Watfoun and James Hinchelwoid, of the forme and maner thair- of, viz. THAT the said James Hinchelwoid fould fecreitlie convoy ane mell¹ in the barne, quhair the said George Tuedie fould be murthourit; and that the said George (his) bed fould be maid in the said barne, and the said James Watfoun to ly with him: LYK AS, about tuelf houris at evin, in the said nycht, the said vmq^{le} George Tuedie being lyne doun in his bed, within the said barne, luing for the said James Watfones cuming to ly doun with him, the said James Hinchelwoid, James Hammiltoun and James Watfone come all in togidder within the said barne; and as the said James Watfone was taking af his claites, the said James Hammiltoun, with the said mell in his hand, in prefens of the said James Watfoun and James Hinchelwoid, come to the said George Tuedeis bed- heid, and thair maift crewallie gaif him tua grit ftraikis in his heid, and Murdreift him thairby; the said James Hinchelwoid haifing brocht in the candill in his hand, and delyuering the mell to the said James Hammiltoun, to commit the said Murthour; AND eftir the committing thairof, the said James Watfone, taking away with him the said vmq^{le} George Tuedeis horfe, with the fadill and brydill, and the said James Hinchelwoid helping the said James Hammiltoun to beir him to ane lyme hoill, ane littill frome the hous, quhair he wes bureit.

VERDICT. The Affyfe electit and choifit Hammiltoun of Sillertoun- hill² chancellor, reffonit and voittit vpone the poyntis of the said Dittay, and being ryplie and at lenth advyset thairwith, togidder with the saidis James Watfone and James Hinchelwoidis Depofitiones made be thame in the premif- fes; thay, be the mouth of the said Chancellor, ffand, pronuncet and declairit the saidis James Watfone and James Hinchelwoid to be ffylet, culpable and con- vict of airt, pairt, red, counfal and foirknowledge of the said abhominable Mur- thour, and conceilling of the famyn, fa lang eftir the committing thairof.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit quhill thay be deid; and all thair moveabill guidis efcheit to our fouerane lordis vfe, as convict of the saidis crymes.

Cattle-stealing.

Mar. 11.—THOMAS FRAM, fumtyme fervand to James Hammiltoun of Spittelscheill.

Dilaitit of airt and pairt of the thiftious Steilling, conceilling, reffetting and

¹ Mallet. ² Robert Bailzie of Jerriftoun, Johnne Grahame brother to Waftraw, and James Mureheid younger of Lachope, are the only other landed persons. James Levingftoun of Jerifwoid was fined 100 merks for non-appearance.

away-taking of thre oxin and ane kow pertening to James, Lord of Balmirrinoch, furth of his landis of Mulrum; committit in the moneth of Auguft I^m.Vj^c. and fax yeiris.—VERDICT. Guilty. James Levinstoun of Jerifwoid, chancellor.

SENTENCE. To be tane to the mercait croce of Edinburgh, and thair to be hangit quhill he be deid; and all his moveabill guidis, gif he ony hes, to be confiscat to our fouerane lordis vfe.

[*Mr Williame Borthuik, Justice-Depute.*]

Murder.

Mar. 18.—JOHNNE SWAN, burges of Dumbar.

PERSEWERIS, Williame Clerkfoune, brother-fone, Johnne Kellie, fister-fone, Johnne Learmonth, guid-fone, Williame Ruthven also fone-in-law.

Dilaitit of airt and pairt of the crewall Murthour and Slauchter of vmq^{le} George Clarkfoune, merchand burges of Dumbar; committit be him within the said vmq^{le} George awin barne, lyand at the bak of the toune of Dumbar, vpone the fyftene day of Marche instant, betuix thre and foure eftir none; be geving to him of ane crewall and deidlie ftraik vpone the left fyde of his heid, alongis his vane-organe,¹ with ane grit fork, quhair of he immediatlie depairtit this lyfe.

VERDICT. Guilty. Johnne Kellie, elder in Dumbar, chancellor.

SENTENCE. To be takin to the mercait croce of Edinburgh, and thair his heid to be ftrukin frome his bodie; and all his moveabill guidis to be efcheit and inbrocht to his hienes vfe, as culpable and convict of the said cryme.

[*Mr Williame Hairt, Justice-Depute.*]

Sorcerie, Witchcraft, &c.

Maij 27.—BEIGIS TOD, in Lang-Nydrie.

Dilaitit, accuset and perfewit, at the instance of Mr Robert Foulis, Aduocat, fubstitute to our fouerane lordis Aduocat, of the crymes of Sorcerie following, viz. FORSAMEKILL as scho, accompaneit with vmq^{le} Cristiane Tod, hir fister, Johnne Graymeill, Margaret Dwne and Erfche Marioun,² in the moneth of Auguft, the yeir of God I^m.V^c. four scoir fourtene yeiris,³ convenit thame selffis, with thair complices, all Witches and abufearis of the people, at Deane-fute of Lang-Nydrie, quhair the Deuill appeirit to thame, and reprovet the said Beigis Tod verrie fcherplie, for hir lang tayreing; to quhome scho maid this anfuer, 'Sir, I could wyn na foner!' And immediatlie thaireftir, thay pafst altogidder to the said Beigis hous in Lang-Nydrie; quhair, eftir thay had drukkin togidder a certane fpace, thay, in thair devillifche maner, tuik ane katt, and drew the famyn nyne tymes throw the said Beigis cruik;⁴ and thaireftir come with all thair fpeid to

¹ Jugular vein.

² Irish or Highland Marion, a personage who figured in the Witch Trials of that period.

³ A.D. 1594.

⁴ Of iron, on which the 'kail-pat' is usually hung over the fire.

Seaton-thorne,¹ be-north the zet;² quhair the Devill callit for the said Cristiane Tod, and past to Robert Smartis hous, and brocht hir out; and as scho was cumand with him, scho tuik ane grit fray,³ and said to the Devill, ' Sir, quhat will ye do with me?' Quha anfuert her, ' Tak na feir, for ze fall gang to your sifter Beigis, and to be rest of hir cumpanie, quha ar stayand vpon your cuming at the Thorne!' And thay thaireftir past altogidder, with the Devill, to the irne zet of Seatoun, quhair of new thay tuik ane cat, and drew the samyn nyne tymes throw the said Irne-zett: And immediatlie thaireftir, come to the barne, foiranent George Feudaris dur,⁴ quhair thai cristenit the said catt, and callit hir *Margaret*: And thaireftir come all bak agane to the Deane-fute, quhair first thai convenit, and cuist the kat to the Devill. For the quhilkis devillische practizes the saidis Cristiane Tod, Johnne Gray-meill, Ersche Marioun and Margaret Dwne war convict and brunt. And the said Beigis Tod is airt and pairt of the cryme of Sorcerie and Witchcraft aboue writtin; quhilk wes nottourlie knawin: ITEM, fforfamekill as the said Beigis Tod, haifing fallin furth at variance with the vmq^{le} Alexander Fairlie in Lang-Nydrrie, scho, to be revendget vpon him and his bairnis, in the moneth of Junij I^m.V^c.lxxxj yeiris, be hir Sorcerie and Witchcraft, cuist ane heavie and vnknawin seiknes vpon Alexander Fairlie, his sone, quha vanischet away⁵ with vehement fueiting and continuall burning at the heart; quhilk seiknes indurit with him the space of tua monethis, that nane luikit for his lyfe;⁶ and nichtlie the said Beigis appeirit to him, in hir awin similitude; vpon quhome he cryit continuallie for help: And in the day, scho appeirit to him, in schape of a dog; quhilk pat him almaist out of his witts: Vpon occasioun quhair of, the said Alexander, his father, past to the said Beigis Tod, and efter he was reconceillit to hir, maist earnistlie besocht hir to cum and remedie his sone of the said seiknes; quha refusit to cum; yit, at the eirnest desyre of Archibald Galloway, scho, accompaneit with hir tua sones, come to the hous, and sa sone as the said Alexander saw hir, he eftir that tyme became bettir and bettir, and convalescit of the said seiknes. And sa, scho committit manifest devilrie and Witchcraft, in on-laying and aftaiking of seiknes, in maner foirsaid. AND lykwayes, was accuset be the said Aduocat and Robert Woid, litster, for the casting of the lyk vncouth seiknes vpon the said Robert, be hir devilrie and Witchcraft, in the moneth of Nouember last.

VERDICT. The Affyse, all in ane voce, be the mouth of David Seatoun, bailzie of Tranent, ffylet the said Beigis of the first tua poyntis of Dittay aboue writtin: And, be pluralitie of voittis, ffind, pronuncet and declairit hir to be Clene

¹ Thorns were favourite trysting-places of witches as well as lovers. ² To the north of the gate. ³ Fright. Old Fr. *frayeur*. ⁴ Door. ⁵ Swooned, fainted away. ⁶ None thought he could possibly survive.

and acquit of the Sorcerie and Witchcraft vset be hir aganis the said Robert Woid, in laying the said feiknes vpon him ; in maner specifeit in the Dittay.

SENTENCE. For the quhilkis tua crymes, quhair of she is convict, the Justice ordanit hir to be tane to the Castell-hill of Ed^r, and thair to be wirreit at ane staik, and her body to be brunt in asches ; and hir hail guidis to be escheit, &c.

[CURIA JUSTICIARIE *f. d. n. Regis, tenta in Pretorio de Lynlythgow, ultimo die Maij 1608, per M. Willielmum Hairt de Prestoun, Justiciarium Deputatum.*]

ASSESSOURIS TO THE JUSTICE.

My Lord of Balmirrienoche,¹ My Lord Abercorne,² My Lord Lynlythgow,³ Sir Peter Young.⁴

Abstracting Pearls and Jewels belonging to the Queen.

May 31.—MARGARET HERTSYDE, spous to Johnne Buchannane, sumtyme servand to his Maiestie, and the said Johnne Buchannane, for his entreis.⁵

Dilaittit, accuset and perfewit be Sir Thomas Hammiltoun of Bynnies, knycht, Aduocat to our souerane lord.

DITTAY against the Pannell.

MARGARET HERTSYDE, 3e ar indyttit and accuset, sforfamekill as 3e, being many 3eiris in credeit and service with our souerane lordis darrest spous, the Queinis Maiestie, and haifing reffault many grit benifeittis frome hir Maiestie, during pe tyme of 3our seruice, at dyuerse tymes, to 3our heich advancement, baith in credeit and welth : 3e, nochtwithstanding thairof, maist vnlauffullie and vndewtiefullie substractit, staw and detenit frome hir Maiestie, furth of our souerane lordis Palices of in England, at the leif furth of ane or vther of our saidis Palices, ane Perle, of the valour and pryce of ane hundreth and ten pund sterling, pertening to hir Maiestie ; togidder with dyuerse vtheris perles, precious stanes, jowallis and goldfmyth wark, lykwayis pertening to his Maiesteis darrest spous, worth the fowme of thre hundreth pund sterling ; committit be 3ow in the monethis of, the 3earis of God I^m. sax hundreth thre, sax hundreth foure, sax hundreth fyve, sax hundreth sax, and I^m.Vj^c. and sevin 3eiris ; at pe leif in ane or vper of pe saidis monethis and 3eiris. FOR the quhilkis, 3e being sworne and examinat, first vpon the fyft day of October 1607, and pairestir vpon the thrid day of Nouember lastbypast, anent 3our villauffull haifing of findrie of hir Maiesteis jowellis ; and haveing declairit, vpon 3our grit aithe, that 3e had nane, and gif it war fund that 3e had ony vther jowallis of worth, quhilkis pertentit to hir Maiestie, that pe perticuleris than confessit be 3ow, (quhairin the jowallis lybellit war nocht comprehendit,) 3e acknowlegit that 3e had thame nocht lauchfullie : And lykwayis declairit, be 3our said Deposition, that at 3our first cuming frome Court to Scotland, 3e had delyuerit to hir Maiestie all pe jowallis quhair of 3e had pe credeit,⁶ and nevir sensyne had charge of pame, or mellit⁷ with ony of thame. NOCHTWITHSTANDING quhair of, 3e pairestir, vpon the said thrid day of Nouember last, Confessit that 3e had abstractit frome hir Maiestie ane grit perle, pertening to her hienes, quhilk cam to 3our handis, amangis ane number of counterfute stanes, and many perles pairwith : Quhilk grit perle, 3e sauld, for ane hundreth and ten pund sterling, estir that 3e had presentit the same, hung at ane dyamond, to be sauld, to hir Maiesteis self ; sfor the quhilk 3e cravet her Maiesteis pardoun, and

¹ For his interest ; only as husband to the pannell.

² Sir James Elphinston, first Lord Balmerinoch, Lord President of the Court of Session. See his Trial, Mar. 10, 1609.

³ James Hamilton, first Earl of Abercorn.

⁴ Alexander, seventh Lord Levingston, was created Earl of Linlithgow Lord Livingston and Calendar.

⁵ His Majesty's ' Elimosinar' or Almoner, &c.

⁶ Trust, charge of.

⁷ Meddled, had to do with. Fr. *Meler*.

be your said Deposition cum in hir Maiesteis gracious Will for it. And lykwayis Confessit, be your Deposition foirsaid, that, without hir Maiesteis knowlege or gift, ze had fauld and convenit to your awin proffite and vse, vther precious stanes and perles, worth thre hundreth pund sterling, pertening to hir Maiestie; and acknowlegit pat your ouerficht and offence committit, in melling with the jowallis confessit be your at pat tyme, pat your in hir Maiesteis Will: And ze ar airt and pairt of pe saidis crymes: ffor pe quhilkis ze aucht and fould be pwneifched, conforme to pe lawis and daylie practik of your realme.

PERSEWAR, Mr Thomas Hammiltoun of Bynnie, knyght, Aduocat to our fouerane lord.

PRELOCUTORIS for the pannell, Mr Williame Oliphant, Mr Thomas Hoip, Mr Alexander King, Mr Johnne Ruffell, Aduocatis, Mr Robert Buchannane, Minister at the Kirk of Ceres, Mr Williame Buchannane, Minister at Methven.

The Aduocat producet our fouerane lordis Letteris, deulie execute and indorfate, purchest at his instance, as Aduocat to our fouerane lord, for his hienes entreis. The Aduocat, eftir cheifing of the prelocutouris for the pannell, producet his Maiesteis Warrant to the Justice to proceid and minister Justice; togidder with ane vther Warrant, directit to my lord Aduocat, to infist in this perfute.—Mr Johnne Ruffell, for him self and the rest of the prelocutouris, producet ane Warrant of the Lordis of Secreit Counfall, commanding thame to compeir, as prelocutouris, in defence of the pannell.

My lord Aduocat producet ane EIK to the *Dittay*, for cleiring thair of, and circumstances of the poyntis of *Dittay* contenit in the Letteris.

Margaret Hertfyde, *olim in carcere*, and now at libertie, producet ane Letter, contening ane desyre, ane Reuocatioun and protestatioun, quhair of the tennour followis.

I, MARGARET HERTSYDE, acknowleging my long captiuitie, and that I haif bene seperat fra my husband, dyuerse tymes examinat and demandit vpon findrie wechtie matteris and articles, to the quhilkis I was forcet to anfuere, nocht being weill resolut, bot be pe contraire, being hevelie trubillit, be apprehensioun¹ of my husband, my self, wairding of our persones, and ceasing² vpon our hail guidis; my Depositionis nocht perfytilie knawin to me, and I being ane woman, *juris ignara*, nocht haifing sa guid memorie as is requifat in sic ane wechtie caus; I desyre that now, being ane frie persone, exhibit in Judgment,³ my Declaratioun and Deposition may be producet, to the effect that I may reduce my self to ane perfyte memorie; and, gif my Declaratioun be set down according to pe treuth, I am content to abyde pairat; vtherwayis, in caice pair be any thing omittit or erroneoullie declairit, that I may be hard to correct my errour and eik⁴ pairto, quhatsoeuer is omittit: And in cais of non production of my said Declaratioun and Depositiones, to the effect foirsaid, I, be pir presentis, revoikis quhatsumeuir Deposition maid by me, concerning the lybell and *Dittay* pairin contenit, and hail contentis pair of: And protestis, in caice pe said Deposition be producet, at ony time heireftir, in this Judgement, that pe samyn be oppinlie red in my preface, to the effect foirsaid.

The Pannell, vpon productione of the Eik to the Aduocat, desyrit this matter to continew to the morne, to be advyset thairupoune. My Lord Aduocat declairis, that he vffis this Eik producet, as ane qualificatioun and explanatioun of the Summondis; bot intendis nocht thairby to challenge the persewar of ony new cryme; and thairfoir desyrit present proces.

¹ Imprisonment.

² Seizing.

³ Presented in Court.

⁴ Add, subjoin.

THE JUSTICE and ASSESSOURIS continewis this mater to the morne, at viij houris ; and hes delyerit the Eik producet to the Prelocutouris, to he advyfet thairupoun.

OBJECTIONS *against the Assessors.*

(Jun. 1.)—It is allegit aganis *Sir Peter young*, that he can nocht be Assesfour in this cause, becaus he is his Maiesteis domestik seruitour ; and Margaret Hertfyde being callit in this Judgement for steilling and substracting of Jowellis pertening to hir Maieftie, quhilk also pertenis to his Maieftie, na domestik seruitour to his Maieftie can be Judge or Assesfour in this cause.—To the quhilk it is anfuert, be the Aduocat, the allegeance is nocht relevant ; becaus it hes bene practikkel¹ in this Judgement, of befoir, that his Maiesteis fervandis and domestikis hes bene admittit vponne Assyses : speciallie, the praktik of Barbara Naper² and Mr Thomas Cranstoun and George Craigengelt.³

It is allegit aganis *my Lord of Lynlythgow*, that he can nocht be Assesfour, becaus his Lordschipis spous and the Kingis Maieftie ar of kyn.⁴—It is anfuert be my lord Aduocat, the rekning was nocht relevant, becaus kyn to the King makis nane suspect, in his caus.—It is allegit aganis *my Lord Balmirrienoche*, that he can nocht be Assesfour, becaus the Aduocat being persewar, be directioun of the Quenis Maieftie, that the Aduocattis spous and my Lord President ar ferds of kyn ; and sa can nocht be Assesfour.—To the quhilk it is anfuert, the allegeance is nocht relevant ; and thairfoir mereitis na anfuert.

THE Justice, be Interlocutour, finds that the noble men nominat Assesfouris may fit as Assesfouris in this cause, nochtwithstanding of the allegeances proponit be the pannell in the contrair. Quhairupone the Aduocat askit instrumentis.

My lord Aduocat declairit, that he infittit nocht aganis Johnne Buchannane, bot allanerlie as spous to Margaret (Hertfyde) for his entreis ; quhairupone Johnne Buchannane askit instrumentis.—The pannell acceptis the Summondis and Dittay contenit thairin, as the samyn is qualifeit.

It is allegit be the pannell, that the Summondis is blank, bayth in the tyme and place of the committing of the fact lybellit ; quhilk man be fillit befoir forder proces. It is anfuert be the Aduocat, that the pannell man say, quhairin the blankis ar prejudiciall to thair defensis.—It is duplyit, that the exceptione standis relevant, nochtwithstanding of the anfuert maid thairto, in respect that of the Law Ciuill thair is a solempne forme prescryuit anent accusationis, that thairin tyme and place fall be determinat ; *quia non oportet in Criminibus vagari : Lege libellorum § de accusationibus, &c. significasti, extra de libelli oblatione.* Bald. Confilio, 1420, vol. iv. Julius Clarus, paragrapho finali, questione

¹ Decided, made matter of pratique (practice) or precedent. ² Witchcraft. ³ Gowrie Conspiracy. See Aug. 22, 1600. ⁴ Alexander, seventh Lord Levingstoun, married Lady Helenor Hay, only daughter of Andrew, seventh Earl of Errol. They were entrusted with the care and education of the Royal children.

xij. *Speculator*, in titulo *de furtis*, numero 2. Quhilkis folemniteis ar vniuerfallie obseruit, bayth in Scotland, and in the haill warld. And forder, thair is ane grit necessitie to condiscend vpone the speciall moneth, becaus the Dittay beiris, anno 1603; and it is nottour, that in dyuerse monethis of the said yeir, hir Maieftie was resident in Scotland, albeit the Dittay beir the place to be, 'out of his Maiefteis Palaces in Ingland.'—It is anfuert be my lord Aduocat, that I haif alreddie declairit the Crymes lybellit to haif bene committit sen (*since*) the passing to Ingland, furth of some of his Maiefteis Palaces thair; quhairby the Summondis is speciall aneuch, vnles the pannell wald allege, quhat particuler tyme and place wald mak the fact lybellit lauchfull.—It is anfuert, that my lord Aduocattis declaratioun is mair generall nor the lybell; and of the law, *debet prius constare de delicto*, &c., quhilk man be circumscryt, *tempore et loco definito*. This Julius Clarus, libro v. Sententiarum—finali questione, iv. et v.

SECUNDO, it is allegit that thai woirdis of the Dittay, 'subscryuit and detenit,' ar nocht relevant, *et non sunt verba juris*, to infer a cryme.—It is anfuert, that the Lybell standis relevant, as it is confauet.¹

TERTIO, it is allegit, that the last pairt of the Dittay, anent the generall woirdis of 'perles, pretious stanes and goldsmyth-wark,' is nocht relevant, becaus the particuler number is nocht defignet, and qualitie thair of; becaus of the Law, *in furto rerum plurium, designandus est numerus; quia, sine designatione numeri, non possunt res intellegi, ubi sunt plures*. L. *in actione furti, § de ffurtis*. *In auro infecto pondus in facto et signato numerus et inteste color dicendus est*. And the expres text of the same matter, in L. *si quis uxori, § si linea margaritarum surrepta est, dicendus est numerus, et non satis est res surreptus demonstrari per estimationem*: With this woird, that vpone ane generall clause, *neque in Ciuili neque in Criminali*, na proces can be grantit.—It is anfuert be my Lord Aduocat, that the conclusioun of the argument is, that gif he fra quhome ane chenze, or perles, or ane Jowell composet of mony stanes is stown, can nocht condiscend vpone the particuler number thair of, the theif fall bruik the samyn, but remeid² of Law; quhair of I refer the relevancie and consequences to the Justice and Assesouris.—The pannell repeittis the exceptiones, quhilk is foundit vpone the Law; and as to my lord Aduocattis anfuert, it meitis nawayis; becaus the samyn speikis *de corpore vnito et de gemmis inclusis in vno auro*, and the exceptionioun oppingis directlie the lybell; becaus it condiscendis nocht vpone the stanes, Jowellis and goldsmyth-wark, quhilk ar bayth *distincta corpora, numero et specie*, mony of thame and of dyuerse natures. To the quhilk is maid na anfuert.

QUARTO, it is allegit, that, feing the Dittay is foundit and makis expres relation to certane Depositiones, allegit maid be the pannell, at tua feuerall tymes, in

¹ Conceived, framed.

² Without legal remedy or redress.

October and November, thairfoir my lord Aduocat, of all reffone, aucht to produce the saidis Depositiones, nocht only to the effect that the pannell and hir prelocutouris may confidder thame, for the cause contenit in hir first Protestatioun, bot also, to the effect scho and thay may be hard to reffone befor the Judge, anent the conformitie and disconformitie of the saidis Depositionis and with the Dittay; quhilk man be confidderit and tryit be the Judge; seing the samyn consistis *in jure*: And gif this be nocht done, thair will follow ane grit inconvenient, to wit, that the Assyse, gif this matter fall pas to thair knowlege, fall be forcet to reffone and discufs vpon the said conformitie and disconformitie, quhilk is nocht proper to thame, the samyn being *juris et non facti*.—It is answerit be my Lord Aduocat, that vnles ather the pannell, be thair consent, or the Justice, be his Interlocutour, will find the Summondis relevant, he can nocht be astrictit to produce his probatioun.

QUINTO, it is allegit, that the Dittay is nawayis relevant, fetting down only generallie that the perles, alleget substractit, pertenis to the Quenis Maiestie, and nawayis condiscending in quhais possessioun thai war, the tyme of the allegit substracting thairof; quhilk man be condiscendit; for gif thai war nocht in the Quenis Maiesteis possessioun, than the pannell could nocht commit Thift, in mell-ing¹ thairwith; for of the Law, in *Lege prima*, § *si qui testamento liber*, &c., it is said, *quod furtum est tantum possessionis*: And Baldus, *Concilio* 238, vol. ii., sayis, *quod proprietatem nemo alteri subtrahere potest*, &c.; and gif thai wer in the pannellis possessioun, scho could nocht commit Thift be disponing thairvpon, *Lege, qui vas*, § *qui voluntate*, ff. de furtis, *qui ex voluntate domini servum recepit, qui neque fur neque plagiararius fit, plusquam manifestum est; quis enim voluntate domini habens fur dici potest*, &c.—Answeris my lord Aduocat, the exceptioun aucht to be repellit, in respect of the lybell, vnles the pannell will allege and instantlie verifie, that scho obtenit lauchfull possessioun of the guidis lybellit, and had hir Maiesteis consent and allowance to the alienatioun thairof, quhilk is nevir subfunit.—It is duplyit, that na pairtie, of the Law, can be compellit to propone, be peremptour (defence), or verifie the samyn, except the Dittay be ffund relevant: And forder, allegis, that gif my lord Aduocat will produce the Deposition, quhairupone his lybell is foundit, the samyn Depositionis will verifie, that the perles lybellit cam in the pannellis hand lauchfullie.

SIXTO, the pannell acceptis the summondis and Dittay thairin contenit, speciallie that pairt thairof, beirand, that the said Margaret was mony yeiris in credeit and seruice with hir Maiestie, and hath reffaut many grit benefeitis from hir Maiestie, the tyme of hir seruice, at dyuerse tymes, to hir heiche advancement, baith in credeit and welth; and that the said Margaret vndewtifullie and

¹ Meddling, intromitting. Fr. *meler*.

vnnaturalie, at the tyme lybellit, staw, &c. : And allegis, that the Summondis is nawayis relevant aganis the said Margaret, being ane woman of credeit, as is confest ; lyk as, it is nottour to the Judges and Affesouris, that scho was ane servand of credeit, at the tyme lybellit, befoir, and dyueris yeiris thaireftir ; sua, of necessitie, in respect of hir credeit, the maner and forme of the steilling of the stanes and perles lybellit man be condiscendit vpon, viz., quhidder the samyn was committit be force and violence, be breking vp of the durris of the houffis, and lokis of the cofferis, quhair the samyn war ; or was done privelie, in the nycht, be taking the samyn af hir Maiesteis garmentis, or fra hir hienes jowellis, or out of hir hienes cabinettis ; or that scho, vpon the conscience of the said cryme, fled furth of hir Maiesteis seruice, and transportit the samyn with hir ; quhilk may be condiscendit vpon, of all necessitie ; becaus ther can nocht Thift be committit, be ane servand of credeit, except the saidis qualiteis concur, to manifest violence *et animum furandi* in the seruand ; *quia, de jure, furtum sine affectio furandi fieri non potest* L. 1. ff. de ffurtis et *ut ait* Bart. ad L. 5, is qui rem § si tu Titium ff. de ffurtis. *ffurtum est nomen juris, hoc est, non omnis contractatio rei aliene est ffurtum, nisi accedat dolosus animus furandi* L. Potest. et L. furtum ff. de vsu, &c.¹—It is anfuert to the *saxt* exceptioun, be my lord Aduocat, that, nochtwithstanding thair of, the Summondis is relevant, becaus the qualitie of the defender is nocht ane occasioun to extenuat the cryme, bot to aggravat the samyn, seing the gritter credeit scho had, scho sould the mair faythfullie dischargit the samyn : And it is exprellie lybellit, that it was sa far fra the Quenis knowlege or consent, that the pannell sould haif convertit ony of thir jowellis to hir awin vse, (in quhilk caice na policie neidit to haif bene vsed) gif hir Maiesteis consent had bene had thairto, that the pannell, to mak hir Maiestie to misken hir awin grit perle, causit hing the samyn to ane dyamont, and offerit to sell the samyn to hir Maiestie, as ane jewell nocht pertening to hir self. Forder, the persewar acceptis the instance proponit be the defender, anent ane schein-herd steilland his maisteris schein, for the quhilk he may nocht be persewit Criminallie ; quhairin the persewar is direct contrar to the defendar, and affirmes, that of the law and cownone practik of the cuntrie, schein-hirdis steilling schein, committit to thair keiping be thair maister, is ordinarlie hangit thairfoir : Lyk as, Daid Forrester greve to my Lord of Menmuir, and Robert Loch, his servand, being accuset for steilling fra him of aittis, beir, woll and lynning clayth, the summondis was ffund relevant, albeit the greve had charge of all theis thingis, be his office, and had his maisteris credeit ; and being put to ane Assyse, was convict for the maist part thair of : Quhairby, it is manifest, that servandis put in trust and credeit be thair maister, and steilling ony part of the geir,

¹ Here a number of sentences abridged from the Doctors follow.

quhair of thay haif the keiping and credeit, ar ordinarlie put to the knowlege of ane Assyse, and convict, gif thai be ffund giltie: And quhair, it is exceptit, that in thift committit be ane fervand of credeit (forceing?¹) of duris or kiftis is requisit, the perswar affirms to be ane absurd allegeance.—It is anfuerit (replied), that the pannell, in hir last and saxt exceptioun, querrellis only the irrelevancie of the Dittay, and nawayis meanis to extenuat ane cryme committit be ane fervand; for gif it be certane and tryit that ane fervand hes committit ane cryme, he is maist worthie of double pwneischment, bot the thing that the pannell contendis for in the exceptioun, is, that na Dittay for Thift can be relevant aganis ane fervand of credeit, except sic qualities and actiones be contenit, quhilk may infer *animum furandi*; and the instances proponit be my lord Aduocat beiris, that fervandis committand crymes and ffund culpable war justifeit;² quhilk nawayis meittis the said exceptioun.—It is declairit be my lord Aduocat, for eschewing of disputatione vnnecessar, that he infitis only vpone tua poyntis of Dittay; to wit, the steilling, &c. the grit perle of the pryce of an hundreth and x li. sterling, for the first article; and the vther jowellis, perles, stanes and goldsmythwark, for the secund poynt of Dittay: And vffis the haill rest of the lybell, nocht as ane feuerall³ cryme, bot only for explanatioun and qualificatioun thairof; and intendis nocht, at this tyme, to accuse the pannell of contrair⁴ Depositiones.

THE JUSTICE, with advyse of his Assesouris, ffindis the lybell and Dittay relevant; nochtwithstanding of the haill exceptionis proponit be the pannell.

Quhairvpone my lord Aduocat askit instrumentis.

It is allegit, peremptourlie, be the pannell, that this Dittay can nocht be put to ane Assyse; becaus of the law, ane fervand of credeit haifing the custodie of his Maiesteis guidis, being willing to rander ane compt of his intromiffioun, nevir haifing committit ony violent deid, can nocht be accuset of Thift; the intromiffioun, fra the begynning, being lauchfull: Bot trew it is, that Margaret Hertfyde, as is confest in the lybell, bothe the yeiris lybellit and dyuerse yeiris of befor, was, lyke as scho is presentlie, hir Maiesteis fervand, vndischarget, with credeit, and willing to gif compt of hir intromiffioun, nevir haifing committit ony violent deid.—My lord Aduocat, of his awin motiue, nocht being inducet be my Lord Justice, bot at the pannellis desyre, producet the Depositiones, quhairupoun the Dittay is foundit; quhilk he vffis, at this tyme, for verifeing thairof; vnder Protestatioun, that this be na preparatiue in this Judgement,⁵ at ony tyme heir-estir: And thairupone askit instrumentis; and that this is the only Depositione that he vffis at this tyme. Quhairvpone the pannell also askit instrumentis.—My lord Aduocat allegit that the Deposition producet, man⁶ mak full

¹ Obliterated.
⁴ Contradictory.

² Punished with death. L. B. *justificare*.
⁵ That this be no precedent in this Court.

³ Separate or distinct.
⁶ Must.

fayth, and is valid, of the law, nochtwithstanding of the Reuocatioun maid and ingroffit yisterday in proces, be the defender; becaus na Depositioun is revoicable, of the Law, quhilkis ar maid voluntarlie, in presens of thame that hes power to examine the pairtie, without ony tortour or feir of tortour. And trew it is, that this Depositioune producet, was maid lauchfullie and voluntarlie, and thairfoir is nocht reuocable. Julius Clarus, L. quinto, § finali, questione 55, etq. 65, verfaculo, *sed quero*: And in respect thairof, desyres the reuocatioune producet to be reiectit, and the protestatioun refusit.

It is allegit, that the pannell can nocht be put to knowlege of ane Assyse for hir intromiffioun and melling with the perles and jowellis lybellit; becaus it is set down and confest in the Depositioun producet be my lord Aduocat, that the saidis jowellis and perles war gevin be the Quenis Maiestie to the defender, for the vse thairin contenit; quhilk vse was accomplischet and perfyttit to hir Maieftis contentment; and as to the residu, the defender, supponing that hir Maieftie fould nevir re-demand the samyn, scho disponit thairupoun, quhilk can nawayis be comptit nor estemit ane cryme of Thift, of the Law: firft, becaus the saidis jowellis and perles cam, fra the begynning, lauchfullie to the defenderis possessioun, and sua scho could nevir commit Thift, be disponing thairupoun. *Lege, qui vas, § qui voluntate, ff. de furtis, &c. Lege, qui re ff. de eod. titulo, qui re sibi commodata vel apud se deposita, usus est non committit ffurtum, precipue si putavit dominum consensurum; ut Cuiacius, ad Legem, si furem, ff. de pro emptore non omnis rem alienans fur dici potest, sed initium possessionis respiciendum est, et si initium possessionis justum fuit, furtum fieri non potest.* Nixt, the Confessioun, contenit in the Depositioun, can nocht be ane cryme; becaus *furtum non potest fieri sine affectu furandi*; and the pannell had nocht *affectum furandi*; becaus the Depositioun beris, scho supponit hir Maieftie fould nocht re-demand thame: And in this caice, that Thift can nocht be committit, of the Law it is provin; § *placuit de institutionibus, &c.*¹ And this aggreis verrie weill with the Depositioun, quhilk, in effect, meanis that hir Maieftie had forzet² the samyn, and had thame *pro derelictis*; sua that the said Depositioun previs the Defenderis exceptioun and everie member thairof: Quhilk Depositioun my lord Aduocat can nawayis be hard to devyd; feing, of the Law, *vbi actus est legitimus in se, nunquam presumitur delictum, nisi probetur.* And to excufe the committer, *sola negligentia sufficit credulitas, immo temeritas.* Gothophredus, § *placuit.* Alexander, vol. iv. Phelinus, cap. *sicut noxius. ac delicti extra de accusationibus.* Baldus, Confilio 98, vol. v, &c.— And gifand³ that qualitie anent hir credulitie war nocht insert in hir Deposi-

¹ Various other clauses are here shortly, but very obscurely and hastily cited.

² Forgotten.

³ Granting, allowing for the sake of argument.

tiounes, yit of the law, quhair the possessioun cumis lauchfullie to ony persones handis, be the will of the maister, gif ony questioun arryfe anent the credulitie or opinioun of the pairtie, quhither he intervertit the possessioun *animo furandi*, of the law, the opinioun or credulitie is provin be the parteis ayth : This is decydit per Bartol. ad dictum 59 'recte,' quhair he disputis the said matter *ad longum*, on baith the fydis ; and concludis, in end, that the parteis ayth sould be tane, cheiflie quhair the partie is abill to produce ony probable conjectouris or argumentis, to cleir hir mynd and intentioun ; and quhair hir accufer is nocht able to produce ony probable conjectouris, to preve the contrair ; and the coniectouris and presumptiones quhilk may infer *malam fidem in furto*, is set down in the Law, *in autentica, si vero de exhibendis reis, Lege si ffurtum, ff. de Adulterijs* ; to wit, *si per vim, si clam, si aufugit, si persona male et suspecte fame*. Bot nane of thir conjectouris may be qualifeit aganis the pannell. Scho committit nather fraud nor violence : it was nocht committit be hir in the nycht ; and the Depositioun beiris the perle was fauld to George Heriot, hir Maiesteis principall Joweller ; and gif thair had bene ane intentioun of Thift, in the pannellis mynd, it can nocht be presumet that scho wald haif fauld the samyn to the Jowaller quhom scho knew wald schaw the samyn agane to hir Maieftie : And it is constant,¹ that scho fled nocht away fra hir Maieftie ; bot, be the space of dyuerse yeiris thaireftir, remanit in hir Maiesteis seruice, in grit fauour and creidit : And quhat was hir estimatioun, quhither scho was repute ane pyker² or steiller or no, remittis to the conscience and notorietie of the Judges. And as thair is na suspitioun of Thift aganis hir ; sa, on the vther pairt, thair is mony vehement presumptiones to mak cleir the mynd and intentioun of the pannell, quhilk is nocht necessarlie to be writtin ; bot referris the samyn to the Judges.

It is ansuerit be my lord Aduocat, that nochtwithstanding the haill incompatible memberis of the exceptioun, the Summondis standis relevant and cleirly verifeit be the Depositioun producet ; first, becaus the pannell had nevir lauchfull possessioun of the guidis lybellit, seing the possessioun of the servand of the maisteris guidis, to the maisteris vse, is the maisteris possessioun ; nixt, the vse pretendit be the defender, to wit, to imploy the jowallis delyuerit be hir Maieftie to hir ; to wit, to busk babeis,³ was nocht performet be hir, becaus thai war nocht imployit to that vse ; bot be the contrair, the babeis buskit and sent, and thir Jowallis lybellit, substractit in maner lybellit ; quhairin the pannell had nevir hir Maiesteis allowance or consent ; and, of the Law, converting of stuff to vther vffis nor⁴ is commandit, is Thift, *Lege 88 eod. titulo et Lege 82, ffullo et surcinator qui polienda et sarcienda vestimenta accepit, si forte his vtatur eo con-*

¹ Lat. *constat*.

to the Princess.

² A committer of petty theft or *pickery*.⁴ Than.³ Deck, adorn, or dress babies

tractatione, eorum ffurtum fecisse videtur ; quia non ob eam causam ab eo videatur accepta. And quhair, the pannell wald excufe thame selfis *per animum et excusationem delinquentis*, that excufe is comnone for all offenderis, and relevant for nane ; nather can the defender pretend simplicitie or guid intention, in respect of the fraud vset to caus hir Maieftie misknaw hir awin perle, be hinging it to ane dyamond, and prefumptioun to offer it to be fauld to hir Maieftis self ; and the Confessioun producet, beiring hir vnlauchfull intromiffioun with this perle, and converting of it to hir awin privat vse, man be ane necessar caus of convictioun, *quia confessio probat contra confitentem, pro eo autem non probat.* Glossa in cap. finali in verb. *Confessio, versiculo, item, quod contra se ; et ibi post alios ; Abbas, numero 13, extra de confessis et confessio qualificata scindi potest et pro parte rejici : Bartolus, in Lege, eum qui ff. de jurejurando. Julius Clarus, 51, finali questione 55 versiculo, possit quoque reus ;* affirmeing, that ane Confessioun, contening the Dittay, and haifing adioint any qualitie that may releve the Defender, aucht to be ressaunt aganis the proponer ; and the qualitie adiectit can nevir be respectit, vnles it be provin. Prosper Pharinacius, questione 81, numero 127, *quando quis a principio negavit delictum, et postea, vel timore probationum, vel ex quacunque alia causa, illud qualificate confessus est, tunc ratione doli qui presumitur ex precedenti mendatio et negatione, talis confessio scindi potest et pro parte acceptari, pro parte impugnari.* Et Boerius decisione 165 ; et Laurentius, in practica cautelarum, cap. 28, numero 7, *aiunt reum si qualitatem adiectam non probaverit, condemnari debere in penam ordinariam ;* quhilk is our direct caice ; feing the Depositioun producet beiris the Jowallis lybellit to haif bene hir Maieftis, and fauld be the deponer, to hir awin privat vse, without hir Maieftis knowlege or consent ; and the qualitie adiectit, of hir ressaueing of thame frome hir Maieftie to busk babeis, is nather relevant ; becaus scho convertit nocht thame to that vse, nor provin in ony way ; and thairfoir sould nocht be respectit ; speciallie, feing the deponaris Declaratioun, in hir awin faouris, can nocht prove forder : And thairfoir, the Summondis is relevant, and is cleirly provin be the Depositioun.

It is ansuerit (replied), that the possessioun naturall of the perles lybellit, war in possessioun of the pannell ; and the possessioun-ciuill, quhilk hir Maieftie had, scho tynt and amittit it, be directing thame to the perticuler vse ; quhilk perticuler vse contenit in the Confessioun, was fulfillit to her Maieftis contentment ; the intention of the partie being provin by her aith, accoirding to the Law, and assistit be probable conjectouris, is sufficient to cleir ony partie accuset, quhair the possessioun cam lauchfullie to hir handis. The Confessioun and Depositioun maid be the pannell can nocht be devydet, bot be the contrair, the samyn previs hir exceptioun cleirly. The lawis quhilk my lord Aduocat alledges, quhair

Confessio qualificata potest scindi, is only trew, quhair *Confessio facti in se est crimen, ut in Homicidio*; quhilk is the exampill, in the place of Julius Clarus, citit be my lord Aduocat; *sed Confessio non potest scindi*, of the Law, quhair the Confessioun of the deid, without the qualitie of ffelonie, is nocht a cryme; bot is only trew in his tyme, *sunt utroque jure prohibita et natura sua delicta*, cap. *circa delectionibus*. 6 cap. *si vero aliquis de sententia Excommunicationis*. Bartolus ad legem, *genero*. ff. *que notantur Infamia*; et ad legem *si cui § eisdem*. ff. *de Accusationibus*; et ad legem *si ex lege*. ff. *de Adulterijs*. Baldus, Confilio 1424, vol. v. cap. *estote misericordes*, &c. § *recte et Bartolus, ibi*. The coniectouris aganis the pannell, in respect of the offer maid to the Queen, is contrair to hir Depositioun, for it was nocht scho, bot George Heriot quha offerit the samyn, eftir it (wes) fauld. The Lawis allegit be my lord Aduocat, *Lex fullo*, &c., it is anfuert thay contene onlie *legem Communem*; and myne contenis *exceptionem*; and the perticuler caiffis of the Ciuill Law can nocht be obseruit with us, *quia variatur pena; nam in jure pena furti est dupli apud nos capitalis*.—My lord Aduocat repeatit the practikes concerning the shiphird, my lord of Menmuris grevis, and the Laird of Bonyngtones steilling of his fatheris euidentis; and protestit that he may haif ane speciall and direct anfuert to everie article that is proponit or writtin in the proces; speciallie anent Revocatioun, and the effect of the probatioun be this Depositioune.

THE JUSTICE, with advyse of my Lordis Assessoris, findis, that in caice the pannell will nocht consent that the Reuocatioun of her Depositiones maid at Dunfermeling be deletit, that the samyn salbe Repellit; in respect of my lord Aduocatis anfuert maid thairto. And also, with advyse foirsaid, Repellis the foirsaidis peremptour exceptiones proponit for the pannell; and Ordanit the Summondis and Dittay to be put to the knowlege of ane Assyse, to be verifeit, as accoordis of the Law.—Quhairupoun the Aduocat askit instrumentis.

It is allegit be the pannell, that it is lauchful to hir to revoik quhatfumeuir Depositionis maid be (hir) to hir preiudice: becaus the samyn war maid be hir *metus causa*, viz. *carceris metu,—et amissionis bonorum,—et metu amissionis vite,—et reuerentia Principis*,—and want of hir husband; and the Confessioune bindis nocht the confessour, except he perseveir thairin; per legem primam, *de Questionibus*.—The Aduocat, for anfuert, repeatit the Justice and Assessoris Interlocutour. [My Lord Chancellor declairis, that he fall mak his declaratioun to the Assyse, quhan he fall be inquiryt.¹]

¹ This is partially deleted. The uncommon nature of the Crime, and the interest of these pleadings, have induced the Editor to insert the entire arguments. The real cause of the Criminal prosecution of this servant of the Queen is understood to have originated in Mrs (afterwards Lady) Buchanan's being too deeply versed in certain Court intrigues; and it was deemed necessary to get rid of her, even in the face of the most strenuous remonstrances on the part of her Majesty.

ASSISA.

Sir Johnne Prestoun of Valafeild,	Harie Guidlet of Vphall,	Johnne Forbes of New,
James Somervell of Garidwoid,	Mr Moreis Drummond of Auch-	Jo ⁿ Scott, bailzie of Muffilburgh,
Johnne Hammiltoun of the	termuthill,	Thomas Esplene of Newbiging,
Grange of Kilmarnok,	Andro Boyde, brother to Kil-	Jo ⁿ Broune, bailzie of Muffilburgh,
Mathow Bailzie of Littilgill,	marnok,	Dauid Dundas of Preistinche,
Johnne Corbet of Ardbo,	Ro ^t Logie, bailzie of Quenis-ferie,	James Hammiltoun of Garene. ¹

The Aduocat repetis the Deposition produceit, and my Lord Justice Interloquoutour, findand the hail Dittay relevant: And in respect thair of, and of hir becoming in will, in hir Depositiones, protestis for Wilfull Errour.

VERDICT. THE said perones of ASSYSE, be the mouth of the said Dauid Dundas, chancellor, all in ane voce, fand, pronuncet and declairit the said Margaret Hertfyde to be ffylit, culpable and convict of the vnlawfull and vndewtfull substracting and detening frome our fouerane lordis darrest spous, the Quenis Maieftie, furth of his hienes Palices of in England, at the leift furth of ane or vther of the saidis Palices, of ane perle, of the valour of ane hundreth and ten pund sterling; togidder with dynerfe vtheris perles, precious stanes, jowellis and goldfmyth wark, lykwayis pertening to hir Maieftie, worth the fowme of thre hundreth pund sterling, or thairby; committit be the said Margaret, in the monethis of, the yeiris of God I^m.Vj^c. thre, sax hundreth foure, sax hundreth fyve, sax hundreth sax and I^m.Vj^c. and fewin yeiris, at the leift in ane or vther of the saidis monethis and yeiris: Lyk as, the saidis perones of Assyse, be the mouth of the said Chancellor, for the maift pairt, fand, pronuncet and declairit the said Margaret Hartfyde to be Clanget of the steilling of the said perle, togidder with the remanent perles, precious stanes, jowallis and goldfmyth wark foirsaid. In witnes quhairof, the chancellor of the said Assyse hes subfcryuit the said delyuerance, with his hand.

(Sic subscribitur)

DAUID DUNDASS.

[*Apud Lynlythgow, Aug. 10, 1608. Mr Williame Hairt, Justice-Depute.*]

DOME contrair Margaret Hairt fyde.

Aug. 10.—The quhilk day, Margaret Heartfyde and Johnne Buchannane² hir spous, for his entreis allenerlie, being presentit vponne pannell, to heir his Maieftis will and plesour declairit aganis hir, as scho that was convict be ane Assyse, in ane Court of Justiciarie, haldin in the tolbuith of Lynlythgow, the first day of Junij lastbypast, &c. Compeirit Sir Thomas Hammiltoun of Bynnie, knycht, and producet his Maieftis Precept and Warrant, quhilk the Justice caufit to be publictlic red; quhairof the tennour followis.

JAMES R.

JUSTICE GENERALL, Justice Clerk, Clark and your deputis, We greit 3ow weill. QUHAIR AS, Margaret Hairt fyde was, vponne hir awin Confessioun, convicted for þe vnlauchfull and vndewtiefull abstracting and detening of certane jowellis belonging to our darrest bedfellow THE QUENE, and pairupoun remittit to priffone, till our further plesour sould be declairit concerning hir: WE haif thocht guid, be theis presentis, to signifie our said plesour to 3ow; quhich is, that 3e fall, with all convenient expeditioun, cause affix and fens³ ane ordinaire Justice Court, at our burgh of Lynlythgow; and pair, (scho and hir husband, for his entreis, being present,) it be declairit, that howfoenir the Assyse acquit

¹ 'Sir James Sandilandis of Slamanno' is deleted from the roll of Assise. ² 'John Buchanan and his wyffe, Margaret Hartesyde, that had laynn longe in prissone heire, for the allegit stealling some of the Queins Jewells (bot the Courtiers talked, that it was for reuelling some of the Queins secretts to the King, wich a wysee chalmbermaide wold not haue done,) was, by ane sentence, condemned to perpetuelle exyle, in the Iylandes of Orknay, and declared to be ane infamous persone, in Aguste this yeir' (1608.)—*Sir J. Balfour's Annals*, II. 26. ³ Fence, hold.

hir of the cryme of Thift, zit, in regaird that, vpon hir awin Confessioun, scho was fund giltye, as is afoirfaid; in that respect, We accómpit hir fact alsé infamous, as gif it had bene done be direct stæth: And that, seeing pair can be no difference betwene the vnlawfull meddling with any thing belonging to the Quene, our darrest bedfellow, hir persone, and our awin, and lykwayis that þe exampill is most pernicious, and alluterlie intollerable, that any face or cullour shuld be put vpon þe coofening or abstracting frome aper of vs any part of our jowellis or moveabillis, by such as ar in trust, or haif þe keeping of thame, We most concludé, that scho hes delt so dishonestlie heirin, as We account her alsé worthie to be repute and declaired *INFAMOUS*,¹ (lyk as, it is our plesour that ze declair hir to be so) as gif scho had bene directlie convict of Thift: ZE fall lykwayis declair, that it is our plesour, that scho fall with all expeditioun repay, out of the reddiest of hir and hir husbandis guidis, to Henrie Wardlaw, Chalmerlane to our darrest bedfellow the Quene, of hir Lordschip of Dunfermeling, the liquidat valew of theafe jewallis, contenit in hir proces, to be convertit to siche vse as our said darrest bedfellow fall think convenient: And lastlie, ze fall declair, that it is our plesour, that hir persone fall be, for hir said dishonest offence, confynit to þe *YLES OF ORKNAY*; thair to remane, and nocht exceed the boundis þair of, induring hir lystyme; vnder all hiest pane and charge: *QUHICH* Dome being pronuncet, ze fall cause hir be salfie convoyit bak to our Castell of Blaknes, þair to remane in sure firmance, till scho find guid and sufficient cautioun, alsweill for payment of the said sowe, contenit in hir proces, within fyftene dayis nixt eftir scho salbe charget for the same, as also for entrie of hir persone, in the place of hir confining, within fourtie dayis nixt eftir scho fall be fred out of our Castell of Blaknes: For Dome and performeing of everie of þe which premisses, theafe presentis fall be vnto 3ow ane sufficient Warrant. *GEVIN* at our Mannour of *THEOBALDIS*, þe tuentie day of July, 1608.

Accoirding to the quhilk Warrant, the said Justice-depute, be the mouth of Henrie Wilsoun, dempster of Court, Declairit the said Margaret Hairtlyde to be *INFAMOUS*; And lykwayis declairit and decernit the said Margaret to repay, with all expeditioun, out of the reddiest of hir and hir husbandis guidis, to Henrie Wardlaw, Chalmerlane to our souerane lordis darrest bedfellow the Quene, of her lordschip of Dunfermeling, the sowe of foure hundreth pund Sterling money, extending, in Scottis money, to the sowe of foure thousand and aucht hundreth li., as the liquidat valew of thois Jowellis, contenit in hir proces, to be convertit to sic vse as hir Maiestie fall think convenient: And lastlie, decernit and ordanit that hir persone fall be, for hir said dishonest offence, confinet to the Iles of Orknay, thairin to remane and nocht exceed the boundis thair of, induring hir lystyme; vnder all hiest pane and charge. Quhilk was pronuncet for Dome, &c.

Mr Johnne Dalzell, burges of Edinburgh, become cautioun and souertie for the saidis Margaret and hir spous, for his entreis; and they all, conjunctlie and feuerallie, Band and obleift thame to pay and delyuer to the said Henrie Wardlaw the said sowe; and that within fyftene dayis nixt eftir thay be charget to that effect. And sicklyk, the said Mr Johnne Dalzell become bundin and obleift, as cautioner and souertie for the said Margaret, that scho fall entir hir persone in the place foirfaid of hir confining, within fourtie dayis eftir the dait of thir presentis, (the morne, viz. the elleuint day of August instant, being comptit for the first day,) vnder the pane of Ten thousand merkis Scottis money, &c.

¹ (On the margin.) 'Thir woirdis of Infamie is ordanit to be deletit, conforme to his Maiesteis expres Warrant, insert in the Register of Adiornall, þe xv of December, 1619.'

JAMES R.

JUSTICE GENERAL, Justice Clark and 3 our depnttis, We greit 3ow weill. Quhair as, our trustie and loyall seruitrix MARGARET HEARTSYDE, the spous of Sir Johnne Buchannane, kny^t, was, by the finisterous informatioun of certane hir vnfreindis for the tyme, persewit criminallie befoir 3ow; and being put to ane Affyse, was Acquit and affoilzeit of that speciall point of hir Indytement, which of the Law sustenit the famyn to be relevant to be tryit and cognofcet be thame, and onlie was fund gillie of certain adminicles infert in hir Dittay, for qualificatioun of hir alledged cryme. Vpoun the whilk convictioun, doome and sentence, according to our Warrant and Declaratioun pairintill, in ane Justice Court, haldin be 3ow, within our tolbuthe of Lynlythgow, vpone the tent of Auguft, 1608, was gevin out against hir, Declairing hir to be Infamous. Quhilk doome and sentence being maift humlie and with grit patience and modestie imbracet and vnderlyne be hir, and hir behaiour continuallie sensyne being verrie deutifull. THAIRFORE, and that the foirfaid Doome gevin out against hir may nocht be a precedent, nor haif force heireftir, It is our gracious Will and plesour, that the foirfaid Declaratioun of the said Margaret Heartsyde to be INFAMOUS, infert in hir proces, be haldin as deleit furth thair of; and on nawayis to be extractit or gevin out to ony persone or persones, in tyme cuming; bot that this our Warrant and Declaratioun be infert in our Registeris of Adiornall, for reponing of hir to hir fame, aganist the famyn Sentence; Whilk We command 3ow to fie done. Sua, nothing douting of 3our cair and reddines heirintill, We bid 3ow hairtie fairweill. ffrome our Courte, at Royftoun, the fyftenth day of Nouember, 1619.

Slaughter.

JUN. 21.—MR ALEXANDER INNES, sumtyme Minister at Birnay.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Agnes Leslie, relict of vmq^{le} Douglas, proveist of Elgyn, and of vmq^{le} Williame Hay, father-brother to Williame Hay of Mayne; committit vpone fet purpos, prouifioun and foir-thocht felony.

James Hay 3ounger of Mayne, as neir kynfman to vmq^{le} Williame Hay, his guidschires brother, and Alexander Bischope of Murray, as sone to vmq^{le} Agnes Leslie, producet our fouerane lordis Letteris, deulie execute and indorsat at thair instance aganis Andro Meldrum, callit of Dumbrek,¹ as cautioner and fouertie for the entrie of Mr Alexander Innes, &c. and offerit thame selfis reddie to persew.

THE Justice ordanit the said Andro to be vnlawit in the pane of tua hundreth merkis, becaus the said Mr Alexander Innes was at the horne of befoir, and fugitiue for the saidis crymes: And siclyk, ordanit the said Mr Alexander, for his nocht compeirance, to be denuncit rebell and put to the horne; and all his moveable guidis to be escheit, &c.

[*Mr Alexander Coluill, Justice-Depute.*]

Treason, &c.

JUN. 22.—JOHNNE LORD MAXWALL.

Mr Williame Broun, ane of the clerkis in his Hienes Thesaurarie, producet our fouerane lordis Letteris, deulie execute and indorsate, vpone Johnne Lord

¹ ' Brother-germane to vmq^{le} Meldrum, sumtyme of Dumbrek.'

Maxwall ; be the quhilkis he hes past to the horne, for dyuerse tressonable crymes contenit thairin ; and thairupoun askit instrumentis.¹

Slaughter.

Jun. 29.—SIR ROBERT GORDOUN of Lochinvar, knycht.

Dilaitit of the Slauchter of vmq^{le} James Gordoun, his padge.²

The Aduocat producet the Letteris raifit at his lordschipis instance, deulie execute and indorfate vpon the said Sir Robert, Johnne Gordoun of Airdis and Johnne Gordoun of Collindach, cautioneris, coniunctlie and feuerallie, for the entrie of the said Sir Robert, to vnderly the Law, for the crymes contenit in the Letteris.—Compeirit Mr Williame Oliphant, Mr Johnne Ruffell, and Mr Alexander King, Aduocattis, as procuratouris for Johnne Gordoun of gelftoun and Johnne Gordoun of Collindach, be thair Letteris of procuratorie Producet ; and declairit na proces aganis thame, in respect of the Proclamatioune ; and thairfoir, can nocht be vnlawit.—It is anfuerit be my lord Aduocat, that thair excufe can nocht be ressaunt, because thai ar nocht charget for thair awin personall compeirance, bot to enter the Laird of Lochinvar ; quhilk lauchfullie mycht be done, thay being absent. *Secundo*, the Raid has nocht as yit tane effect, and the cautioneris and principall pairtie ar yit in thir pairtis.—It is anfuerit be the procuratouris for the cautioneris, *excusatorio nomine*, that thai ar nocht obleift to attend at Edinburgh vpon the Leutennent, bot only at Ilay, conforme to the Proclamatioun, as place appointit vpon the viij day of July, to pas forward to the Raid ; and thairfoir the Justice, in respect of the Proclamatioun, can nocht vnlaw the cautioneris.

THE Justice continewis his Interlocutour, vpon the saidis allegances, to Setterday nixt, the secund of July.

Jul. 2.—Compeirit Johnne Belscheillis (Belches), aduocat, as procuratour for Sir Robert Gordoun of Lochinvar, knycht, and his cautioneris, and producet ane Warrant of the Counsell, subscryuit be my lord Chancellor and my Lord of Dumbar, for deserting of this dyet : quhair of the tennour followis.

JUSTICE, Justice Clerk and your deputis, it is his Maiesteis Will and pleafour, that 3e desert pe dyet appointit for tryell of Sir Robert Gordoun of Lochinvar, knycht, for pe Slauchter of his padge : Ordinand alwayis the cautioneris, fand ofbefoir for his entrie, vpon xv dayis wairning, befoir 3ow, to vnderly the law for the said Slauchter, to stand. Quhairnent pir presentis fall be 3our Warrant. Subscryuit with our hand, AT EDINBURGH, the second day of July, 1608.

(Sic subscribitur) AL. CANCELL. DUMBAR.

The quhilk dyet the Justice desertit ; and ordanit the cautioneris to remaine caution, as ofbefoir. Quhairupoun Johnne Belsches askit instrumentis.

¹ See the Trials and proceedings against this remarkable person, and the Account of the singular escape of Lord Maxwell and Sir James Maconeill from the Castle of Edinburgh, &c. in a future Part of this Collection. ² Page.

[*Mr Williame Hairt, Justice-Depute.*]

Resisting the King's Guard — Treasonable Slaughter, &c.

Jul. 14.—NINIANE ELLOTE, sone to Williame Ellote of Fiddeltoun,
Williame Ellote, sone to vmqle Johnne Ellote of Burnegranes.¹

Dilaitit, accufet and persewit in the proud and contemptuous Resisting of his Maiesteis Guaird, and remanent crymes contenit in the Dittay following, viz.

FORSAMEKILL as, the saidis Niniane and Williame, being fugitiue fra dyuerse Justice Courtis, haldin be his hienes Commiffioneris, at Jedburgh and Dumfreis, for cownone Thift, cownone resset of thift, outputing and inputing of thift, and for dyuerse perticuler Thiftis, Murthouris, Slauchteris and Oppressionis ; as the Dittayis and actis, gevin out thairupoun, at lenth beiris : ffor the quhilkis crymis, thay reterit thame self out of thair awin cuntrie, to the West cuntrie, to seruice, quhair thay remanit thir dyuerse yeiris bygane ; quhill that laitlie, the Lordis of his Maiesteis Counfall, vnderstanding quhair thai wer, directit Sir Robert Hepburne of Alderstoun, knycht, Lieutenantt to his Maiesteis Gaird, to tak and apprehend thame : Quha, vpon the tuelf day of July instant, accompaneit with vmq^{le} Williame Bailzie and dyuerse vtheris of the Gaird, come to the oistler-hous² vpon the Laird of Waterheidis landis, quhair the saidis perfonis had reterit thame selfis vnto, for the tyme : And haifing, in peceable maner, requyret thame to rander thame selfis to him and his companie, as haifing Commiffioun of the Lordis of Counfall to that effect : Nochtwithstanding quhair of, the said Niniane and Williame Ellotes, the said day, maist proudlie and contemptiouflie refistit the said Commiffioun, and in grit contempt of our souerane lordis auctorite, schot furth of the said hous at the said Lieutenantt and his companie, his hienes Commiffioneris in that pairt, and Gaird, to the number of tuentie schot of Hagbutis and Piftolettis ; and thairwith schot and slew the said vmq^{le} Williame Bailzie, being ane of his Maiesteis Gaird ; and nawayis wald rander thame selfis, nor cum furth of the said hous, quhill, accoirding to the said Commiffioun,³ ffyre was raifit thairaboutis : Quhairthrow, to thair former wrangis and oppressionis, hes conioynet haynous and crewall Slauchter with hagbuttis, and proud contempt of his Maiesteis auctoritie : And thay and ather of thame ar airt and pairt of the said crewall and presumptuous Slauchter, and of beiring, weiring, schuiting of piftolettis and hagbutis, and slaying the said vmq^{le} Williame Bailzie thairwith ; committit in maner and at the time foirfaid ; in hie and proud contempt of his Maiesteis auctoritie and lawis.

ASSISA.

... Carutheris of Howmaynes,	Robert Power, burges of Edr,	James Cranftoun, indueller in Edr,
Geo. Hereis, sumtyme of Effie,	Thomas Hill, ane of the Gaird,	Thomas Smyth, burges of Edr,
Johnne Trumbill, ane of the Gaird,	Johnne Leyis, burges of Edr,	Johnne Mafoun, burges thair,
Thomas Moffett, wryter,	James Haitlie, ane of the Gaird,	Robert Crystie, burges thair.
Tho ^s Mow, b ^r to the Laird of Mow,	George Smyth, burges of Edr,	R ^t Stewart, bailzie of Lynlythgow.

The Aduocat protestis for Wilfull Errour, in cais thay Acquit. And askit instrumentis of the Leutenentis Declaratioune to the Assyse, concerning the Commiffiounne gevin be the Counfall ; and of the forme and maner, how the pannell refistit him and his companie, in the executioun thair of.

VERDICT. The Assyse, all in ane voce, be the mouth of the said Carutheris of Howmaynes, chancellor, ffand, pronuncet and declairit the said Niniane and

¹ They are, in another place, described thus,—‘ Niniane Ellote, sone to vmq^{le} Jok of Burgranes ; Williame Ellote, sone to Will of Fiddeltoun.’
² Hostler-house. Old Fr. *hostellerie*.
³ A Commission, containing warrant of ‘ fire and sword.’

Williame Ellottis to be ffylet, culpabill and convict of airt and pairt of the Slauchter of the said vmq^{le} Williame Bailzie, and of beiring, weiring and schuiting of hagbutis and pistolettis, and of the contemptuous refisting of his Maieftis Gaird, in maner specifeit in the said Dittay.—SENTENCE. For the quhilk caufe, the said Justice-depute, be the mouth of Johnne Cheiflie, dempfter of Court, decernit and ordanit the saidis Niniane and Williame to be tane to the Castell-hill of Edinburghe; and first, thair richt handis to be strukin af thame, as culpable and convict of the beiring, weiring and schuiting of hagbutis and pistolettis, contrair to the Actis of Parliament; and thaireftir, to be hangit vpon ane gibbet, quhill thay be deid: And all thair moveabill guidis to be efcheit and inbrocht to his Maieftis vse, as convict of the Slauchter and remanent crymes aboue writtin: Quhilk was pronuncet for dome.

[*Mr Williame Hairt of Prestoun and Mr Alexander Coluill, Justices-Deputes.*]
Treasonable Murder, &c.

Jul. 15.—JOHNNE MURE elder (and James Mure Y^r) of Auchindrane.¹

Dilaitit of airt and pairt of the tressonabill Murthour and Slauchter of vmq^{le} Sir Thomas Kennydie of Culzeane, knycht, and Williame Caldwell (Dalrymple?)

PERSEWAR, Mr Robert Foulis, aduocat, substitute to our souerane lordis Aduocat.

COMPEIRIT Gilbert Rofs, Proveist of the Colledge Kirk of Mayboill, seruitour to my Lord of Cassillis, and producet our souerane Lordis Letteris, deulie execute and indorfate, the ane purchest be my Lord of Cassillis and his hienes Aduocat, for his Maieftis entreis, aganis the Lairdis of Auchindrane elder and younger; and the vther Letter aganis the Lairdis of Bombie, Caldwell, and Young Langschaw, as cautioneris for the said James Mure younger of Auchindrane, for his entrie this day and place.

The Aduocat producet the Counfalls Warrant, direct to the Justice, for continuatioun of this dyet to the xxij day of November nixt; quhair of the tenour followis.

MY LORDIS OF SECRET COUNSALL, vnto your lordschipis humlie meanis and schawis I, JOHNNE ERLE OF CASSILLIS, that quhair I haif raist criminall Letteris aganis Johnne Mure of Auchindrane and James Mure his sone, for pair compeirance befor pe Justice or his deputis, vpon the xv day of July instant, to vnderly the Law, for pe Slauchter of vmq^{le} pe Laird of Culzeane and Murthour of Williame Dalrympill, and hes causit summond ane Assyse to pat effect; bot in this meane tyme, pis expeditioun for pe Ilis hes interuenit, sua that naper may I compeir, to concur with his Maieftis Aduocat in pis persute, nor zit may the persones summond vpon pe Assyse compeir, bot ar vpon pair preparatione for pat seruice: And sua, seing pat pis delay proceid, nocht vpon ony occasioun of myne, bot vpon necessitie of his Maieftis seruice, I maist humlie beleik your Lordschipis to gif command to pe Justice, (Justice) Clark and pair deputis, to continew pe said dyet to sum certane dyet, eftir pis seruice in pe Yles. And becaus pe cryme laid to pair charge is tressonabill, that the said Jus-

¹ See Jun. 23, 1602, Nov. 23, 1608, Jul. 1611, &c.

tice and Justice Clerk cause commit þe saidis perfonis to waird, in the Tolbuith of Edinburghe, þairin to remane, vpon þair awin expensfis, ay and quhill þe nixt dyet, to be appoyntit be 3our lordschipis. And 3our lordschipis anfuer humlie I befeik.—[*Followis the Lordis delyuerance.*]—APUD EDINBURGHE, xiiij July, 1608. THE Lordis of Secreit Counfall, Ordanis and commandis þe Justice, Justice Clerk and þair Deputis to continew þis dyet within writtin, to þe xxiiij day of November nixtocum : And to returne Auld Auchindrane bak agane to his waird, within the Tolbuith of þis burch of Edinburghe : And to caus 3oung Auchindrane caus his former cautioneris consent, of new, to enter him befor the Justice, þe foirsaid day, vnder the pane contenit in the former Act ; and failzieing þairof, that he find als sufficient caution, to þe contentment of þe Counfell, for þe same effect ; and in þe meane tyme, quhill þis caution be fund, þat he caus 3oung Auchindrane be committit to waird, within þe Tolbut of Edinburghe.

(Sic subscribitur) AL. CANCELL.

Mr Johnne Ruffell, prelocutour for Auld Auchindrane, and Auchindrane him self, Offeris him self to the tryell of the Law, for the crymes contenit in the Letteris ; disafenting to all continuatioune : And as to the Warrant producet, the samyn aucht nocht to be respectit, in respect it is purchest only be the pairtie. Compeirit Mr Johnne Ruffell, as prelocutour for the Lairdis of Bombie, Caldwell and Young Langschaw, and allegit that thai can nocht enter James Mure, younger of Auchindrane, in respect of the Proclamatioune.—It is anfuerit be the Aduocat, for Auld Auchindrane, that, in respect of the Proclamatioun, the dyet man continew, conforme to the Counfellis Warrant : And as concerning Young Auchindrane, the cautioneris aucht to present him, or vtherwayis incur the vnlaw.

THE JUSTICE Ordanis the Auld Laird of Auchindrane to be committit to waird, conforme to the Counfallis Warrant. Quhairupoun the Aduocat askit instrumentis. And as concerning Young Auchindrane and his cautioneris, continewis this dyet, in the same forme, force and effect as it is now, to the xxiiij day of November nixtocum : and ordanis the cautioneris that day, to exhibeit the Young Laird of Auchindrane, vnder the panes contenit in the former Act : And Ordanis Letteris, gif neid beis, to be grantit to the pairtie persewar, for chargeing of the saidis cautioneris to enter him the said day.

Quhairupoun the said Gilbert Rofs askit instrumentis.

[*Mr Williame Hairt, Justice-Depute.*]

Cattle-stealing — Murder — Shooting of Pistolets, &c.

Aug. 12.—JAMES HAMMILTOUN of Spittlefcheill.

Dilaitit, accuset and persewit, be James Lord of Balmirrenoche, President of the College of Justice, and Sir Thomas Hammiltoun, knycht, for his hienes interes, of the crymes following, viz.

FOR airt and part of the thiftious steilling, conceling, reffetting and away-taking of thre oxin and ane kow furth of the landis of Mulroun, pertening to the said James Lord of Balmirrenoche ; committit in the moneth of August, or thairby, the yeir of God 1^m.Vj^c. and sax yeiris. ITEM, for airt and part of the thiftious reffetting of ffyve oxin, within his landis of Spittelscheill, quhilk pertenit to Williame Flint in Breichmilne, and wer thiftiouflic stollin furth of the landis of Breichmyll, in the moneth

of September lastbypast. ITEM, for airt and pairt of the thiftious Steilling, conceling, reffetting and away-taking of tuell hydys furth of ane barkhoill,¹ fra Cordiner, belyde Lauchop, committit in the moneth of . . . I^m.Vj^c. . . . yeiris. ITEM, for airt and pairt of the crewall Murthour of vmq^{le} George Tuedie, within the said James Hammiltounis barne, in Spittelscheill: committit vpon Sanct Leonardis ewin lastwas. ITEM, for contravening of oure souerane lordis Actis of Parliament, in beiring, weiring and schutting of pistolettis; and speciallie, for schutting ane pistolett att Lokart of Ley, in the taking of yow; committit in the moneth of July lastbypast. ITEM, ffor commoun Thift, commoun Reffett of thift, inputting and outputting of thift, fra land to land, fra countrey to countrey.

ASSISA.

Mr Patrik Lyndfay, indueller in Ed^r, Mr Johnne Methven of Barnfeild, James Bailzie of Hillis, Johnne Weir, seruand to my lord Angus, Sir Robert Scott of Thirlstane.²

VERDICT. The Affyse, be the mouth of the said Johnne Weir, chancellor, ffind, pronunceit and declarit the said James Hammiltoun to be ffylit, culpabill and convict of the haill crymes and poyntis of Dittay.—SENTENCE. To be tane to the Castel-hill of Edinburghe, and thair his heid to be strikin fra his body; and all his landis, heritageis, takis, &c. to be fforfaltit and inbrocht to our souerane lordis vfe, as convict of the saidis crymes. Quhilk wes gewin for dome.

[CURIA JUSTICIARIE, tenta in Pretorio burgi de Ed^r per Magistros Olivarium Colt juniorem et Davidem Prymrois, Aduocatos, Justiciarios Deputatos, per Commissionem Dominorum Secreti Consilij.]

Slaughter.

Sep. 29.—WILLIAME NISBET in Newtonkeleyis.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Gilbert Wauchope in Goddiscroft; committit be him and vmq^{le} Thomas Richiefoune in Cokburnespethscheillis, in the moneth of August lastbypast.

Compeirit Sir Thomas Hammiltoun of Bynnie, knyght, aduocat to our souerane lord, for his hienes entreis, and producet ane Commissioun, grantit be the Lordis of Secretit Counfall; quhair of the tennour followis.

MY LORDIS of Secretit Counfall, vnto 3 our Lordschipis huimlie menis² and schawis 3 our lordschipis pur oratrice, Marioun Heiflop, the relict of vmq^{le} Gylbert Wauchop in Godiscroft, Williame Wauchope of Stoddinleuch, broper to pe said vmq^{le} Gylbert. That quhair, vpon pe . . . day of . . . , being ane Sondag, the said vmq^{le} Gylbert wes crewallie and schamefullie Mordreift, vnder fylence and cloud of nycht, haifing naper sword, qubingar nor na vper kynd of wapponis to defend him selff, be Williame Nisbett in Newtounleis and his compliceis, vpon deliberat purpois and foirtbocht fellonie: Lykeas, the said Williame being, be his Maiesteis Gaird, tane and apprehendit, with reid-hand, within xxiiij houris eftir pe deceis of pe said vmq^{le} Gylbert, was, be 3 our lordschipis ordinance, putt to libertie; he finding caution that he sould compeir pis day, befoir pe Justice, and vnderly pe law for pe said crewall Murthour: To pe quhilk he wes ofbefoir summond, and pat vnder pe payne of thre thousand merkis, the ane haif pairof to his Maieste and pe vper half to pe partie grewit; quha, conforme to 3 our lordschipis said ordinance, fand caution to pat effect: And We, being now maist willing to follow out the ordour of law aganis the said Williame, and to pat effect hes summond ane sufficient number of honest men for ane Affyse, the said Williame and his said cautioneris, taking occasioun of his Maiesteis Justice absence furth of pe realme, labouris, be all meanis possible, contrair to all law and

¹ Tan-pit.

² The remainder of the Assise, burgesees.

³ Complains; literally, moans.

reason, to elude the course and ordour of Justice, and to haif aþer the said dyett desert, that he and his cautioneris may be fred of 3our lordschipis ordinance, and frustrat ws of all the effect of our just perfeit ; or the mater to be continewit, to wearie bayth the persewaris and þe Assyse, except 3our Lordschipis, quha sufferit him to be fred vpoun caution, haifing committit so haynous and recent Murthour, provyde remeid, be 3our lordschipis Act and ordinance, be establieffing, in absence of þe Justice ordiner; sum vper Judge, be Commiffioun, for ministrating justice in þe said caus and persute, or be vper convenient ordour, as best pleiffis 3our lordschipis. **HEIRFOIR** We most humblie beseik 3our honorable lordschipis, quha is the only mantenaris of justice and chastiezaris of sic haynous enormeteis within þis land, in his Maiesteis absence, to constitute certane Judge or Judgeis, be Commiffioun, conunctlie and feuerallie, viz. Mr Olipher Colt, 3ounger, Mr James Sandielandis, Mr Dauid Prymrose, to hauld Justice Court and ministrat Justice in þe said persute, that throw inlaik thair of the cours of law and justice may nocht be eludit and frustrat ; and We that hes our blude spilt and tane, be nocht disappointit of þe ordiner cours of Law and justice, and 3our lordschipis ordinance of finding of Caution be nocht ineffectuall. Accordring to Justice ; and 3our lordschipis ansuer maift humblie we beseik.

[*Sic deliberatur.*] *APUD ED^B, xxix Septembris, 1608.—FIAT Commissio vt petitur.* And the Lordis Ordanis the Judgeis within writtin, to hauld Court this day, in þe mater within writtin.

(*Sic subscribitur*) AL. CANCELLARIUS. LOWTHIANE. ABIRCORNE. JO. PRESTOUNE.

[*Sic notatur infra.*] *APUD ED^B, xxix Septembris, 1608.*—The quhilk day, in presens of the lordis of Secretit Counfall, compeirit, personallie, Mr Olipher Colt, younger, and Mr Dauid Prymrose, Aduocattis, and gaif thair aith for doing of Justice, faithfullie and vprychtlie, in the mater within writtin ; as thay will ansuer to God.

J. PRYMROSE.¹

Philp Nisbet of that Ilk and George Lyell, fiar of Stanypeth, vnlawit in the panes of tua thowseand pundis, for nocht entrie of the said Williame, &c.

Williame Nisbet ordanit to be denuncet his hienes rebell, &c.

[*Mr Alexander Coluill, Justice-Depute.*]

Slaughter.

NOV. 9.—ALEXANDER TULLOCHE, appeirand of Tannacheis, &c.

Johnne Dumbar of Moynes, cautioner for repoirting of the Letteris, purchest at the instance of Normand Torrie and remanent bairnes² of vmq^{l^e} James Torrie, sumtyme in Logiehauch, aganis *Alexander Tulloche, appeirand of Tannacheis, James Tulloche*, his brother, *Williame Cuik*, in Forreßs, *Rorie M^ccoilsiecharchar*, alias *Rorie Buffache*, in Mordant, and *Donald M^clauchlane* thair, that thai sould compeir befor the Justice or his depute this day and place, in the hour of caus, to haif vnderlyne the Law, for the Slaughter of the said vmq^{l^e} James Torrie and vmq^{l^e} Agnes Douglas, his spouse, &c.

Compeirit Mr Johnne Dempster, Aduocat, as procuratour for Johnne Dumbar, quha become cautioner for repoirting of the saidis Letteris ; and allegit, that, nochtwithstanding of the nocht repoirting of the saidis Letteris, deulie execute and indorsat, this day and place, conforme to the Act, that the said Johnne Dumbar, as

¹ Clerk of the Privy Council.

² Alexander, Walter and Robert.

cautioner, fould nocht be vnlawit ; becaus it is of veritie, that the saidis Letteris, being delyuerit to James Dumbar, Messinger (at arms), to haif charget the defenderis thairin contenit, to haif fund cautioune to haif vnderlyne the Law for the crymes thairin contenit, the fystene dayis being bypast, within the quhilk the Defenderis fould haif fund cautioun ; Alexander Tulloch, ane of the principall defenderis, being joynit in marriage with Iffobell Dumbar, mother to Alexander Dumbar, scheref of Murray, and principall of the cuntrie quhair he duellis, conpyret maliciouflic, with the said Schereff, and instigat him to tak and apprehend the said Messinger, be force, put him in waird, and thairby to prevene that he had na power to denunce the said Alexander and his complices to the horne, for nocht finding of the said Caution, quhairby the saidis Letteris mycht haif bene formerlie repointit, deulie execute and indorfate to this day : Quhilk Scheref of Murray, vpone the sevint of October last, eftir the charge gevin to the saidis defenderis, be instigatioune foirsaid, barbaruslic maid eruptioun in Patrik Dumbaris hous, in Gowfurd, quhair the said Messinger was for the tyme ; entering within the said hous, accompaneit with the said Alexander Tulloche and certane vtheris, to the number of sevin personis, or thairby, with drawin fuordis, assailzeit the said Messinger : and eftir mony outrageous woirdis, affirmeing to tak the saidis Letteris from him, and to bereif him of his lyfe ; ffirst denudit him of his fuord, gantiletis, dager and vtheris wapponis, tuik and apprehendit him, perforce, led him captiue to the Castell of Forres, being the said Schereffis awin duelling hous, and sua *carcer privatus*, bot¹ ony lauchfull Warrant : In the quhilk priffon the said Messinger was detenit, maist wranguflic ; luiking at all tymes to haif bene bereft of his lyfe, be the space of ten dayis ; and at last, be intercession of freindis, the said Scheref wald nawayis put the said Messinger to libertie, quhill² he had forcet and compellit him to ryve³ our said fouerane lordis Letteris, with the executiones vpone the bak thairof, with his awin handis. Lyk as, the said Messinger, for justifeing the treuth of the said matter, hes raifit his hienes Letteris, be delyuerance of the Lordis of Secretit Counfall, for chargeing the said Scheref and Alexander Tulloche and remanent persones, thair associattis, to anfuer to the said complent. Quhilk allegeance, the said Johnne Dumbar, cautioner foirsaid, offeris him to verifie instantlie, be productioun of the saidis Letteris, revin ; be the said Messingeris awin Declaratioun, present at the bar, with his ayth of veritie vpone the ryveing thairof, and be the saidis Letteris raifit befor the Counfall, beiring the said complent. In respect quhairof, the said cautioner fould nawayis be vnlawit : At the leift, the Justice can nawayis vnlaw the cautioner, quhill the tryell of the premisses befor the Counfall. And thairupoun, the said procuratour, in name of the said cautioner, askit instrumentis.

¹ Without.² Until.³ Tear in pieces.

THE Justice ordanit the said Johnne Dumbar to be vnlawit in the panes contenit in the Actis of Parliament.¹

[*Mr Alexander Coluill, Justice-Depute.*]

Treasonable Murder under trust, &c.

NOV. 23.—JOHNE MURE, elder of Auchindrane, and Johnne (James) Mure, younger of Auchindrane.

Dilaitit of airt and pairt of the crymes following, viz. the Auld Laird, for the Slauchter of vmq^{le} Sir Thomas Kennydie of Culzeane, knycht, and vmq^{le} Williame Dalrumpill: And the Young Laird, for airt and pairt of the Slauchter of the said vmq^{le} Williame Dalrumpill.

PERSEWARIS, Sir Thomas Hammiltoun of Bynnie, knycht, Aduocat to our fouerane lord for his entreis, Johnne Erle of Caffilis, (Bessie Dalrumpill, as mother.)

PRELOCUTORIS for the pannell, the Laird of Caldwell, The Laird of Bombie, The Laird of Blair 3ounger, Mr Williame Oliphant, Mr Johnne Ruffell, Williame Mure of Randerfoune.

My lord Aduocat protestis that this dyet may continew, in respect of the grit disorder of this hous, this day;² vnto the tyme the Justice tak ordour thairwith.

THE Justice continewis this dyet to the last day of November instant; and Ordanis the Laird of Auchindrane elder to be of new committit to waird within the Tolbuith of Edinburgh, and Young Auchindrane to be committit to waird within the Castell of Edinburgh, thairin to remane quhill the said day.

NOV. 30, 1608.—THE Justice, be directioun of the Counfall, continewis this dyet to the thrid day of februarye nixtocum; and Ordanis the pannell to enter to thair wardis of new agane, &c.—Vnto the quhilk continuatioun the Lairdis of Auchindrane baith disassentit; and nochtwithstanding thair of, and in respect of thair innocencie of the allegit crymes aboue writtin, offerit thame selfis to the tryall of the Law for the samyn, and thairupon askit instrumentis.

FEB. 3, 1609.³—THE Justice, be command of the Counfall, (continewis) this dyet to the aucht day of februarye nixt.—(Feb. 8, 1609.) THE Justice continewis the dyet to the thrid day of May nixtocum.⁴

Slaughter.

DEC. 21.—ALEXANDER TULLOCHE, appeirand of Tannacheis, and Williom Cuik in Forres.

¹ This at first sight appears to be a very arbitrary mode of proceeding; but his *recourse* against the party would be reserved entire.

² The influence of these atrocious malefactors was such, that by false representations, and the incessant complaints made by them and their friends to the public, of the oppression of the Lord Advocate, in cruelly delaying their case, though he knew them to be innocent, they succeeded in raising such a popular ferment, that the Court had to be dismissed on this and perhaps on other occasions.

³ Sir Williame Hairt officiated as Justice-depute on this and the following diet.

⁴ No farther notice of proceedings before the Court of Justiciary occurs until Jul. 17, 1611.

Dilaitit of airt and pairt of the Slauchter of vmq^m James Torrie in Logiehauche, and Agnes Douglas, his spous.—Continewit to the fyftene day of Junij nixt.¹

[*Mr Williame Hairt, Justice-Depute.*] .

Forcing —(Rape.)

Dec. 30.—JOHNNE ERROLE, cowmone post.

Dilaitit of the filthie and detestabill cryme of the abusing and forcing of Jonet Craig, ane young virgane of xj yeiris of age.

PERSEWAR, Mr Robert Foullis, Aduocat, substitute to our souerane lordis Aduocat.

DITTAY against the Pannell.

JOHNNE ERROLE, cowmoun post, 3e ar indyttit and accuset, sforfamekill as 3e, haifing schaiken af all feir of God, reuerance to our souerane lordis lawis, or regaird to ciuill honestie, as a dissolute and vyld persone, ouercum with the beistlie rage of 3our awin filthie lust, about ane half 3eir syne, or pairby, to get 3our filthie appetite quenchet, drew acquaintance with Jonet Craig, dochter to vmq^{le} Andro Craig, mercheand burges of Edinburgh, ane honest manis bairne, and ane 3oung virgane, nocht past the age of elleuin 3eiris; and haifing forgadderit with hir, upone the Hie streit of this burgh, vnderstanding hir to be at the scole, maist craftillie and vnhonestlie seducet and tryftit hir to gang with 3ow to Hammiltone's clofe-fute, quhair 3e was myndit maist barbaruslie to haif abuset hir; and pan gaf hir certane billis, with vther allureing woirdis, to gang with 3ow: And becaus, at that tyme, 3e gat nocht 3our beistlie desyre satisfeit, persuaing the simplicitie of the bairne, and how easilie scho might be circumvenit, 3e, a tuentie dayis syne, or thairby, estir soure houris at evin, and ringing of the Prayer-Bell, awaitit the said Jonet at the mercat croce of this burgh, and be geving to hir of apillis and vther frute, of new, agane maist craftillie seducet and intyfet hir to gang with 3ow; quha, vpon^e bairnlines and meir simplicitie, haifing past with 3ow to Bellis-wynd-heid, 3e tuik hir in to ane bak turnepyke, within the said wynd, and behind the 3et pairof, maist filthielie forcet pe said bairne, and did quhat in 3ow lay to haif carnall deilling with hir, and to haif bereft hir of hir virginie: At the quhilk tyme, scho haifing cryit that 3e crewallie hurt hir, 3e maist barbaruslie and crewallie, to haif 3our filthie appetite satiat, pat 3our handis vpon^e hir movth, that hir cryis sould nocht be hard, and pairby stoppit hir braith and almost suffocat hir, and had nocht failzeit to haif filthielie desfoirit hir, gif 3e had nocht bene skarrit be tua wemen at pat instant. Lyk as, 3e, perseviring in 3our former beistlie rage of lust, vpon^e the sevintene day of December instant, being Saterdag, at fyve houris at evin, 3e awaitit, of new agane, the said Jonet Craig at the mercate croce of this burgh, quhair scho, with vther honest manis bairnis war playing thame for pe tyme, and pair, with walnuttis, chestennes and appillis than gevin be 3ow to hir, 3e maist craftillie seducet pe said bairne to gang with 3ow; quha haifing refusit to gang with 3ow, 3e maist forceable harrillit hir doun the streit with 3ow; and 3e, being demandit be dyuerse persones that met 3ow, quhair 3e was taking hir to, 3e maist diffimulatlie and fallie gaif thame ansuer, that scho had bene frome hame all that day, and pat nane of the house knew quhair scho was, and pat pairfoir 3e was taking hir hame; at the quhilk tyme, 3e tuik hir to pe said bak turnepeck in Bellis-Wynd; quhair 3e, aganis pe bairnis will, tuik vp her claites, and maist filthielie forcet 3our self to haif ado with hir, and wald nocht pairt frome hir quhill 3e gat 3our beistlie will satisfeit, and was within hir body; and scho, haifing in maist pitious maner cryit, that 3e hurt hir, 3e, as ofbefoir, pat 3our hand vpon^e hir mouth and held in hir braithe; quhilk is nottourlie knawin. Lyk as, 3e and pe said bairne being laillie examinat, in presens of pe Ministrie and Magistrattis of this burgh, 3e and scho haif confessit pe treuth of pe premissis, be 3owr Depositionis. Quhairin, 3e haif

¹ No farther notice of this case occurs on the Record. See the preceding case, Nov. 9, 1608.

committit the maist haynous, detestabill and odious cryme of Rapt, Raveifching and Violent fforceing of the said young bairne; the lyk quhairof aucht nocht to be namet within any Cristiane kingdom subiect to a Cristiane Prince, or amang Cristiane people reulit with guid lawis.

The Aduocat, for verifeing of the Dittay, producet the saidis Johnne Errole and Jonet Craigis Depositionis, subfcriuit be his hand, and be certane of the Ministeris and Magistrattis of Edinburgh and Elderis of the Sessioun of the Kirk; and in respect thairof, Protestis for Wilful Errour, in caice the Affyse Acquit.

VERDICT. The Affyse, be the mouth of Williame Trumbill, mercheand in Edinburgh, chancellor, all in ane voce, fand, pronuncet and declairit the said Johnne Errole to be ffylet, culpable and convict of the fforceing and abufeing of the said bairne, in maner, and at the perticular tymes and places aboue specifeit and fet down in the said Dittay.—SENTENCE. For the quhilk caus, the said Justice-depute, be the mouth of Johnne Lawfone, dempster of Court, decernit and ordanit the said Johnne Errole to be tane to the Castell-hill of this burgh; and thair to be hangit vpone ane gibbet, quhill he be deid; and all his moveabill guidis, gif he ony hes, to be efcheit and inbrocht to our fouerane lordis vse, as culpable and convict of the saidis crymes; quhilk wes pronuncet for dome.

[*Mr Alexander Coluill, Justice-Depute.*]

Stouthreit—Hurting and Wounding.

Jan. 3, 1609.—JAMES HUNTER of Hagburne.

Dilaitit of airt and pairt of the Steilling of ffourtie pundis furth of Robert Hogis purse, potter in the Potter-Raw (of Edinburgh); committit in the moneth of October, 1^m.V^c.lxxxvij; and Hurting of the said Robert in his heid, and leifing him for deid, at Theyuis corse.¹

PERSEWER, Robert Hog, potter.

Continued to the air of 'Roxbur', tertio Itineris (vel super premonitione) xv dierum.'

[*Sir Williame Hairt of Prestoun, Justice-Depute.*]

Slaughter.

Jan. 31.—ANDRO AIRMESTRANG of the Langholme, Ebbie¹ Airmestrang of Kirktonehill, James Airmestrang of Cannabie, Thomas Airmestrang callit *the Mercheand*, and Johnne Murray, myller in the Cruikis.

Dilaitit of airt and pairt of the Slauchter of vmq^{1a} James Somervell in Eirdhouffis; committit in the moneth of

PERSEWAR, Robert Somervell, servand to the Laird of Waftraw, as neir kynfman.

PRELOCUTOURIS for the pannell, Mr Laurence M^cGill, Adame Cunninghame, (Advocates.)

¹ Thieves' Cross. ² Perhaps a clerical error for *Ekkie* (Hector,) a common name in the south at that time. *Habbie* was also a favourite name. It may, however, be a familiar abbreviation for Ebenezer, though the name was unusual among the Armstrongs, whereas *Ekkie* was very prevalent.

The perfewar declairis, that at the raifing of thir Letteris, informatioun was gevin to him that the perfonis aboue writtin, presentlie enterit vponne pannell, war culpable of the Slauchter aboue specifeit; and now, fenfyne, he is certanelie informet, that thai, nor nane of thame, war present at the committing thairof: In respect quhairrof, and that thai ar altogidder Innocent of the faid cryme, he paffis *fimpliciter* fra the perfute. Quhairvpoune the faidis perfonis on pannell and thair prelocoutouris askit instrumentis.

[CURIA JUSTICIARIE, *f. d. n. Regis, tenta in Pretorio de ST ANDROIS, decimo Marcij 1609, per Dominum Willielmum Haitr de Prestoun, Justiciarium deputatum principalem.*]

ASSESSOURIS.

The Erll of Dumbar, ¹	The Erll of Montroife, ²	The Erll of Lowtheane, ³
The Collectour, ⁴	The Clark of Register, ⁵	My Lord Previe Seill, ⁶
My Lord of Wrychtiflandis, ⁷	Sir Robert Meluile of Murdocarny. ⁸	

Treason—Corresponding with the Pope, in the King's name.

[THE history of (Sir James Elphinston) LORD BALMERINOCHE'S TREASON has been so fully related by *Spottiswood, Johnstone, Calderwood, Robertson, Laing, &c.* and by *Mr Wood*, in his edition of *Douglas's Peerage* and *History of the Parish of Cramond*, that it only seems necessary for the Editor to supply the real facts, so far as they appear on the face of the Criminal Records; and further, by way of Appendix, to give a few authentic Letters, and other documents, which have been preserved.

Whatever may have been the real or alleged participation of this eminent Lawyer and Statesman in this Treason, it seems clear, as *Laing* remarks, that 'if Balmerino deceived his master, it was neither with a criminal intention, nor to a treasonable extent. But his ruin was secretly projected by *Spottiswood, Dunbar, and Cecil*, his implacable enemies; and, according to his own Narrative, much address and many secret intrigues were employed to persuade him, by a more ample and explicit Declaration, to exculpate the King. His life and estate were secured by promises; his offices were to remain at the King's disposal; and, on these conditions, he acknowledged that the Letter was surreptitiously obtained, when James had refused to correspond with the Romish See.' Thus, in order that he might fully exonerate the King, this unfortunate Nobleman was led into the fatal snare; and confessed *more* than the truth; under the full expectation, doubtless, that not only would the Royal promise of sparing his life and fortune be observed, but that he would, after a short period of retirement from the Court, be reinstated in all his lucrative and honourable offices.

It may be proper to remark, briefly, that SIR JAMES ELPHINSTON was the third son of Robert third Lord Elphinston. He was successively a Lord of Session (Lord Innernoctie), one of the Commissioners of the Treasury, called 'THE OCTAVIANS,' Secretary of State, and, Feb. 20, 1604, was

¹ Sir George Home, Lord High Treasurer of Scotland, was created Baron Home of Berwick, Jul. 7, 1604, (English Peerage,) and Earl of Dunbar, in Scotland, 3 Jul. 1605. This celebrated person was also Chancellor of Exchequer, in England. The King employed him as the chief leader in the restoration of Episcopacy in Scotland, in the Parliament at Perth, Jul. 9, 1606; for which service, and for acting as High Commissioner to the General Assembly of the Church of Scotland, in a manner highly acceptable to the King, he was installed a Knight of the Garter, May 20, 1609. ² John fourth Earl of Montrose, afterwards President of the Council, married Margaret, eldest daughter of William first Earl of Gowrie. It was this nobleman who fought the remarkable combat with Sir James Sandilands, 19 Jan. 1695, at the salt-tron of Edinburgh, as recorded by Birrel. See Diary, p. 34. ³ Robert second Earl of Lothian, who, when Master of Newbottle, had been Master of Requests to King James VI. ⁴ 'Mr Johnne Prestoune of Pennycuke.' ⁵ Sir John Skene of Curriehill. ⁶ Sir Richard Cockburn of Clerkington. ⁷ Sir Lewis Craig, one of the Ordinary Lords of Session. ⁸ Sir Robert M. 'of Brint Iland' is named in *Reg. Mag. Sig.* They were both Extraordinary Lords of Session.

created Lord Balmerinoch. In the same year he was nominated one of the Commissioners to treat for an Union with England; and on March 6, 1605, was appointed Lord President of the Court of Session. Notwithstanding of his holding, at the same time, the 'incompatiblé offices' of Lord President of the Court of Session and Secretary of State, (which, however, were in like manner enjoyed by his successor, Sir Thomas Hamilton, afterwards Earl of Haddington, &c.) 'yet he stemmed the secret and corrupt influence of Dunbar, on the bench, with a spirit that probably accelerated his fall.'¹

The sentence of death, as is well known, was not carried into execution. His Lordship was allowed 'Free-ward' in Falkland, and within one mile around that place. Having endured this nominal restraint for a short time, he was permitted to retire to Balmerinoch, his own estate, where he lingered about three years, and at length died, of a broken heart, A.D. 1612.

His son, John Lord Balmerinoch, was formally restored in blood, and to the dignity of the Peerage, by writ, under the Great Seal.²]

Mar. 10.—JAMES LORD OF BALMIRRIENOCH.

Dilaitit of the tressonabill, fraudulent, and surreptitious procureing of ane LETTER, past be his Maiesteis hand, without his hienes knowlege, direct to Pope Clement the Aucht, in the 3eir of God 1598, tressonabillie adding (eftir the subscription of the said Letter) of the styles of 'SANCTITAS' and 'FILIUS' to the said Letter; and tressonabillie affixing his Maiesteis Signet thairto; committit in the yeir of God 1598, or thairby: And tressonabill affixing Sir Eduard Drummond, in his tressonabill trafficking, for the advancement of Papist courses, at the tyme forsaid.

DITTAY against James Lord Balmerinoch.

JAMES LORD BALMIRRIENOCH, ye ar indytit and accuset of the crymes of Leafmaiestie and Heich-Tressone following. Forfamekill as, 3e, being honouret and advancet be his Maiesteie, nocht only to heich and eminent places in Sessoun and Counfall, bot also trustit with the office of Principall Secretarie to his hienes, quhairby ye war in dewtie bund, aboue all vthers, to haif bene most cairfull of his Maiesteis honour and preferuatioune; nochtwithstanding quhairof, ye, preferring your awin vndewtifull and vnlawchfull privat respectis, to his Maiesteis reputatioun and fastie, and being informet, in the yeir of God I^m. V^c. four-foir aughtene yeiris, by your neir kynfman, Sir Eduard Drummond,³ [quhome ye knew to be ane professit Papist, maist ferventlie affected to the furtherance of all Papische courses, and to haif bene ane Secretare to ane Cardinal at Rome, and thairfoir the vnfitter to haif bene maid chose of and trustit by yow, for wryting or playing the clerkis office to his Maiesteis Letteris directit that way,] that he come to this cuntrie, directit be the Bischope of Vaizon,⁴ to deall for procureing of his Maiesteis Letteris of recommen-

¹ *Laing's Hist.* III. 57.

² See REHABILITATIO, *Reg. Mag. Sig. Lib.* XLVIII. No. 152, dated August 4, 1613.

³ Marjory, the second daughter of Alexander second Lord Elphinston, and paternal aunt of James, first Lord Balmerinoch, married Sir Robert Drummond of Carnock. Sir Edward was perhaps her son, and cousin german of Lord Balmerinoch. ⁴ *Robertson*, in *History of Scotland*, and *Wood*, in *Peerage of Scotland*, call him *Drummond*; but he was William *Chisholme*, 2d of the name and surname, Bishop of Vaizon, and paternal nephew of the 1st, who had, a short while after 1561, been, by Papal Brief, created Bishop of Dunblane; and on his finding it inexpedient to live in Scotland, he was appointed Bishop of Vaizon; which situation he resigned, in favour of his nephew, when he became a Carthusian Friar of Grenoble. Both of these distinguished Churchmen were younger sons of the Cromlix family, Perthshire. Sir James Chisholme of Dundurn and Cromlix, who was concerned in the Popish Plot, in 1593, seems (*Balfour's Annales*, II. 29) to have been brother of the younger of the Bishops of Vaizon. The Chisholmes of Cromlix had, above a century, been hereditary Baillies and Justiciaries of the Ecclesiastical Lordship of Dunblane, and had furnished three Bishops of Dunblane; James and William Chisholmes, brothers, and their nephew William Chisholme, the elder of the Bishops of Vaizon above mentioned. William Chisholme *tertius*, was kinsman of Sir Edward Drummond and of Lord Balmerinoch, though in what degree is unknown.—The Editor is indebted to the industry and research of the Reverend Mr MacGregor-Stirling for the information contained in the preceding Note. That learned gentleman has collected much original matter relative to the See of Dunblane, which it is hoped he may, some time, be induced to lay before the public.

datioun to Pope Clement the Aucht, for making the said Bischope ane Cardinall ; being in grit hoip that his Maieftis recommendatioun to the said place wald be ane grit furtherance to that his expected promotioun : Ye, nochttheles, nocht only treffonabillie assenting to the said motioun, bot moft willinglie and readelie taking vpon you to be ane assifter to him in that imployment, did dyuerse tymes preafe his Maieftie thairin, and did offer to his hienes the frame of suche ane Letter as ye wald haif had signed, by his Maieftie, to the Pope ; whome yow fand, nocht only vnwilling to wryte at all, bot absolutelie to condampne the motioun for correspondence with such ane persone ; who, alweill in respect of the irreconceillabill contrarietie betuix his Maieftie (in respect of his professioun in Religioun) and the Pope ; as also, for that the said Pope could nocht bot expect those tyttillis and attributtis whiche his Maieftie, out of his conscience, could nocht yeild him, for any cause quhatsoeur : Ye, neuertheles, nocht desisting frome your vndewtiefull instance, replyit to his Maieftie, moft craftillie, ' that quhatsoeur schew of discontentment his Maieftie vterit againt Puritanes, ye could persuaue nathing bot his Maieftie wald turne mair preceife nor any of thame ! ' Thairby, as it war, spurring his Maieftie to inclyne to such ane politique course, which none bot foolishe or preceife fottis wald refus to imbrace : And nochtwithstanding of his Maieftis oftin and flat denyallis, and refusallis to harken to your motiounne, ye nocht only desistit nocht, (as ye aucht to haif done,) bot still resoluēt to profecute your treffonabill intent : *WHEARVONE*, ye conspyret with the said Eduard Drummond, vpon the meaynes how to disfaue and beguyle his Maieftie, in the procureing of suche ane Letter, and did devyse and cause to be drawin vp suche ane Letter, with the said Sir Eduardis Drummond hand, as frome his Maieftie to the Pope, expreffing thairin thankis for the Pope's kyndnes and favour, in former tymes, [albeit ye knew in your conscience that his Maieftie nevir had any deilling with the Pope, nather had he euir expected, requyred, or ressaueit ony kynd of fauour frome him,] subioyning thairto ane recommendatioun of the Bischope of Vaizon to be ane Cardinall ; thairby to be the moir able to further him in all his effairis ; [nochtwithstanding that your self, best of all vtheris did vnderstand, by the moft constant answeries gevin, at all tymes, by his Maieftie, to your frequent and importune persuaiones in that purpos, that his Maieftie wald nevir consent to haif any dealing or correspondence with him,] and quhat forder woirdis of compliment or specious promeiffis vpon his Maieftis behalf yow did insert in that Letter, [as weill appeiris yow did] by thease woirdis of that pamphlet of Tortus,¹ (quibus preter cætera) your self best knowis. AND for the better conveyance and passage of this Letter by his Maieftis hand, yow did contryne this course ; *ffirst*, that it sould be schiftit in amangst dyuerse vtheris Letteris to be signed ; *secundlie*, that the same, with the rest, sould be presented to his Maieftie, at sum tyme of his going out haiftilie to the hunting, so as, being on the suddane surprysed, he sould haif no lasour to obserue and peruse the Letteris ; and, *thridlie*, that such woirdis of tyttill and style as ar vsuallie gevin to the Pope, sould be forborne to be set down in it, leif perhappis his Maieftis eye lichting vpon ony of thame whilles he war signeing, he nicht thairby tak occasioun to obserue that Lettre, and so discover your fraud ; and convenient spaces being left for thame, thay sould esterwardis be accomodatit and insert : ACCORDING to quich course, ye, abusing the trust reposit in yow be his Maieftie, ane day, in the moirning, quhen his Maieftie was going to hunting, in haift, estir that ye had excusit your self of cuming to trouble his Maieftie with the signeing of any Lettres, att so vnseasonabill ane hour, in respect, as ye informit his Maieftie, Sir Edward Drummondis stay any langar in the countrey wald bot irritat the Ministeris, and breid occasioun of jealousie and fals and scandelous brutes ;²

¹ This alludes to the reply by CARDINAL BELLARMINÉ, under the feigned signature of MATTHÆUS TORTUS, to a book published by King James, anno 1607, under this Title, ' TRIPlici NODO TRIPLEX CUNCUS, or an Apology for the Oath of Allegiance against two Brieves of POPE PAUL V., and the late LETTER of Cardinal Bellarmine to Blackwall the Arch-priest.' In this reply, the King is accused of having abandoned his former sentiments, in favour of the Roman Catholic Religion ; and the Letter to Pope Clement VIII. is quoted, in proof, by his antagonists, who assert, that Lord Balmerino fell a victim to the King's crooked policy, and that that able and distinguished Nobleman had been induced, through his devoted attachment to his royal master, to criminate himself, in a matter wherein he was really innocent, having merely acted by the King's express instructions. ² Reports. Fr. *bruit*.

and thairfore, that ye wer forceit, att that tyme, to present his Dispatch to be signet by his Maieftie, contening no thing, bot sum two or thrie Letteris, in Latine, to the Duikis of Florence, Savoy, and such vtheris, in the said Bischopes recommendatioun¹: And thane, in place thairof, ye did present the said Letter to the Pope, and vther thrie, to sa mony Cardinallis in Rome; and procureit the samin to be signed, in place of thais vther Letteris, quhich only seruit for youre cloik, in the convoy of that buffnes: Quhilk being done, Sir Edward Drummond, by your directioun, did efterwardis add and insert the Popes tyillis and styles, boith in the beginning of the Letter and in the end thairof, betuix the Letter itt self and his Maieftieis subscriptioun, as the word '*Sanctitas*,' and the word '*Filius*,' and such vtheris as ye thocht propper for the Letter to the Pope, (quhich verry twa wordis of '*Sanctitas*' and '*Filius*,' his Maieftie had oftin before forewairnit yow, that he wald rather loife his lyffe than wryte any of thame to the Pope): AND, be your directioun, the Letter being clofet by ane of your seruandis,² his Maieftieis Signet (quhairof the keping wes committit to yow, be vertew of youre Office of Secretarie,) wes by yow, aganis the honour and dewtie of your place, trust, and credite reposit in yow be his Maieftie, most vndewtifullie, fallie and tressonable affixit to your said forgeit Letter.³ BE occasioun quhairof, quhen his Maieftie cam efterwardis in questioune, in the lait Quene of Ingland, of bliffit memorie, hir tyme, by meanis of hir Ambassadoure, quho, in the 3eir of God I^m.VI^e. yeiris, expoſtulatit with his Maieftie concerning such ane Letter writtin by him to the Pope; ye than, being askit thairof be his Maieftie, did vterlie deny thair wes any such mater: Lyke as, for justificatioun of your denyall, ye fend Sir Edward Drummond, quho, att your desyre, being cum from beyond sea to this countrey, and being examinat thairof, did, att your perfwasioun, deny that he careit any such Letter to the Pope: As alwa, quhen Sir Edward Drummond wes committit to waird for this caus, within the Castell of Edinburgh, ye becam ane ernift fuitter to his Maieftie for his libbertie, and wes the meanis to obtene itt; quhairvpoun the said Sir Edward being efterwardis to returne to Rome, ye delt erniftlie and instantlie with him, to lawboure to recover agane the said Letter to his handis, and to distroy itt; quhich he promesit to do, gif be any meanis he could: And ye lykewyse gaif his Maieftie full and absolute assureance, that that repourt, quhairvpoun the said lait Quene of so wordie⁴ memorie did expoſtulat with his Maieftie, wes vterlie fals: And that nather his Maieftie had ewir writtin any Letter to the Pope, nor yet that Sir Edward Drummond had evir delyuerit any, in his Maieftieis name, to him: Quhilk strong denyall, to his Maieftie, of your and Sir Edward Drummondis giltynes in that mater, wes the occasioun that movit his Maieftie to grant to Sir Edward Drummond his libertie: And althocht that the constant sinceritie of his Maieftieis professioun in Religioun wes so weill knawin to the world, by his daylie word, writt, and praktife, as nather that lait Quene of happie memorie, nor the religious people of the Estait of Ingland did any langer dout of his Maieftieis innocence in this caice, howfone thay had hard of his Maieftieis denyall thairof, (as he mycht most justlie haif done,) yit lay it nocht in your handis; bot, gif God had not movit thair heart to judge so honorable and justlie of his Maieftie in this caice, the jealousie and mistrust of his Maieftieis sinceritie in Religioun, being thus spred, in both realmes, mycht haue reffauit such increas and growth, as mycht haif hafardit thairby, alswell the present securitie of his Maieftieis persoun and estait, att that tyme; as also, his Maieftieis happie attening to his just clame and rycht, in Ingland: THE ground of all this calumny and sklander, and quhatsumewir such lyk hafardis mycht haif followit heirvpoun to his Maieftieis persoun and estait, arryving and having the only fundatioun by this your occasioun and tressonabill dealing, quhilk weill apperit by the consequent; ffor how sone it pleasit God to call that Quene, of renownit remembrance, to his mercie, and his Maief-

¹ Had such a warm debate and altercation, as that before recited, taken place, is it to be conceived as at all likely, that a person of James's jealous disposition, would have signed such Dispatches and Recommendatory Letters, without first carefully perusing and scanning every phrase contained in them? Unquestionably the King would either have postponed his hunting, or, at least, would have desired the papers to await his return, when he could at leisure consider the import of such important documents. On the other hand, it must be admitted, that the Confession of Lord B. is unqualified, and apparently sincere, and is conceived in the strongest terms which language could devise.

² Clerks to the Secretary of State.

³ Dated at Holyroodhouse, Sep. 24, 1599.

⁴ Worthy.

tie to the lauchfull possessioun of his rychteous inheritance, with moir perfyte ioy and vniuerfall applause of all his subiectis, nor any vther Prince obtenit the possessioun of his prediceffouris Croun, his Maieftie, alswell by his sincere professioun as by his actiounis and lawes, publeiffing to the world his most constant zeale to mantene and propagat the trew Religioune, and to suppres Papistrie, and all contrarie professioun, the hoill Papistis within this Ile, and speciallie, in his hienes Kingdome of Ingland, finding thairby thame selffis vterlie disapointit of thair former hoipes, foundit vpoun thais Letteris, quhairby thay promesit to thame selffis all libertie and tolleratioun of thair superstitioun, in his Maieftieis dominiounis; and esteming, that his Maieftie, in nocht performing thairof, had delt wrongfullie and vniustlie with thame, nocht only did Clark and Watfoun and thair complices, Preifts, and vtheris Papistis, in the fyrst yeir of his Maieftieis regime of Ingland, conspyre aganis his lyffe, posteritie and estait, bot also the incomparable CONSPIRACIE of the POWDER TRESSOUN (exceeding in malice and crewaltie all vther Tressounis, that evir wes attemptit, in any aige or cuntry) wes devyfit and profequitit by ane damnit crew of merciles Papistis, to the extreame danger of his Maieftieis most sacred persoun, his most gracious Quene, thair Royall issew and hoill body of that Estait; for no vther quarrell, bot becaus thay thocht thame selffis wrongit by his Maieftie, for nocht accomplisching the hoipis gevin by thais Letteris to all Papistis in his dominiounis: Lyke as, sensyne, Cardinal Bellermine, or *Matheus Tortus*, his chaplain, and vtheris, most impudent and infamous Popissh wryteris, haif, (sa far as in thame lay,) preiffit by thair fals, calumnious and leing lybellis, groundit vpoun your tressonabill Letteris foirfaisdis, to steingie (sully, *stain*) his Maieftieis most pure, perfyte and vnsported reputatioun. OFF the quhilkie tressonabill crymes aboue writtin, of surreptitious, fraudulent and fals steling his Maieftieis hand to the said Letter, without his Maieftieis knowlege, and contrarie to his Maieftieis declarit will, and tressonabill affixing of his Maieftieis Signet to the said fals Letter, and affixing knawin professit Papistis, in thair tressonable courfis, to the danger of subuerfioun of Religioun and overthrow of all trew professouris thairof; and drawing his Maieftieis lyff, estait, Croun of this realm, with his rycht of succeffion to the Croun of Ingland in most extreme perrell, and bringing most fals and scandalous imputatiounis to his Maieftie, both in poynt of honour and Religioune, ye ar airt and pairt: And the samin hes bene done and committit by yow, and vtheris in your name, of your causing, command, assistance and raihabilitioun. FOR the quhilkie tressonabill crymes foirfaisdis, ye aucht and sould be pwneiffit, be fforfaltre of your lyffe, landis, and guidis to his Maieftie; according to the Lawis and practik of this realme.

THE said James Lord Balmirrenoch, being inquiryret be the Justice, gif he wald desyre the assistance of any freindis or Aduocattis to be his preloquoutouris, according to the benefite of the law and ordour of the Court, quhilk sould be obseruit to him? He ansuerit, that he had neuer sa grit neid of preloquoutouris and (sa) grit necessitie to speik; the caus being sic as concernis his lyffe, his estait, and all that he possesit; bot he said, he had gritar necessitie to keip silence, his offence being sik as could admitt na excuse; and his greif and sorrow, that he could haif sa far abusit the trust his most gracious Souerane reposit in him, being sa grit, as he desyrit na thing mair, than his cryme may be notifeit to all men: And seing, na freind wes acquent with his fact, he desyrit nane to see the miserie thairof: And said, he could desyre na Laweir to compeir and defend that fact, quhilk him selff had sa oft and iustlie condemnett; as no place wes left to him nor any vther, to vse ony defence thairin: And thairfoir, his awin haert witnessing moir aganis him nor ony vther could say, he desyrit all men to knaw his cryme to be als haynous as it is; and did ernistlie intreat all thais that wer present, and wiffit that all the world mycht heir him, to declair two poyntis,

quhairof he wiffis his Maieftie to be cleirit : *ffyrft*, of all fufpicioun that his Maieftie was ony wayis acquent with the wryting of that vnhappie Letter, that fwa his hienes innocencie and finceritie mycht be knawin to the haill warld ; ffor he declarit, as he wald wifs God to be mercifull to his faull, in the grit day, that his Maieftie wes moft fallie and vniuftlie chargeit with that Letter writtin to the Paip ; and that he could newir draw his Maieftie to lyk, or with patience to heir of that wickit motioun ; bot his Maieftie did vterlie and abfolutlie refufe, vpoun ony respect or conditioun, to wryte to the Pope, as ane mater altogidder aganis his confcience to tak ony fic cruikit courfis, or to gif to the Paip thais ftyles and attributes quhilk the Paip affumit to him felf. Quhilk refusall could nocht fatisfie nor content him, bot in his politik warldlie reach, as ane naturall man, he went fordwart, in his awin vayne confait, aganis his Maiefteis declarit will, to that quhilk he thocht fould (have) advanceit his Maiefteis tytil, as hoping thairby to ftay the censure of the Paippis Excommunicatioun, intentit aganis his hienes, quhilk he ferit mycht haif brocht him preiudice to his Maiefteis fuccelfioun, nor yit could he be ftayit from his vnhappie courfis, by his Maiefteis moft religious refolutioun ; quha, att findrie tymes, proteffit and declarit to him, that his hienes wald nevir burdene his confcience with ony fic vnlauchfull and cruiket courfis, bot wald only leane and reft vpoun Godis Providence and his awin rycht, with fic vther lauchfull and rycht meanis as his Maieftie mycht iuftlie vfe : Befeikand all gentilmen and vtheris prefent, to beir trew recoird of his Confeffioun of fa haynous ane offence, committit aganis fa gracious and bountyfull ane Souerane, quho, be his vnderfervit fauour, had raifit his bafe fortoun fa bountifullie, that his landis, guidis and lyffe could be na reparatioun for fa grit ane offence.

The *fecund* poynt, quhairof he defyrit his Maieftie mycht be fred and cleirit, is ane opinioun, quhich ather fum in malice, or his freindis in the commiferatioun of his eftait, mycht confaue and think, that his Maieftie, in ane mater of this moment, (the fuggeftioun of ane Letter of Recommendatioun,) mycht ferue to proceid with grit regoure and crewaltie aganis his lyffe and eftait ; bot he wald haue thais and all vtheris to remember, that his Maieftie hes gevin mony testimoneis of his clemencie, in materis gritlie concerning him ; and thairfore, thay fould nocht judge of his Maiefteis difpofitioun to mercie, by his hienes proceiding, be iuftice, aganis him, bot wiffit thame rather to turne thair eis to his vnhappines, quha hes offendit his facred Maieftie, in fic ane poynt, as na favour can be extendit to him, without the hurt and interes of his Maiefteis honour, quhilk being deirar to his hienes than his lyffe, he man think and confefs, that tuentie thowfand fic lyves as his is, ar nocht to be compairit with it, or ballanceit aganis it ; nor did he defyre that his lyffe fould be fpairit, att fa deir ane rait as the leift tuich (Fr. *tache*) of his Maiefteis honour.

Forder, he cravit pardoun to protest thais tua thingis, for him selff. *Fyrst*, that he had na sic intentioun, as sum hes supposit, to draw in ony alteratioun of Religioun or tolleratioun, or quhat thay pleis to terme it; bot any meane warldlie courfe and devyse, quhilk he consaitit mycht be for the behuif of his Maiestie, quhilk he protestit to be of treuth. The *secund* thing is, he wald haif na man to think, that itt wes any gayne or priuat commoditie that drew him to that wicket cours; ffor he protestit that he nevir reffaut nor expected ony reward, from ony Prince leving, except from the Kingis Maiestie, his maister, allanerlie.

And sa concludit, that he had spokin sa much of the treuth aganis him selff, that he wald desyre na man to speik for him; and wald gif als littill buffines to the Aduocat, Justice, Assessoris and Assyse, as he could; and was content that the Dittay fould pas to the knowlege of ane Assyse.

IN respect of the quhilkis, THE JUSTICE Ordanit the said Dittay to be putt to the knowlege of ane Assyse, of the persons following. Thay ar to say.

ASSISA.

DAVID ERL OF CRAUFURD, Lord Lyndefay, &c.	JOHNNE ERL OF TULLIBAR- DIN, Lord Murray,	SIR ROBERT GORDOUN of Lochinvar, knycht,
GEORGE ERL OF MARSCHELL, Lord Keith and Altrie, Grit Marshell of Scotland, &c.,	ALLANE LORD CATHCART, JOHNNE LORD SALTOUNE, DAVID LORD SCONE,	SIR WILLIAME LEVING- STOUN of Killyth, knycht, SIR JOHNNE HOUSTOUN of that Ilk, knycht,
JOHNNE ERL OF WIGTOUN, Lord Fleming, &c.,	ALEXANDER LORD GARLEIS, WILLIAME MAISTER OF TIL- LYBARDINE,	SIR PATRICK HOME of Pol- wart, knycht.
PATRIK ERL OF KINGORNE, Lord Glammes, &c.,	SIR JAMES DOWGLAS of Drum- lanrig, knycht,	

Quhilkis persounnes of Assyse being chofin, sworne and admittit, and Instru-
mentis tane thairvpoun, be our fouerane lordis Aduocat; the said James Lord
Balmirrenoch, being accusit be the said Dittay, oppinlie red in judgement to him,
in presens of the said Assyse; and for verificatioun thairof, the Aduocat, haifing
produceit the said James Lord Balmirrenochis Depositioun, subscryuit with his
hand; togidder with his Letter, writtin all with his hand and subscryuit be him,
contening his speich, vterit be him befor the Lordis of his Maiesteis honorabill
Previe Counfall of Ingland, togidder with ane Letter send be his Maiestie to the
Aduocat, contening sum of the Lord Balmerinochis speichis to his Maiestie, att
sic tyme as he preiffit to haif perswaidit his hienes to wryte to the Pope: And
the saidis three writtis, being oppinlie red in judgement, in his presens and in
presens of the saidis Assysouris; quhair of the tennour followis.

And fyrst, followis the tennour of HIS DEPOSITIOUN.

ATT FALKLAND, the secund day of Februar, the yeir of God I^m.Vj^c. and nyne
yeiris. THE DECLARATIOUN and CONFESSION of *THE LORD BALMER-
RENOCHE, concerning ANE LETTER fraudulentlie and surreptitiouslie pro-*

cureit to be writtin and sent from his Maieftie to POPE CLEMENT (VIII.) in the yeir 1598; maid in presens of my Lordis of his Maieftis Secret Counfall of Scotland, eftir namet; The Earles of Dumbar, Wigtoun and Lowtheane, the Lordis of Scone, the Justice Clark, the Collectour, Justice and Aduocat.

THE LORD BALMIRRENOCHE, being examinat, sworne and chargeit with pe offence of praktesing and surreptitious procureing of pe said Letter, (quhairby hath growne ane most fals and scandalous imputatioun to his Maieftie, both in poynt of honour and of Religioun,) eftir diuers meanis vfit by him, of denyall, conceilling, transferring and extenuatting the said offence, doeth att pe last expresse acknowledge and confes: That, in pe zeir of our Lord 1598, att pe motioun of pe lait Archbifchop of Glasgou,¹ his Maieftis Ambaffadour, than resident in France, the Bifchop of Vaizon,² and sum vtheris, and att pe sollicitatioun of Sir Edward Drummond, directit from pame, for procureing of sum correspondence betuix his Maieftie and THE PAIP, be the said Lord Balmirrenoche, assenting to pe said motioun, did diuers tymes preise his Maieftie pairin, and did offer to his Maieftie the fram of sic ane LETTER as he wald haif had signed be his Maieftie to pe Paip; quhom, quhen he fand nocht onlie vn-willing to wryte att all, bot absolutlie to condem the motioune, or any correspondence with a persoun that did expect thais tyillis and attributes, quich his Maieftie, out of his conscience, could nocht zeild him, for any caus quhatfumeuir; he, the said Lord Balmirrenoche, conspyring with Sir Edward Drummond, on pe meanis how to disfaue and begyle his Maieftie, in pe procureing such a Letter, with pe said Sir Edward Drummond's hand, as from his Maieftie to pe Paip, expressing pairin (as he sayeth) only thankis for pe Paip's kyndnes and favour, in former tymes, with recommendatioun of pe Bifchop of Voyzin to be a Cardinall; thairby to be moir abill to forder him in all thingis neidfull for his effairis. For the better convoyance and passage of pis Letter by his Maieftis hand, the said Lord Balmirrenoch confesseth this course to haif bene by him contryveit; *fyrt*, that itt fould be cheffit³ in amangis diueris vperis Letteris to be signed; *secundlie*, that the samin, with the rest, fould be presentit to his Maieftie, att sum tyme of his going furth haiftelie, on hunting, so as, being on the sudden surpryfit, he fould haif nocht laifour to obserue and peruse the Letteris; and *thrydlie*, that such wordis of tytill and style (as) ar vsuallie gevin to pe Paip, fould be forborne to be sett down in itt; leifit perhappis his Maieftis ee lichting vpon any of pame, quhillis he wer signeing, he mycht pairby tak occasioun to obserue that Letter: and that convenient specis being left for pame, thay fould efterwardis be accomodattit and infertit: According to quich course, he the said Lord Balmirrenoch confessing, that he, abuseing the trust reposit in him be his Maieftie, one day, in pe moirning, quhen his Maieftie wes going on hunting in haift, amangis vperis Letteris, writtin in Latine, to pe Duikis of Florence and Savoy and sum Cardinallis, in favour of pe Bifchop of Veyzon, did also present to his Maieftie (haveing formerlie refusit to wryte to pe Pope, and na thing suspecting that any such fould be offerit to his hand) the said Letter to pe Paip, and procureit it to be signit; quich being done, he the said Lord Balmirrenoch confessit, that by his directioun, Sir Edward Drummond did efterwardis add and infert the Popes tytillis and styles, baith in pe beginning of pe Letter, and in pe end pair of, betuix the Letter itt selff and his Maieftis subscriptioun, as the word '*Sanctitas*' and the word '*ffilius*,' and such vperis as he thoct proper for pe Letter to pe Paip: And that, by his directioun, the Letter wes seilit vp be ane of his feruandis, and the Signet also putt to itt. Concerning pe Letteris to the Cardinallis, he the said Lord Balmirrenoch sayeth, that thay wer cloise sealit vp; bot left without superscriptioun, and so delyuerit to Sir Edward Drummond, to be directit be pe aduife of the (Arch)bifchop of Glasgw: And that he did efterwardis vnderstand, that two of pe saidis Letteris wer gevin to pe Cardinallis Aldobrandino and

¹ James Beaton, (2d) Abbot of Aberbrothock, elected 1551, quitted the see in 1560, and was restored by Act of Parliament, in 1568. ² Williame Chisholme. See Note on Dittay, p. 569. ³ Shifted, shuffled.

Bellarmino, and pe thrid to Cardinall Caietano, Protectour of the Scottish Natioun. ffordermore, the said Lord Balmirrenoch Confesseth, that quhen his Maiestie cam efterwardis in questioun, in pe lait Quenis tyme, (by meanis of hir Ambaffadour, that expostulattit with his Maiestie, concerning such a Letter writtin from him to the Pope,) he the said Lord Balmirrenoch, being askit pairof by his Maiestie, did vterlie deny that thair was any such mater: And lykwayis Confesseth, that he desyred Sir Edward Drummond (being cum att pat tyme from beyond the Seas, and examinat pairof, vpoun pe Lord Balmirrenochis sending for him,) to justifie his denyall; and that Sir Edward Drummond did, att his desyre, accordingle deny that he had careit any such Letter to pe Pope; as also, that quhen Sir Edward Drummond wes committit to preafoun for pis caus, to the Castell of Edinburghe, he the said Lord Balmirrenoch becam ane ernist suture¹ to his Maiestie for his libertie, and wes the meanis to obtene it; quhairvpoun Sir Edward Drummond, being efterwardis to returne to Rome, he the said Lord Balmirrenoch Confessit, that he delt earnestlie and instantlie with Sir Edward Drummond, to labour to recover agane the said Letter into his handis, and destroy itt; quhilk Sir Edward Drummond promisit to do, gif by any meanis he could; and that the said Lord Balmirrenoch pairvpoun destruyt the copie of pat Letter, quhilk before he had retenit with him selfe. J. BALMIRRENO^r.

DUMBAR, WIGTOUN, LOWTHEANE, D. L. SCONE, (R^d) COKBURNE,
S^r TO. HAMMILTOUNE, JO. PRESTOUNE, S^r W^m HAERT.

Followis the tennour of

THE LORD BALMIRRENOCHES LETTER, *writtin and subscriuit be him, containing his SPEICHES, vttered be him to the Lordis of his hienes Previe Counsal, in England.*

MY VERRIE HONORABLE LORDIS,

I FIND trow this day, in experience, that which I haif oft red and hard, that no exceiding joy nor exceiding sorrow can be cayried bot with silence. *Leues curæ loquuntur* (sayeth the tragique) *ingentes stupent*. From this it is that pe heaue greif and vnspikable sorrow of my hart and soul, for my haynous offence aganis my most gracious Souerane, and his Maiesteis displeasour that he hes most iustlie conceaved aganist me, makis me that I haif no wordis whearwith I can expres pe same: Quhen I luik vnto his Maiesteis innumerabill fauoris bestowed vpone me, haifing raised my fortunnes (most miserable and vnworthie wretch!) far aboue my mereit and my foule abuse of his Maiesteis trust: which hes brocht this fals imputatioun vpone his Maiesteis vnspotted innocencie: I think pair is nothing in me may amend the same; and pairfoir I find no vther end of my sorrow, bot, with the forlorne sone,² to say to his most sacred Maiestie, *peccavi in cælum et in terram!*—My offence is so greit that it can nocht be pardonet,—I am nocht worthie to be rekenet ony moir among his subiectis or creatureis! I haif sinceirlie confessit the veritie of my fact, in all the circumstances, nocht for obedience, or to liberat his Maiestie, (as sum wald fallie geve out,) bot for pe treuthes saik, and that his Maiesteis innocencie may be knawin to all the world: Bot allace! what vnhappie man was I, that my devilisch affection and erroneous course sould haif led to ony thing sould haif offendit my most gracious Souerane! Micht nocht his Maiesteis rair pietie, singuler wisdome, and vnspotted sinceritie, in all his actiones, whearof I had so long experience, taucht me, that quhen his Maiestie was vnwilling, and did refus fuche ane cruikit wordli³ course, the event of it could nocht prove bot vnhappie! Thairfoir, since his Maiesteis soule is frie of it, let no pairt of the stayne ly vpone his Maiesteis honour; bot, gene⁴ his Maiestie can nocht vtherwayis be liberat of this imputatioun brocht vpone his Maiestie by that devillisch Letter, let naper my lyfe, my estait nor credeit be spared; bot, as I haif all by his Maiesteis fauour, so, let all go, to the last droppe of my bloode, befoir any reproche for my most haynous offence sould be broght vpone his innocent Maiestie: Bot my miserie, aboue all, is pe gritter, that it behoved me

¹ Suitor.

² The Prodigal Son in the Parable.

³ Worldly.

⁴ Gif, if.

offend evin in that point whairin his Maieftie hes ever bene moft tender, his confcience, which for ane thowfeand kingdome he wald nocht hurt, and his reputatioun for finceir deilling, quhilk hes maid him famous throw all the world ! In all theafe, his Maiefteis extraordinar delyuerances, miraculouflic wrocht be God, for no caufe fo muche as for his Maiefteis incomparable finceritie of heart to God, and juft dealing to all the world. My Lordis, it fall nocht be neceffar to tranfmit my Confefioun to Scotland, or to remit my judgement or tryell pair, fence for my offence, and his Maiefteis displeafour confaut pairapoun, I haif abfolutelie submitted my felf in his Maiefteis royall will. I raper¹ my life and all war takin, befoir I fould ly ony longer vnder this moft importable² burding of his Maiefteis heavie displeafour. Thairfoir, my humbill fute to your lordfchipis is, that ye will, in commiferatioun of my miserable eftait, move his Maieftie to be plefed to luike vpone my Confefioun, accept my becoming in will, and but³ more delay, declair what oucht be done for reparatioun of his Maiefteis honour, which, to my greit greif, is tuiched be my moft haynous offence ; which, in all reuerance and humilitie, evin with the laft drope of my bloode, I will obey and performe.

J. BALMERINO⁴.

Followis the tennour of the

LETTER *send be HIS MAIESTIE to my LORD ADUOCAT, anent THE CONFERENCE betuix his Maieftie and the Lord Balmerinoche, befoir the purcheffing⁵ of his hiegnes fubfcription to the LETTER to the POPE.*

To our truftie and weilbelouit Counfalour, SIR THOMAS HAMMILTOUN
of Bynnie, kny^t, our Aduocat, in that our Kingdome of Scotland,
JAMES R.

TRUSTIE and weilbelouit counfalour, Wee greit you weill. Quhairas, We haif concludit to haif ye Lord Balmirrenoche tryed before certane our Juftices, by Commiffioun, vpoun that his moft treffonabill and damnabill fact, committed by him, in the thifteous purcheffing and steilling throwch of Letteris, vnder our hand, directed to THE POPE OF ROME ; We nocht being of ye knowlege pair of ; bot vtherwayis, vpoun his moving of pat mater vnto us, wer altogidder difaffenting pairfome : We haif thocht mete, (for your better informatioun and gritar licht in pis matter, and to ye effect that you may pairvpoun ground your Dittay, and in his accusatioun vrge the fame as ane particular evidence of his giltines heirin,) to fett down, fo far as our memorie can ferue, the verie wordis of ye Conference past betuix us att pat tyme, quhen he moved us for pat Letter, quhich fo fallie and vndewtiefullie, without our knowlege, he thaireftir purchest to be past our hand, about fun nyne or ten zeiris ago. One day, he infisted that We wald be plefed to wryte a Recommendatioun to ye Pope, in favouris of ye Bifchop of Vaizon, with a request for promoving of him to ye hatt :⁵ He than fchewit vnto us, that by the vther⁶ his continewall stay att Rome, and by reafoun of the aduerteifmentis he wald mak from tyme to tyme, he wald ferue for a fpie to acquent us with quhat courfes they had there ; and that therewith, it wald be a greit credite to ye Natioun to haif thair countreyemen Cardinalis : At quhich tyme We fchewed vnto him, that We could nocht, in confcience, zeild vnto ye Pope thais tytillis quhich he did affume vnto him felf ; and that We wald nocht, for any warldlie respect, do that, quhair- of We had no warrand in confcience : The wryting to ye Pope, in fuch foirt as he wald accept pair- of, being vnlauchfull for ony trew Cristiane : Vnto ye quhich, We do perfytelie remember, that he did then anfuer, that nochtwithftanding quhatfoevir fchew of discontentment We vterit aganis Puritanis, he could perceave no thing but We wald turne more preceife than any of pame, quha for fuch a small mater as a naked Letter of Recommendatioun fould be fo squeamifch and nice. He farther added, att ye fame tyme, that We fould nocht cair quhat wer done pairin ; bot willit us to leue to Sir Edward

¹ I would rather that my life, &c. ² Unbearable, intolerable. ³ Without farther delay. ⁴ Procuring.
⁵ A Cardinal's hat. ⁶ Viz. By the uninterrupted residence of the Bifhop of Vaizon at Rome, &c.

Drummond and him the filling vp of these styles ; and We being ignorant pair of, and done without our knowledge, itt could be no touch¹ nor greif to our conscience : Quhairvnto, We then anfuert, that as We evir difallowit of all dowble deilling, so We loued nocht that slicht, bot wer resolved nevir to do nor consent to any thing, but quhat We wolde approve before pe hoill worlde : And nochtwithstanding of our reiterating of our dislyke pair of, zit wes pe samin most thiftioullie past our hand, without our knowlege. And thinking fitt to acquent zow with this particuler circumstance, for zour better informatioun, We bid zow farewell : FROM oure Court, att Quhytehall, the 9 Januarie, 1609.

Followis the tennour of,

HIS MAIESTEIS WARRANT direct to the ASSESSOURIS.

TO OURE rycht trustie and weil belouit Coufinges and Counsalouris, THE ERLES OF DUMBAR, MONTROISE, LOWTHEAN ; and our trustie and weil belouit Counsalouris, THE LORDIS PREVIE SEALE, THE CLARK OF REGISTER, THE COLLECTOURE, SIR LUEIS CRAIG.

JAMES R.

QUHAIRAS We haif directit our Aduocat to insift in persute of pe Lord Balmirreno⁴ before our Justice, for his most haynous and detestabill cryme and offence committit aganis ws, our honour and reputatioun, We haif maid speciall choise of zow, in pe foirsaid Tryall, to be Assessoris to pe said Justice : And pairfore We ar to will zow to assist him, and to see justice dewlie ministrat pairin, as ze wald do ws most acceptable seruice : And thir presentis falbe zour Warrant sufficient. GEVIN att Quhytehall, the thryd day of March, 1609.

Followis the tennour of

HIS MAJESTEIS WARRANT direct to my Lord Aduocat, to persew James Lord Balmirrenoche.

TO OURE trustie and weilbelouit Counsalour, SIR THOMAS HAMMILTOUN of Bynnies kny^t, our Aduocat, in pat our kingdome of Scotland.

JAMES R.

TRUSTIE and weilbelouit counsalour, We greit zow well. This haynous offence committit by the Lord Balmirreno⁴ aganis our honour and reputatioun, being so lang conceillit and now laillie discoverit, movis ws, for the clering of our innocencie, and freithing² owre selfis of thais wrangous imputatiounis quich We haif hithertill vnderlyne, to geue ordoure for prosequuting his Tryall, befor our Justice, with all regour : And becaus the leif extenuating of pis offence can nocht bot breid in the evill disposit a distrust of his giltines : And We being fulllelie auiset by thais of best judgement, heir, concerning the qualitie of pat offence, to find pe samin, insafar as it is done aganis the securitie of pe Prince, a speciall poynt of hie Tressoun and Lesemaiestie ; ffor heirby, nocht only wer We brocht in danger, both in persoun and estait, bot also our honour, credite, and reputatioun, moir deir vnto ws then our lyffe, hes bene by pe same brocht in questioun : And pairfore, We will zow to vrge the Judgement aganis him, as for a cryme of pe qualitie aboue writtin, that so all exceptioun that may be maid aganis proceding, aper of collusioun pairin, or in extenuating the offence, may be removed, that justice may be dewlie ministrat, and our innocencie, so much pairby wrangit, may be heireftir clerit to pe hail world : And perswading our selfis of zour cair, diligence and dexteritie heirin, as ze wald do ws acceptable seruice, We bid zow fairwell. FROM oure Court, at Quhytehall, the nynt of January, 1609.

VERDICT. THE said James Lord Balmirrenoche Confessit the said Dittay, and hail contentis of the writtis foirsaidis ; and thaireftir, the saidis persounes of Assyse removed altogidder furth of Court to the Counsal hous of the said Tolbuith, quhair thay being convenit togidder, fyrst electit and chufit the said

¹ Fr. *Tache*.

² Freeing, absolving.

George Erll Merfchell Lord Keyth and Altrie, grit Marfchell of Scotland, Chancillar of the Affyfe; and thairefter, reafonit and votit vpoun the poyntis of the faid Dittay; and eftir long reasoning thairvpoun, and being throuchlie refoluit thairwith, re-enterit agane in Court, in prefens of my Lord Justice and his Affeffouris, and the faid James Lord Balmirrenoche; quhair the faidis perfounes of Affyfe, all in ane voce, be the mouth of the faid Chancillar of the faid Affyfe, ffand, pronunceit and declairit the faid James Lord Balmirrenoche to be Giltie of the treffonabill, furreptitious, fraudulent and fals fteling of his Maieftis hand to the Letter fpecifeit in the Dittay, without his Maieftis knowledge, and contrair to his Maieftis declarit will; and of the treffonabill affixing of his Maieftis fignet to the faid fals Letter; and affifting knawin profeffit Papiftis in thair treffonabill courfes, to the danger of fubuerfion of Religioune, and overthrow of all trew profeffouris thair of; and drawing his Maieftis lyffe, eftait, Croun of this realme, with his rycht of fucceffion to the Croun of Ingland, in moft extreme perrell, and bringing moft fals and scandalous imputationis to his Maieftie, both in poynt of honour and Religioune: And of airt and pairt of the hail treffonabill crymes aboue writtin, att lenth contenit in his Dittay aboue fpecifeit,

MARSCHALL, *Cancellarius*.

Quhairvpoun Sir Thomas Hammiltoune, Aduocat to our fouerane lord, askit instrumentis.

THAIREFTIR, my lord Justice, confulting with his Affeffouris, Declarit to the faid James Lord Balmirrenoche, that thay war nocht to proceid ony forder in that buffines, for the present, till thay fould knaw his Maieftis forder pleasour: Bot, in the meanetye, aduifet him to bethink himfelff (haifing fa horribill ane fentence pronunceit aganis him) quhat caice he ftuid into, wiffing him to lay his compt with the warld, and draw neir to his God.

And thaireftir, gaif commandment to the Capitan of his Maieftis Gaird to convoy his body to his Maieftis waird in Falkland; thairin to be kept in furetie, as he wald anfuer to his Maieftie, vpoun his dewtie and allegiance.

[CURIA JUSTICIARIE, *f. d. n. Regis, tenta in Pretorio burgi de Edr, primo die mensis Aprilis 1609, per D. Will. Haert de Prestoun, Justiciarium, &c.*]

Apr. 1.—The quhilk day James Lord Balmirreno^t being presentit on pannell, to heir dome pronunceit aganis him, &c. the faid Justice produceit the Warrant vnderwrittin.

WARRANT *from his Majesty, for pronouncing DOOM against Lord Balmerinoch.*

JAMES R.

SIR WILLIAME HAERT of Prestoun our Justice, We greit 3ow weill. Forfamekill as James Lord of Balmirreno^t being convict by ane Affyfe, in ane Court of Justiciarie hauldin by 3ow, in our

tolbuith of Sanctandros, the tent day of March instant, of þe tressonabill crymes contenit in his Dittay and convictioun; wes pairvpoun remittit till preiffoun, quhill our forder Will and plesour wer knawin pairin, concerning him: WE have thairfore thocht meit, be þir presentis, to signifie our said pleasour vnto 3ow, quhilk is,—THAT 3ow with all convenient expeditioun caufe fens ane Justice-Court, to be hauldin by 3ow in our tolbuith of Edinburgh, and thair Decerne and ordane the said James Lord Balmirreno⁴ to be taken to þe place of Executioun, and pair to be demanit and execute as a Traitour; his heid to be strikin from his body; and all his landis, heretageis, lordschipis, baroneis, takis, stedingis, rowmis, possessiounis, officeis, benificeis, coirnis, cattell, infycht pleneiffing, goodes and geir, to be sforfaltit, efcheit, and inbrocht to our vse, as convict and guyltie of þe saidis tressonabill crymes: Anent þe pronouncing of þe quhich dome, thir presentis falbe 3our Warrant. GEWIN att our Court of Quhytehall, the xxiiij day of March, 1609.

My LORD OF BALMIRRIENOCHIS DOME.

Apr. 1. OUR said souerane lordis JUSTICE, be the mouth of Andro Quhyte, dempster of Court, conforme to ane Warrant direct be his Maiestie to him, Decernit and Ordanit the said James of Balmirrienoche to be tane to the place of his executioun, and thair to be demanit and execute as ane Tratour; and his heid to be strukin frome his body,¹ &c.

DOCUMENTS ILLUSTRATIVE OF LORD BALMERINOCHE'S TRIAL.

I. *EXTRACT from an Anonymous History of Scotland, MS.²*

ANE litill befor this,³ SIR JAMES ELPHINSTOUN, Prefident and Secretar, went wp to Ingland; quhair he was accusit, in presense of THE KING and *Counsell of Ingland*, for heiche Tressoune aganis his Ma^{ty}, in counterfeittin the Kingis writt, and sending the samin Letteris of Recommendationis to THE PEAP, by⁴ his Ma^{ties} knowlege. The quhilk being confestit be him, he was thair disgredditt⁵ of his honouris quhilk he had befor, as ane off the Counfell of Ingland: Aud thaireftir, was on the v day of December brocht to Leith; and on the sext day convoyit to Falkland, quhair he remaynit to the 10 day of March, 1609; and thane convoyit to Sanct Androise; quhair, being putt to ane tryall of ane Assyse, was convict: Aud thaireftir convoyit to Falkland agane; and on the last day of Marche was brocht to Edinbrughe; and on the first day of Apryll brocht to the tolbuyth, and thair, befor the Justice, condemnit as ane tratour, and his heid to be strukin off; bot neather the day nor pleace decernit: Quhairupone, the secund day of Apryll, he is convoyit bak to Falkland, in waird.

II. SIR JAMES BALFOUR'S *contemporary Account*.⁶

IN this same mounthe of Nouember (1608), James Elphinstone Lord Balmerinoche, principall Secretary of Estait to his Maiesteis, for the kingdome of Scotland, being this yeire challenged, in Ingland, anent some Letters wrettin be him, in his Maiesties name, to POPE CLEMENT VIII. befor the King did attein the Croune of England; bot he confest, (simulatly, as was thought by thesse that wnderstood the Courte, and hou matters then went,) to liberat the King of suche grossnes, being examinnd by some Priuey Counsellors of bothe kingdomes; that, in anno 1598, he had wrettin to the Pope, in his Maiesties name, for a Cardinalis hate, to be bestoued one *Chisolme*, a Scotts man, then *Bischope of Weafone* in France, brother to the Laird of Crounerigges,⁷ in Perthshyre; in which Letter

¹ The terms of the 'Warrant' are repeated here. ² Advocates' Library, A. 4. 35. Folio. ³ This is preceded by the following notice: 'On the aucht day of Nouember, thair wes sik ane earthe quaik, throw mony pairtis of Scotland, as the lyk wes not sein this mony day.' ⁴ Without, past, contrary to. ⁵ Degraded, stripped. ⁶ See his *ANNALES*, vol. ii. p. 29. ⁷ A mistake; *Cromlis* is the proper name.

(he having gottin the Kinges hand to it) he styles the Pope '*Beatissime Pater*,' with wther suche phraſes; which almoſt wronged the Kings honor and reputacione, with all the Proteſtant Princes and States in Europe.

His trayell and puniſhment (he being a Scotts Nobleman) was remitted to the Juſtice of Scotland; and he ſent home thither, wnder a guard, from ſhyre to ſhyre; of all wiche the King adwertifes his Priuey Counſaill of Scotland, the 21 of the mounthe of Nouember, by Spotſwood, Archbiſchope of Glaſgow.

After his arrivell in Scotland, he was firſt imprifond in Edinburghe Caſtle, and from thence removed to the Touer of Falkland; and arraind at St Andrewes, in the ſubſequent yeire; and ſentenced to loſſe his head: Bot, by the Kings ſecrett commands to the Earll of Dunbar, he was againe remitted to the cuſtodey of the Lord Scone, as a cloſſe priſſoner, to be kept at Falkland: And from thence was enlarged, and confyned to his auen houſes in Angus ſhyre, and Balmerinoche in Fyffe ſhyre; quher he deyed of a feuer, and waicknes in his ſtomache, ſome few mounthes after the death of his arch-enimy and competitor, Ceicill Erle of Salifburrey¹ (after quhome) if aney tyme he had furwiued, (as was talked by them that beſt knew the Kings mynd) he had beine in grater crydit with his maſter then euer.

III. *EXTRACTS from the Records of the Privy Council of Scotland.*

Mar. 4, 1609. THE Privy Council, 'conſidering that his ſacred Ma^{tie} hes ſend down his faithfull and worthy counſellour *the Erll of Dunbar* to be aſſiſtant to this Tryall, the ſaidis Lordis findis it verie meete, neceſſar and expedient, for the grittair auctoritie and regaird to be had to that actionn, that the ſaid Erll of Dunbar be accompaneid with a ſufficient number of the Nobilitie and Counſale; ffor whiche purpois, the ſaidis Lordis hes nominat and appointit David Erll of Craufurd,² &c. to be preſent with the ſaid Erll of Dunbar at the ſaid tryall, commanding thame, in his Majeſteis name, to aſſiſt the ſame tryall, by thair preſence, counſale and adviſe; and ſo to do and performe that which becometh faithfull, worthy and trew counſellouris to do, in a mater ſo heichlie importing his Maieſtie, in his honnoure, fame and credite.'

Mar. 17, 1609. WARRANT commanding the Director of Chancery 'to omitt the ſaid Lord of Balmerinochis name, furth of all ſuche Infeſtmentis, Letteris, writtis and grantis to be paſt and exped the Chancellarie, heirefter, wherein his name formarie hes bene accuſtumat to be infert.'

IV. *EXTRACT from the Earl of Haddington's MS. Collections.*⁴

Mar. 28, 1609. LETTER⁵ from his Ma^{tie} to the Chancellor, commanding him to ſeaſe the Lord Balmerinois landis, try the rentis thairof, the maner of his purchaſe, and wrongis done be him; to be tryed by indifferent⁶ Counſallouris, that the King nicht tak ordour, for ſatiſfactionn of thoſe quho war wronged.

V. *LETTER from WILLIAME CREICHTOUN, Jeſuite, [to SIR ANDREW MORAY of Balvaird.]*

RIGHT WORSHIPFULL S^r,

MY humble and heartlie dewtie rememberit. I haif hard with extreame dolour, the extremeties to

¹ He died at Marlborough, on Sunday, May 24, 1612, of a complication of dropsy and scurvy. *Sir E. Brydges' Memoirs of the Peers of England*, p. 481.—His other 'arch-enimey' Dunbar predeceased him. 'Vpone Monnday, fourt of Februar, aduertelsment came that the Erle of Dunbar wes dead, vpon Wednesday, threttie of Januar, 1611.' *Haddington's MS. Collections*, Adv. Library. ² Here follow the other names before mentioned, already marked as Assessors and Assise, together with Walter Lord Buccleuch, Walter Lord Blantyre, James Lord of Bewlie (Sir James Hay) comptroller, and Sir John Cockburn of Ormiston, Justice Clerk, who had probably absented themselves. ³ Preserved in the Advocates' Library, Edinburgh. ⁴ After a careful examination of the Warrants of the Privy Council, no traces of the original Letter are to be found. ⁵ Disinterested, impartial. ⁶ The envelop of this Letter has unfortunately not been preserved; but, from internal evidence, Sir Andrew Moray of Balvaird seems to have been the person to whom it was addressed.—The original is among the *Denny's MSS.* Advocates' Library, A. 2, 40.

the whilkis S^r JAMES ELPHINSTOUN President of the Seffion of Scotland is reduced, for the Letter sent to THE POPE and Cardinalis by Mr Eduard Drummond; and speciallye, becaus the President is so neir to you by alliance. As twiching the Presidentis Confeffion to haif sent that dispatchè to POPE and CARDINALIS, without his Ma^{ties} consent or commandement, I will not mell me with that; nor any thing what it may meritt; bot, becaus I affistid Mr Eduard Drummond in all that negotiatioun, thinking it to be to the Kingis weill and service, and communicatioun of all the Lettres¹ that was broght for that effairis, I thocht it expedient to informe you of the veritie of all. There was no thing wrought in that negotiatioun, which was not thocht to be for the Kingis Maieftis service; which was, to procure the Bischope of Wefone advancement to the degrie of Cardinall; to the end, that his Ma^{tie} fuld haif in the Colledge of Cardinalis, one of his trew and faithfull subiectis, to advance his Ma^{ties} service, and dasche and stop that which might be to his preiudice; and specially, that thay fuld not excommunicat his Ma^{tie}, or absolue his subiectis from his obedience, as there was some at that same time biffie to procure it: And therefoir, was alledgit, that siche rigorous proceedingis in other Popes dayes did not advance, bot hinder the Catholick caufe: And therefore, Pope Gregorius XIII. was constrained to grant to the Catholick, to acknowledge and obey the last Q. of England, in all thingis; which was expresse against the Catholick faith.² It was not gevin to vnderstand to the Pope, that the Kingis Maieftie was in any dispositioun ather to come or favour the Catholick Religioun; for the contrair was conteyned expresse in the Letteris;³ saying, that albeit he remaned constant in that Religioun in the which he was nourished, frome his cradle, yit he wald not be eniyme and persecutour of the Catholikes, so long as thay fuld remaine faithfull and obedient subiectis to him; as indeed his Maieftie had evir done, vntil the horrible and barbarous Conspiracie of the Goone-pouder: ffor in Scotland, to thame of our ordour,⁴ who ar holden the most odious, and persecuted to the deathe be the Ministeris, he did nevir vse more rigour nor to banishe thame out of the countrey, and constraine there parentis⁵ to obleis thame, vnder paines, to caufe thame depart. The calumneis of sum passioned writteris, and speciallie of him who answers the Apologie or traite, intituled 'TRINO NODO TRIPLEX CUNEUS;' who impropertis to the Kingis Maieftie to wald haif deceaved the Pope, to whome he gave hoip to favour or imbrace the Catholick Religioun, is onlie to disgrace, in what he may, the Kingis Maieftis self, and some Catholicks whome thay haift without iust caus, without veritie or charitie; which fuld not be imputed to all Catholickes, nor to the CARDINALL BALARMINE, who is not authour of that booke. Amongst the Catholickes ar many honest men, affectioned to his Majestie service, in all things thay may with goode conscience, and faitie of the Catholick Religioun; amongst whome I wald not be the hindmeft, as I haif ever bene and falbe to my lyveis end. And heir I leif to truble your worship, with my humble and heartly recommendatiounis redoulet to your goode affectiounis, as to my L. Vicount of Fentoun⁶ your Vncle.⁷ FROM AIGNON, the 27 of Januarye, 1609.

Your worship most humble and affectioned couseing and servant,

(No address)

WILLIAME CREICHTOUN.

VI. LETTER from SIR THOMAS HAMMILTOUN to KING JAMES VI.⁸

PLEASE YOUR MOST SACRED MAIESTIE,

HAVEING reassued from the Earle of Dumbar, the LORD BALMERINOES Confeffion of his most heynous offensis, committed aganis your Maieftie, togidder with your Maiefties two Letters, contean-

¹ The words 'and instructions,' added on the margin, in another hand, and deleted. ² Inserted on the margin, in the same hand, 'and sick service, who evir had done it, ather with or without Commissioun, apperis to merit rather thanks and revaird nor hard traitment.' ³ On the margin, in another hand, afterwards deleted, 'and instructions.' ⁴ Jesuites and Seminary Priests. ⁵ Blood relations. ⁶ The celebrated Sir Thomas Erskine of Gogar, who killed Alexander Ruthven, at Perth, Aug. 5, 1600. He was created Earl of Kellie, Mar. 12, 1619.

⁷ This seems to prove the Letter to be addressed to Sir Andrew Moray of Balvaird. See his ingenious Letter to the King, Jul. 13, 1608, No. XIX, (14.) of the Collections relative to Gowrie's Conspiracy, vol. ii. p. 323. ⁸ From the Original, preserved in the *Dennylne M.S. Collections*, Adv. Lib. A. 2. 40.

ing sum materiall poyntis of his cairiage, in the practeifing of that mischeivous pourpose, not conteaned in his Confessioun; I have, according to the juste and wyfe direction of your priuie Letters, formed his Dittay, heirwith to be presented to your Maiestie, to the effect that these treasonabill crymes, which offered so dangerous woundis to your immaculat fame and royall honour, being considered be your most excellent judgement; that which is imperfyte, in my frame of this Dittay, may be amended by your Maiesties most judicious censure.¹ I have also ressaued from my Lord of Dumbar the resolutions of the graue and learned Ciuilians presented to your Maiestie, concerning this same fact, whairin they have expressed thair sufficiencie in thair proffession and faithfull affection to your Maiesties seruice; bot, being vnacquented with the grounds and course of oure Criminall Justice heir, have leaned to sum warrands, whairvpon I dar not weill relye: Becaus, I foresie that I am to perfew ane man, more skilfull to pleade his lyfe nor any that wes broght to the bar in this your Maiesties kingdome thir hundreth yeiris bygane; and who may expect suche assistace of the best of oure lawers, as many vthers offendours, most guiltie of hieft crymes, hes fund heirtofore: And albeit I think that the sentence geuin aganis him be his owne conscience, and vndeniabill treuth of the cryme, confirmed be his owne Confession, fould tak from him. all desyre of contradiction, and hope of any gude by his defence; yet, knowing it to be my dewtie to be reddie for the worst which he or his assistants can abill to intend, I fall be cairefull so to prepaire all thinges necessar for that perfute, as your Maiestie, with Goddis grace, fall have full satisfaction, by the performance of your royall commandement, in the verie forme and substance whilk your Maiestie hes prescryved. Gif the Judges do that dewtie, whilk in reason and justice thay owe, and I dowl not will faithfullie performe to your Maiestie, speciallie, feing my Lord of Dumbar² is to be ane ey-witnes of thair proceidingis, whois caire hes bene suche in directing the first pairt of the proces, which lyes to my charge, and exacting accompt of my diligence thairin; that, vsing the lyke with the rest of the Memberis of this Judgement, as I am assured he will, thay will nether get leifour nor leive to neglect or ouersie thair dewtie. In my charge, his instance fall be bot spurris to ane fast running hors; yet can I not deny that his judgement hes availed to remark and reforme dyuers things to the better. So wiffing to your Maiestie, in this and all vther your Royall defenis,³ most honorabill and happie succes; and to myself, your Maiesties gracious acceptance of the weak indeuours of ane most faithfull hairt and affection in your Maiesties seruice, I commit your most excellent Maiestie to Goddis blifed protection. ED^r, this 9. Feb 1609.

Your most sacred Maiesties most faithfull and most bundin seruant,

S. TH. HAMILTON.

VII. *NARRATIVE drawn up by LORD BALMERINOCHE, containing an Historical Account of the various Proceedings adopted against him, in England and Scotland.*

[SINCE the preceding sheets were sent to press, the Editor, being anxious to investigate the truth or falsehood of Lord Balmerino's Treason, has pursued as extensive an enquiry as his present limited opportunities permit. It must be satisfactory to all who take an interest in such investigations to learn, that the indefatigable Wodrow has preserved a Transcript of a Memoir, bearing every mark of authenticity, and which is said by Calderwood, in his MS. Church History, to have been prepared by this unfortunate Nobleman, during his exile. Although somewhat prolix and verbose, which is common to

¹ This amended draught has been preserved by Sir James Balfour, and contains very minute and laboured corrections. The King was very partial to such employment, and the crafty Hamilton ministers here to the King's vanity, in no measured terms. ² The reader has already seen how 'earnestly' this Nobleman 'travelled' with the Judges, &c. in the matter of Logan of Restalrig's forfeiture; and the corrupt modes which he scrupled not to adopt, to gain his ends. See this Coll., vol. ii, p. 292, for another extraordinary Letter of Sir Thomas Hamilton to the King; and also Robertson's Hist. ii. 223. Hailes' Memorials of James I. p. 16, &c. ³ It seems doubtful whether this is a lapsus for 'business;' or whether the word 'designs' is meant.

all similar compositions at that period, it must for ever set this point of History at rest ; and not being written for the purpose of publication, but professedly for the information of his personal friends, and of the private perusal and instruction of his son, and for his warning, in the event of his entering into public life, it is so much the more impressive, and carries with it an air of candour and truth, ' nought extenuating,' nor ' setting down aught in malice.'—During the search which it was necessary to make among contemporary MSS. the following remarkable passage, which occurs in Anderson's History of Scotland, seemed to be worthy of preservation. ' His freindis and intereift fervantis maid the word go abrod, that the said Prefedent not only had a Commiffion for wrytting of the said Letteris to THE PAIP and CARDINALS, bot also that he hade a Remiffion for the samyn, if ever thei fould be querrelled ; as in sum miffur appeared ; for he was no wayis frayed for the said Sentence, be reason, efter his returning to ward, his imprifonment was enlarged still mair and mair, till in¹ he tuk faiknes and died. Bot for feir of bakcalling and renewing the saidis proces, he was quyetlie buried, no man knawing quhar, except a few only of his awin freindis. And within 3 or 4 yeiris efter, his hail landis and honours was restoirod bak again to his son and children.'²]

THIS LETTER³ and Instructions, written be Sir Edward Drummound, with the rest of that Dispathe, I presented unto his Ma. showing it was Drummounds dispathe for the Bishope of Vizone. So all the Letters were signed, without asking to whom they were directed, closed and sent to the Archbishop of Glasgow,⁴ to be directed at his discretione. So Sir Edward received them not in Scotland, but they were sent in Monsieur Bethun's packet, leaft otherwise they might be intercepted. It may be easilie considered how necessar this service was for his Ma. as matters then went, there being small hope of Englands favour ; Effex being then in his triumphe, and Valentine Thomas his proceffe at the very tyme in deducing, in his Ma's prejudice, to difable him in his clame to the Crowne ; and what respect could I haue had then, other then my faithfull duty. For it proving, as it did, verie profitable for his Ma. in such fort, as by directione from Rome, all the Catholicks in England prepared themselves in armes and horses, for maintenance of his Ma's title ; and, at Rome, the Spanishe courtes were crossed. It was reputed by them that truelie loved his Ma. the best service that euer was done him in that kind ; Likeas Sir James Lindsay's employment followed after it, and speciall dealing with diverse Catholicks of England, wherewith the greatest guiders of England being terrified, and Effex taken out of the way, the Earle of Salisburrie, then Sir Robert Cecil, by Lord Harie Howard, now Earle of South-Hamptoune, fought means to his Ma., by Catholicks. They fought means to his Ma., and they were then the surest fort his (Ma.) had there : Likeas HIS MA., in his first Speeche in the Parliament-hous, extant in print, and a printed Proclamacione under his Ma's hand, did not difemble bow farre, as a Prince, he was bound to POPE CLEMENT, what great loyaltie and affectione he had found in Catholicks, and ever, whill⁵ that detestable Powder Treason (abominable in God's sight, and detestable and damnable to be remembered and recorded, by all memorie,) his Ma. continued not farre from that same minde, whill the policie of some curious heads, fearing lest his Ma. should have looked more narrowlie in his owne estate and their actions, and knowing his inclinatione to be tickle in these points of Religione, sett him on work to that *Triplici nodo triplex cuneus*, which procured that answere of TORTUS, Bellarmin's Chaplaine, unknowne, as I am credible informed, to Bellarmine, and not unknowne to some states-men ther, to exasperate his Ma. not onlie against the Court of Rome, and his owne subjects in England, but to vouchsafe his charitie upon me, against whom their malice, although not deserved for any particular of my owne, is weill enewgh knowne. Their malicious intention, thus founded, was weill fecounded by the malice of my enemies at home, the insolencie of some of the Bishops, and ambition of one, of whome I had deserved better. The Plott is secretlie contrived, that I shall be brought to a Confessione of it—his Ma. to disallow it—and, consequentlie, my undoing.

¹ He is said, by Calderwood, to have died in the end of May, 1612. See No. VIII. of this Appendix. ² Anderson's MS. Hist. of Scot., Adv. Library, Fol. 652. ³ A copy of the Letter to the Pope precedes this Memorial. ⁴ James Beaton, second Archbishop. ⁵ Until.

There came never anie thing of this to my knowledge, before I came to St' Albans, in the beginning of October 1608, the verie night before I come to Roystoun to his Ma. The advertifment that I had, was, that I had procured Letters, unknown to his Ma., under his hand, to THE POPE, whereby he had promised, that how soone he should come to the Crowne of England, he should either declare him self Catholick, or at least he should grant a toleratione to all Catholicks within his dominions; and had procured to make the Byshope of Vaizon a Cardinal. The last part, because it was true, I thought it not to be denied; but the first, which was alluterlie false, I refused.¹ At my coming to Roystoun Sir Alexander Hay, (in whom I reposed as great trust as in my self,) having formerlie perswaded me, most traterouslie, that his course of accepting to be second Secretarie,² which at first I disliked, was a plott of my enemies, to his prejudice and mine both; and so, had perswaded my most assured and worthie friend Mr Thomas Murrey of his h(ighnesse) affection to me, which I did over credulouslie beleave. Coming to me, I compleaned that I was wronged, in so much that I had not gotten more tymous warning of their calumneis and his Ma^s discontentment against me;—excused himself, that he had sent me a packet, but that (I) had missed it be the way;—that it was a mater that I needed not to care fore, seing his Ma. desired no more, but to know the truth; and would not be discontent, if, in the point of his Religione, he were not ingadged. So, I confessed the simple truthe. He, in the meane while, had his dailing, unknowne to me, with the Bishop of Glasgow, who incensed his Ma. that, so long as I was officer,³ their state could not be raised:⁴ And having assayed manie other means to disgrace me, could effectuat nothing. Having the authoritie of the greatest there to concurre to my overthrow, they did so dispose his Ma. as, without anie shew of discontentment, he askes of me Sir Edward Drummond's Dispatch, and specialie, of that Letter to THE POPE. I could not denie that which was weill knowne to his Ma.; and that which was contained in Tortus book, was not farre different from the truthe; for the words are, (speakeing of his Ma.,) *Literas humanitatis et officii plenas scripsit ad PONTIFICEM MAXIMUM, quibus præter cætera rogavit, ut ex suis subditis aliquis Cardinalis S. R. E. crearetur.* But his Ma^s promises of conformitie or to alteratione of Religione are not ascribed to my Letter, but to the promises of some of the Ministers. Nixt, his Ma. asked, 'if ever he had consented to call THE POPE his *Father*?' I granted that he still refused—and in that, I had presumed, for the good of his Ma. service, after his Ma. had subscribed the Letter, to cause Sir Edward adde the Pope's ordinarie stiles; wherein, if his Ma. conceived anie offence, I was to crave his Ma. pardone to be disfavoured in that, and to cleare his Ma. so farre as anie would tuiche him therewith.

This past in Roystoun, on Sunday, in the morning, before Sermon, betuixt his Ma. and me, privatlie, in his withdrawing chamber. Sir Alexander Hay, who had still his practises with the Bishop of Glasgow, having learned of his Ma. how farre I confessed, advised his Ma. that my Confessione should be retreated,⁵ in the hearing of some others: And, to the end that I should not suspect their intentione, at my

¹ Denied. ² It is difficult to get at the truth of State intrigues, and to detect the real causes of such a change as that referred to by Lord Balmerinoch in his interesting Narrative, even at the time of their occurrence. His Lordship is, no doubt, very particular in his details, which are likely to be correct; for his Narrative was evidently intended for the perusal of those who must have had the best opportunities of knowing the facts. In a valuable Collection of State Papers, preserved in the General Register-House, Edinburgh, transcribed by Sir Thomas Hamilton (Earl of Haddington,) there occurs a transcript of the original Warrant of Sir Alexander Hay's appointment to the Office of Joint-Secretaryship, in the following terms.

'HAVING choissing MR ALEX^r HAY to be on of our Privie Counsell of that our kingdome; and thinking it no way fitt that he sould still attend vs heir at Court, for Scottis dispatchis, as deput to ony wther, We have thairfoir joynd him in office with the Lord of Balmerinoch, our Principall Secretar, (quho being enforceid, be his greitt employments in our service, to continew thair, for the moist part,) We intend to have the said Mr Alex^r ane attendar and resedentiarie heir at Court, for the better dispatche of the affaires of that Kingdome. AND our plesour is, that yow caus tak his oath, as Secretarie wnto vs. Quhairnant thir presentis salbe your Warrant.' [JAMES R.]

To our rycht trustie and weilbeloveit cusine and counsellour, the Erl of Dumfermling,
our Chancellor of that our Kingdome of Scotland.

³ Secretary of State. ⁴ Episcopacy could not be restored. Balmerinoch had obtained large grants of Church Lands, &c., and it was, therefore, his interest to preserve matters in their present state, for fear of a resumption of these livings taking place, which would thus strip him of a large portion of his income. ⁵ Rehearsed, reiterated; not retracted, which at first sight it would seem to import.

all similar compositions at that period, it must for ever set this point of History at rest ; and not being written for the purpose of publication, but professedly for the information of his personal friends, and of the private perusal and instruction of his son, and for his warning, in the event of his entering into public life, it is so much the more impressive, and carries with it an air of candour and truth, ' nought extenuating,' nor ' setting down aught in malice.'—During the search which it was necessary to make among contemporary MSS. the following remarkable passage, which occurs in Anderson's History of Scotland, seemed to be worthy of preservation. ' His freindis and intereit servantis maid the word go abroad, that the said Prefident not only had a Commission for wrytting of the said Letteris to THE PAIP and CARDINALIS, bot also that he had a Remission for the samyn, if ever thei sould be querrelled ; as in sum miffur appeared ; for he was no wayis ffrayed for the said Sentence, be reason, efter his returning to ward, his imprifonment was enlarged still mair and mair, till in¹ he tuik seiknes and died. Bot for feir of bakcalling and renewing the saidis proces, he was quyetlie buried, no man knawing quhar, except a few only of his awin freindis. And within 3 or 4 yeiris efter, his hail landis and honours was restoirod bak again to his fon and children.'²]

THIS LETTER³ and Instructions, written be Sir Edward Drummond, with the rest of that Dispathe, I presented unto his Ma. showing it was Drummonds dispathe for the Bishope of Vize. So all the Letters were signed, without asking to whom they were directed, closed and sent to the Archbishope of Glasgow,⁴ to be directed at his discretione. So Sir Edward received them not in Scotland, but they were sent in Monsieur Bethun's packet, least otherwise they might be intercepted. It may be easilie considered how necessar this service was for his Ma. as matters then went, there being small hope of Englands favour ; Essex being then in his triumphe, and Valentine Thomas his proceffe at the very tyme in deducing, in his Ma's prejudice, to disabie him in his clame to the Crowne ; and what respect could I haue had then, other then my faithfull duty. For it proving, as it did, verie profitable for his Ma. in such sort, as by directione from Rome, all the Catholicks in England prepared themselves in armes and horses, for maintenance of his Ma's title ; and, at Rome, the Spanishe courses were crossed. It was reputed by them that truelie loved his Ma. the best service that euer was done hime in that kind ; Likeas Sir James Lindfay's employment followed after it, and speciall dealing with diuerse Catholicks of England, wherewith the greatest guiders of England being terrified, and Essex taken out of the way, the Earle of Salisburie, then Sir Robert Cecill, by Lord Harie Howard, now Earle of South-Hamptoune, fought means to his Ma., by Catholicks. They fought means to his Ma., and they were then the surest fort his (Ma.) had there : Likeas HIS MA., in his first Speche in the Parliament-hous, extant in print, and a printed Proclamatione under his Ma's hand, did not disemble how farre, as a Prince, he was bound to POPE CLEMENT, what great loyaltie and affectione he had found in Catholicks, and ever, whill⁵ that detestable Powder Treafone (abominable in God's sight, and detestable and damnable to be remembered and recorded, by all memorie,) his Ma. continued not farre from that same minde, whill the policie of some curious heads, fearing lest his Ma. should have looked more narrowlie in his owne estate and their actions, and knowing his inclinatione to be tickle in these points of Religione, sett him on work to that *Triplici nodo triplex cuneus*, which procured that answere of TOR-TUS, Bellarmin's Chaplaine, unknowne, as I am credible informed, to Bellarmine, and not unknowne to some stats-men ther, to exasperate his Ma. not onlie against the Court of Rome, and his owne subjects in England, but to vouchsafe his charitie upon me, against whom their malice, although not deserved for any particular of my owne, is weill enewgh knowne. Their malicious intention, thus founded, was weill fecounded by the malice of my enemies at home, the infolencie of some of the Bishops, and ambition of ane, of whome I had deserved better. The Plott is secretlie contrived, that I shall be brought to a Confessione of it—his Ma. to disallow it—and, consequentlie, my undoing.

¹ He is said, by *Calderwood*, to have died in the end of May, 1612. See No. VIII. of this Appendix. ² *Anderson's MS. Hist. of Scot.*, Adv. Library, Fol. 652. ³ A copy of the Letter to the Pope precedes this Memorial.

⁴ James Beaton, second Archbishop. ⁵ Until.

There came never anie thing of this to my knowledge, before I came to S^t Albans, in the beginning of October 1608, the verie night before I come to Roystoun to his Ma. The advertifment that I had, was, that I had procured Letters, unknown to his Ma., under his hand, to THE POPE, whereby he had promised, that how soone he should come to the Crowne of England, he should either declare him self Catholick, or at least he should grant a toleratione to all Catholicks within his dominions; and had procured to make the Byshope of Vaizon a Cardinall. The last part, because it was true, I thought it not to be denied; but the first, which was alluterlie false, I refused.¹ At my coming to Roystoune Sir Alexander Hay, (in whom I reposed as great trust as in my self,) having formerlie perswaded me, most trateroullie, that his course of accepting to be secound Secretarie,² which at first I disliked, was a plott of my enemies, to his prejudice and mine both; and so, had perswaded my most assured and worthie friend Mr Thomas Murrey of his h(ighness) affection to me, which I did over creduloullie beleave. Coming to me, I compleaned that I was wronged, in so much that I had not gotten more tymous wairning of their calumneis and his Ma^s discontentment against me;—excused himself, that he had sent me a packet, but that (I) had missed it be the way;—that it was a mater that I needed not to care fore, seing his Ma. desired no more, but to know the truth; and would not be discontent, if, in the point of his Religione, he were not ingadged. So, I confessed the simple truthe. He, in the meane while, had his dailing, unknowne to me, with the Bishop of Glasgou, who incensed his Ma. that, so long as I was officer,³ their state could not be raised:⁴ And having assayed manie other means to disgrace me, could effectuat nothing. Having the authoritie of the greatest there to concurre to my overthrow, they did so dispose his Ma. as, without anie shew of discontentment, he askes of me Sir Edward Drummond's Dispatches, and specialie, of that Letter to THE POPE. I could not denie that which was weill knowne to his Ma.; and that which was contained in Tortus book, was not farre different from the truthe; for the words are, (speakeing of his Ma.,) *Literas humanitatis et officii plenas scriptas ad PONTIFICEM MAXIMUM, quibus præter cætera rogavit, ut ex suis subditis aliquis Cardinalis S. R. E. crearetur.*⁵ But his Ma^s promises of conformitie or to alteratione of Religione are not ascribed to my Letter, but to the promises of some of the Ministers. Nixt, his Ma. asked, 'if ever he had consented to call THE POPE his *Father*?' I granted that he still refused—and in that, I had presumed, for the good of his Ma. service, after his Ma. had subscribed the Letter, to cause Sir Edward adde the Pope's ordinarie stiles; wherin, if his Ma. conceived anie offence, I was to crave his Ma. pardone to be disfavowed in that, and to cleare his Ma. so farre as anie would tuiche him therewith.

This past in Roystoun, on Sunday, in the morning, before Sermon, betuixt his Ma. and me, privatlie, in his withdrawing chamber. Sir Alexander Hay, who had still his practises with the Bishop of Glasgou, having learned of his Ma. how farre I confessed, advised his Ma. that my Confessione should be retreated,⁵ in the hearing of some others: And, to the end that I should not suspect their intentione, at my

¹ Denied. ² It is difficult to get at the truth of State intrigues, and to detect the real causes of such a change as that referred to by Lord Balmerinoch in his interesting Narrative, even at the time of their occurrence. His Lordship is, no doubt, very particular in his details, which are likely to be correct; for his Narrative was evidently intended for the perusal of those who must have had the best opportunities of knowing the facts. In a valuable Collection of State Papers, preserved in the General Register-House, Edinburgh, transcribed by Sir Thomas Hamilton (Earl of Haddington,) there occurs a transcript of the original Warrant of Sir Alexander Hay's appointment to the Office of Joint-Secretaryship, in the following terms.

'HAEVING choissing MR ALEX^r HAY to be on of our Privie Counsell of that our kingdome; and thinking it no way fitt that he sould still attend ws heir at Court, for Scoittis dispatchis, as deput to ony wther, We have thairfoir joyned him in office with the Lord of Balmerinoch, our Principall Secretar, (quho being enforceid, be his greitt employmentis in our service, to continew thair, for the moist part,) We intend to have the said Mr Alex^r and attendar and resedentiare heir at Court, for the better discharge of the effaires of that Kingdome. AND our plesour is, that thir presentis salbe your Warrant.' [JAMES R.]

To our rycht trustie and weilbeloveit cusine our Chancellor of that our Kingdome of Scotland

³ Secretary of State. ⁴ Episcopacy Lands, &c., and it was, therefore, his intention these livings taking place, which would

the Erll of Dumfermling,

Balmerinoch had obtained large grants of Church their present state, for fear of a resumption of rtem of his income. ⁵ Rehearsed, reiterated.

second Examinatione was present but Sir Alexander Hay, whom yett (as God judge me, I trusted as my self.) There I confessed, before his Ma., as befor, that his Ma. ever disaffented to yeild the Pope any stiles; and, at the subscribing of the Pope's Letter, I acquainted him no farther, but (in) generall, that it was to Sir Edward Drummond's Dispatch, anent the Bishop of Vaizon. That I caused Sir Edward add the stiles; and for that, upon my knees, most humblie I craved his Ma. pardone. Then, be his Ma. countenance, and some rounding¹ that past betuixt his Ma. and Sir Alexander Hay, I beganne to be in some suspicione. The King commanded me that I should repair to Londone,—remaine there whill I knew his pleasure—and in no case to repaire to the Queen's Court. Immediatlie, Sir Alexander Hay, the Bishops of Glasgou and Galloway conferred with the King, anent my Confessione; and were discontent that I had not presentlie sett it down, under my hand; yett, fearing least I should have suspected their policie, they would not then urge me anie farther.

The next Mounday I raid to London. Sir Alexander Hay and the said Bishops raid before me; and Sir Alexander went to my Lord Salisburie, (and) acquainted him with all was past. Then begane I to suspect the course, and to repent me I had gone so farre. I sent to the Earle of Salisburrie, desired I might have an assignatioun to come to him; who did returne answer, that he was advertised from his Ma. that I was commanded to keep my house; and so it was not fit I should come to him. Thus did I mistake his Ma's command; for in that (I) was forbidden to repair to the Queen, then lying at Hamptoun Court, I thought all other places, within Londone, were free to me. Likeas, I went to Lambeth, to the Archbishop of Canterburie,² and to Whitthall, to the Earle of Dumbar; the said Sir Alexander allwise in companie with me, never giving me notice of his Ma's pleasure to the contrarie, whill³ I had it of the Earl of Salisburie; of purpose, as I have since found it, to exasperat his Ma., as a contempt not ordinarie there, where his Ma's commands are verie ceremonioullie observed. But, as God shall judge me, I never heard anie other command from (his) Ma. but to attend his pleasure at Londone, and not to repaire to her Ma's Court.

Wedinsday thereafter, Sir Alexander Hay, having repaired to his Ma. comes with a Note, under his Ma. hand, commanding me that I should sett doune in writte the passing of that Letter to the Pope, and the circumstances, so far as I could remember. Beginning then to apprehend the buffinesse, and having gotten warning of his Ma's displeasure, and the advantage my enemies presumed they had gotten, I become more spairing; and by my Letters to his Ma. desired that I might be excused that I could not sett down the particulars of that, under my hand, after so long a tyme; except that either I were in Scotland, where my papers might bring me to remembrance, or that I had mett with Sir Edward Drummond; begging his Ma's patience, whill³ I might send for him; which I offered to doe with convenient speed, who should bring with him the just copy of that Negotiatione, and should give his Ma. and all the world satisfacione of the truth. But that was not intended; but contrarie to the truth, to big upon me an unjust imputatione; wherof the production of the Letter would have made me cleare.

THE COPIE of the LETTER sent to HIS MA. the 12 of October (1608.)

Please your most sacred Ma.

IN these particulare points your Ma. did demand of me, so farre as I can remember, I answer for your Ma's satisfacione; That your Ma. (of my knowledge) did never command or direct any Letter to be writtin to THE POPE, neither was I present when Sir Edward Drummond moved your Ma. for any such Letter. That your Ma. did never style your self 'FILIUS' in any Letter, but to your Mother-in-law, the Queene of Denmark. That your Ma. did never writt 'FATHER' or 'HOLINESSE' to any. As to the Letter written be your Ma. to POPE CLEMENT, although I doe remember that there was some such Letter, conteaning nothing but a Recommendatione of the Bishop of Vaizone, I humblie crave your Ma's pardone, if I can make no declaratione how it was past, whill Sir Edward Drummond, who was the author, bearer and procurer thereof, be first examined; whom I am about pre-

¹ Private communings; whispering.

² Archbishop Bancroft, formerly Bishop of Londen.

³ Until.

gentlie, with your Ma. permiffione, to fend for, by whom the whole circumftances of that mater fhall be clearlie detected. For I proteft before God, for the prefent, I cannot perfitelie remember how that mater was paff; moft humbly craueing your moft facred Ma. (fince I am moft willing, for your Ma's obedience, to clear your Ma. of that before all the world) that in remembrance of my loving and affectionate humble fervice, yee will be pleafed to accord me the tyme and meanes, wherby the veritie of my part in all that mater may be manifested; which as I doe expect, out of your Ma. princely accustomed clemencie, fo fhall I ever pray, &c.

COPIE of the LETTER to HIS MA. the 15 of October 1608.

I DOE remember that I moved his Ma. divers times to have written to THE POPE, both to have taken notice of his kindneffe, and to have recommended the Bifhop of Vaizon; and that his Ma. did refufe, onlie for that he could not, with safe confcience, yeild him thefe titles of 'Father' and 'Holineffe,' which he¹ did allow: But if otherwife the Pope would have accepted his Ma. Letters, with the Titles of other Temporall Princes, he would have written him. As to the circumftances of paffing of that Letter, I proteft before God I cannot call them to my memorie; but by conference with Sir Edward Drummond, and with fuch as ferved me at that tyme, and with fuch other adminicles as I will find in my own papers, I hope I fhall give his Ma. fatisfactione.

HIS MA. not content to admit my delayes, remembering the circumftance of that negociatione better then I, he fetteth down a number of interrogations, under his hand, with a Letter to the Counfell of England, commanding them to examine me. Being brought before them, I at firft declined their Judgement, till they declared that they would not take upon them to judge me; but, following his Ma. commandement, to examine me and remitt me to my ordinarie Judge. In end, to all the particulars, I answered, in fuch fort, that they could not mend themselves, nor bring me in compaffe of any Law. The Earle of Dumbar, the Lord Skoone and Sir Alexander Hay prefent.—Thereafter his Ma., being difcontented of my unwillingneffe to cleare him, and to burthene my felf with the fault, yea to tak upon me fome points (which his Ma. affirmed he remembered,) which, in truth, I could not call to my memorie, the Earle of Dumbar directed the Lord Burlie² to me, a verie favourable and faft Nobleman, and who had, immediatlie before the Earle of Dumbar's parting out of Scotland, renewed a friendfhip between him and me, which was the greateft caufe of my repair to Court, that it might be confirmed there, before the Queen's Ma.; and his Ma. fatisfied, by the Earles meanes, of whatfoever hard opinion he had conceived either againft the Chanceler or me, by fuggeltione of the Bifhops. His credit from the Earle of Dumbar was to advife me, for my own good, fince it was confefsed by me that fuch a Letter was purchafed, and that his Ma. had denied it, that rather, ere the imputatione fhould lye upon his Ma., I fhould take it upon me. When I obtended the perrell of my eftate, his Ma's difcontentment and their malice, the Lord Burlie gave in this affurance, that my life, eftate, nor Ropar's Reverfione fhould be in no dangere. As to my Offices, to leave them to his Ma's difpofitione; whether he would take them from me or not. I finding manie enemies there, and being ftraitlie kepted, I enter, be the Lord Burleyes meanes, who from the beginning has ever kepted ane honeft part to me, in a more particular freindfhip with the Earle of Dumbar. And, becaufe the Lord Skoon and Sir William Hart had diverfe tymes travelled with me to have married one of the Earle of Dumbar's fifter-daughters, I was content to give him my eldeft fone to be difpofed upon in marriage at his pleasure, to give the Palace and Park of Hallyroodhoufe; and if he defired Reftalrige, he fhould have it for the price I bought it. Thefe conditions, as the Lord Burlie told me, pleafed him, and fo he would take upon him my protectione, if I would follow his advice, which I was content to do, knowing what power he had, and how eafie it was to him to calme all stormes; allwife defiring him to carie his affectione to me fo fecretlie, as the Bifhops, Sir Alexander Hay, the Earle of Wigtoun and others my fmall friends,

¹ Viz. the Pope.

² Sir Michael Balfour, created Lord Balfour of Burleigh, in Kinross-shire, Aug. 7, 1606.

should know nothing of it. He was so diligentlie allwise attended be some of these, that after he had appointed me diverse meetings, he could never meete with me; alwise, he assured me what ever the Lord Burlie should say, in his name, I might trust it, and he would performe the same. And hear-upon I desire my friends to enquire the Lord Burlie, if this assurance was not given be the Earle of Dumbar, that my life, my estate, and Ropar's Reversione should be sure; as for my Offices, they should rest in his Ma. dispositione; and it might be I would not want them.

The Earle of Dumbar thus entered in conditions with me; and the Lord Burlie putt in trust, for hime and me both, for all conditions on both parts. The first directione was, that I should writte a Letter to him, desiring he should conveene the Earles of Salisburie, Northampton and Suffolk, befor whom I should grant all the King's Articles; and thereafter writte a Letter to his Ma. to the same effect. He willed me to use these three Noblemen to strengthen his credit, that they being engaged to be my friends, he might the more easilie worke that he had undertaken; and all the said Noblemen promised upon their honours that they should be my friends, and would joyne with the Earle of Dumbar to satisfie his Ma. All which I performed. Then was I delivered in the Earle of Dumbar's keeping, who promised that I should allwise be his prisoner; and at my returning to Scotland I should be wairded in the Castle of St Andrewes. By this advise, I wrote a becomming in his Ma. will, which the Lord Burlie gave him. He returned me an answer with him, that his Ma. was weill pleased with it, and all would go weill; onlie, I was desired to adde this, that I would renew the same judicialle, when I should be required; which I did.

THE COPIE of the LETTER to HIS MA. 24 of October 1608.

Most gracious and dread soverane,

IT is over great presumptione to offer to your most princelie eyes these lynes, from the hands which have so highlie offended your most sacred Ma.; but, because it was continuance in my offence to labour to obscure the cleare soule of your Ma^s unspotted integritie, and that the imputatione of my misdemanour, which I justlie deserve, may lye upon my self, and your Ma^s innocencie cleared to all the world, I have truelie sett down here, how that Letter to POPE CLEMENT, wherewith your Ma. is falslie taxed, was, without your knowledge, past your hand, amongst other Letters which I did present to your Ma., by the abuse of your Ma^s trust, whereof I was not worthe. In the year of God 1598, at the earnest sute of the late Archbishops of Glasgow,¹ your Ma^s Ambassader then resident in France, the Bishop of Vaizon and divers others your Ma^s weill affectioned friends and servants, both in Italie and France, who were verie earnest to have had some correspondents betuixt your Ma. and the Pope. Sir Edward Drummond being directed by them in Scotland, to follow that buffinesse, I presumed divers tymes to move your Ma. therein; and did offer to your Ma. the frame of such a Letter as I would have signed be your Ma. to the Pope; whereunto I never found your Ma. so unwilling as your Ma. did altogether refuse to writte; denying ever to writte anie Letter, with these files which the Pope did assume to himself. But I being in my too great zeale, and assured hops were given me by greater statesmen then my self, of the benefite would come to the strengthening your Ma^s title,² by the Pope's friendship, overcome with weaknesse, and presuming that the successe of my true intencion should efface the memorie of my offence, I caused draw up a Letter, with the said Sir Edward's hand, as from your Ma. to the Pope; but verie spairinglie, onlie containing thanks for his kindnesse and bygainie favour, with Recommendatione of the Bishops of Vaizone, your Ma^s native borne subject, to be made a Cardinal. To the which Letter, among others of that kind, written to the Duke of Florence, Sawoy and some Cardinalls, in favours of the said Bishop, (all presented be me unto your Ma. one day in the morning, when your Ma. was going a hunting, in haste,) your Ma. did sett your hand: For your Ma., finding the Letters all in Latine, and the Bishop of Vaizon's Recommendatione the subject, and having formerlie refused to writte to the

¹ James Beaton, the second archbishop of that name.

² To the Throne of England.

Pope, did nothing suspect that anie such thing should have been offered to your hand. And after your Ma. had signed it, Sir Edward Drummond did adde the Pope's stiles, both in the beginning, and above your Ma's subscriptione in the end of it. Some Letters, two or three as I remember, signed by your Ma. to some Cardinalls, containing nothing but thanks and recommendatione of the said Bishoppe, were given to the said Sir Edward cloffe, cascheted, to be directed, by the Bishop of Glasgow's advice, to such of them as were, in his judgement, best affected to your Ma.: And I did hear, after, two of them were given to Aldobrandine and Bellarmine, and the thrid to Cajetan, who was Protectour of the Scottish Natione. Here was my first fault of preposterous zeale, weaknesse, and presumptione. My next was fear of your Ma's displeasur; because the late Queen's Ambassader having expostulated for your Ma's dealing with the Pope, and I being asked therof, by your Ma., I did pertinaciousslie denie that there was anie such mater; and for your Ma's better satisfacione, I moved Sir Edward Drummond to returne into Scotland; who, being examined, did at my desire justifie my deniall, and that he had caried no Letter for the Pope. I pressed him, verie instantlie, at his returning, to labour to reter the said Letter, and to destroy it, fearing least the knowledge of it hereafter might breed your Ma's discontentment, as it hes done at this tyme, to my exceeding great sorrow. And because my attestatione in this kind, which I protest, before God and his angels, is true, and yett will not be a sufficient liberatione of your princelie honour, which is dearer to me then my life, I am not hearby to beg anie pardone, but that your Ma. in your most rare and princelie wisdom, will take such course, but¹ any respect unto me, whereby your Ma's innocencie and my offence may be made knowne to the world. And so, in all humilitie, attending to suffer what your Ma. will impose, and to obey whatsoever your Ma. will be pleased to command, I pray God grant your sacred Ma., according to the sinceritie of your heart, a true and just constructione of all your actions befor all the world, and, after a long and most prosperous raigne, eternall felicity.

COPIE of my becomming in Will, 3 November, 1608.

Please your most gracious and sacred Ma.,

As at the verie first I did ingenoussly Confesse my offence, and have particularly sett down under my hand the whole circumstances of it, and likewise answering to the severall interrogatours whereupon I was examined, I have in everie point declared the veritie; so, still continuing most desirous that your Ma's honour should be free of any such imputatione, and my offence without anie longer delay knowne to the world, doe, by these presents, in all humilitie, freelie and absolutlie submit my self, and become in your Ma's Will; that since onlie against your Ma. my offence is committed, so your Ma. will irrogat unto me such punishment as in your true justice and princelie clemencie I have deserved. And this my becomming in Will, I will renew, or reiterat in Judgment, or without, so oft as I shall be required.

AFTER this, the Earle of Salisburie causes be drawn up, upon his Ma's Interrogatours and my Answers, a forme of a Depositione, making everie particular deid to be Treafone—that I had traterousslie conspired with Sir Edward Drummond to deceave the King, and steall his hand to a Letter to the Pope—that I had traterousslie caused put the caschett to it—and that I had commanded Sir Edward, above the King's subscriptione, to writte '*Sanctitatis v. obsequentiſſimus filius*,' so like the King's hand as could be—and so, I had made him fallie to counterfoote the King's hand. This Depositione being offered to me to subscribe, I refused (at) the first; because it made that to be Treafone and treasonable which was not; since the Letter contained nothing but meere complements, and a recommendatione of a Scotishman to be a Cardinall; and that ane Officers trust was greater then to procure a common recommendatione; and the putting of the Caschett to it was lesse treasonable; feing by that Letter his Ma's honour, nor state, nor Religione, was not harmed, nor no damages nor inconvenience had followed upon it. The last part was directly *crimen falsi*; and as I had not deponed it, so it was not true. Att this meeting were present the Chancellor of England, Salisburie, Northamptoun, Suffolke,² my lord Duke

¹ Without.

² Thomas Howard, Earl of Suffolke. He was Lord Chamberlain at the time of the Gun-

of Lennox, the Earle of Dumbar, Sir Thomas Smith Clerk of the Counsell, and Sir Alexander Hay.— My answere to the laft, the Chancellor granted to be true, and that it was but a mistaking; and so it was mended, and that article dealeated, in so farre as it concerned the counterfooting of the King's hand. As to the first, my Lord of Salisburie answered me, that what they had fett down was onlie to give his Ma. satisfacione; and it was nothing to me, since his Ma. had accepted me in Will, was to deale gratiousslie with me, and not to proceede judicallie with me any more. Whatever might please his Ma., and in his Ma's opinion give the world satisfacione, and clear his honour, since it was not to harme me, it was unfitt that I should refuse his Ma. to give his Ma. what should please him, seing it was not to prejudice me. And upon this affurance, and the Earle of Dumbar's former Declaratione, that the King had weill accepted of my becoming in Will, and that my not subscribing of this Depositione hindred the progresse of the King's answere to TORRUS booke, wherof this Depositione behoved to be a part, I fett my hand to it, in presence of the Noblemen and others above written, who, I am sure, upon their honour, will not denie it. And hearupon I desire my friends to inquire the Duke of Lennox, the Earle of Dumbar, and Sir Alexander Hay.

LAST, the King's Ma. having concluded to returne me in Scotland, because all this matter was carried with a great show (as was said to his Ma.) to cleare his honour, but in effect to disgrace me, and make me odious, I was brought before the Counsell. (Not only) all the Noblemen, both English and Scotish, (and) all the Judges were brought, but all the Court, so many as the Counsell-Chamber could contane. *The Chancellor* declared the cause of that solemne meetinge, made my Depositione to be read, and with a long harrange and many reasons did aggravat my offence, to his Ma's great praise; and in the end, remitted the matter to Scotland, to be judged there. Nixt, *the Earle of Salisburie* had as long a discourse, all to disgrace me, to flatter the King, and to shew his eloquence. Thridlie, *the Earle of Northampton*, to testifie his zeale as a witness, how alien his Ma. was from anie dealing with the Pope, these 18 years he had keept correspondence with his Ma., damned all my proceedings. I had warning the night before that I was to be so used, as the Lord Burlie,¹ who had beene mediator betwixt the Earle of Dumbar and me, being departed to Scotland, I was forced to fend for James Bailzie, a verie trustie young man, to whom I am infinitlie bound, and who (nixt my Lord Burlie) was verie privy betwixt the Earle of Dumbar and me; whom I desired to shew his lordship, that I understood that I was to be brought before the Counsell the next day, and that they were to raill upon me. That he should not think it evill if I should say, for my owne defence, that which I would make good; that there was no point which they were to lay against me, which I would not answere. He returned James Bailzie to me, with this answere, earnestlie praying me, since that was the last that in that earand was to be done, not for my prejudice, but for his Ma's honour and satisfacione, that I would answere nothing; but in all humilitie acknowledge my offence, cleare and liberate his Ma., renew my becoming in Will, and desire my Lords of Counsell to become intercessors, that his Ma. would end the processe, be his Declaratione. This would be most acceptable to his Ma., who would be behind a peece of tapestrie,² and if I played my owne part right, his Ma. would be best pleased. Which I also obeyed.

The Chancellor, in Counsell, produced his Ma's Warrant, declaring his Ma's Will, that I should be no more one of that bodie. Which Declaratione of his Ma's Will, having no Convictione nor Warrant, but my becoming in Will was ane acceptatione of it; so, having declared a part of his Will, by no law, thereafter, he might have proceedede judicallie with me. Immediatlie after the Counsell, the Earle of Dumbar sent James Bailzie to me, to give me thanks; and to shew how weill his Ma. was pleased;

powder Plot, and was, with Lord Mounteagle, the chief means of detecting that remarkable Conspiracy. See *Carte*, III. 757—*Winwood's Memorials*, II. 171. Suffolk was turned out of his office, in 1618, for embezzlement, &c.

¹ Sir Michael Balfour, Lord Balfour of Burleigh. ² This was by no means an uncommon practice of 'his most sacred Majesty,' and conveys no favourable idea of the course of his proceedings, in this remarkable transaction. It reduces the whole matter to a mere stage trick, and a solemn mockery of the highest Tribunal and personages of the Country.

and that his Ma. would have that in writt, which I spake. Which also I fett doune. And because there was some words his Ma. (as he affirmed) desired to be added, which he affirmed I spake,¹ the words written with his hand, and brought to me by the said James Bailzie, I infert with my hand and subscribed; and fend them to him, with the said James. And hearupon I desire, if need, that my friends may inquire the said James.

THE summe of the Counsell of England's proceedings, on Sunday, the 13 of November, 1608.

THE said day, in the after noone, the whole Counsell being convened in the Counsell-chamber, the whole Judges, and all the Noblemen, both Scotish and English, that were at Court, THE LORD CHANCELLER² beganne a verie grave speech, wherein he did earnestlie require audience and attentione, in respect of the great consequence of the mater he was to speake of. It was so much the greater, that it was a noviltie wherof he had never heard, nor (to his knowledge) in all his books read of any the like president, of before. It was of great consideratione, because it did tniche the Kings most sacred Ma. and royale persone, both in his honour and his safetie, wherein did consist the safetie of the whole estate. The mater was also weightie, in respect of the persone whom it did concerne; a Nobleman of Scotland, raised to that estate by his Ma^a favour, and a Member of that board. As to the mater, because he might perhaps faile in the relating of it (which he was very unwilling to doe, in a mater of that kinde and weight,) therefor he desired the Instrument, containing the Lord Balmerinoch his Confession, and signed with his hand, should be read. The same being read, and acknowledged by the Lord Balmerinoch to be his owne Confession, then he said to the Lords of the Counsell, that he did perceave, by their countenances, that they all did looke on that mater as if it were a mater wherein they were to give their sentence and judgement. But he prayed them not to thinke so; and that he would releave them of that burthen; because neither were they convened to that end, neither was the said Lord Balmerinoch brought down to make any answere; because that mater was transcendent, and of a greater weight than that board, or any Counsell board, could judge of it; but, because it was a fact committed in Scotland, by a Scotishman, before his Ma^a happie comming to the Crown of England, they would not doe that prejudice to Scotland, that was as ancient and free a kingdome; as they are so weill governed, with so many grave and ancient Noblemen; whose Nobilitie is continued and reserved with a farre greater respect and antiquitie nor their owne; so wise a Counsell of Estate, so learned and grave Judges, as in all these perfectionis they were nothing inferiour to them. Onlie, for the present, he would point out and offer to their considerations, that were present, some heads of that Confession, which had been the consequents of that fact; and so remitt it to the own Judgement,³ and the Lord Balmerinoch to his own answere before his owne Judge. First, he desired they should attend the tyme when his Letter was written; to witt, when his Ma. was, in possessione, King of Scotland; in his title and undoubted royall descent, apparent of England. How this fact might have perrelled him both the one and the other, if it had been knowne that his Ma. had had any dealing with the Pope; for, in Scotland, the most of all the Nobilitie, gentrie, and whole bodie of the kingdome, being of the Religione they presentlie professe, would not have failed to have made infurrectione, if they had knowne that his Ma. had any dealing with the Pope. In England, the late Queene, of happie memorie, being a Prince verie jealous and narrow looking in all his Ma^a actions, if she had knowne that his Ma. had had anie course with the Pope, she would have quicklie objected unto his Ma., that since he was taking a forane course to strengthen him, speciallie with these who had so often suted⁴ her life, she would likewise take another course, for her owne preservatione; and so might have endangered his Ma^a just clame. Like as, in effect, the same dealing coming to her knowledge, she did incontinent fend her Ambaffader, and did most bitterlie expostulat with his Ma.; and the dealing, at that time, was denied; and so smoo-

¹ Balmerino was thus led forward by one piece of artifice after another, until, at length, he was so completely in Dunbar's toils, that retreat was impossible. ² Sir Thomas Egertoun, Lord Ellesmere, afterwards (1616) created Viscount Brackley. ³ To the natural and proper Court of Jurisdiction, in Scotland; where he would be tried by an Assise of his peers. ⁴ Pursued.

thered over. Nixt, he did mightilie aggredge¹ the great inconveniences that had fallen out, all (as he did affirme,) upon the dealing mentioned in that Confessione; first, that it had given occasione of ane infinit number of scandalous books and pamphlets to be written, wherin his Ma. was verie bitterlie taxed; and speciallie, he did there produce *Bellarmines* late book, under the inscriptione, which he did read, of one whose name being TORTUS, he did allude therunto that he was alwise *tortus*.² The parcell³ he read, was the fault found with Pope Clement's Breave; wherby he did command the body and estates of this kingdome of England not to admitt or receive a King, in case of the Queen's decease, but a Catholicke; and so did exclude his Ma. from his just title. To the which clause, contained in the book of *Triplici nodo triplex cuneus*, Bellarmine made this answer, that by that Breave, the Pope did not meane to exclude the King, because the name '*Jacobus*' was not mentioned in it; and withall, the Chancellor did observe, in the words he read, that *Bellarmino* did give the author of the book a lye, in the word '*mentitur*;' nather could it be meant of his Ma., because his servants and Minister had given great hopes to the Pope, that '*non erat valde alienus a fide Catholica*;' and thereafter, '*quia etiam Rex ipse scripsit ad Pontificem ipsum, Literas humanitatis plenas, quibus, præter cetera, rogavit ut aliquis a Natione sua Cardinalis S. R. E. crearetur, per quem facilius cum Pontifice res suas tractare posset*:' Which words being conforme to the Lord Balmerinoch's Depositione, the same had given occasione of the writting of that booke; in manie parts wherof his Ma. was bitterlie taiched. Nixt, upone the occasione, contained in that Depositione, did grow all the Conspiracies that, since his Ma^a commeing to England, had fallin furthe; for by this dealling with the Pope, unknowne to his Ma. great hopes were given to the Catholicks, that when his Ma. should come to the Crowne of England, his Ma. should either declare himself a Catholicke, or, at the least, the Catholicks should have a toleratione of Religione, within his dominion; wherof, finding themselves dislappointed, they did move their Conspiracies. For scarcelie was his Ma. warmelie sett down in this kingdom of England, when Watstone the Preift and a number of his adherents did attempt against his Ma^a royall persone; for the which a number of them were sprehended and punished. Nixt, upon it came the devilish intentione and practise of the Powder Treafone, wherin was intended the taking away of the King, Queene and their posteritie, the Counsell, Bishops, Nobles, Judges, Gentry, and whole bodie of the realmes; for the which a number were punished, and a great many, in his Ma^a clemencie, spaired. Therafter, that none should mistake their proceedings, in the tryell and examination of the Lord Balmerinoch, he declared all the points therof, adding, that although it was a case might receive judgement in England, in respect it did concerne his Ma^a persone, which hath so many priviledges that it draweth all Judgments⁴ after it; and that the Lord Balmerinoch that was to be judged was present, and so might receive his judgement there, yett such was his Ma^a respect to his ancient native kingdome of Scotland, and they were so farre from encroaching upon the liberties therof, and knowing the tender regarde that the Nobilitie and Estate would have to a mater that did so highlie concerne his Ma.; after a long reiterated discourse, in the praise and honour of that kingdome, Counsell, Nobilitie and government of it, declared, that they would remitt the mater to receive judgement there.

NIXT, THE LORD TREASURER⁵ begane a verie grave speech. After the dew commendatione of the Lord Chancellor, that had spoken before; that he was verie forie to have occasione to speack of a mater of that kind; but since it did concerne, so highlie, the life and honour of his most sacred Ma. (whose life was dearer to him nor his owne) he should be thought verie undutifull, being so manie wise bound, if he were silent in it. There, having given his Ma. his owne dew praise, at great length,⁶ he did next adde that he was forie to speake of it, in respect of the persone whom it did concerne,—a Nobleman, by his Ma^a favour, a Counsellor of State, yea more, a Secretarie of State, and one against whom, his dentie reserved in this, he would be loath to have spoken. The fume of his speech grew

¹ Aggravate. ² Crooked, perverse. ³ Portion, passage. ⁴ Jurisdctions, Tribunals. ⁵ Sir Robert Cecil, Earl of Salisbury, Principal Secretary of State. He succeeded to the office on the death of Sackville, Earl of Dorset, in 1608. ⁶ Well knowing his Majesty to be behind the tapestry!

to that same end of my Lord Chancellor's former Speech, that his Ma^s dealing with the Pope might have breed him, in his owne kingdome, disobedience, and done him prejudice in his title to England; that if his Ma. had beene of the counsell of writting of that Letter to the Pope, he would affirme that he had bowed his knee to Baal; being desirous to establishe, for his affaires, ane Advocat at Rome. Nixt, by the words of Bellarmin's booke, then produced, he shew, that the Pope took upon him to declare the Crown of England elective; because, by the words of the Pope's Breeve, the estate and bodie of England were commanded, first, '*non admittere*'; next, '*non instituere, nisi Regem orthodoxum et Catholicum*'—so the heretable descent of the Crown of England was taken away, and behoved to be holden in almous¹ of the Bishop of Rome; that he would not be content to be Bishop of Rome, but would have all Europe at his dispositione. And, in another place of the booke, he shew ane conclusion more offensive to his Ma.—'*ergo REX JACOBUS neque est Catholicus, neque est Christianus.*' That, for himself, he did never say so much of any Catholick; and that he did verilie beleave that a true Catholick was *Christianus*. Nixt, he fell out upon the office of a Secretarie, the great credit and trust thereof; that in a Secretarie's breast is laid in store, the treasure of all the secrets of the kingdome; that *fides* and trust is of that nature, that *fides quæ semel accedit nunquam revertitur*;—that he feared, in tyme to come, his Ma. behoved ather to have no such officer, or ells divide the trust of maters of no importance to one, and common affairs to another;—that of a King's hand-writte, if it may be caried by² the knowledge of the Prince, is more dangerous nor ane army of tuentie thousand men; because the one may be fore-seene, the other not. Nixt, in the nature of the fact, he compared the King's Seall with his hand-writt; that the Great Seall was but the King's image, but his hand-writte was his minde; but if any thing should be added above the Great Seall, for himself, he would think it verie near Treafone, leaving them to confider what it was to adde any thing above his Ma^s hand-writt. He desired to be excused if he were a little kindled, and did remember the manie favours he had of his Ma., that he possessed manie places that were fitter for others, yett none should goe before him in trust nor affectione.³ To testifie his Ma^s unwillingnesse to have dealing with THE POPE, he did remember how his Ma. refused to receave anie Ambassader from him; and how he commanded the Ambassader Lieger in France, to shew the Pope's Nuncio in Parise, that if anie of his Ministeris in his name had promised more then they had warrant, the Pope should not expect anie performance therof from him. Last, he made (as he called it) a punctuall discourse of all the proceedings in the Lord Balmerinock's Examinatione, and how his Ma^s memorie was a great deall better in that mater then his; and by his particular interrogations, had brought him to a Confessione: And, after ane example and verie large commendatione of the Kingdome of Scotland, and wise and grave government of it, did remitt the judgement of that mater to them, not doubting but they would proceed in it, as his Ma^s interestte and the weight of the mater did require.

After him, THE LORD PRIVIE SEALE⁴ had a Speech, wherof this was the preface. If he had had libertie of speech, as he had not, he would have chosen these two noble lords who had so gravelie and learnedlie spoken to have gone before him; for they had taken up the crope of all was to be collected of the present mater, so cleanlie, as they had left nothing behind to him to glean; but he did remember to have read of the nature of the bee, that at first comming upon the flowre, she did gather the honie, and after the honey being collected, she did gather the waxe. So would he, since there was no

¹ In alms; as an eleemosynary gift. ² Without, contrary to. ³ The whole of these Speeches and gratuitous affirmations were in reality addressed to the King '*behind the arras*,' and they were all so constructed, by these Court sycophants, as to be most palatable to the royal taste. The knowledge of this circumstance must sink the speakers in the estimation of all who read such abominable rodomontade, and convert all their fulsome adulation into solemn mockery or absolute farce. ⁴ The celebrated Henry Howard, Earl of Northampton, who was styled by the French Ambassador, Monsieur de Beaumont, '*one of the greatest flatterers and calumniators that ever lived*'. He was deeply involved in the murder of Sir Thomas Overbury; but died before that atrocious affair was publicly investigated. The private and intriguing Correspondence between King James and Cecil, previous to his accession to the throne of England, was carried on through the medium of this individual. See *Lord Hailes' Letters*, &c.

honey left, gather up some waxe to seale up the mater with. And first, after a large commendatione of his Ma^s so manie rare and princelie qualities, whom that mater did so highlie concerne, (which he protested he did not as a sycophant or flatterer,¹ but as a true and faithful Counsellor,) he did say some thing of his affectione and dutie to the Lord Balmerinoch, with great sorrow for his errour in that kind, that he should have thought it a save way for his Ma. to have left his assured true friend, which was the Queene and Estate of England, to follow after a stranger, speciallie since of his own knowledge (for the space of 19 years) it had pleased his Ma. to keepe intelligence with him. He perfittie knew that his Ma. was most unwilling to anie such course. First, how in the 88 (1588) the Bishop of Dunblane cam in Scotland with so many great offers; and if his Ma. would have given him anie, never so little hope, the Pope would have stayed that great Armado. Nixt, come Sir James Chisholme, who dealt in the same course, and because he did not prevaill, he did break his heart, and so died. Watfone the Preift having come in Scotland and dealt with his Ma., did confesse to his lordship, that he could never have more of his Ma.—but if ever he came to the Crowne of England, that he would not come to break the law, but to keepe it: And that the said Watfone, being in prison, some few dayes before his executione, his lo. went, by his Ma^s commandement, to examine him in that point; who declared to him, that he could never gett anie farther grant of his Ma. nor is before said: not-the-lesse, to the end he might keepe the Catholicks in better dispositione towards his Ma. he did give them better hopes. That Sir James Lindfay did bring his Ma. a Letter from the Pope, which he refused, and would not so much as suffer the same to be unclosed. Laft, since his Ma^s coming in England, there come one from the Duke of Lorane to his Ma., who being weill received, as the Duke of Loran's servant, having thereafter secretly shewed unto his Ma. that he was the Pope's gentleman, and had some directions from him to his Ma., he would heare no more of him; and his Ma. did mightilie complaine that the Duk of Lorane did use him in that kind. And hereupon did he condemne the Lord Balmerinoch his course, in respect of his Ma^s unwillingnesse to have anie dealing with the Pope. He said farther, that if at that tyme when the Queen's Ambassader did expoſtulat, the course had been revealed, the fault had been the lesse. That it was God's singular caire over his Ma., that by the coming furthe of such a book, at such a tyme, when the Lord Balmerinoch was present to reveale the truth, his Ma^s innocencie in it was so cleared. And because that some doe justifie the courses, because of the good intentione of it, that he had read, that in good intentions three things were requirit, 1st, that they should be in things indifferent; nixt, that they should not be *contra preceptum*; laft, that they should not be *in prejudicium tertie personæ*. Nather of which was observed in this; because it was not a thing indifferent to the King to keepe correspondence with the Pope, being a mater prejudiciall to his estate; next, that it was *contra preceptum*, because he was not of his Religione; laft, it was *prejudicium tertij*, because the Queene of England was thereby interessed; so as the intentione of it could not procure it anie allowance. In end, after a large commendatione of the countrie of Scotland, and his best wilhes that the Kingdome of England would looke carefullie in their honour, and not admitt everie one so indifferentlie to it, following the example of Scotland, he did likewise remitt the mater to be tried and judged there; not doubting but it would be carefullie done, according to the weight of the mater and his Ma^s expectatione.

Thereafter, MY LORD CHANCELLER declared, that since that Board was his Ma^s bodie representative, and all the members of it were at his Ma^s dispositione, and alterable with the breath of his mouth; that it was his Ma^s pleasure, that the Lord Balmerinoch should no more be one of that boord. Whereupon he did produce a Warrant, signed be his Ma.; which being read by the Clerk of the Counsell, the Chancellor desired that all the Lords of the Counsell should take notice of it.

¹ 'Hem!' His Majesty must have been a 'glutton' indeed, and his appetite for flattery altogether insatiable, if these Speeches did not give him a complete surfeit! It is evident that this intriguing politician well knew what would best please the royal palate. Strange as these things may now appear, such was the King's taste,—and *de gustibus non disputandum!*

[*THIS, or near this, I would have answered, for my own justificatione; if that, by three several commandements from the Erle of Dumbar, I had not been desired to the contrarie. James Bailzie was the carrier of the message.*]

To *the first* Speeche, it might have been answered, that if the reverence and majestie of the person, (whom the mater was affirmed to tuich in honour and safetie) the gravitie and eloquence of the speaker, and the hatefull dispositione which was against the persone which was to be censured, had not extraordinarie concurred, although the deed wanted a pcedent, yett manie offences of greater importance and more perrellous pcedents were smothered up, with sillence: And wher,¹ it was now first said, that the Letter might have procured his Ma. the tinfell² of the Crown of Scotland, which he had in possessione; ther was no such appearance, because ther was no Scotish man, of whatsoever qualitie, so little sensible of his Soveran's wrong, but would rather have wished his Ma. to have had correspondance politick much more with the Pope, before he had been prejudged of his undoubted title to England, speciallie since that Letter (nor no constructione can be made upon it) does carie any prejudice to Religione, or other conditione hurtfull ather to his Ma^s honour or estate. Nixt, where it was said, that the said Letter might have losed him the Crown of England, to the which he had undoubted right apparent, because the Queen might have taken exceptione att it, and so inclined some other way; first, it might have beene answered, that his Ma^s title was not at her dispositione, and if she had been discontent, there was no reasone; for since she did ever refuse to yeild him anie assurance of his successione after her, (and Spaine avowedlie, and France under hand, besides others, as competitors, daylie talked of,) although he had laboured for the friendship of all the Christian Princes in Europe, upon just and honourable conditions, and without breach of dutie to her, she had no just cause of offence: Beside that, some did not spair to talke of some unfeemly plots contrived in England, about that same time, to his Ma^s prejudice. *Secoundlie*, where it was with great vehemencie and rare eloquence amplified, that that Letter had given subject and occasione to the writting of many pamphlets, wherin his Ma. was bitterlie tuiched, it might have been answered, that by the contrarie, it had stayed the writting of many and doing of many worfe turnes, had procured his Ma^s good at the Court of Rome, the favour of all the Catholicks of Europe, but speciallie in England; and if his Ma. had been offended by anie books, they have had other grounds than that idle Letter; wherin *Bellarmino* alledgeth not, that ther was anie more, but a Letter full of courtesie, and a requist for a Cardinall; and if it had contained any other thing whereby his Ma. had been ingadged to the Pope's advantage, it had not been forgotten. Look therefore if the writting of the former books, or some other conditions then that Letter, hath not given occasione of this offence. *Thridlie*, where it was said that all the Popish Conspiracies did flow from that Letter, because the Catholicks, finding themselves disappointed of their hopes, did attempt all those devilish Treasones, it might have been answered, that if that Letter giveth anie such hope ather of the Kings Ma. being a Catholick, or toleratione, then is the argument good; but if not, then it holdeth not; and these hopes most be found out another way, and the authors of them charged with that imputatione.

The *secound* Speech, in so farre as it was carried out with the first, the same answers might have been repeated; but, where it was said, that if his Ma. had been of the knowledge of that Letter, he would have bowed the knee to Baal, appointing ane Aduocat at Rome;—that conclusion holds no more nor³ if it should be said, that the Queen, for writting manie Letters to the Turk, and appointing ane agent there, should have become a Mahometan. Neither is there any that can doubt, but that great Statfman, who had the speech, does know verie weil, that Princes of different Religiones have their Leagues and Amities, their intercourses of Negotiatione and civill affairs, without bowing their knees to strange Gods. As to the invectives against the Pope, they were all just, and verie pertinentlie and eloquentlie delivered; yett they did not aggravat that fact, neither was there any thing in that Letter that did allow of them. As to the objections of violating the trust of a Secretarie, that

¹ Whereas.² Loss; from *tyne*, to lose.³ Than.

could not be denied; and so the partie doth grant his offence, pretending onlie, that as an expert Phisician, in a disperat disease, or a perfitte Pilot, in an extraordinarie tempest, is not alwise tyed to the precise rules of his art, so some things are permitted to Statfmen in their places; and he, perhaps, seing his Ma^s great danger; and that, for writting a stile to a Pope, he would give his enemies so great advantage, and perrell a Kingdome, he did temerarioullie adventure his credit: And for that was talked of the nature that *fides quæ ubi semel recessit nunquam revertitur*, that politick maxime giveth ane answer, *si violandi regni causa*, and the more is he excusable, that it was to his mafter and not to himself; and as he durst and should have adventured his life to have foughten for it, so did he perrell his trust to conserve it. To that, that a King's hand-writt, if it might be caried by his knowledge, was more dangerous than 20,000 men, that is an argument *ab incommodo*, which since the deid is past long since, and no harme followed upon it, neither to his Ma. nor his dominions, it followeth no more. To that of the comparison of the broad-seales to the King's hand, and what is the danger to writte above any of them, belongs to the Judges and Lawyers, to determine; but in the law of reasone and civill justice, where there is no fraud meant, no harme done, nor no inconvenience can ensue, the fault is the lesse.

In *the last* Speech, most gravelie and eloquentlie delivered, because it was for the most part a narration of particulars, testifeing his Ma^s unwillingnesse to writt or have any dealing with the Pope, it is like enough to be true; for if his Ma. had been willing, or wittinglie had sett his hand to the Letter, then there had been no fault committed, so that causeth the Confessione of him who abuised his Ma^s trust. And where as, his good intentionne to his Ma^s service, did furnishe him some excuse, that was most learnedlie taken away by three *caveats*, which the Divines doe require to make intentions justifiable; first, that they be in things indifferent; nixt, that they be not *contra præceptum*; thridlie, that they be not *in præjudicium tertii*: To all which it might have been answered, first, generallie, that the politicke courfes, so weill knowne to so great a wise man in state maters, are not to be ruled according to the strick rules of Divinitie; and particularlie, to everie *caveat* there can be nothing more indifferent, nor¹ a free Prince to writte a kind Letter to his neighbour, and to make to him a reasonable and just sute, hurtfull to no man; as for the secound, there is none of the commands that did forbid the King to writte to the Pope, for so *præceptum* in that mater is to be understood; thridlie, by that Letter there is no prejudice done to anie persone; and since his Ma. was by no League nor Bond bound to the Queen in the contrarie, no man will think that his Ma. should be answerable to ane imaginary prejudice, there being nothing contained in the said Letter that in any sort could hurt her, or any other persone. In all the Speeches, as they were most gravelie and eloquentlie delivered, so did they yeild, everie one of them, a rare and extraordinarie commendatione to the countrie of Scotland, the grave and ancient Nobilitie, the wise Counsell of Estate, the learned Judges, and the most tender regard, in all their actions, to his Ma.; wherof, as everie man did consider the end, so they ought² no small obligatione to them, for their exceeding kindnesse.

COPIE of the SPEECH which I spak, indeid, to THE COUNSELL, after the three Harangues before written.

MY verie honourable Lords, I find true this day in experience that which I had oft read and heard, that no exceeding joy,³ &c.

The Bishope of Glasgou,⁴ I think, with the counsell of the Erle of Wigtoune,⁵ despaired, before my coming to Court, that the Letter to the Pope should doe me anie harme; thinking, either that I should be denied it, or that it was of so small consequence as it could import no cryme. They had

¹ Than. ² Owed. ³ See Vol. II. p. 578. Opposite the words 'but alace!' &c. (line 10 from bottom of the page,) there is written on the margin, 'These words added at the E. of Dumbar's desire, to please HIS MA.' ⁴ John Spottiswood, afterwards Lord Chancellor (1634). He was translated to St Andrews, 1615. ⁵ John, sixth Lord Fleming, was created Earl of Wigton, Mar. 19, 1606. He married, 1st, Lillias, only daughter of John, 3d Earl of Montrose; 2dly, Sarah, eldest daughter of John, Lord Herries, and relict of Sir James Johnston of that ilk.

invented against me some interrogatours, whereupon the King should have examined me, anent the Powder Treafone, which were kept cloffe from me, till immediatlie before my comming away: Then they were brought to me by my trusty friend Sir Alexander Hay, never letting me know of them, albeit they had been in his hands three moneths before. The juft copie I have inclofed hearwith, and my answers. They are as frivolous as they are false; alwise I will my friends may see what hes beene the malicious curiositie of my enemies to my disgrace. I suspect the Bishop of Glasgow, the Earle of Wigtoun and Sir Alexander Hay; and whatsoever the Earle of Wigtoun knew, was not kepted from Killfyth.¹

In a Proclamatiōe, made at Westminster, the 22 of February, 1603, which is imprinted, there is contained these words, in speaking of Foreign Princes: 'Among which forran powers, although We acknowledge ourselves personallie so much beholden to the new BISHOPE OF ROME, for his kind offices and privat temporall cariage towards us in manie things, as We shall be ever readie to requyte the fame toward him, as Bishope of Rome, in state and conditione as a secular Prince:' Yet conferr this Proclamatiōe with his Ma^s first Speeche in the Parliament House, which is also printed, wherein he acknowledgeth his particular obligation to POPE CLEMENT, whereby it may be presumed, as matters then were, what great discontentment it could have beene to his Ma. to writte a Letter to him. Like as, many other Negotiations which his Ma. had with him are more nor notoriousslie known.

THE *summe of the DECLARATIONE, subscribed 18 November, 1603.*

THAT at my first Examinatiōe I did denie, extenuatt and transferre the knowledge of that Letter; therefore, I did Confesse, that, at the sollicitatiōe of the Bishope of Glasgow, who was his Ma^s Ambassader, and the (Bishope) of Vaizon, I laboured to have a correspondence betwixt HIS MA. and THE POPE, I moved his Ma. in it, and found him unwilling. Therafter, I conspired with Sir Edward Drummond to gett a Letter under his Ma^s hand to the Pope. Sir Edward drew up the Letter. I saw the draught of it, and corrected it. That one day, in the morning, when his Ma. past to hunting, I brought him a number of Letters to be signed, in favours of the Bishop of Vaizone, to the Dukes of Sauoy, Florence, and some Cardinals; among the which Letters I shifted in that Letter to the Pope, having no superscriptiōe in the beginning, nor above his Ma^s name; and so gott his Ma^s name to it without his knowledge. That the Letter contained nothing but thanks to the Pope for his bygane kindnesse, and desire of continuance; that he would be pleased to advance the Bishope of Vaizone to be a Cardinall, that his Ma. might have more intelligence of his affairs at that Court. That the Letters to the Pope were written in Roman Letters. I directed Sir Edward to writte the Popes stiles in the beginning; and in the end, '*Sanctitas*' and '*Filius*.' That the said Letter was cashetted at my command, be one of my servants who kepted the cashett.² That in the late Queen's tyme, some expostulation being made by her Ambassader anent the said Letter, I did denie it, and caused Sir Edward, being come home, justifie my denyall, and that he had caried no such Letter; being examined therupon be some of the Counsell. That he, being committed in ward, I laboured for him and procured his releefe. That I dealt earnestlie with him to returne the principall Letter, who promised to doe foe.³

[The Narrative is here interrupted by Calderwood's own work. It is afterwards resumed, being introduced by Calderwood in the following passage: 'About the beginning of December, the Secre-

¹ Sir William Livingston, Lord Kilsyth, one of the ordinary Lords of Session. ² A stamp contrived to imitate the King's signature, to save him the manual labour of signing certain official documents. It is still in use, and is applied to particular writs not requiring the royal 'Sign-manual.'

³ CALDERWOOD remarks here. 'The President was sent back to Scotland as a prisoner, with a Guard attending upon him, to be further tryed. When he came to Newcastle, he sent the Laird of Pitloure to informe Mr James Melvill how he was dealt with, for standing for the freedome of our countrie, and crossing of the Bishops and their proceedings; and desired Mr James to writte to the good brethren at home, as he thought meet himself. When he came out of Newcastle, it was marked that he shed tears, which was a verie base thing in him. At Berwick he was heard to utter these words, "I wish I had beene made a sheep-keeper when I was made a scholler."'

tare Sir James Elphanstone, Prefident of the Colledge of Justice, came to Berwick, accompanied by the Englishe Guard and some of the Earle of Dumbar servants. He was received be the Captain of the Scotish Guard, Sir David Murrey Lord Skoone, latelie Comptroller, accompanied with the Scotish Guard and some of his friends; and was convoyed to waired to Falkland. The manner of his parting from London to this countrie he has fett down himself, as hear followeth, continuing his former relatione.']

ORDER hereafter being taken about my returning, my Lord Dumbar sent James Bailie to shew me, that there was some of the Guard, onlie for a shew, appointed to attend me; desiring I would not take it in evill part. They would ride with their coats till they were past Royftoun, where his Ma. was; and from that, as other privat servants. He sent me word divers times that he would meet with me; but whill¹ the Earle of Wigtoune and the Bishops were gone, he could not, for suspicione.² So the verie day they parted, in the morning at ten hours, his lo. came to my house, although I had offered to make the travell; but, because I was under commandement, it could not be. All this tyme I was attended to be two of his Gentlemen, who used me verie kindlie. The one was Alexander Auchinmowtie, brother to John Auchinmowtie; the other, James Carmichaell, sone to Watt Carmichaell of the Park; to whome I wishe my friends or to anie of theirs to be thankfull. At our meeting, I renewed to him what had past betwixt my Lord Burlie and me, my particular offers, for assurance of his Lordship's friendship, what I did expect mutuallie of him, as the Lord Burlie had promised in his name. All which he was weill pleased with, and how soone my trouble was ended, which should be upon his coming in the countrie, he would enter in the due performance of every particular, and would establish such an allyance with me as should not be discovered. I complained that my waired³ was altered, because he had promised that I should remaine in the Castle of St Andrewes: He excused the estate of the house, and that he had as great credit in Falkland as in St Andrewes. Nixt, that the Lord Skoones Warrant was so strait: His answer was, that that was onlie done for the fashione; that the Bishops and Sir Alexander Hay procured it; but he would desire the Lord Skoon, by James Bailie, to use me well. He desired me to keepe all secret; and, as he was a Christian, every thing should (be) performed with no less care than I were his own brother, or his tuo daughters. He willed me not to be suspicious of any his actions, because it behoved him to follow the King's honour, please the Bishops and others that were my unfriends, in outward shewes, that he might the more easilie worke my turne to my contentment. I think that he entered in a speciall friendship with my Lady Drummond, and gave her that assurance of my life, estate, (and) Ropars office that he gave to the Lord Burlie.

Being come to Falkland to my waired, and more hardlie used nor I did expect, I directed to Court my cousin Pitlowre to put the Earl of Dumbar in memorie. My worthie friend the Lord Burlie tooke the pains likewise to go there, to make all former conditions sure; and, as I was informed, his Ma. directed no further, but that, in a Justice Court to be holden at St Andrewes, (for I desired it should not be in Edinburgh,) I should become in Will, and his Ma. to declare his Will, at his pleasure. But when my Lord of Dumbar came to Edinburgh, and found that Sir William Hart (who had gotten a promise of my place in Sessione) to putt me to ane Affise, and my Lord Collector⁴ to be Assessor, and a number of Affise that would convicte me upon my own Confessione, which is more than to gett me in Will. The Earle of Dumbar having advised with the Bishops, durst leave nothing undone of extremitie against me; and the Collector, being more circumspect nor the rest of his fellows, and most desirous to have me sure, resolved the Earle, that none of my Depositiones made in England would serve against me, except I ratified them here. Wherenpon, the coming of the Counsell to Falkland was appointed; and although I had been verie carelesse of the mater, because I was certified that there was no more ado but to take me, judiciallie, in Will; yett, knowing of their coming to Falkland, I

¹ Until. ² Viz. in case the Earl and Bishop should suspect collusion between the Chancellor and Balmerino.
³ Place of confinement. ⁴ Mr John Prestoun of Pennycaik.

imagined at first the cause of it, and was resolved to have past from everie point of these Depositiones, except onlie the naked veritie of the deid, wherupone no crime could follow; for most lawfullie I could have come against my Depositione, because it was made extrajudicialle. And, in case they would make the Counsell of England a judicator, first, it was subscribed, not before the Counsell, but in the Earle of Salisburie's cabinet, before so many of the Counsell as are before mentioned; *nixt*, the Counsell of England could be no Judges competent to me, likeas I had lawfullie declin'd them of before; *farther*, it was made upon the conditione above mentioned, which I would have referred absolutely to the Earl of Dumbar's oath; *last*, it was revocable, as made for fear of my life, or perpetuall imprisonment in the Towre. If they would have made my Dittay Treafone, because it is so called in my Depositiones, the calling of a deed Treafone, *non mutat naturam facti*; as if I would confesse I had tratorouslie conspired to kill one of the King's bucks, would not convict me of Treafone; or that I had treasonable broken waird, being committed for fourtie pound of civill debt; so, the procuring of a common Letter of Recommendation, containing no Treafone, prejudice to the King, nor Estate, could never be Treafone. And whear as, it was affirmed to tuiche the Princes honour, the King did never refuse to acknowledge the Pope as a Catholick Prince, to whom he acknowledged himself bound; and so it was no dishonour to him to writte to him, seing the greatest Princes in Europe doe it ordinarlie, both of the Reformed Religione and others. That that Letter was prejudiciall to his Ma., his Religione, countrie and Estate, it could never be verified; for, except my own Depositione, (revoked, as I have said,) there could be no other verificatione, either by writte or witnesses; so no honest Judge or Assessor that had either conscience or honour could have sustained such a Dittay. And if they would have made it *Crimen Falsi*, out of the Lawes of the Majestie, (*Reg. Maj.*) I would have denied that my life could have been judged be the Majestie; more then ane hundreth kyne may be satisfactione for the King's Murther, which the Majestie calles killing. I remember, Mr Thomas Craige answered to *generaliter verum, generaliter falsum*, in a civill mater, *quibus casibus tenetur hæres præstare factum paternum*, which is lesse nor my life. Lastlie, that word, *Charta domini Regis*, is not to be understood of a privat Missive, wherby the King or a partie is not prejudged; but a Charter, or evidence, wherby either the King or subject may losse his right. If they would have made it out of the Decretals, cap. 5, *de Judiciis*, albeit it say, *non esse immunem a Crimine Falsi*, yett, according to all the Doctors, it most be understood to be *scriptura damnosa et fraudulenta*, for *omne Crimen Falsi* is not capitall, *ubi neque est damnum, neque esse potuit*, but onlie to be punishable *arbitrio Judicis, pro ratione rei et personarum*. And this is the cleare resolutione of Julius Clarus and all the Doctors; so that albeit I had never consulted anie Advocat, nor had never any bookes to studie the mater, yett the light of reason was so cleare, as no Judge but Sir William Hart, whom I might have lawfullie declin'd, would have sustained such a lybell.

The Earle of Dumbar, fearing I should alter, upon this new alteratione sent the Lord Burlie unto me; who, as he dealt ever honourable with me, so I was plaine with him, that I would not stand to my Depositiones made in England, and that I would challenge the Earle, upon his oath, of the conditione made unto me at the subscribing therof. There was great intercessione made that I would have a regarde to the Earle of Dumbar's credit, and the advantage both my publick enemies and his secreit ill-willers would make, if that turne were not done to his Ma's contentment; and that, however I might resist his Ma. at this time, wherof the event, in respect of the honest dispositione of the Judge and principall Assessor was uncertaine, yett I would be kept in continuall prisone; and, seing the Earl of Dumbar was willing to secure all things promised before, a sentence of Conviction was no more hurtfull to me nor either a coming in Will, nor in entering in a contestatione with the King, having so great enemies both at Court and at home. In end, upone promises renewed, and my desire of quietnesse, and that my enemies should acquire no more credit be my troubles, and conditiones past betuixt the Earle of Dumbar and me to stand sure, I was content to abide at my former Depositiones.

So the Earle of Dumbar, in presence of the Lords of Skoone and Burlie, both after particular affurance and folemne oathe to my self, renewed what he had promised before, anent my life and estate, and that he knew perfectlie it was never his Ma^s minde to (take) my life.

Nixt followed my Conviction at St Andrewes, wherin I was the onlie actor my self, to give his Ma^s satisfacione; following, in every point, the Lord of Dumbar's directione, brought to me either by the Lord Burlie or the Lord Skoone.

A COPIE of the SPEECH I had at St Andrewes, at the time of my Convictione.

THERE is none of your Lordschips but understand sufficientlie that if I would stand contentioufflie to my Defences, no Depositione, made by me in England, could prejudge me in any Tryall Criminal I was to sustaine; nevertheleffe, as in all this actione, from the beginning, I have preferred the truth of his Ma^s innocencie to the preservatione of my life and estate,¹ so I am so farre from retreating what I have said there, before that noble and most grave Counsell; that if, in more cleare termes, I could aggravat the just desert of my own haynous offence, and make his Ma^s undefiled sinceritie and innocencie knowne to all the world, I would most willinglie doe the same. I were not worthie life, if my life, that hes had no happinesse but under the glances of his benignitie, I should labour to be preserved, with the smallest imputatione that might staine his Ma^s honour. No man knoweth better his Ma^s naturall clemencie, and how unwillinglie his Ma. is forced with this severitie to profecute the truth of this callunious imputatione; which, by my abuse of his trust, is drawen upon his most innocent Ma. Therfor, I ratifie whatsoever I have formerly depouned; and, if no otherwise his Ma^s honour may be sufficientlie exonered, I willinglie offer my blood and poore estate to expiat my offence; and to teach others, by my exampill, to goe no farther in thair mafter's service then they have sufficient Warrant.

BUT immediatlie after the Ratificatione of my Depositions, in Falkland, the Earle of Dumbar sent my Lord Burlie to Court, to shew his Ma. what satisfacione I had given, to procure me all the favour he could, and to hold my friends there buffie. Likeas, the Earle concluded, that immediatlie after my Convictione, my brothers sone should goe post to Court, for my Remission; and that the Lord Burlie should stay his coming, and concurre with him to that effect. And albeit it was promised to me, by my Lord Burlie, in the Earle of Dumbar's name, that Ropar's Reversione should be safe to me, yett the said Earle, fearing Sir Robert Ker's credit,² made me to yield to passe that to him, which was the best hope I had of relief of my great debt, and help of my children. So as I have in all this, from the beginning, allutterlie reposed upon the Earle of Dumbar; and, by his onlie meanes, am brought in this misery, out of the which, if, according to his manie promises, he releave me, I and all mine are the

¹ It may be proper here to notice, that Lord Balmerinoch, besides his numerous Offices, was possessed of very extensive landed estates, such as the baronies of *Balmerinoch*, *Barnon*, *Barrie*, *Ballumby*, *Innerpeffer*, *Dingwall*, *Balgregie* and *Restalrig*, &c. By his first wife, Sarah, daughter of Sir John Menteith of Kerse, he had (1.) *John*, afterwards *second Lord Balmerinoch*. And by his second wife, Marjory, daughter of Hugh Maxwell of Tealing, he had (2.) *James*, who was created *Lord Couper*. (3.) *Anne*, married to Andrew, first Lord Frazer; and (4.) *Mary*, married to John Hamilton of Blair.—See *Wood's Peerage*, &c. ² The corrupt favourite, *Sir Robert Kerr* or *Carr*, who attended King James to England, and was invested with the Order of the Bath at his Coronation, for a long period had unlimited sway at Court, and had the absolute disposal of all the Royal favours. He was successively created Gentleman of the Bedchamber, Lord High Treasurer of Scotland, 1611; Viscount Rochester, Mar. 25, 1612; Knight of the Garter, May, 1612; Earl of Somerset and Baron of Brancepeth, Nov. 3, 1613; Chamberlain of the Household; and sworn a Privy Councillor, the same year. The character of this infamous person, his shameless marriage to the divorced Countess of Essex, the murder of Sir Thomas Overbury, for which he and his Countess were convicted, May 24, 1616, (see *Howell's State Trials*, II. pp. 951 to 1022); their subsequent release from the Tower, Jan. 1621-2; and their pardon by the King, under the Great Seal, Oct. 7, 1624, in the face of his Majesty's solemn and awful imprecation, in reference to the murderers of Overbury, that 'If I spare any that are guilty, GOD'S CURSE LIGHT ON ME AND MY POSTERITY FOR EVER!' All the circumstances of his life are so well known, that it is only necessary to recall these few leading points to the reader's memory. He died in London, and was buried in the Church of St. Paul's, Covent-Garden, Jul. 17, 1645. It may be interesting to refer to the numerous Memoirs and Histories relating to this remarkable period, in illustration of the above remarks. In particular, reference may be made to *Lord Bacon's Works*, I. 87, also to his *Correspondence*, and to *Weldon's Court of K. James*, p. 99, &c., for the almost incredible dissimulation practised by James on his parting with Somerset at Royston, when his fate was for ever sealed, and when he had determined that 'he should see his face no more for ever.'



more bound to him ; otherwise, there is a God in Heaven will have regard to his dealing ; and, either here or hence, he will suffer for it ! The vile and detestable ingratitude of Sir Alexander Hay, I am sure, the Lord will not suffer unpunished ! As for others of our Natione, who have little regarde wherefore I suffer at Englishmen's hands, God forgive them ! The day will come, that they and theirs will weepe for it ! I pray God blesse his Ma. ; and that his undeserved rigour against me (who, I am sure, is perswaded, in his heart, I never thought ane undutifull thought against him, his Crown, countrie, nor estate,) be not layed to his charge, in that great day, when his crown and scepter will be layed at his feet, and he must yeild a reckning of his stewardship ! And, so may I be judged, if I had anie other course, in all that or anie other service that ever I was putt in trust of be his Ma., but his Ma^e weale and honour, and the libertie and good of my countrie, which is miserable, comming in a vile servitude ; the foresight wherof is all my wracke !

This the naked truth of all this mater, written in such haste, and at such occasiones as I could, in respect of my strait keeping ; and whatever, for his Ma^e satisfacione, I have written or said upone the false promises and traterous intysements of those whom I trusted, different from this my cleare and true Depositione, as God is my witness, it is false ! FALKLAND, the 10 of May, 1609.

BALMERINOCHE.

VIII. CALDERWOOD'S ACCOUNT¹ of Lord Balmerinock's conduct, from the period of his Conviction to his Death.

WHEN he was brought from Falkland to Leith, after his Convictione at St Andrewes, and was received be the toun of Edinburgh, in their armour ; when he came to Leith-Winde foote, or the Nether-bow-Port, he was commanded to light off his horse, for they receive no ryding prifoners. He excused himself with the infirmitie of the goute in his feete ; and willed them to shew him that much courtesie, as to suffer him to ride foreward. One of the toun, standing hard beside, answered *Pamfara, tantara !*² my Lord ! Now, when some directed from the Counfell of Edinburgh, long before his fall, requested him not to mainteane one of his dependers against them, in ane actione they had against him, for they could be more stedible³ to him then that man, he answered *Pamfara, tantara !* This taunt is now repeated to him with a taunt, and he was forced to light off his horse. Thirdlie, Its to be observed, that the Doome being delayed, after his convictione at St Andrewes, till his Ma^e farther pleasure were knowne, in the tolbooth of Edinburgh upon the first of March, in presence of the Justice and the Lords of Counfell, after reading of his Convictione, that he should be beheaded, quartered, and demeaned like a tratour, and his members to be sett upon the Ports, and cheif touns, yett he appeared to have some good hope of releef. He would have spoken something, but could not utter his minde : The Earle of Dumbar commanded to remove him incontinent ! After dinner, he was convoyed to Leith-Winde-foote, and delivered to the Shireff of the shire ; but manie wondred wherefore he was suffered, when he went out of Edinburgh, to carie his sword about him. It was thought strange that such a thing should be suffered in a condemned tratour. Some thought, therefore, there was no danger ; others thought he was caried to Falkland, that he might suffer there, where the fault was committed, and died after in displeasure, fearing ever the worst. Fourtlie, it is to be observed,

¹ See *Cald. Church Hist.* MS. Adv. Library, VII. 283.

² An exclamation in some measure equivalent to 'Nonsense !' 'Humbug !' &c. expressive of contemptuous incredulity and derision ; and applied by those who have a bombastic or high-sounding parade of empty words addressed to them, which, like the idle flourish of a trumpet, seem calculated to convey no meaning. Perhaps this contemptuous expression took its rise from the remarkably alliterative and playful line of *Old Ennius*, a rough soldier, who sacrificed rather liberally to Bacchus, and who wrote his heroics best when under the influence of the rosy God. Many of his verses smell strongly of the goblet !

'TUM TUBA TERRIBILEI SONITU TARATANTARA DIXIT !'

The words *tantafera, tantaferata*, are still used in Italy to signify *nonsense*, &c. ; and the French also familiarly use *tarare !* and *tarare-pon-pon !* 'pour marquer qu'on se moque de ce qu'on entend dire—ou qu'on ne le croit pas,' &c. *Dict. de l'Acad. Fran.* 1813. This reproachful retort, and the taunt of the Edinburgh citizen, must have stung the fallen courtier to the quick.

³ Be of more service to him ; stand him in better *stead*.

that about the same time, the King's reply to *Mathæus Tortus*, with a monitorie preface to the Emperour and all Christian Princes come furth in print, no mention was made in that booke of Sir James Elphinstoune's Confession or Depositions; which might have served to great use, to have purged him of *Tortus* his imputations. Yea, when he was in England, and had come in the King's will, the King could not be content till he *subscribed* his Depositions, as Dumbar assured him; because the not subscribing hindered the progresse of the Kings Answer to *Tortus* booke, quhair of his Depositione behoved to be a part. He therefore sett too his hand, in presence of some Noblemen and others, as ye may see in his own Relatione. Because the Depositiones were omitted in the Answer to *Mathæus Tortus*, and upon other considerations, manie doubted of the sinceritie of this proceeding against him; and suspected, that he had taken upon him the crime to currie the Kings favour, he keeping his credit. Mr Andrewes, indeed, in a Letter written the 23 of March to his Nephew Mr James, setteth down his opinioun in these words. *De judicio quid ego sentiam uno verbo accipe; inglorie fuit, est et erit, ut ego presentio, contra nos vero seria omnia et serio—nescit regnare qui nescit dissimulare.*¹ Since heart is free,² &c. Fittlie, it is to be observed that Bilhops, notwithstanding of his paines and diligence taken at Linlithgow, and the manie Proclamations penned be him, spytfull enewgh against the Ministers, they prove now at this tyme his great enemies, and none so busie to seeke his overthrow! It may be, the small countenance he kythed, in Counsell, in favour of Mr John Murrey, or the like occasions, have given them occasione to seeke his removell out of the way; that another Statfman, more foreward for their course, may be placed in his roome. But then we may see the deep malice and hatred of aspiring Prelats, that seek the overthrow of all that stand in their way!

About the beginning of October (1609), there came a Warrant from the King to give libertie to the President to have free ward in Falkland and a myle about; he finding cautione not to escape, under the paine of Fourtie Thousand pounds.

Mr James Elphinstone, Lord of Balmerinloch, and latly Secretary, ended his dayes, about the end of May (1612).

IX. LETTER from THE KING to THE PRIVY COUNCIL OF SCOTLAND, *informing them of the Examination and Confession of the Lord Balmerinloch.*³

RICHT trustie and weilbeloveit cofines and counfallouris, We greatt 3ow weell. TYME, the moder of trewth, haveing now discovered and brocht to lycht that long obscureid and moift heynous offence and cryme committed be the Lord of Balmerinloch aganes our honour, credeitt, and reputatioune, and which now by his cleir Confessioune is manifest to all the world, and We thairby purgeit of thois moift wniuft and wrangous imputatioues, quhilkis We did wnderly, by his foull abuse of that trust we had in him; quhair of both We and all our subiectis have no small caus to thank God; since the careage of the actioun, in the discoverie of it, may justlie be said to have bene done by Godis awin finger! And as We have hithertillis spaired to acquent 3ow particularlie, with the hole circumstances of his Confessioune and Examinatioune, vntill such tyme as the same wes here finiffhed; so, by the rycht reverent Fader in God and our rycht trustie counfallour the Archbithope of Glasgou, (quho wes ane eie witnes and heirar of the same, and now is returning thither,) 3ow may be at lenth informed of the same. Bot, becaus the Devill wants his awin suppoiftis reddie to mak false subgestiounes, in preassing, by misconstruing of thingis, to harme the trewth reveilled; and that thair man be perhappis

¹ So in the original, but very obscure, and evidently a wrong reading.

² Perhaps referring to the old saw,

' Since word is thrall and thought is free,
Keep well thy tongue, I counsel thee.'

³ This and the two following Letters are taken from a valuable Collection of State Papers transcribed by Thomas Earl of Hadington, (Sir Tho. Hamilton,) preserved in the General Register House, Edinburgh; which did not come to the Editor's knowledge till nearly the whole of the preceding Appendix was printed.

sum false rumours and bruttis thair spred, in extenuating the qualitie of the offence one his pairt, and deryveing in sum sort a pairt of the blame of that mater on ws; as it is a proud malapairt baldnes and presumptioun for the best of our subiectis to medill in ony thing that may concerne our credeit and honour, without a varie good warrant; and that all pretensies of mistaking our trusting to wacertane reportis ar so far to be misregairdit, as thay rather justlie deserue the greater seueretie to be vsed aganes suche as will excuse tham selffis thairby; so, to repressè such insolent wantonnes, in any of our subiectis pair, who either out of malice doe forge thame, or out of thair vaine, foleshe, and idill breanes do frame thame, We will and command 3ow to tak particular tryall of all suche as hes bene or heir-etter false spreddaris of ony rumours or bruttis in this mater, wtherways nor false by the said Archbishop reportit wnto 3ow; and that 3ow caus the rigoure and extremitie of our lawis to be execut aganes thame! that thairin We may have a speciall prooff quhat dew accompt 3ow mak of our reputioun and credit, which wnto ws (is) moir deirar nor our varie lyffe! And referring all farder to the Archbishops relationne, whome We will 3ow to trust, We bid 3ow fairweill. FROM our Court, at Roystoun, the 21 of November, 1608. [JAMES R.]

To our rycht trustie and weilbelouit cosinges and counfallouris, the Erll of Dumfermeling, our Chancellor, and remanent Lordis and wtheris of our PRIVIE COUNSALL of that our Kingdome of SCOTLAND.

X. LETTER *from* THE PRIVY COUNCIL OF SCOTLAND *to* THE KING.

Moist gracious Souerane,

WE ressaived your Ma. Letter of the 21 of November; and hes hard, at greitt lenth, the relationne made by the reverend Fader in God 3our trustie Counfallour the Archbishope of Glasgou, anent the Confessioun and hole circumstances of that lang obscured and moist heynous and inexcusabill offence committit be the Lord Balmerinoch aganes 3our credeit, honour, and reputioun; quhairin, as fencibill and feeling memberis of so glorious and gracious a head, finding our awin intereffis, greiff and sorrow that 3our Ma^s most famous and vnspotted name, honoure, and credeit, which 3our heyne hes to this houre so religioullie conservit in all puritie, sould have bene so wnworthellie, and in so heich a point, brocht in questioun be ony of our number, quho hes that honour to be selectit be 3our Ma. to the cheiff credeit of 3our service heir; so, with moist joyfull, humbill, and thankfull hartis to God, we acqnaueleg that greit bliffing and benefeit which it hes pleasit his Devyne Ma^{tie} to schew wnto 3our hienes by the detecting and discoverie of that purpose, and vindicating the sinceretie and innocencie of 3our royall hart frome all suspitioun of the wrangoune and wniust imputationes which 3our heyne wnderlay thairin; manifesting thairby his Devyne caire and Providence which he hes evir had over 3our sacreid persoune, honour, and estait, and in quhat detestatioun he holdeth all practizes and purposeis prejudiciall thairvnto. And quhairas, in the censuring of this fact befor 3our Ma^s honourabill Privie Counfall of that kingdome, thay, be 3our Ma. directiounne, (we doubt not) have remittit the full tryall pairof to the lawis and formes of this country, with many demonstratiounes and oppin Speaches, concerning the good opiniounne thay have of the equitie of our lawis, and cinferitie of our effectiounne in 3our Ma. service, we have not onely infinite occasiounne, with all humilitie, first to thank 3our sacred Ma., and nixt thame, for so respective a reservatiounne to ws of that whiche 3our Ma. knowis to be proper and dew to the privilege and freedome of this 3our auntient and nobill Croune. Bot we hop, God willing, to give wnto 3our Ma. a prooff, with all fidelitie, caire, and sinciretie, we fall prosequete and follow out quhatevir it fall pleis 3our sacreid Ma. in 3our princely wisdom to command, als weil in this as in any wther thing els, tuiching 3our hienes, in honour and estate. And, in the meantyme, if any of 3our Ma. subiectis hes bene or false so wndewtifull, fooleishe, and wnworthie, as to give oute any false bruitis and rumours aganes the wndouttit trewth and varitie of this mater, or to the extenuating pairof in any poynt, we fall not fail so exactlie to examen, try, and puneithe the samen, as wtheris false terrifet to fall in the lyk error heirefter. And sua, praying God still to vp-

hold your sacreid Ma. with all your royall progenie wnder his Dewyne protectione and sauffgaird, we rest for ever

Your Ma. most humbill and obedient subjectis and seruitouris,

A. CANCELL^r. SANTAND^r. MAR. PERTH. LOTHEANE. BUGCLEUCHE. TORPHICHEN.
HALIRUDHOUSE. BEULIE. GAIRLEIS. ROISS. J. COKBURNE. R. COKBURNE.
S. T. HAMILTOUN. JO. PRESTOUN. S^r ROBERT MELUILL. P. ROLLOK.

Ed^r, 6 December, 1608.

XI. LETTER *from* THE KING TO THE PRIVY COUNCIL OF SCOTLAND, *with*
WARRANT *for the enlargement of Lord Balmerinoch.*

RIGHT trustie and weilbeloveit cousines and Counfallouris, We greete you weel. WNDERSTANDING of the evill constitioun in helth, and seiknes in body, of the leat Lord of Balmerinoch, by refoune of his detentioun and cloise keeping within our Palise of Falkland, and in the foire Toure¹ pairf; and humill sute, for this caus, being mead wnto us, for his enlargement, in sum foirt; We haif bene pleiffit to grant our Licence, for his libertie and friedome, within our said Palise and a myle in circuite round about the same; upoun condition always, that he doe not transcend the boundis prefixit; and that he find sufficient responfuall landit gentill men actit in your buikis, as cautioneris and fouerteis for his performance of the said conditione, vnder the pane of xl^m li.² vsual Scoittis money. For whiche caus, We haue thocht meet to will you to direct to the said Court of Falkland, quhair his present place and residence of abode is, your Clerk of Counsell, with the Licence heirwith sent, commanding your said Clerk to ressaue the foirsaid act of caution of sufficient landit men, boundin vnder the soume aboue specifit, for performing the conditione aboue writtin, of his containing him selff and not exceeding the boundis of his confynning; and heirvpoun the said Clerk to delyver vnto him the foirsaid Licence, to be his warrand of this his enlairgment. And so We bid you fairweele. ROYSTOUNE, first of October, 1609. [JAMES R.]

Slaughter.

Mar. 14, 1609.—JOHN GLENDONING of Drumrasche.

Dilaitit of airt and pairt of the slauchter of vmq^{le} George Stewart, brother germane to vmq^{le} Mathow Stewart of Dunduf.

PERSEWAR, Williame Stewart of Dunduf, brother-sonne.

THE JUSTICE, of consent of ather pairtie, Continewis this dyet to the thrid day of the Air,³ (' Kirkculdbricht?') or soner vpone xv dayis wairning.

¹ Fore or front tower. ² L.40,000. ³ What took place at the Justice-air has not fallen under the Editor's observation. It is likely the case was compromised by payment of a pecuniary fine to the private prosecutor; on which 'Letters of Slaines' would follow, as a warrant for the King's Remission. In cases of Slaughter or unpremeditated Homicide, in a skirmish, it was a common manner of withdrawing *the instance*, for both parties to concur in a continuation of the *diet* to the Justice-air. Another mode was to use influence with the 'Baron of the Regality,' &c. within whose jurisdiction the parties resided, to *repledge* them to his Court, and where the matter was easily hushed up. The King's Remission, in case of accidents, was also afterwards procured, lest future feud should occasion a renewal of the prosecution, and perhaps terminate fatally to the homicide.

