

A
VINDICATION
OF THE
GOVERNMENT
IN
SCOTLAND,

During the REIGN of
King Charles the II.

AGAINST
Mis-Representations made in several Scandalous Pamphlets.

To which is added the Method of Proceeding against Criminals, as also some of the *Phanatical Covenants*, as they were Printed and Published by themselves in that Reign.

By Sir GEORGE MACKENZIE,
Late LORD ADVOCATE, There.

LONDON, Printed in the Year 1691.
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at his Shop opposite to the *Lucken-Booths*. 1712.
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Aggressors; and consequently, what was done against them deserves rather the Name of *Self-defence* than *Persecution*.

For clearing this, it is necessary to represent, That in the Year 1637, we liv'd under the most Pious and Orthodox Prince of the Age, and yet a Rebellion was form'd against him, as a *Papist, and a Tyrant*, by which all the Fundamental Laws were shaken, and all honest Men ruin'd. Neither needs there any other Proof for this Assertion, than the Records of *Parliament, General Assemblies, and Justice Court*.

From the Records and Acts of Parliament it is undeniable, that the Power of nominating Judges, Counsellors, and all Officers of State; the Power of levying War, and raising Taxes, were *usurp'd* by the People; *Covenants* were entred into by a Part of the Subjects, and by them impos'd imperiously upon the rest; *Leagues* and *Governants* were entred into with *England*; *Ambassadours* were sent to Foreign *Princes* and *States*; and even to *France*, (tho' little less terrible then, than now) exclaiming against the Injustice of the *King*, justifying their taking Arms against him, and therefore intreating the *French* Aid and Assistance: The *King* himself was inhumanely deliver'd up to his Enemies, and thereafter the Army that went in to defend his precious Life, were declared *Rebels*, all which was uncontravertedly inconsistent with the Laws of the Kingdom then standing.

From the Acts of the General Assembly it is clear, that the Assembly 1639, refus'd to rise, when dissolv'd by the *King's Commissioner*, and most of the following Assemblies did both sit down and rise without his Warrant. This Assembly threw out the *Bishops*, and abrogated *Episcopacy* without Authority of Parliament, tho' the *Bishops* were always the first of the *Three Estates of Parliament*. A new Oath was invented, called, *The Covenant*, without the *King's* Authority; and all Men, Women and *Children*, that were above Ten Years of Age, forc'd to take it; and such as took it not, were *Excommunicated*, upon which all their Moveables or Chattels were confiscated, and they themselves being declar'd disobedient to the Laws, were forc'd to fly. The *King's* Negative Voice was declared *Illegal*, and the Acts made for assisting him in the Year *Forty Eight*, were declar'd *Void and Null*, by an unparal-
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let'd Invasion, the General Assembly, (imitating in this, as in many other Things, the Church of Rome) raised themselves above King and Parliament.

From the Records of the Justice Court, we find that the Estates made *Advocates or Attorney Generals* by their own Authority; who prosecuted to Death, such as defended their own Houses, by vertue of expresse Commission from the King, and such as rose in Arms for his Defense, tho' they had both His Commissions, and Remissions, though the Judges that Condemned them, sat by vertue of that very King's Commission. They not only borrowed vast Sums by meer Force, from private Men, whom they never paid, but also they were the first that brought in *Free and dry Quarter, Cess, Excise,* and all these Publick Burdens, afterwards so much complained of, (when they were continued upon necessary Exigencies, by lawful Authority) we having neither formerly known Oaths, nor Publick Burdens under our gentle Kings, against whom they so much exclaim'd as Tyrants, because forsooth they kept them from being such: All these Proceedings were not only condemn'd by the general Opinion of both Protestants and Papists Abroad, but stand yet condemned by expresse Acts of Parliament, and by many Acts in the like Cases in Scotland, and England, and so nothing which can be alledged in Justification of them, deserves or needs an Answer.

King Charles the Second being restored by almost the universal Consent of all the People, the worst of whom grew weary of their Villanies: The Parliament of Scotland being called, they enquired very seriously into the Occasion of such Disorders, and soon found that they were all to be charged upon the *Solemn League and Covenant*, and those who adhered thereto; and therefore they endeavoured to perswade the Presbyterians to disown the *Covenant*, all Favour being promised to them upon that Condition: But finding that the Presbyterians generally thought themselves bound to own the *Covenant*, the Parliament concluding that the same Men, owning the same Principles, would be ready upon Occasion to act over again the same Things, therefore they by Vote (which may be called unanimous, seeing only four

four or five dissent'd) restored Episcopacy, and that so much the rather, because that Government had in *no Age nor Place* forced its Way into the State by the *Sword*, but had still been brought in by the *uncontraverted Magistrate*, without ever thrusting it self in by Violence, and yet the Government did sustain Episcopacy as a Part of the State, but never as a *Hierarchy wholly independent* from it.

The *Presbyterian Preachers* had all along taught the People, That as their Government was *Jure Divino*, so the People might thereby be obliged to defend *them* and *it*, under Pain of Eternal Damnation, even (*when Episcopacy* was Established by Law;) and accordingly some of the People who retained that Principle, frequented the *Conventicles* at which these Ministers preach'd: Whereupon the State, fearing that the old Humour might ferment again into a *Rebellion*, discharged under some small Penalties, any above *Five Strangers* to meet in a Conventicle, leaving thereby at once the free Exercise of their Conscience in their Families, and yet securing the State against such a total Defection, as might involve us in a new Civil War, which without doubt was all the State design'd: But to elude these Penalties for House-Conventicles, some *Preachers* (amongst whom were some of those who had been formerly banished) gathered the People together in the Fields; they bringing *Arms* with them to secure their Ministers, came at last to have such an Opinion of their own Strength, that they formed themselves into an Army, and were defeated at *Pentlands-Hill*; *November Anno 1666*. Yet within a short Time of that, the State *Indulged* them so far as to allow them their own Ministers, settling them in Churches, and allowing them the Enjoyment of the Benefices in many Places. This did not satisfy these People, because the Ministers so indulged, acknowledged the King and Council's Authority; and they, with some of their violent Preachers, railed as much against these *Indulged Ministers*, as against the *Bishops*, and *Regular Clergy*, and call'd them *Council Curates*, and separated from them. The State considering that by the Laws of all Nations, *rising in Arms is to be accounted* *Rebellian*, and that a Preacher's Presence could legitimate the

Action no more than a Priest could *Transubstantiate* the Elements; they declared by several Acts, Field-Meetings, to be the *Rendezvous* of Rebellion: Notwithstanding all which, these Dissenters proceeded, as from House to Field-Meetings, so from Field-Conventicles to publish Proclamations; declaring, That the Covenant was the Original Contract betwixt God, the King and the People*; and therefore King Charles the Second having broken it, forfeited his Crown, and being to be considered only as a private Subject, and Enemy to God, they had declared a just War against him, and that it was lawful to kill him; and all who served him; following, as was pretended, the Noble Examples of Phineas and Ehud: And in consequence of this Doctrine, they murdered the Archbishop of St. Andrews, and several others. To defend these Murderers an Army was gathered by them, which was beat at *Bathwell Bridge*, Anno 1679. But yet the King, to reclaim them, granted both an *Indemnity* and *Indulgence*; notwithstanding of which, a new Plot was entered into; and it was contrived in a Meeting of the Scots at London, that 20000 Men should be raised in Scotland, and that the Garrisons of *Barnick* and *Carlisle*, and all the Officers of State should be seized, which was likewise seconded by *Monmouth*, and *Argyle's Rebellion*, Anno 1685. Whereupon the Parliament finding, That the preaching up of Rebellion in private Conventicles, had occasion'd all this Danger to King and People, and that nothing could be secure whilst every thing might be preach'd; they enacted, That the Ministers who preach'd at Conventicles should be capitally punished; but by virtue of this Act, no Man was ever punished, much less executed.

This being the true Progress, and these the Occasions of making those Acts, it is admir'd why the Government is taxed with so much Cruelty, and the Acts themselves reproach'd as Diabolical: For First, Those against House-Conventicles are the same with the Laws in England, and less severe than those made against Dissenters in *Queen Elizabeth's* Time, or than those now standing against the Calvinists in Sweden, or those made, and now executed by the Presbyterians and Independents in *New-England*; but much more gentle than those our Presbyterians made when they Govern'd.

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* *Vide Caryl and Sanchez's Covenant at the End.*

2. Whatever might be said against such Acts in Countries where Dissenters never entred into a War, yet in this Isle, where they upon the same Principles overturned the Government and Laws, and were upon every Occasion again attempting it, so small a Caution cannot be accounted severe. 3. This Caution was much more just in Scotland, than even in England; because the Dissenters in Scotland were more bigotted to the Covenant, which is a constant Fond for Rebellion. 4. The posterior Acts made against Field-Conventicles, were the necessary Product of new accessional Degrees of Rebellion; and were not Punishments design'd against Opinions in Religion, but merely against Treasonable Combinations, which exceeded what was attempted in England, or elsewhere; and the Governours (for the time) can truly and boldly say, That no Man in Scotland ever suffer'd for his Religion. But if any will pretend, That Religion obliges him to rise in Arms, or to Murder, this Principle ought neither to be sustain'd as a Defence, nor the obviating of it to be made a Crime; and as the Covenanters laughed at such a Defence when propos'd for them, who assisted King Charles I. merely for Conscience-sake; so they cannot deny, but they zealously press Sir John Dalrymple, then Advocate, to hang Mr. Renwick a Field-Preacher, for Field-Preaching, where some of his Hearers were Arm'd, because he was like to divide their Church; after they got an Indulgence from King James, against the accepting whereof, Renwick and his Party exclaim'd highly; and that so much the more plausibly, for that many of them, who now accepted an Indulgence from a King professedly Popish, had rejected and preach'd against those who accepted of one when offer'd by a King of the Protestant Profession. I must also ask them, if any should now rise in Arms in Defence of Episcopacy, and alledge Conscience for so doing, would they sustain that as a just Defence? 5. Whenever any Man offer'd to keep the Church, former Fines were generally remitted, if timeous Application was made; and more Indulgencies and Indemnities were granted by this King, than by any that ever reign'd; and generally no Man was executed in his Reign, who would say, God Bless the King, or acknowledge his Authority; an unusual Clemency, never shewn in any other Nation,

Nation; and such as was not practised by those, who now cry out against the Severity of that Government.

The Reader will be astonished, when we inform him; That the Way of Worship in our Church, differed nothing from what the Presbyterians themselves practised, (except only, that we used the *Doxologie, the Lord's Prayer,* and in Baptism, *the Creed,* all which they rejected.) We had no *Ceremonies, Surplice, Altars, Cross in Baptisms,* nor the meanest of those things which would be allowed in *England* by the *Dissenters,* in Way of Accommodation: That the most able and pious of their Ministers, did hear the Episcopal Clergy Preach; many of them communicated in the Churches, and almost all the People communicated also; so that it cannot be said *that they were persecuted,* and forced to join with an *unsound,* much less *Heretical Church,* as the *French Protestants* are.

From all which, it follows clearly, that the Complainers, were the Aggressors, that the Government proceeded by slow Steps, to punish even those who had forced it into a *Resentment,* and that all Pains were taken to *reclaim* rather than *punish.*

Any reasonable and unprejudic'd Man must allow, that the State had Reason to be jealous, that the same Men who had *invaded* and *overturned the Government* under King *CHARLES I.* retaining still the same Principles as *sacred,* and bursting forth into the same *Excesses* under King *CHARLES II.* were still to be kept in awe, and within the *Barriers* of Law; and that, by their own Principle of *salus populi,* better some few of the Society should perish, than that the whole should go to ruin. *Unitas, non unius,* as was said by them in the *B. Serafford's Case;* and if Two States of Parliament without *the King,* were thought the best, and necessary Judges, of what was *salus populi* in those Days; much more should it be acknowledged, that *the King and Three Estates,* in many subsequent Parliaments, agreeing cordially together, should be acknowledged to be the true Judges of what was *salus populi* in our Government, especially when what they did was founded on a *Series of uncontraverted Laws,* and upon long and deplorable Experience of the *Mischief* occasion'd by that Party. Whereas they who condemn our Proceedings, *must,* and do acknowledge

before they condemn us, that they consider themselves as a People coming into a Country where there were no Laws, and so might take any new Laws they thought fit, for the present Exigent: A Liberty which we (poor Slaves!) durst never take, foolishly conceiving our selves over-ruled by our Statute-Books, ancient Customs, and Oaths, regulating our Duty and Conscience.

For answering the *Objections* which are made against the Government, I shall class them into *these general Enormities with which the Government is charg'd*, and into the particular Instances of its pretended Cruelty.

The First general *Objection* is, That the *severe Laws* made against *Conventicles* were yet more severely put in Execution by Sir James Turner, and Sir William Ballantine, and others, which occasion'd the Infurrection at *Pentland-hills*; and it is alledged, that these *Conventiclers* came only to petition the *Council*, not to overturn the Government.

To this it is answered, That all rising in Arms upon any Pretext whatsoever, is declared *Rebellion* in this and all other Nations; and if any should rise now in Arms because Free-quarter is taken from them against Law, they would find this Government so to take it. Nor can it be pretended that Justice was denied to private Petitioners; but on the contrary, *Turner* and *Ballantine* were laid aside, which is all the *State* could do, it being impossible to answer for all the Extravagancies of Soldiers, even under the most just Government. From this likewise it necessarily follows, that because this was no just War, therefore the learned and worthy Sir *John Nisbet*, then *King's Advocate*, and the *Criminal Judges* were unjustly reproached for refusing to allow the Defence founded on giving Quarter, that being only to be allowed in *justo bello*: And it is to be remembred, that this Defence was not allowed to the worthy President Sir *Robert Spotswood*, Son to the famous Archbishop, in *Anno 1645*, tho' the War just on the *King's* side, and he acted by vertue of a Commission from that very *King*, by whose Authority the Parliament that condemned him was called; and it could not be proved by those that were taken at *Pentland-hills*, that Quarter was granted them; whereas it was clearly proved, that the *Council* in general had discharged granting

granting of Quarter upon *the foresaid Account*. We pass under Silence here, the dreadful Slaughter of several Hundreds killed after free Quarter given, and surrendring of the Castle of *Dunvileigh*, (which made Lieutenant General *Lessie*, who then commanded the Army, threaten to lay down his Commission,) notwithstanding of a violent Sermon made before him upon these Words, 1 Sam. Chap. 15. V. 14. *What meaneth then this bleating, &c.* *

As to the sending away People to the Plantations. It is answered, That none were sent away, but such as were taken at *Bothuel-Bridge*, or in *Argyle's* Rebellion; and the turning Capital Punishment into Exile, was an Act of Clemency; not of Cruelty. As to *Torture*, it is allowed not only by the Law of our Nation, but of all Nations except *England*, and founded on the foremention'd *Maxims; salus populi, &c. Pereat unus; potius quam unitas*; nor was it ever inflicted, but where the Person tortured was evidently proved to be guilty of *Accession to the Crime* and that he knew the Accomplices; it being still left in his Power to secure himself against Torture, by confessing who were his Accomplices, or by clearing himself by his Oath, *that he did not know them*, which Oath was required to free, not to bind the Deponent; because his Knowledge of the Matter was first proved, and it was still previously declared by Act of Council, that nothing he was to depone should prejudice him; And those who had been in that Government were very sorry that when *Torture* was declared a *Grievance* in the last Convention, Matters of high Importance relating to the Government, were still excepted, which expos'd the Subjects to as much Danger as formerly. As to the *imprisoning free Lieges without giving any Reason, and detaining them in Prison for many Years*; It is answered, That we have no Act for *habeas corpus* in *Scotland*, and so these Things may be accounted *severe*, but not *illegal*; and they were introduced in the *late unhappy Presbyterian Rebellion*, where Thousands were kept in Prison a great many Years, without any Crime or Hopes of Release; but the true Reason of the frequent Imprisonments, during *K. Charles the II's* Government, should

* That is, this Noise of Prisoners yet preserved alive. So the Preacher applied his Doctrine.

should only be charged on those who were Accessories to the *Plots and Rebellions which occasion'd them*; and no Men wish'd more than we did, to see those peaceable Times which might allow an *Act of Parliament for Habeas Corpus*.

Another thing which occasioned these long Imprisonments, was, That the Persons imprisoned *refus'd to acknowledge the King's Authority*, without which they could not have been set at Liberty, when there was a clear *Probation* against them. But can this be objected to *Us*, by those who have since imprison'd *more in one Year than we did in five*?

As to the bringing in the *Highlanders on the Western Shires, and taking free Quarter there*; It is answered, That many Thousands had gathered in *Field-Conventicles* with *Arms* for several Years; and when these *Conventicles*, which used to meet in several Places, pleas'd to join in one, they could easily form an *Army*. To prevent which, the *Council* wrote a Letter to these *Western-Shires*, entreating them to fall upon some Course for *Security of the Peace*; they returning for Answer, *That the Peace could not be secured there without abrogating Episcopacy*. The *King and Council* considered this as a *Sacrificing the Law* to the *Humours and Passions of private Men*, and such too, as they had Reason to think, could no more be satisfied with that Concession than their *Predecessors* were, who proceeded to ruin King *Charles I.* after he had parted with the Order of *Episcopacy* to please them; and therefore the *Highlanders* were sent in, to secure the *Peace*; and because Money could not be provided in haste, the *Council* declared by their *Act*, That those on whom they were quartered should be paid out of the first and readiest of the *Fines* owing there, and the *Superplus* should be paid by the *King*; nor have those who were then in the Government, clamour'd so much now for a *Year's* free Quarter as these *People* did then for a *Fortnights*, and even during that *Fortnight* most Men paid for their *Quarters*: Nor was there any more Surety sought, at least from *Masters and Heretors*, than the ordinary Surety of *Law-borrowers*; by the very *Stile* whereof, any private Man may force another by the *Law* to secure him against all *Prejudices* from his *Men, Tenents and Servants*, and others of his *Command, Out-hounding and Ratihabition*. And that the *King* had great

great Reason to be jealous of their *breaking the Peace*, appears fully from the *Reasons* above-represented, and when this *Surety* was thereupon approv'd by *Parliament*, by which it was enacted, *That Masters should be liable either to remove their Tenents from their Lands, or to present them to Justice*: It prov'd a most *advantageous Remedy* for settling the *Nation*, to the great *Advantage* both of *Master and Servant*; this *Alternative* securing the *Master* from many *Hardships*, and engaging his *Servants* to obey *him*, as he was obliged to obey the *King* and keep the *Peace*.

As to the *cumulative Jurisdiction* so much complain'd of, because it gives the *King* a Power to name *Sheriffs*, and other *inferior Judges*, who may have an equal Share in the *Administration* with those who had the sole *heritable Jurisdiction* formerly, whereby it is pretended the *Property* of the *Subjects* was invaded. It is answer'd, *That heritable Jurisdictions* are of themselves very little to be favour'd, because the *Heir* must be a *Judge* both in *Matters of Life and Fortune*, though he want *Probity* or *Knowledge in the Law*, and the interested *Superiors* or *Over-Lords* had thereby the unfortunate poor *Vassals* absolutely at their *Devotion*, and therefore by an old *Law* in *King James II's* Time, there was an *Act* made, discharging all *heritable Jurisdictions* without *Consent of Parliament*; and *Sir John Nisbet* * upon these and many other good *Reasons*, advis'd, that all the other *heritable Jurisdiction* (because almost all granted since that Time) should be *repealed*; and yet, though these *heritable Judges* refus'd to concur in putting the *Laws* against *Field-Conventicles*, and *Armed Insurrections* in *Execution*, or conniv'd at them, whereby they grew very formidable, the *Council* unwilling to take away these *Jurisdictions* totally, chose rather to name others to sit with those *Judges*, or to supply their *Absence* if they refus'd to come; but thereafter *S. G. M.* succeeding as *Advocate*, to prevent all *Debate*, advis'd the bringing this *Point* to the *Parliament*, to the end, that that *Procedure* of the *King's Council* might be either uncontrovertedly *Legal* if acquiesc'd in, or let fall if refus'd; and accordingly the *Parliament* having pass'd it into an *Act*; it seems great *Malice and Ignorance* to call this *Illegal*, and it being founded upon such just and solid *Reasons*, it seem'd

* *The truly Learned Advocate for the King.*

seem'd as strange; why it should be thought severe, and never Lawyer spoke against it except those who had *heritable Jurisdictions*. It were unreasonable that the *King* should complain of what he consented to in *Parliament* in favours of his Subjects; and so it must be likewise concluded unreasonable, that the *Subject* should complain of *this Point* which they have granted to the *King*, especially seeing it is more in favours of the *Subjects* than of *Him*, it being a *strong Bulwark* against great Men's oppressing of their *Vassals* and *Inferiors*; and therefore I cannot see why the *inferior Sort* should be so dull or unreasonable as to complain of it. But notwithstanding of this *Clamour*, and abstracting even from this *Act*, it is still maintain'd by the *Advocate*, that all Lawyers, and particularly our Learned *Craig* in his Book *De Feudis*, assert, That the *Supersor* has still an *Accumulative Jurisdiction* with his *Vassal* as to the *Point of Judging*; for tho' he delegate a Jurisdiction for his *Conveniency*, yet that is not *exclusive*, that being a Quality which still adheres, as *Craig* says †; however, Sir *George Mackenzie*, *Advocate*, advis'd, to stop all *Clamours*, that the *heritable Judge* might still have the *Casualties*, so that his *Property* could not be said to be *invaded*; and lest this might be drawn to the *Session*, as is *ridiculously* pretended, the *Act* is only made *relative* to *Jurisdictions* given by his Majesty to his good *Subjects*, which can in no *Sense* fall under the *Cognizance* of the *Session*, i. e. the *Judges*.

As to the *Act made in Council*, allowing *Soldiers* to kill such as refused to own the *King's Authority*; It is answer'd, That there being many *Proclamations* issued out, by the *Dissenters*, declaring, That the *King* had *forfaulted his Right* by breaking the *Covenant*, and that therefore it was *lawful* to kill him, and those who serv'd him: Many accordingly being kill'd, it was thought necessary by some (upon the fresh *News* of murdering some of the *King's Horse-Guard* at *Swine-Abbey* in their *Beds*) to terrify them out of this *Extravagancy*, by allowing the *Soldiers* to use them as in a *War*, in which, if any call, *For whom are you?* and the others owning that they were for the *Enemy*; it is *lawful* then to kill: And thus they felt their *Folly*, and the necessary *Effects*

† Hinc tamen generaliter observandum, quod Jurisdictio nunquam privative sed cumulative delegari potest, non est quasi transitio juris de una persona in aliam sed tantum mandata jurisdictio, quod non obstante Delegatione adhuc remanet in delegante.

acts of their Principle; and yet still it was ordered, That none should be kill'd except those who were found in Arms, owning that Principle of Assassination, and refusing to clear themselves of their having been in Assession to the declaring of War, which they had then begun; nor were these kill'd, but when their deliberate Refusal could be proved by Two Witnesses. But, that it may plainly appear, that no more was in all this intended by the Governours, than to secure the *Publick Peace*, by terrifying those Assassines who had so manifestly invaded it; Secret Orders were given, that this should not last above a *Fortnight*, and that none should be kill'd except those who were found in the *publickly printed List of declar'd Rebels*, who may be kill'd by the Laws of all Nations; and but very few, even of these *Rebels*, were kill'd, tho' this has been made the *Foundation of many dreadful Lies*. This *Mischief* was intolerable in it self, and we desire to know how it could have been otherways *remedied*; for the Law must find Cures for all *Mischiefs*, and these who occasioned them, should of all others, be least allow'd to complain.

After the Terror of that Procedure had much cooled the Zeal of Assassination for a Time, it took new Fire, and several Proclamations for disowning the King's Authority, and Murthering his Servants were posted upon all Church Doors, and Mercat-Crosses, so that no Man who served the King could know whether or not his Murthener was at his Elbow, and they had Reason to look upon every Place as their Scaffold*: Whereupon the Advocate being desired to raise Processes against some who owned those *Permissious Principles*, he prevailed with the Council to ask the Opinion of all the Judges upon this Query, *viz. Whether any of his Majesty's Subjects being questioned by his Majesty's Judges or Commissioners, if they own a late Proclamation, in so far as it does declare War against his Sacred Majesty, and asserts that it is lawful to kill all those who are employed by his Majesty, refusing to answer upon Oath, are thereby guilty of High Treason, & are airt and part of the said Treasonable Declaration, Salus Populi, requiring that every one should contribute what was in his Power, to the Preservation of the Society; and as none of the King's Servants without this could know if he was secure of his Life, so it was very easie for the Person accused, to clear himself, if*

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* Considering the violent and cruel Temper of their Enemies.

he was innocent: They consider'd likewise that *Law* in general, for the Good of the People, did accommodate its self to *what Probation could be allowed*; and therefore invented *presumptive Probation* upon that Account, whereof there are so many Instances to be seen in all Laws, that it were childish to insist on them, and no Man has been so just as to produce one Law or Reason to convince us of the Illegality of this *Opinion*: And there is an express Act of Parliament penned by the learned Sir *John Nisbet*, whereby for the same Reason, such as are prosecuted for *Conventicles*, are obliged to swear *whether they were innocent or guilty*, which does run yet higher than this *Opinion*.

There is another *Opinion* given by the Judges much challenged, *viz.* That *some having gone about amongst the People, demanding Fifty Pound Sterling from each as a Contribution for the Earl of Argyle then forfaulted, they, from whom that Money had been asked, and conceal'd it, were found guilty of Treason, because this was so far beyond private Charity, that it would have amounted to a greater Sum than any Parliament had ever granted the King: And whereas the Proposal of any Assistance to a Rebel is Treasonable, the Concealing of it by our Law, and by the Law of Nations, is undoubted Treason.* If the Matter of Fact in these Answers had been represented to the late Convention, it cannot in Reason be thought they would have condemn'd them; and if any Man will compare these *Opinions* of the Judges, with *that Grievance* pretended in the late Convention, and *that again* with the Act of Parliament, they will find the Matter of Fact variously represented in all the Three. We must likewise inform the World, *That no Man died upon either of these Opinions*: And, to cut off all Debate, both these *forenamed Opinions* of the Judges are expressly ratified by Parliament, and consequently are the *Sense of the Nation*.

Before we enter upon private Processes, we must complain, That tho' K. Ch. having by Act of Parliament added *Five* of the *Learnest* of all his Judges to his *Justice General* and *Justice Clerk* in place of *Two Advocates*, who were generally but Young or Mean, because they had only *Fifty Pounds Salary*, and that seldom pay'd: That yet every *Ignorant Scribler* should presume to *Reproach their Sentences*, and shou'd take upon them to judge
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the deepest Controversies in Point of Law ; and should dogmatically write of Criminal Sentences, tho' they never saw a Criminal Court, and be applauded in Things which every Servant about that Court knew to be Nonfence : Particularly, as that the Advocate *threatned Juries* ; whereas all he did, was to *Protest for an Assize of Error*, which the Laws command, and which all Advocates ever did, and to this Day do. Again, it is as foolishly pretended, That the Advocate *prosecuted Men without Order* ; whereas indeed he never prosecuted any, until he was *commanded* by the Council, *who are our Grand Jury upon Oath*, and all their Orders are registrated : The Court likewise was so very favourable to these Criminals, that they did ordinarily name (those of their own Profession) Presbyterians to pass upon their Jury, and sent Ministers of their own Perswasion to reclaim them ; and *these Jurors and Ministers* seldom fail'd to condemn them as much as the Judges did.

The *Capital Sentences* in that Court were *Founded Generally upon Actual Rebellion* ; and even as to *those*, there was not one of a Thousand Executed : Nor in all *Argile's Rebellion* was any Executed by their Sentence, except one or two, who were pitched upon as Examples to terrify others. Nor did there die upon *any publick Account*, *Twelve*, in all that Reign so exclaim'd against, *as Bloody* ; and not one died for any Principle in Religion, unless it be thought a Religious Principle to die for *Actual Rebellion* : As to such, there needs no particular Defence, the very *Light of Nature*, the common *Interest of Societies*, and the *Laws of Nations*, declaring it a Crime to justify them.

It is pretended, *That tho' the Crimes had been legally founded, yet the Probation was suspect in those Times, because the Depositions of Witnesses were previously taken, whereby Witnesses, being once ensnared, were forced to stand by their Depositions.* To which it is answered, That in all Nations Abroad, Depositions are previously taken, as is uncontroverted by all their Criminal Writers ; and this is very necessary for the Good of the Subjects, lest they should be prosecuted groundlessly : And

this is as fit for the Good of the King or Kingdom, lest such as are guilty of atrocious Crimes against the whole Society, should escape without being punished, because tried when the formal and full Probation is not ready; yet to prevent all Mistakes, the *Advocate* interceded, that this Trust of Examining Witnesses, should not be left to the King's *Advocate*, as it ever formerly had been, but should be lodged in the Judges, and that lest their Depositions should be any Tye upon them, the Judges, with Consent of the *Advocate*, ordered, That the Depositions should be torn before they Deposed in Judgment, and they were allowed either to correct or pass from their former Depositions as they pleased. And whereas formerly the King's *Advocate* had the Naming of the Jury, it is now lodged by Act of Parliament in the Judges. Nor was there ever any Witnesses suspected, except only in *Chefnock's* Case, wherein the Depositions were true; and albeit the Witnesses afterwards asserted upon Oath on their Knees, That their first Deposition was very true, and that they were only frighted and confounded in the Second; yet the Council would not resume the Process, and thereupon he was absolv'd: In the rest the Probation was but too clear; for beside all the legal Probation, most of those who died, owned and gloried in their Crimes when they died, exhorting others to imitate them, in their *Disowning the King, and Rebelling against him*: And many of them exhorted the People, to kill all such as oppos'd their Principles; assuring them, That to kill Malignants was acceptable to God.

Strangers would likewise be pleas'd to be inform'd, That our Law allows the Party accused a Liberty to call in Witnesses, who may depose upon Oath for Him against the King, which the Law of England does not: And this kind of *Exculpation* was never allow'd till the Reign of King CHARLES II. The first Act, which was the Warrant thereof, having been made by Sir *John Cunningham*, and Sir *George Mackenzie*, when they were *Criminal Judges*: And this was never refus'd to the Persons accused, albeit they brought in frequently Witnesses, who took very great Latitudes, to save those of their own
Pri-

Principles by Swearing; for Instance, *that tho' they saw a Person very like the Pannel or Party accus'd, yet they could not depose it was he, because it might have been a Vision,* albeit at the same time, they had known him formerly very well, and that they talkt with him that time in Arms, at the Distance of Ten or Twelve Paces, for Half an Hour together; and at other times, they did positively refuse to depose *that they saw him have a Sword, tho' they owned that they saw the Hilt and Scabbard:* Notwithstanding of which, and many such ridiculous Evasions, the Party accus'd, was alwise acquitted.

To descend to particular Processes: It is clamoured, *That Mitchill, the famous Assaffine, was executed after he confessed the Crime upon Promise of Life;* To which it is answered, *That Mitchill having upon the High-Street of Edinburgh, shot at the Arch-Bishop of St. Andrew's, with a Design to murder him, he wounded the Bishop of Orkney with that Shot, of which he never recovered, and being thereafter apprehended, confessed the Crime, but continuing still to glory in it, and very famous Witnesses having deposed, That Mitchill was upon a new Plot to kill the same Arch-Bishop; Mitchill was brought to a Trial, and his Defences were, That the Earl of Rothes, to whom he confest it, had promised to secure his Life, or that the Privy Council had afterwards promised the same;* for clearing whereof, the said Earl, and all who were upon the Committee, together with all such Members of Council as he desired to be cited, were fully examined, upon all his Interrogatories: And the Registers of Council were produced, but not the least Mark of a Promise was made to appear by either, so that nothing remain'd, but that the Lord high Chancellor, and Lords of the Privy Council (as they alledged) perjured themselves, and that the Registers of Council were vitiated; and how it's possible to imagine that all this Villany was committed to take so inconsiderable a Fellow's Life; I leave the World to judge? However, he also died glorying in his Crimes, and recommending to others *the Sweetness of such Assassinations.*

George Lermont is alledged to have been unjustly executed, because he was condemned for *being present at a Field-Conventicle, with a Rod only in his Hand*: Whereas the Truth is, That he was condemned for being *Art and Part*, that is to say, *accessory to the Death of a Soldier*, who was killed upon that Place, and that he *commanded* those who killed him as an *Officer*, of which a Man may be guilty in Law, without having a Sword; and therefore the *Justices most legally* repelled the Defence founded on *his not having a Sword*.

Hamilton of Monkland was not found guilty because *he went into the Rebels to seek his Son*, as some falsely suggest: But because being *there*, he solicited a Committee of the *Rebels* to make his Servant an *Officer*; and accordingly he being made one, he came back within some few Days, and stayed several Months with *Monkland*, a Point of Law so clear, that his own Advocates could make no Reply to evade it.

There were indeed Two Women executed, and *but Two* in both these Reigns, and they were punished for most hainous Crimes which no Sex should defend. Their Crimes were, That they had recepted and entertained, for many Months together, *the Murderers of the Archbishop of St. Andrew's*, who were likewise condemned *Traitors* for having been openly in Rebellion at *Bothwell-Bridge*, whereupon they having been prosecuted, declined the *King's Authority*, as *being an Enemy to God, and the Devil's Vicegerent*. And tho' a Pardon was offered to them upon their Repentance, they were so far from accepting it, that they own'd the Crimes to be Duties; and our Accusers should remember that these Women were executed for higher Crimes, than the the following *Montrose's Camp*, for which *Fourscore Women and Children* were drowned, being all in one Day thrown over the Bridge at *Linlithgow* by the Covenanters, and Six more at *Elgin* by the same Faction, all without Sentence, or the least Formality of Law.

Baillie of Fersisewood was executed for *being accessory to, and concealing of a Design of raising Twenty Thousand Men, and siozing the Garisons of Berwick and Carlisle, and the Officers of State*. Nor would

would the Advocate raise an Indictment until Sir *George Lockhart*, and one of the Learnedst of the present Judges, did declare, that the *Point of Law* and Probation were both most clear, and thereupon concurred in the *Process* (*concealing of Treason is beyond all Debate punishable as Treason in our Law*) and some of the Witnesses were his own Relations, who swore plainly and positively against him.

The Earl of *Argyle's* *Process* deserves to be more largely clear'd: And since this last Parliament has rescinded it, we shall without any Justification represent the Matter of Fact, which stands thus; The TEST being enacted to be a *Bulwark* to the *Protestant Religion*, as upon the Event it prov'd, the Earl was not oblig'd, but would needstake it with this Caution, *I take it as far as it is consistent with it self, or with the Protestant Religion: And I declare, that I mean not to bind up my self to wish or endeavour any Alteration I think to the Advantage of the Church or State: Whereupon the Council* observing, that the *Test*, by one Part of this his Declaration, appear'd *Ridicalous*; and by the other it became *ineffectual*, to all the Intents and Purposes for which it was design'd; for so every Man's Opinion became the *Rule of his own Loyalty*, and no Man thereby oblig'd to be further Loyal than he himself might think *convenient*. They therefore interposed earnestly with the *Earl* to pass from this his *Declaration*: But he refusing to disown it in the least, and *Copies* of it being *industriously spread abroad*, it was represented to him, That by *Act of Parliament*, all such, as put *Limitations* upon their Allegiance, were guilty of Treason. For beside, that Men are not obliged to *dispute the Reasonableness of Acts of Parliament* after they were once made; it is apparent that this Act was made upon most just and necessary Motives; for the Foundation of the Rebellion in the last Age, was, *That by the Covenant the Subjects were not further obliged to own the King's Interest, than in so far as it agreed with the Word of God, and the Laws of the Land, of which every private Breast made himself the Judge*; and if this be allow'd, no *Oath of Allegiance* can bind, and so all Society must be dissolv'd. Notwithstanding all which, the *Earl* still persisting, and the *Duke* then *High-Commissioner*, being assu-

assured by one of the best Lawyers in the Nation, that the Paper imported Treason, (tho' the Advocate scrupled to prosecute him from a Principle of personal Kindness to the Earl) he was thereupon prosecuted, and found guilty after a full Debate, wherein Eight or Nine of the best Lawyers of the Nation, by a positive Command from the Council, did assist the Earl. It is here also very observable, that no Malice could be design'd against the Earl; because he was earnestly entreated to pass from the Paper containing his Declaration before the Process should commence; and after all, the Captain of the Castle was allow'd not to keep him strictly. And as it is undeniable, That the King allowed the *Earl's Estate to his Creditors*, and that *his Children got a far larger Share of it, than if he had dy'd in his Bed*; so it can be prov'd it was fully resolv'd, *That he should not die, nor did he die till he had Invaded his Native Country by open War*, whereby the Parliament being convinc'd by this *Open Act*, that he had very clearly design'd by the former Caution in his Explicatory Declaration of the Test, to reserve to himself a Power *to rise in Rebellion when he thought fit*; as was argued in the former Process; they therefore ratified the Process of Forfeiture. (*nemine contradicente*) and added their Authority to that of the Justice Court. And because 'tis wonder'd, *why he was not prosecuted upon this New Rebellion*; it is answer'd, That by the Laws of all Nations, and by the Laws especially of Scotland, and England, *no Man can be try'd for the very same Crime for which he stands convicted, tho' he may for a Crime which deserves a greater Punishment, for the Law has exhausted its Revenge by the first Sentence*; but yet where a new Notorious Aggravation supervens, which is so clear, that it can admit of no Debate, nor needs no Probation; it were very unjust that the Law should not here be put in Execution, tho' the first Sentence had been thought too severe to deserve it. We conclude then this Process with this Reflection, *That a Government can in no Sense be call'd Severe, where the Person accus'd has Liberty (and is intreated) to retract his Crime, where his Children and Creditors get all his Estate, and where he himself does not suffer, until he made*

it manifest by his Invasion of his Native Country, that the Design of his explaining the Test in a Paper under his Hand, was to reserve to himself a Power to rebel, and till he had aggravated highly his former Guilt. But why do they reproach us with this one Decision, who do yet sustain those abominable ones, that were executed without the least shadow of Justice, against the Marquis of Huntley and Montrose, President Sporiswood, Haddo, and Seven Hundred Gentlemen more, who died by their Justice-Court, when their Covenant over-rul'd Law and Equity; and against Four Hundred and Fifty Gentlemen and Commons, who died by the Justice-Court of Argile, beside the many Thousands who died in the Civil War, (of which they must be guilty, who raised it, and who never yet made the least Profession of Repentance for it.)

The Parliament, 1685, being inform'd of Mommouth and Argile's Invasion, and being convinc'd that Argile had reserv'd that Power in his Explicatory Paper of the Test, meerly that he might invade his Country and its Laws; and reflecting on the Treasonable Principle of the Covenant of defending the King, only in defence of Religion, and the late Limitations of owning no King, except he had taken their Covenant; They therefore (not by a Recognising Act, but in the Narrative only of the Act relating to the Excise) offer'd their Lives and Fortunes, without Reserve; which Clause was inserted by the Parliament, not to introduce a blind Slavery, as some maliciously pretend, but meerly to exclude these Rebellious Limitations of Obedience invented by the Covenanters, which were inconsistent with former standing Laws, and by which the People had been highly debauch'd in the late Civil War; for in that very Parliament they enlarged the Peoples Liberties, and ratified all Laws in favours of the Protestant Religion; and the very same Persons in the next Parliament refus'd to take away the Penal Statutes; whereas, if an absolute Slavery had been design'd, all the former Acts establishing our Liberty and Property, and all the Concessions granted to us by our Kings for securing our Lives and Fortunes, should have been expressly Enumerated and Abrogated;

and

and so the Words in the Narrative of that Act could be no Warrant for the Proclamation, *disabling the Laws against Toleration* as some would have us believe: And they who *now complain*, were the *only* Persons who *then* took the Benefit of that *Stretch* of the Prerogative.

We could wish that our Accusers would be careful, that in being too rigid Censurers of us, they do not *expose all Governments*, and even the *present* to Reproach: For it would seem to some who are now By-standers, as they then were, that though they cry'd out against us *for torturing*, when it was warranted by our uncontraverted Law; yet the *Expediency* of Government, or some other Reason makes them do it, after they had *declar'd it a Grievance*, and had rail'd against it as *inconsistent with all Humanity*. Nor do I see, that the reserving it only to King and Parliament answers this Objection; for the Parliament by their Authority *cannot make that fit*, which is inconsistent with *Human Nature*, or that *convenient* which was declar'd to be *incapable to produce the true Effect for which it was design'd*: And the making Torture *then only a Grievance, when inflicted without a Cause* (as is pretended) seems to satisfy as little, since every Man can easily pretend, That what he does is done upon just Motives. *The Imprisoning many, and keeping them long*, can hardly be objected to us, since the present Government find themselves *obliged to do both*; and the last Parliament, in their great Wisdom, thought it fit to reject a Bill for *habeas corpus*, when it was press'd *as suitable to one of the Grievances*: Nor can we yet discover why the *Forfeitures of those* should be rescinded by the current Parliament, *who were Sentenc'd for having taken up Arms at Pentland-hills, and Botwel-Bridge; or those who were forfeited for the Proclamations at Sanguhar, and elsewhere, wherein King Charles was declared to have lost his Right to the Crown, for having broke the Covenant* (that Tripartit and Fundamental Contract betwixt God, the King, and his People) and wherein it is declared a *Duty to kill him, and all who serv'd him, and to throw off the Race of the Stewarts, as constant Enemies to God*: * As also how
the

* Compare this with the Sanchar Declaration, and Cargil's Covenant at the End of this Paper.

the Forfeiture of the Duke of *Monmouth*; and all who adher'd to him, and that of the Earl of *Argile*, were repealed *in cumulo*; for if it be lawful for Subjects to rise in Arms upon the single Presence of Conscience, no King, nor no Government can be secure: If a considerable Part of the Nation should now rise for *Liberty, Property* and *Episcopacy*, upon the same Pretext, would the Parliament find this Defence good? Some are also found who reproach the present Government for suffering Ministers to be thrown out by the Rabble without any previous Tryal or Reparation afterwards, and many other Things which afford but too great Ground for Satyr and Complaint, if I were inclined to either.

The *Necessity of State* is that Supereminent Law, to which upon Occasion all particular Acts must bow; what else can be alledged to justify the *throwing out* the first Estate of Parliament, the *passing* by the Magistrates then in Possession in making of their Elections; and allowing some who had been sentenced for Treason to sit and vote in Parliament, without ever examining the Grounds upon which they had been condemned? These who think that the *Necessity of State* can justify such Proceedings, (which must be their only Plea,) ought to be very careful how they blame their Predecessors for Severities, which some Men's ungovernable Humours necessitated them to.

We must also be allowed to admire, how those who so eminently comply'd with the *Dispensing Power* in taking an *Indulgence* from the Papists, and who magnified King *James* upon that Account as the best of Kings that ever reign'd, should so snarle at us, who in a Parliament (at which not one of them assisted) refused to take away the *Penal Laws* made against Popery, whilst many of us resign'd our *Places* willingly in Defence of those Laws? Or how those who did sit in Parliament and Judicatures with us, consenting to and approving what was done in those Reigns, should now countenance such Reproaches against us? it being most undeniable that there's but very few who deserved any Employment, or had any Sense, who did not concur in most of those Things for which we are now so severely censured; and there are very few of any Note

or Consideration either in the last *Convention*, or present *Parliament*, who have not been accessory to many of the things now complain'd of.

We do therefore in the last Place recommend to all disinterested Men, to consider, That the Men of the greatest Quality, Learning, Experience, Parts, and Estates being then in the Government, and upon Oath; it is to be presumed, That Love to the Salvation of their Souls, Respect to their Honour, and Care of their Families and Posterity, would have obliged them to shun and avoid all those Severities with which they are now most unjustly charged; and in common Charity to believe, that what was then done by those in Power, was design'd only for the Security of the Protestant Religion, against those Factions and Schisms, and to preserve the Country from those Civil Wars and Distractions which had destroyed both in the last Age; and threatned to do the like in this; notwithstanding all the Pains and Care that was taken to reduce the Authors of those Mischiefs to live peaceably and quietly. We foreseeing very clearly, that one Month's Civil War would occasion more Ruin and Destruction to the Country, than possibly the Severities of a whole Reign could do.

The only Design of this Paper being to defend our selves, without offending others, and rather to cement than widen Differences; we wish, that all Sides may busy themselves so much in settling their Native Country, that they may forget Injuries, which the most Impartial cannot think so great in the Reign of King *Charles* the Second, as those that were committed by the Complaining Party in the Reign of King *Charles* the First, and we should be sorry they had been ballanced. But sure they will be most unpardonable, who begin again upon a new Score; for after that nothing can be expected, but that all Parties will run in an endless Circle of Severities: *Which God of his infinite Mercy avert.*

A TRUE

A TRUE

ACCOUNT

OF THE

Forms us'd in Pursuits of Treason,

ACCORDING TO

The Law of Scotland :

By which the JUSTICE of that Nation may
be known to mis-informed Strangers.

Written Anno 1690.

IT is much to be admired, That such as never read our *Law*,
revis'd our *Records*, nor were ever employ'd as *Judges* or *Ad-*
vocates in our *Criminal Courts*, should adventure to condemn
the Proceedings of those, who for many Years have made
that Part of our Law their constant Study, who were upon *Oath*,
and knew that their Posterity should be judged by their Decifi-
ons. But to inform all Men more particularly, and to set things
in their true Light; I shall represent the *Legal Way of Procedure*
in Cases of Treason, which is the only Crime to which this Jealousy
may reach; and then prove, *That the King's Advocate cannot pre-*
judge the Party accus'd in any Step of the Process.

Treason may be pursued either at the Instance of a private Informer, or at the Instance of the *King's Advocate*, who is *ratione officii, calumniator publicus*: If a private Person inform, then *his Name must be express'd*, to the end he, nor none of his Relations may be us'd as *Witnesses*; he must find Surety that he shall prove, and that he shall insist, as being liable in * *panam talionis*, if he fail in proving the Crime. When the *Pursuit* was to be carried on for the publick Interest, the *King's Advocate* examin'd the *Witnesses* alone; but Sir *George Mackenzie* thinking the *Advocate* might have been jealous'd, as too interested, prevail'd to get this Examination refer'd to the *Judges*, who in all Nations enquire into the *Grounds* whereupon *Pursuits* are to be rais'd, and after the *Depositions* were taken, and sign'd by the *Judges and Witnesses*, the *Advocate* presents them to the *Privy Council*; and if, after reading them, and a full Debate upon them (many of the learned *Lawyers* of the Nation being *Privy Counsellors*) it be found by *Vote of Council*, that there is sufficient Ground from the *Evidence* to raise *Process of Treason*, then there is an *Act of Council* drawn, ordering the *King's Advocate* to insist; but in this *Trial*, the *Advocate*, tho' a *Counsellor*, never votes. The Reason why this previous Examination is allow'd, is to secure the *Subjects* against their being rashly and unwarrantably pursued or prosecuted without sufficient Grounds: But lest a *Witness* might have lookt upon himself as pre-engag'd by this previous *Deposition*; therefore these first *Depositions* were always torn, and the *Witnesses* declared free from whatever they had formerly depos'd.

To strengthen the *Security* of the *Defendant* or *Party* accus'd, Sir *George Mackenzie* us'd to interpose with the *Officers of State*, before the *Depositions* were brought into the *Council*, and to represent to them his own *Scruples*: And if the *Officers of State* continued still of Opinion that a *Process* was to be rais'd, or the *Party* accus'd to be proceeded against, then he desired the ablest *Advocates* of the Nation to be called, before whom the *Depositions* were read, and if they concurr'd with the *Officers of State* in their *Judgment* of the *Matters* being *Criminal*, then these *Advocates*

* That is, the same Punishment which the Law provides against such a Criminal.

cates were ordain'd also to concur *with him in the Pursuit*. And many of the most Learn'd and most Popular Advocates *did concur with him in the most intricate Cases*; as in *Argile's, Ferriswood's, &c.* which is not to be imagin'd they would have done, had they thought their Pleading in these Cases any Guilt or Fault.

Tho' by the *Laws of England and other Nations*, the Defendant is allowed no Advocates to plead for him in *Criminal Cases*, but especially not in *Treason*, except where the *Judges* can see *debatable Points of Law*; yet lest the *Defendant* may by *Ignorance or Confusion* omit to represent those Matters of Fact, from which new Points of Law may arise; therefore *Our Law* allows always *Advocates to the Defendant*, and forces any whom he does name to accept the *Employ*. *Act 91. Parl. 2. Ja. VI.*

Tho' by the *Laws of some Nations* no *Witnesses* are allow'd to be produc'd for the *Defendant*, but such as do appear voluntarily; yet when *Sir George Mackenzie* was a *Judge in the Criminal Court*, which answers to the *King's Bench* in *England*, he ordered for the *Good of the People the Remedy of Exculpation*, whereby the *Defendant* representing, *that he has some Defences*, a *Warrant* is giv'n to force the *Witnesses* whom he names to appear, under severe *Penalties*; and such *Time* is granted to him and them, as may be sufficient for their *Appearance*; and *these Witnesses* when comparing are *examined upon Oath*, and the *Jury* is obliged to believe any two of them (tho' *no Witnesses* are allowed to swear against the *King in England*.) This *Order* was thereafter turn'd into an *Act of Parliament*. *Act 16. 3 Sess. Parl. 2. Ch. II. Article 2.* And also to take off all Possibility of *Packing Juries in Edinburgh*, where generally the *Juries* are chosen, 'twas ordered by the *Judges*, at *Sir George* his earnest Request, *That the Town of Edinburgh should give up a List of all their Housekeepers who were able to pass upon Juries, and that all these should be named per vices, according to the Situation of the Place where they liv'd.*

Because the *Defendant* did not know what *Witnesses* were to be produced against him by the *Kings Advocate*, and so could not have *Witnesses* ready to prove his *Objections* against them, therefore *Sir George* prevailed with the *Parliament*

ment that the *King's Advocate* should be for ever after obliged to give with the *Indictment* a List of what *Witnesses* or *Members of Inquest* were to be used by them; And an Order is given for citing any *Witnesses* the *Defendant* pleases, with a competent Time for bringing them. *Fifteen Days* being still the least Time allowed by our *Law*, for preparing the *Defendant* in all such Cases.

: When the Day of Trial or Appearance comes, the *Witnesses* who were present at the giving the *Citation*, are obliged to depose upon Oath, That they truly saw the *Citation* given; Thereafter the *King's Advocate* produces his *Warrant*; Nor did ever Sir *George Mackenzie* prosecute any Man until he was commanded by the *Council*, and till he produced his *Warrant*, (as still appears from the *Records of the Council and Criminal Court*, to both which he solemnly appeals;) and then the *Indictment* is read; after which the *Advocates* for the *Defendant* dictate to the *Clerk* his *Defences*; to which the *King's Advocate* dictates his *Replies*; the *Defendant's Advocates* again their *Duplies*, &c. and that to the End the *Judges* may the better consider what is said, and may stand in *Awe* of *Posterity*. After the *Debate* is closed, the *King's Advocate* and all others retire, and the *Judges* having read fully the *Debate*, they argue the Case amongst themselves, and thereupon they by their *Interlocutory Sentence* find such and such *Points* to be relevant, that is to say, well founded in *Law*; and they sign this *Interlocutory Sentence* or *Judgment*, which is imposed as a further *Tye* upon the *Judges*, for the Security of the *People*; nor are *Witnesses* allowed to be examined upon any thing, but what they have found thus to be legal.

The *Advocates* for the *King* and *Defendant* being both called in before the *Court*, the *Defendant* hears the *Sentence* read, and then the *Forty five Jurors* are called, and the *Defendant's Objections* against them are discussed; and tho' of old the *King's Advocate* had the *Naming of the Jury*, as being presumed dis-interested, yet Sir *George Mackenzie* prevailed to get an *Act of Parliament*, whereby the *Nomination of the Jury* was referred to the *Judges*, *Fifteen* of these *Forty five* only are admitted

mitted as a sufficient *Jury*, and the Defendant is allowed to *challenge* or reject, without giving any Ground or Reason for it, any *Thirty* that he pleases of that Number, and the *Fifteen* who remain make up the *Jury*, and are set by the Judges.

The *Jury* being thus constituted, in the next place all the *Witnesses* are called in before the Court one by one, and not allowed to hear what one another say; and after the *Objections* against such *Witnesses* are fully debated in *Writ* and upon *Record*, the *Witnesses* are either admitted or rejected, as the Judges find Ground in Law and Equity: If admitted, the *President* of the Court examines only upon what is found *legal* or *relevant* in the *Indictment*. And in the next place, he is examined upon any *Interrogatory* that is moved either by the *Defendant*, or any of the *Jury* for him, and then the whole *Deposition* is dictated by the *President* of the Court, and is fully read in the hearing of the *Witness*, and of the *Defendant* and his *Advocates*; and if they desire any thing to be corrected, it is accordingly done, if the *Witness* agree with them in the *Correction*. And in the last place, the *Deposition* is signed by the *President* and the *Witness* that gave it.

All the *Depositions* being thus taken, the *Advocates* for the *King*, and *Defendant*, speak to the *Jury* in a full *Harangue*; but because the *Publick Interest* was still to be prefer'd to private Men's, therefore our *Law* allowed the *King's Advocate* to be the last *Speaker* in all *Criminal Cases*, till Sir *George* prevail'd with the *Parliament* to give the last Word to the *Defendant* in all *Cases* except that of *Treason*, because ordinarily the greatest *Impression* was supposed to be made by the last *Pleading*.

The *Debate* and *Examinations* thus ended, the *Jury* are enclosed, and get in with them the whole *Debate*, *interlocutory Sentence* and *Depositions* in *Writing*, signed by the *Judges*, *Clerk*, and *Witnesses*. This instructs them fully how to proceed; and after they have chosen a *Chancellor* (or *Foreman*) and a *Clerk*, they read all the *Process*, and debate fully upon it; and to the end every *Juror* may stand in awe of *Posterity*, it is marked by the *Clerk* in the *Verdict*, who *absolved*, and who *condemned*; and as no *Witness* can be

*Act 92. Sec. II.
Fac. 6.*

be examined but in presence of the *Party indicted*, so if any Man speak to *any of the Jury* after they are enclosed, the *Defendant* is for ever *Free*. And tho' of old the *Clerk* of the Court was used to be enclosed with the Jury for their Direction; yet Sir *George Mackenzie* procured, That, because the Clerk had some Dependence upon the Crown, *he might be excluded from going in with them*, and that they might choose their own Clerk; which they use accordingly to do since that *Act. Art. 8.* of the foresaid *Act 16.*

By this it appears, that no Nation is more nice in securing the Subject, or have ever shewed more Judgment in *Proteffes* or Proceedings of *Treason*, than *Scotland* has.

In the next place I must observe, That no Nation has ever blamed a *King's Advocate* for assisting in *Criminal Processes*, nor lies there any *Action* or *Scandal* against him any where on that Account; as can be proved from many Hundreds of Citations of the best Laws and Lawyers; but *he darkens his own Cause*, when just, who uses *these* to ignorant People; and *he lessens his own Esteem*, who thinks he needs them amongst Men of *better Sense*: The Law trusts him intirely as a *publick Servant*, who manages these *Pursuits* by Virtue of his Office, and not by Malice. The *King's Advocate* must either have a *Negative* over the King and all the *Judicatories*, by refusing to concur, by which he might make the *justest Pursuit useless*; (for tho' he should lay down his Employment, yet it would give an ill Impression even of the best Cause) or otherways he must be obliged to *concur*: In which Case he can do no *Prejudice*; because *Judges* are presum'd to be Learned, and the *Advocate* is still to be consider'd as too interested, to have any *dangerous Influence*: Nor can he abuse the *Jury* with any *Misrepresentation in point of Law*, for they are only allow'd by our Law to consider *what is meer Matter of Fact*, and whether the precise Point of Law refer'd to them by the Judges, be prov'd by *those Depositions* of the Witnesses which ly before the Jury in Writing. *Judges* may err in *point of Law*, and *Juries* in *point of Fact*, but neither of these are intrusted to the *Advocate*, so that poor People are abus'd extremly when they are informed that the
King's

King's Advocate occasioned any Man's Death. Sir George might here likewise represent, That in the Rebellion against K. Ch. I. many Noblemen and Gentlemen were pursued for rising in Arms by that same King's Commission by whose Authority their Judges did sit; and yet none of the Advocates of these Times were ever quarrell'd with or mis-represented for debating even against their Master's Commission and Remission, as will appear by the Processes of Haddo, President Spotswood, Marques of Huntley, Montrose, and Hundreds of other Gentlemen, but Sir Geo. needs justify himself by no such Precedents.

In the Third place, Sir George Mackenzie may answerably urge, That no Man, who endeavoured so to lessen the Power of the King's Advocates by Acts of Parliament and Regulations, can be thought to have had any Inclinations to stretch it; as also he may value himself for refusing to accept the King's Advocate's Place, till his Predecessor resign'd it under his Hand; that he never informed against any Man, nor suggested any Pursuit; that when a Pursuit was motioned, he pleaded as much in Private for the Defendant, if the Case was dubious, as any of his Advocates did thereafter in the Process; nor did he ever shew any Vehemence in the Process, except when he was jealous'd of Friendship to the Defendant, or of Love to Popularity, because he had so pleaded in Private: And no Age did ever see so many Thousands pardoned, nor so many Indemnities granted, as was in his Time, which as it must be principally ascribed to the extraordinary Clemency of the Kings he served, so it may be in some Measure imputed to the natural Biass which Sir George had to the merciful Hand.

There is great Reason to believe that poor People are only misled by Mis-informations, since some in their Pamphlets clamour against the Advocate for threatening the Jury with a Process of Error, whereas all that he does is to protest for a Process of Error, which is a Duty imposed upon him by our Law. They accuse him also for having occasioned great Expences to the Country, for keeping Witnesses unexamined, whereas it appears fully from our Statutes and Practice that the Examination of Witnesses is no Part of his Duty, for the Solicitor presents them, and the Judges only can examine them.

The Bulk of all the Proccesſes raiſed in K. Charles II. and K. James VII's Reigns, were againſt ſuch as roſe in actual Rebellion at Pentland-hills, Bothwell-Bridge, and Argyle's Invaſion; the firſt were purſued by Sir John Nisbet, one of the beſt Lawyers and Country-Men that ever pleaded; and Sir George Mackenzie did but copy his Libels in purſuing Men in the other Two Rebellions, Theſe Indictments were founded upon the Laws of all Nations, and particularly of Scotland, declaring that Subjects taking Arms againſt the King and his Authority were Traytors. All the Nobility, and Gentry, almoſt all who are in the preſent Government roſe againſt them with their Swords in their Hands, and ſo were more guilty (if that muſt be called Guilt) than any Judge; theſe Proceedings were juſtified by many Parliaments, and all the Judges; and England ſtill continues to think that Monmouth's Invaſion was a Rebellion; ſo that the ſucceeding King's Advocates could not be blamed for pleading in Defence of what others fought for, and judged.

There were other Two Claſſes of Men proſecuted in thoſe times, the one was of the Murderers of the Arch-Biſhop of St. Andrew's, the other was of ſuch as, in publick Rendezvous of Rebellion, as at Sanchar*, wherein they declared K. Ch. III. to have forfeited his Right to the Crown, becauſe he had broken the Government; which was the Fundamental Contract betwixt God, the King, and the People, and therefore they declared War againſt him, and that it was lawful to kill all who ſerved him. Now it is left to any indifferent Reader to judge whether there needed any Eloquence to prevail with Judges or Jurors to condemn ſuch Rebels. But to ſhew the Clemency of the Government, Strangers would be pleaſed to conſider that tho' above 2000 had been guilty of publick Rebellion, yet 200 died not by the Criminal Court, and above 150 of theſe might have ſaved their Lives, by ſaying God bleſs the King; not that the reſuſing to ſay this was made a Crime (as is villainuſly repreſented) but that this eaſe Defence was allowed under this Gentle King, whoſe Clemency we wiſh may be imitated by thoſe who cry ſo much out againſt his Cruelty; and amongſt the many Thouſands that roſe with Argyle, only Two notorious Rebels were

* Vid. Cargil's Covenant and Sanchar-Declaration.

were pitched upon by the Criminal Court to die for the Example and Terror of others. And I may safely say, that there died not Six in all the Time that Sir George was Advocate, except for being in actual Rebellion, and for being guilty of Assassination clearly proved; nor did the Earl of Argile himself die till he had actually invaded his native Country: Nor George Lermont, till it was proved, that (tho' he wanted Arms) yet he commanded those who were in Arms to fall upon the King's Soldiers, and so they were killed by his Command. And what Eloquence is requisite to persuade Judges or Juries to condemn in such Crimes?

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T O T H E
R E A D E R.

WHEN we inform Strangers of the Seditious Principles of the Scotch Presbyterians, they are justly surpris'd that such Villanies can be practis'd, where Humanity and Christianity are not openly and plainly renounced, and therefore some of their own Authentick Papers are here subjoined, which contain the natural Consequences of their Covenant and Principles, by which we leave the World to judge whether Sir George Mackenzie has not treated them with all Modesty and Tenderness, and whether any Form of Government can possibly subsist, where such wicked and pernicious Fooleries are propagated.

T H E

1. **T**hat we shall sincerely, really, and constantly, through the Grace of GOD, endeavour in our several Places and Callings, the *Preservation of the Reformed Religion in the Church of Scotland, in Doctrine, Worship, Discipline and Government, against our common Enemies; The Reformation of Religion in the Kingdoms of England and Ireland, in Doctrine, Worship, Discipline, and Government, according to the Word of GOD, and the Example of the best Reformed Churches; And shall endeavour to bring the Churches of GOD in the Three Kingdoms to the nearest Conjunction and Uniformity in Religion, Confession of Faith, Form of Church-Government, Directory for Worship and Catechising; That We and our Posterity after us, may, as Brethren, live in Faith and Love, and the Lord may delight to dwell in the midst of us.*

2. That we shall in like manner, without Respect of Persons, endeavour the Extirpation of Popery, Prelacy (that is, Church-Government by Archbishops, Bishops, their Chancellours and Commissaries, Deans, Deans and Chapters, Arch-Deacons, and all other Ecclesiastical Officers, depending on that Hierarchy) Superstition, Heresy, Schism, Prophaneness, and whatsoever shall be found to be contrary to sound Doctrine and the Power of Godliness; Lest we partake in other Men's Sins, and thereby be in Danger to receive of their Plagues; And that the Lord may be One, and His Name One in the Three Kingdoms.

3. We shall with the same Sincerity, Reality and Constancy, in our several Vocations, endeavour with our Estates and Lives mutually to preserve the Rights and Privileges of the Parliaments, and the Liberties of the Kingdoms; And to preserve and defend the King's Majesty's Person and Authority, in the Preservation and Defence of the True Religion, and Liberties of the Kingdoms; That the World may bear Witness with our Consciences of our Loyalty, and that we have no Thoughts or Intentions to diminish His Majesty's Just Power and Greatness.

4. We shall also with all Faithfulness endeavour the Discovery of all such as have been, or shall be Incendiaries, Malignants, or evil Instruments, by hindering the Reformation of Religion, dividing

ding the King from his People, or one of the Kingdoms from another, or making any Faction or Parties amongst the People, contrary to this *League and Covenant*, That they may be brought to *publick Tryal*, and receive condign Punishment, as the *Degree of their Offences* shall require or deserve, or the *supreme Judicatories* of both Kingdoms respectively, or others having *Power from them* for that Effect, shall judge *convenient*.

5. And whereas the Happiness of a *Blessed Peace* between these Kingdoms, denied in former Times to our Progenitors, is by the good Providence of GOD *granted* unto us, and hath been lately *concluded*, and *settled* by both Parliaments, We shall each one of us, according to our Place and Interest, endeavour that they may *remain conjoined* in a firm Peace and Union to all Posterity, And that *Justice may be done* upon the wilful Opposers thereof, in Manner expressed in the precedent Article.

6. We shall also, according to our Places and Callings in this common Cause of Religion, Liberty, and Peace of the Kingdoms, *assist and defend* all those that enter into this *League and Covenant*, in the maintaining and pursuing thereof; and shall not suffer our selves directly or indirectly by whatsoever *Combination, Perswasion, or Terror*, to be *divided and withdrawn from this blessed Union and Conjunction*, whether to make *Defection* to the contrary Part, or to give our selves to a *detestable Indifferancy, or Neutrality* in this Cause, which so much concerneth the *Glory of GOD, the Good of the Kingdoms, and Honour of the King*; But shall all the Days of our Lives zealously and constantly continue therein, against all *Opposition*, and promote the same according to our Power, against all *Lets and Impediments* whatsoever; and what we are not able our selves to suppress or overcome, we shall *reveal and make known*, that it may be timely prevented or removed: All which we shall do as in the Sight of GOD.

And, because these Kingdoms are guilty of *many Sins and Provocations* against GOD, and his Son Jesus Christ, as is too manifest by our *present Distresses and Dangers*, the Fruits thereof, we profess and declare before GOD and the World, our unfeigned Desire to be humbled for our own Sins, and for the Sins of these Kingdoms,

doms, especially that *we have not*, as we ought, *valued the inestimable Benefit of the Gospel*, that we have not *laboured for the Purity and Power thereof*, and that we have *not endeavoured to receive Christ in our Hearts*, nor to walk *worthy of him* in our Lives; which are the Causes of other Sins and Transgressions so much abounding amongst us, and our true and unfeigned Purpose, Desire, and Endeavour for our selves and all others under our Power and Charge, both in Publick and in Private, in all Duties we owe to GOD and Man, *to amend our Lives*, and each one to go *before another* in the *Example of a real Reformation*; That the Lord may turn away his Wrath, and heavy Indignation, and Establish these Churches and Kingdoms in Truth and Peace. And this Covenant we make in the *Presence of Almighty GOD* the Searcher of all Hearts, with a *True Intention* to perform the same, as we shall answer at that Great Day, when the Secrets of all Hearts shall be disclosed: Most humbly beseeching the Lord to strengthen us by His holy Spirit for this End, and to Bless our Desires and Proceedings with such *Success*, as may be *Deliverance and Safety* to his People, and *Encouragement* to other Christian Churches groaning under, or in Danger of the *Yoke of Antichristian Tyranny*, to join in the same, or like Association and Covenant, To the Glory of God, the Enlargement of the Kingdom of Jesus Christ, and the Peace and Tranquillity of Christian Kingdoms, and Common-Wealths.

West-Kirk, the 13. Day of August, 1650.

THE Commission of the General Assembly, considering, That there may be just Ground of *stumbling* from the King's Majesty's *refusing to subscribe and emit* the Declaration offered unto him by the Committee of Estates, and Commissioners of the General Assembly, concerning his former Carriage and Resolutions for the Future, in reference to the *Cause of God*, and the *Enemies and Friends* thereof; Doth therefore declare, That this Kirk and Kingdom do not own nor espouse any *Malignant Party or Quarrel or Interest*, But that they Fight meerly upon their *former Grounds and Principles*, and in Defence of the *Cause of God* and of the *Kingdom*, as they have done these Twelve Years past: And therefore, as they do disclaim all the Sin and Guilt of the *King and of his House*, so they will not own *Him*, nor his *Interest*, otherwise than with a Subordination to God, and so far as he owns and *prosecutes* the *Cause of God*, and *disclaims his and his Father's Opposition* to the *Work of God*, and to the *Covenant*, and likewise all the Enemies thereof; And that they will with convenient Speed take in *Consideration* the *Papers* lately sent unto them from OLIVER CROMWELL, and *vindicate themselves* from all the *Falshoods* contained therein, especially in those Things, wherein the Quarrel betwixt us and that Party is mis-stated, as if we *owned the late King's Proceedings*, and were resolved to *Prosecute, and Maintain* his *present Majesty's Interest*, before and without *Acknowledgment* of the *Sins of his House* and former Ways, and *Satisfaction* to God's People in Both Kingdoms.

A. Ker.

13. August, 1650.

THE Committee of Estates having seen and considered a *Declaration* of the Commission of the General Assembly, anent the *stating of the Quarrel* whereon the Army is to Fight, Do approve the same, and Heartily Concur therein.

Tho. Henderson.

A True and Exact Copy of a Treasonable and Bloody Paper, called, The Fanaticks New Covenant: Which was taken from Donald Cargill at Queensferry, June 3d. 1680. one of their Field-Preachers, a declared Rebel and Traitor.

Together with their Execrable Declaration published at the Cross of Sanquhair, upon the Two and twentieth Day of the said Month of June; after a solemn Procession and singing of Psalms, by Cameron, the notorious Ringleader of, and Preacher at, their Field-Conventicles, accompanied with Twenty of that wretched Crew.

WE Under-Subscribers, for our selves, and all that join with us, and adhere to us, being put to it by God, our Consciences, and Men; Do bind our Souls with a solemn and sacred Bond, lest on the one Hand we should be carried away with the Stream of the *Apostacy* and *Defection* of the Church in this Time; and on the other Hand, lest we should (not being so engaged) *evanish* in *Vanity*, and be without a *right Rule* in *good Designs*: We have judged it our Duty again to *Covenant with God, and one another*, and to publish this DECLARATION to the World of our Purposes, that Men may know our *most inward Thoughts*, the *Rules that we walk by*, and the *outmost Ends* that we have before our Eyes for this Intent, that those who are *Lovers of God*, *zealous of His reigning in Glory*, and *desirous of Reformation*, and the *Propagation of His Kingdom*, may have Occasion no more to be *jealous of our Intentions*, and others may have no *Ground to load us with odious and foul Aspersions*; but, that all knowing the *Truth of us*, if they shall *strive against us*, and *Truth with us*, shall do it *without Excuse*, and against *Conviction*; and that those

those who shall join with us, may do it upon *solid and undoubted Grounds*, and both they and we may expect Grace from Him, faithfully to persevere, and happily to be successful in so good Purposes.

It is true, We are not ignorant of the great *Unmindfulness, failing, counteracting and mocking* that has been in our *former Vows and Covenants* with God, and of the great *Judgments* that hath, and are like to follow such *impious and sinful dealing* with God in such weighty Matters, (for which we both ought and desire to be *humbled before Him*,) which cannot but *make us* with great trembling of Heart *enter into new ones*, knowing both our own Weakness and Readiness to relapse, and the great Hazard and Danger of such Relapses; Yet, the Desire of *recovering and preserving* a Remnant, and the *Conviction* of this, as the most *convenient Mean*, the Zeal to God's Glory, and Christ's reigning, (which is the highest and most acceptable Duty Man can perform to God,) hoping for *His Mercies* (who is Witness to the Integrity of our Hearts and Rightness of our Intentions,) that *He will instruct, direct, accept, and prosper* us, we go forward, declaring, that nothing else but what we here express is our Design.

I. We Covenant and Swear, That we take the only true and living God, Father, Son, and Holy Ghost, to be *our God*, and betakes our selves to the *Merits and Righteousness of His Son*, as the alone *Righteousness* that can justify us before God; and that we take His *Scriptures and Word* to be the *Object* of our *Faith*, and Rule of our *Conversation* in all Things; and that we shall give up our selves to Him, to be renewed, instructed, and in all Things ruled by His Spirit, according to that Word; and shall earnestly endeavour by His Grace, to render to Him that Love, Worship, and Obedience, that His Word requires, and His Goodness engages us to.

II. That we shall to the utmost of our Power, *advance the Kingdom of Christ* established throughout the Land, (if at any Time hereafter God shall give us this Opportunity) *Righteousness* and the *true reformed Religion*, in the Truth of its Doctrine, in the Purity and Power of its Worship and Ordinances, and its Discipline and Government, and *free the Church of God* from the *Thralldom, Tyranny,*

Tyranny, Inroad, and Corruption of Prelacy on the one hand, and *Erastianism* on the other. And we shall to our Power, relieve the Church and Subjects of this Kingdom, (we being called thereto, by His giving of us Power, *Power being God's Call to do Good*) of that *Oppression* that hath been exercised upon their Consciences, Civil Rights and Liberties, that Men may serve Him Holily, without Fear, and possess their Civil Rights in Quietness, without Disturbance.

III. That we shall endeavour to our utmost, the *Extirpation* of the *Kingdom of Darkness*, and whatsoever is contrair to the Kingdom of Christ, and especially *Idolatry* and *Popery* in all the Articles of it, as we are bound in our *National Covenant*; and *Superstition*, *Will-worship*, and *Prelacy*, with its Hierarchy, as we are bound in our *Solemn League and Covenant*; And that we shall with the same Sincerity, endeavour (God giving us Assistance) the *Overthrow* of that Power that hath established that *Prelacy* and *Erastianism* over the Church, and exercises such a *Lustful and Arbitrary Tyranny* over the Subjects, seeking again to introduce *Idolatry and Superstition* in these Lands, contrair to our Covenants: And in a Word, that we shall endeavour the *Extirpation* of all the Works of Darkness, and the Reliques of *Idolatry* and *Superstition*, (which are both much enlarged and revived in our Times) and execute righteous Judgments impartially (according to the Word of God, and Degree of Wickedness) upon the Committers of these Things, but especially *Blasphemy*, *Idolatry*, *Atheism*, *Sorcery*, *Perjury*, *Uncleanness*, *Prophanation* of the *Lord's-Day*, *Oppression* and *Malignancy*, that being thus zealous for God, He may delight to dwell among us.

IV. Seriously considering, that the *Hand of our Kings* has been against the *Throne of the Lord*, and that now for a long Time, the *Succession of our Kings*, and the most part of our *Rulers* with him, hath been against the *Purity and Power of Religion and Godliness*, and *Freedom of the Church of God*, and hath degenerate from the *Vertue and good Government* of their Predecessors, into *Tyranny*, and hath of late so manifestly rejected God,
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his *Service* and *Reformation*, as a *Slavery*, as they themselves call it in their publick Papers, (especially in these last Letters to the King, and Duke of *Lauderdale*) disclaiming *their Covenant* with God, and blasphemously enacting it to be burnt by the Hand of a *Hangman*, governed contrary to all right *Laws* Divine and Humane, exercised such *Tyranny* and *Arbitrary Government*, *oppress* Men in their Consciences and Civil Rights, used free Subjects (Christian and reasonable Men) with *less Discretion* and *Justice* than their Beasts; and so not only frustrate the *great End* of *Government*: (which is, *That Men may live Godly, Holily* and *Peaceably* under them, and might be maintained in their *Rights* and *Liberties* from *Injury* and *Wrong*) but hath also walked contrary to it; so that it can no more be called a *Government*, but a *lustful Rage*, exercised with as little *Right*, *Reason*, and with *more Cruelty* than in Beasts, and they themselves can be no more called *Governours*, but *publick Grassators*, and *publick Judgments*, which all Men ought as earnestly to labour to be free of, as of *Sword*, *Famine*, or *Pestilence* raging amongst us; and besides, hath *stopped* (instead of *punishing*) the *Course of Law* and *Justice* against *Idolaters*, *Blasphemers*, *Atheists*, *Murderers*, *Incestuous* and *Adulterous*, and other *Malefactors*; and instead of *rewarding the Good*, hath made *Butcheries* and *Murthers* on the *Lord's People*, Sold them as *Slaves*, *Imprisoned*, *Forfaulted*, *Banished* and *Fined* them, upon no other *Account*, but for *maintaining the Lord's Right* to *rule Consciences*, against the *Usurpations* of Men, for *fulfilling their Vows*, and *repelling* unjust *Violence*, which innocent *Nature* allows to all; of all which, and more *Particulars*, we can give (we speak as before God) innumerable and sure *Instances*: Neither can it be thought that there is *Hope* of their returning from these *Courses*, having so often shewed their *Natures* and *Enmities* against *God* and all *Righteousness*, and so often declared and renewed their *Purposes* and *Promises* of persevering in these *Courses*. And, suppose they should *dissemble a Repentance* of these *Evils*, and profess to return to better *Courses*, being put to *Straits*, or for their own *Bnds*, (for upon no other *Account* can we reasonably expect it;)
and

and though it may be thought, that there *might be Pardon* for what is done, (which we cannot yet see to be, without the *Violation* of the *Law of God*, and a great *Guiltiness* on the Land, from which *Guiltiness* the Land can never be free, but by *executing of God's righteous Judgments upon them*, for omitting of so greatly deserved, and so necessarily requisite a *Justice*;) yet they cannot be believed, after they have violated all *Tyes* that *Human Wisdom* can devise to bind Men; and beside, there will be something of *Folly* found, to think to *bind a King* that pretends to *Absoluteness*: And our Fathers, or rather our selves, at first judged it *not warrantable to receive Him*, without consenting to, and swearing of the *Covenant*: And if so, the renouncing and disclaiming thereof, we ought at present to judge to be a just and reasonable Ground of *rejecting Him upon these Grounds*, being assured of God's *Approbation*, and Men's, whose Hearts are not utterly byassed, and their Consciences altogether corrupted; and knowing assuredly, that the *upholding of such*, is to *uphold Men to bear down Christ's Kingdom*, and to *uphold Satan's*, and the depriving of Men of right *Government* and good *Governours*, to the *Ruining of Religion*, and *undoing of Human Society*. We then, seeing the innumerable *Sins* and *Shares* that are in *giving Obedience to their Acts*, on the other Hand, seeing if we shall acknowledge their *Authority*, and *refuse Obedience* to their sinful *Commands*, the endless *Miseries* that will follow, and siding with God (who we hope will accept and help us to a *Liberation* from their *Tyranny*) against his stated and declared *Enemies*; do *reject that King*, and those *associate with him*, from being our *Rulers*, because *standing in the Way of our Right*, free and peaceably serving of God, *propagating his Kingdom and Reformation*, and *overthrowing Satan's Kingdom*, according to our *Covenant*: And declares them henceforth to be *no lawful Rulers*, as they have declared us to be *no lawful Subjects*, upon a Ground far less warrantable, as Men unbyassed may see; and that after this, we neither owe, nor shall *yield any willing Obedience* to them, but shall rather suffer the outmost of their *Cruelties* and *Injustices*, until God shall plead

plead our Cause, and that upon these Accounts; because, they have *altered and destroyed* the Lord's established Religion, *overturned* the fundamental and *establish'd* Laws of the Kingdom, *taken* altogether away Christ's Church and Government, and *changed* the Civil Government of this Land (which was by King and free Parliament) into Tyranny, where none are associate to be Partakers of the Government, but only those who will be found by Justice *to be guilty of Criminals*, and all others excluded, even those who by the Laws of the Land by Birth had a Right to, and a Share in that Government, and that only, because not of the *same Guiltiness* and *mischiewous Purposes* with themselves: And also, all *free Elections* of Commissioners for Parliaments, and Officers for Government, are *made void* by *their making* those the Qualifications of Admission to these Places, which by the Word of God, and the Laws of this Land, were the *Cause of their Exclusion before*, so that none can look upon us, or judge us bound in Allegiance to them, unless they say also we are *bound in Allegiance to Devils*, they being his Vicegerents, and not God's.

V. We then being *made free*, by God and their own Doings, he giving the Law, and they giving the Transgression of that Law, which is the Cause that we are *loosed now* from all *Obligations*, both *Divine* and *Civil* to them, and knowing that no Society of Men that hath *Corruption in them*, (which always is ready to beget Disorders and do Injuries, unless restrained and punished by Laws and Government) can be without Laws and Government, and withal desiring to be governed in *the best Way* that is least lyable to Inconveniencies and Tyranny: We do declare, that we shall *set up over our selves*, and *over all that God shall give us Power*, Government, and Governours, according to the Word of God, and especially according to that Word, *Exod. 18. v. 21. Moreover, thou shalt provide out of all the People, able Men, such as fear God, Men of Truth, hating Covetousness*; and that we shall no more *commit the Government* of our selves, and the making of Laws for us, to *any one single Person*, and *lineal Successor*, we not being tied as the *Jews* were by God, to one Family, Government not being an Inheritance, but an Office, which must be squared, not to the *Interest and Lust* of a Man, but to *the Good* of the Commonwealth, and this Kind of Government by a single Person, &c. being most liable to Inconveniencies, (as sad and long Experience may now teach us,) and aptest *to degenerate* into Tyranny. Moreover, we declare, that these Men whom we shall set over us, shall be engaged to govern us principally by that Civil or Judicial Law, given by God to his People of *Israel*, especially in *Matters of Life and Death*, and in all other Things

also, so far as they teach, excepting only that Law, (*viz.* anent Slaves,) which does not agree with that Christian Liberty established in all Christendom, (only violated by *our Tyrants*, and some others of late,) and that of Divorces and Poligamy; the one being not a Law, but a Permission granted upon the Account of the Hardness of their Hearts, the other being a *Sinful Custom* contrair to the first *Institution* of Marriage, crept in into the Church: We know that Men of malignant and perverse Spirits, that has not a *higher God* than a *wicked King*, which suits only with their *lustful Licentiousness*, and it may be others with them that seemed to be of better Principles, will raise an *ignorant Clamour* upon this, that it is a Fifth-Monarchy; and we Fifth-Monarchy-men, and will labour to *amuse* the People with *strange Terms*, and put *odious Names* on *good Things*, to make them *hateful*, as their Way is; but if this be their Fifth-Monarchy, we both are, and ought to be such, and that according to his Word.

VI. It being the *Work of the Ministers of the Gospel*, to preach, propagate, and defend the Kingdom of God, and to preserve the Doctrine, Worship, Discipline, Government, Liberties and Priviledges of the same, from *all Corruptions and Incroachments of Rulers*, and all others. And seeing, that the Ministers of the Church of Scotland, (at least the greatest Part of them before) not only were *defective* in *Preaching* and *Testifying* against the *Acts of these Rulers*, for overthrowing Religion and Reformation, abjuring our Covenant made with God, establishing a Government in the Church, which that King calls *his own Government*, (and so *not God's*), contrair to *our Covenant*; against enacting of that blasphemous (so *Calvin* calls that *Supremacy of Henry the Eighth*, upon which this Prerogative is founded, and from which it is derived, and is no less, if not more injurious to Christ, and inflaving to his Church,) and *Sacrilegious Prerogative* given to a King over the Church of God, and against *the other Acts and Incroachments* of his Church, and *hundred others* also who were willing and would have *testified* against them, and *condemned* some that did it, (for which, together with the other Causes in their Trust and Administration, we may say, *God hath left them to do worse Things*;) but also hath voted in that Meeting, (which they are pleased to call an *Assembly of Ministers*, but how justly, let Men judge,) an *Acceptation of that Liberty*, founded upon, and given by vertue of that *blasphemously arrogated and usurped Power*; and hath appeared before their Courts to *accept* of that Liberty, and to be *enacted* and *authorized* there as Ministers, and so hath willingly (for this is an *elicited Act* of the Will, and not an *Act of Force and Constraint*) translated the Power of sending

ing out, ordering, censuring, (for as they *accept of their Liberty* from them, so they *submit to their Censures and Restraints*, at least all of them who were yet tried with it, and others of them appeared and acknowledged before their Courts, that they *would not have done these Things that they were charged with, if they had thought it would have offended them.*) Ministers departing from the *Court of Christ*, and Subjection to the Ministry, to the *Courts of Men*, and Subjection to the Magistrate, (which had been *impious and injurious to Christ and His Church*, though they had been *Righteous and lawful Rulers.*) and by their changing of Courts (according to *common Law*) hath *changed their Masters*, and of the *Ministers of Christ* are become the *Ministers of Men*, and bound to answer to them as oft as they will; and as by the *Acceptation* of this Liberty in such manner, they have *translated the Power*, so they have *given up and interly quit the Government*, and a *Succession of a Presbyterian Ministry*; for as these were not granted them of their Masters, so they *exercise their Ministry without them*, and so by this, as the Ecclesiastick-Government is swallowed up in the Civil (if the rest had followed them) the Ministry should have also been *extinct with themselves*, and the whole *Work of Reformation had been buried in Oblivion*, not so much as the Remembrance of it kept up: These together with the other of their Commissions in Preaching, the *Lawfulness of paying that Tribute* declared to be imposed for the bearing down of the true Worship of God, (which they falsely termed *Seditious Conventicles.*) and their advising these poor Prisoners to subscribe the Bond, and consequently could not but to advise all others, if put to it, (for the Hazard that Men were in, will not make a real Change of the Morality of that Action, and beside, the rest may be put to it upon the same Hazard, and so if the *one should advise*, (which consequently they must do,) and the *other should subscribe*, this would altogether close that Door which the Lord hath made use of in all the Churches of *Europe*, for casting off the *Yoke of the Whore*, and restoring the *Truth and Purity* of Religion and Reformation, and Freedom of the Churches, and should have stopped all Ingress for Men, when once brought under Tyranny, to recover their Liberty again. These Ministers then, *not being Followers of Christ*, who before *Pontius Pilate*, gave a good Confession, which was, that he was a King; and no King, if he have not Power to order his House and Subjects, and they *not following him*, nor his Ministers, if not asserting and mainraining of this Kingly Power, against all Incroachers and Usurpers of it; and besides, we being commanded, *If any Brother walk disorderly, from such to withdraw*; and although in the Capacity we now are in, we neither have, nor assume to

our selves Authority to give our definite and authoritative Sentences of Deposition and Suspension against these Ministers ; yet we declare, which is proper for us to do, that *we neither can, nor will bear Preaching, nor receive Sacraments*, from these Ministers that hath *accepted of, and voted* for that Liberty ; and declares all who have encouraged and strengthened their Hands, by hearing and pleading for them, all those who have traffiqued for an Union with them, without their renouncing and repenting of these Things, all those that do not *testify faithfully* against them, and after do not deport themselves suitably to their Testimonies, and all who join not in Publick with their Brethren, who are testifying against them ; we declare, That we shall not *bear them Preach, nor receive Sacraments* from them, at least, till they stand in Judgment before these Ministers, and be judged by them who have followed the Lord, and kept themselves free of these Defections : And as our Hearts hath cleaved to these Ministers, while they were on the Lord's Side, and subjected our selves to them, so we shall still cleave to *those that abide following him* and shall be subject to them in the Lord.

VII. Then we do declare and acknowledge, That a Gospel-Ministry, is a standing Ordinance of God, appointed by Christ, to continue in the Church, until the End of the World ; and that none of us shall take upon him the Preaching of the Word, or administering the Sacraments, unless called, and ordained thereto, by the Ministers of the Gospel: And as we declare that we are for a standing Gospel-Ministry, rightly chosen, and rightly ordained, so we declare, that we shall go about this Work in Time to come, with more Fasting and Praying, and more careful Inspection into the Conversation and Holiness of these Men that shall be chosen and ordained, the Want of which formerly, hath been a great Sin, both in Ministers & People, which hath not been the least Cause of this Defection:

THE

THE

The Declaration and Testimony of the True-Presbyterian, An- ti-Prelatick, *and* Anti-Eraſtian, Perſecuted-Party *in Scotland.*

IT is not amongſt the ſmalleſt of the Lord's Mercies to this poor Land, that there hath always been ſome who hath given a Teſſimony of *every Courſe of Deſection* which we were guilty of, which is a *Token for Good*, that he does not as yet intend to caſt us off altogether, but that He will *leave a Remnant*, in whom He will be glorious, if they (through His Grace) keep themſelves clean ſtill, and walk in His Way and Method, as it hath been walked in, and owned by Him in our Predeceſſors (of truly worthy Memory) their Time in their *carrying on our noble Work of Reformation*, in the ſeveral Steps thereof from *Popery and Prelacy*, and likewiſe from *Eraſtian-Supremacy*, ſo much uſurped by him, who it is true (ſo far as we know) is deſcended from the Race of our Kings; yet he hath ſo far deborded from what he ought to have been, by *Perjury and Uſurpation in Church Matters*, and *Tyranny in Matters Civil*, as is known by the whole Land, that we have juſt Reason to believe, that one of the *Lord's great controversies* againſt us is, that *we have not diſowned him and the Men of his Practices*, whether inferiour Magiſtrates, or any others as *Enemies to our Lord and his Crown*, and the *True-Proteſtant and Presbyterian Intereſt in their Hands*, our *Lord's eſpouſed Bride and Church*. Therefore, although we be for Government and Governours, *ſuch as the Word of God, and our Covenants allows*, yet we for our ſelves, and all that will adhere to us, as the Representatives of the *True-Presbyterian Church*, and *covenanted Nation of Scotland*, conſidering the great Hazard of lying under ſuch a Sin, do by theſe Preſents diſown *Charles Stuart*, who hath been *reigning*, or rather (we may ſay) *tyrannizing* on the Throne of *Scotland*, or Government thereof (forſaulted ſeveral Years ſince by his Perjury and *Breach of Covenant* with God and his Church) and Uſurpation of his Crown and Royal Prerogatives therein, and many other Breaches in Matters Eccleſiaſtick, and by his *Tyranny and Breach* of the very *Leges Regnandi* in Matters Civil: For which Reasons, we declare, *That ſeveral Tears*

Tears since, he should have been denuded of being King, Ruler, or Magistrate, or having any Power to act, or to be obeyed as such: As also, being under the Standard of Christ, Captain of Salvation, we declare War against such a Tyrant and Usurper, and all the Men of his Practices, as Enemies to our Lord Jesus Christ, His Cause and Covenant, and against all such as have strengthened him, sided with him, or anyways acknowledged him in his Usurpation and Tyranny, Civil and Ecclesiastick, yea, and against all such as shall strengthen, side with, or anyways acknowledge any other, in the like Usurpation & Tyranny, far more against such as would betray or deliver up our free Reformed Mother Church, into the Bondage of Antichrist, the Pope of Rome.

By this we homologat the Testimony given at *Rutberghen*, the twentieth of *May*, 1679, and all the faithful Testimonies of those that have gone before us, as of those also that have suffered of late, and we do *disclaim* that Declaration published at *Hamilton*, *June* 1679, chiefly because it takes in the King's Interest, which we are several Years since *loosed from*, because of the foresaid Reasons, and others, which may after this (if the Lord will) be published. As also, we *disown*, and by this *resents* the Reception of the Duke of *Tork*, a profest Papist, as repugnant to our Principles and Vows to the most High God, and as that which is the great (though alace too just) Reproach of our Church and Nation: We also, by this, *protest against his succeeding to the Crown*, and whatever hath been done, or any are essaying to do in this Land (given to the Lord) in Prejudice to our Work of Reformation.

And to conclude, We hope none will blame us for, or offend at, our rewarding those that are against us, as they have done to us, as the Lord gives the Opportunity. This is not to exclude any that hath declined, if they be willing to give Satisfaction to the Degree of their Offence.

Given at Sanquhair, June 22. 1680.

These are the True and Exact Copies of the Fanaticks New Covenant and Declaration, collationed with the Originals, which are kept amongst the Records of His Majesty's Privy Council, and attested by

Al. Gibson, *Cl. Sti. Concilii*
 And
 Will. Paterson, *Cl. Sti. Concilii.*

A
**Blasphemous and Treasonable
P A P E R,**

Emitted by the

Phanatical Underscribers,

On *May* 1. 1681.

According to the *Original* lying in the Hands of the
Clerks of His Majesty's Most Honourable *Privy Council*.
cil.

WE Underscribers, now Prisoners for the Truth in the *Canon-
nongate* Tolbooth, though most vile, yet it pleased the Holy
Ghost to work on our Spirits of a Time past, in clearing
Causes of Wrath, and shewing us Dury from Day to Day, that now in
some Time past we are, and have been called mad Men and Devils, and
now there is none in the Kingdom, in Prison, or out of Prison that we
can converse with as Christians. And Yesterday being the 26 Day of the
5th Month, it seemed good to the Holy Ghost and to-us, to take out
of our Bibles the Psalms in Mettre, for several Causes mentioned afterwards,
for the Book of the *Revelation* says, *If any Man should add unto these
Things, God shall add unto him the Plagues which are written in this Book;*
and we did burn them in our Prison-house, and sweep away the Athes.
Likewise,

Likewise, in the Holy Scriptures, We renounce Chapters and Verses, and Contents, because it is only done by Humane Wisdom, and the changing of the Books after the Holy Ghost had placed them: We being pressed to this Work by the Holy Ghost, do renounce the Impression and Translation of both the Old and New Testaments, and that for Additions put unto them by Men, and other Causes; as First, putting in horrid Blasphemy, making a Tyrann Patron of the Church, when the Scriptures holds of None but of God, and needs no Patronage from any King, Prince, or Rulers, and the writing of that Blasphemous, Sacrilegious, (as some call it) the Epistle Dedicatory, filled with such Language, as *Dread Sovereign, Highness, most High and Mighty, most Sacred Majesty*; and likewise the horrid unparallel'd Blasphemy, making a Triangle with the Hebrew Letters *JEHOVAH* in it, representing the *Trinity*; and likewise putting in horrid Pictures in several Places of the Holy Scripture, and likewise drawing Scores betwixt the Books of the Bible, and other superfluous Traditions. Likewise we renounce the Catechisms Larger and Shorter, and Confession of Faith, against which we have many Causes; one Cause is, in the 23 *Chap.* for the Scripture Proofs that they cite, proves the contrary of that they write. We renounce the Acts of the General Assembly, and all the Covenants, and acknowledging of Sins and Engagement to Duties, and that which they call Preaching Books, and all their Works, Way, Form, and Manner of Worship, Doctrine, Discipline, and Government, and the studying on their Books, the Thing they call their Preaching, for instead of going to God, for his Mind to the People; they go to their Books, and so makes their Books their God and their Leader, and so all following that Way, go to Hell together: The Cause of this is, we find none of their Works but they are like themselves, carnal and corrupt, according to that Scripture, *Hate the Garment spotted with the Flesh.* We renounce the limiting of the Lord's Mind by Glasses, and their Ordination of Men only Learned, and their saying, that Learning is the Essential of a Minister without Grace. Likewise, we renounce their Manner of renewing Covenants, pressing Mens Consciences to take a Covenant, and by so doing has filled the Kirk and State with Tyrants and incarnate Devils, as we find this Day, they knew the Men to have no Marks of Grace, but on the other Hand, to be prophane, as them they call King and Rulers, Captains and Commanders in State and Armies, and all Kirk Officers whom we call Tyrants and *Judas's*, for by so doing they have corrupted both Kirk and State, as this Day Kirk Men and States Men, whom we call *Judas's* and Tyrants, are studying in Opposition to Holiness and the Work of Reformation, who
 entred

entered in by these same Covenants, are now plucking our Lives for
 Christian Walk. And likewise, we renounce the Covenant taken at
Queensberry, commonly called *Gargill's* Covenant, and likewise *Hamiltons*
Declaration, yea, and *Sangubars* Declaration, because they may and has
 owned these, and are owning these, who are Enemies to Holiness, and
 were Enemies to us, as some of the *Infidels*. We should suffer Kirk Censure
 for giving over the old Apostate Ministers to the Devil, and some of
 them counted us their Enemies for the Truth's Sake, and sent us Word
 they would protest against us, and so we justify our Lord in breaking
 them at *Airds Moss*, we justify the Lord likewise, in taking away that
 they call Field-Preachings, or Mockings, because they were nothing but
 Rebellion against the High Lord, as we find now when our Lord is come
 to the Cross, there is neither Minister nor People to bide by him, of the
 many Thousands has flocked to the Thing they call Preachings or
 Mockings, and therefore now all are found void of Saving Grace, and so
 we see that Word is accomplished, *Strait and narrow is the Way that lead-
 eth unto Life, and few there be that find it*: And that other Word, *Many
 shall strive and shall not be able*. We finding all former Actions to be such
 as Devils has and can creep in at (as Declarations and Covenants) and
 get the Name of Saints: Therefore, this Day it seemed good to the
 Holy Ghost and to us, to renounce and burn the former Covenants
 and Declarations, because they are not *strait* enough according to Scrip-
 ture, and all their Works such like, and therefore we will own none of
 their Works, till it please the Lord to give us Teaching from himself.
 By this all may know and understand, we overturn, and formally burn
 all the former Works of the Clergy of *Scotland*, and throughout all the
 whole World, that are in Opposition to *Holiness*, dated the 6th Day
 of the Week, being the 27th. of the Fifth Month, 1581. about Mid-
 Day.

We renounce and decline all Authority throughout the World, and
 all that are in Authority, and all their Acts and Edicts, from the Ty-
 rant *Charles Stuart*, to the lowest Tyrant, and burn them the same Day,
 being the 6th Day of the Week, the 27 Day of the 5th Month, 1684. at
Canongate Tolbooth Iron-house.

We renounce the Names of Months, as *January, February, March,
 April, May, June, July, August, September, October, November, Decem-
 ber, Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, Saturday,
 Martians, Holy-days*, for there is none holy but the *Sabbath-day, Lambas*
 H Day,

Day, *Whitsunday*, *Candlemas*, *Baltan*, *Cross-stoner*, and *Images*, *Fairs* named by Saints, and all the Remnants of Popery, *Tool* or *Christmas*, *old Wives Fables* and *By-words*, as *Palmfunday*, *Carlinesfunday*, the *29th* of *May*, being dedicate by this Generation to *Prophanity*, *Peacesfunday*, *Hallowe'en*, *Hogwe-nas-night*, *Valentin's-even*; no marrying in the Month they call *May*, the un-numerable Relicts of Popery; *Atheism* and *Sorcery*; and *New-year's Day*, and *Hansel-Monday*, *Dredgies* and *Likewakes*, *Valentin's Fair*, *Chappels* and *Chaplains*: Likewise *Sabbath-Days* *Feastings*, *Blythmeats*, *Banquetings*, *Revelling*, *Pipings*, *Sportings*, *Dancings*, *Laughings*, *singing* *pro-phane* and *lustful Songs* and *Ballads*, *Table-Lawings*, *Monk-Lands*, *Fri-er-Lands*, *Blackfrier-Lands*, *Kirks* and *Kirkyards*, and *Mercat* *Crosses*, *Fount-Stones*, *Images*, *Registers* of *Lands* and *Houfes*, *Register Bonds*, *Discharges*, and all their *Law-works*, *Inhibitions*, *Hornings*, *Letters* of *Adjudications*, *Ships-Passes*, *Prophanity* and all inchant: *Thoughts*, *Words* and *Actions*, *Formality* and *Indifferency*, *Story-Books* and *Ballads*, *Ro-mances* and *Pamphlets*, *Comedy-Books*, *Cards* and *Dier*, and all such like, we disown all of them, and burn them the *6th* Day of the *Week*, being the *27th* Day of the *5th* Month, 1681, at the *Canongate* *Tollbooth* *Inn*, *House*.

We renounce all the *Customs* and *Fashions* of this *Generation*, their *Way* and *Custom* of *eating* and *drinking*, *sleeping* and *wearing*, and all our own former *Ways*, as well *Religious* as *Moral*, in so far as they have been *squared* and *casten* in this *Generation's* *Mould*, and all our *iniquous* *Courses*, *lightness* and *unconcernedness* with the *Glory* of *God*, the only *End* whereof we were sent into the *World* the *7th* Day of the *Week*, being the *27th* of the *5th* Month.

We renounce all that are now in *Prison-Houses* or *Correction-Houses*, *Men* and *Women*; for none of them are with us in this *Work*, and when we sent them a *Copy* of this our *Renunciatiou*, they called us *Devils*. The *Copy* of this we burnt instead of the *Books* and *Works* of this *Apollate* *Generation*, and buried the *Ashes* in our _____ and covered it with *Dust*.

Notwithstanding of our *burning* *Covenants* and *Declarations*, and *renouncing* of them and their *Works*; Be it known to all that we do nei-ther vindicate the *curfed* *Murderers* of their *Bloodshed* on *Fields*, and *Scaffolds*, and *Seas*, and other *horrid* *Cruelties*, such as *Torturing*, *Im-prisonments*, *Pillagings*, *Banishments*, *Scourgings*, *Stigmatizing*, &c. nor

nor condemn we the worthy Martyrs, and the Sufferings of others, only we give the Lord Justice, and vindicates his tarrying, for now the Furnace has brought forth a more pure Cause which we term, *Holiness to be built upon the Word of God.*

That all may know and see our Innocency, and know our End is and was the Glory of God in all we did, though we came far short, and in the Months past, we could get none to shew us Kindness for Meat or Lodging, though we could pay for it our selves: That Word in *Malachy, Ye are cursed with a Curse, for ye have robbed me, even the whole Nation.* And likewise in *Deut. We seeing the Land all this cursed, and all justifying themselves in that Iniquity were afraid to eat, or drink, or sleep under a Roof with them.* Though there were many that would have shelter'd us, yet we could not eat, drink, converse, or pray with them, least we had come under the Curse, so many Times our Beds has been in the open Fields, and we have come to Houses, and they would not sell us Meal to make Potage of, and we have found Meal and Water a rare Dish, because the Curse was off it, and it was blessed to us, according to that Scripture, *the Blessing of the Lord maketh rich.* We are not murmuring in this, but when the Weather has been worst, Winds and Rain, cold Frost and Snow, and when we had fasted most, we were best satisfied, according to that Scripture, *all shall work together for their Good, that truly seek the Lord.* When we had outward Straits, then we had most inward Peace, we had Joy in the Holy-Ghost, so the Thing the World calls the worst of our Life, as Reproaches, Imprisonments, Nakedness, Hunger, and Cold, &c. we had rather be suffering for our Lord's Sake, than be Kings of the whole Earth, for our Joy no Man can take from us, and our Prison is so pleasant through our Lord, that we care for no Company, for we know no Company but all are cursed, and we know not what it is to be weary, but according to that Scripture, *eat and drink my Beloved, ye eat and drink abundantly,* we are rather in Paradise.

These Things were cleared to us when fasting and praying, and we were pressed to do this by the Holy Ghost, we had many Fasts about this Thing, and this Week we took some Milk and Bread in the third Day of the Week, in the Morning, being the 24 after the 5th Month 1681. And tasted neither Meat nor Drink, nor any other Kind of Living, till the 6th Day of the Week at 4 Day of Noon (and then we took a little Milk and Bread) for to find out the Causes of his Wrath, we have wandered, mourned, wept, many a Night and Day in Houses and Fields,

(40)
For we have and has had no other End but his Glory, that the Elect such as should be saved might be brought in, and it is only Conscience that keeps us from giving Men Reverence in Word and behaviour, though some call us dumb Devils, and unlearned Bruits, and one of us when coming before them they call Rulers, was called a Block-head, notwithstanding of all that came on us, we know and are taught by the Holy Scriptures, to give Honour unto whom Honour is due, and to salute one another, but it has been our Work of a Time to renounce the filthy vile Imbracings, Salutations, and Compliments of this Generation, which they call Court-Breeding, our Carriage, professing to follow the Lord Jesus, should be steed and circumspect, according to that Scripture, *Let us walk circumspectly, not as Fools, but as wise Men,* as it is written in *Matthew, Let your Light so shine before Men, that they may see your good Works, and glorify your Father which is in Heaven.*

Curfed are they that says Peace to a Land, who are in the Place of Watchmen, when the Lord says no Peace, which Practice, we silly unlearned Creatures renounce, for we bless him, he has kepted us from resting till the Ark rest. And as for these they call Watchmen, that cries Peace or keep Silence, we shall refer them to the Prophet *Ezekiel*, which ye may read at Leisure, which we think shall be *Scotland Doom*, for we have heard tell of few of them they call Ministers, but they have all said Peace, when brought before the Enemies to witness their Practice, being most unconscionable on Hill Sides, and Moor Sides, before several Thousands, they called them Tyrants, and intolerable Oppressors, and their Government Tyranny and Oppression, and that the Crown of Supremacy that *Charles Stuart* had usurped over the Kirk, would weigh him down from the Throne, and all that Race with him, and when they are brought before them, and into Prisons, nothing but in with the other Supplication, to the Honourable Lords of His Majesty's Secret Council, beck and beinge, & please your Lordships Grace, &c. & now they are all at Peace with his Enemies, save one whom we disown, and so or long the Enemies shall curse them, when the Lord awakens their Consciences, (though we confess we have had some special Witnesses of Ministers) and we think or long, the Malignants shall pursue these Ministers to Death for Unfaithfulness, for the vilest Creatures in the Land high and low, rich and poor, noble and ignoble, must give Account for Works done in the Flesh: Then the Dogs, Sorcerers, Whoremongers, and Murderers, and Idolaters, false Swearers, Cursers, Sabbath-Breakers, idle loose Livers, and all that are unchast in Thoughts, Words and Behaviour, and all that makes no Conscience.

(60)
Blence of their Way, and whosoever loveth and maketh a Lyē, shall
tremble th at Day when they shall enter into Eternity, when it shall be said
as it was to *Dives*, *Thou in thy Lifetime hadst thy good Things, and Lazarus*
his bad Things: For except a Man be born again, he can in no Ways
enter into the Kingdom of Heaven.

We take up the Book of the Holy Scripture at the Lord's Command,
and for a Testimony of our Dissatisfaction, at the abounding Corrupti-
ons, both of Translators and the Press, and likewise for a Testimony
of our Desires and Intentions for a new Translation & Impression, free of
the foresaid and other Abuses, we to our Power resort to our own Books,
and say; that the Word of God needs no human Art. we hold that
the Word of God is laid the Foundation of this new Building, and short-
ly it shall become the Head Corner-stone of the Building, over both Kirk
and State, Kirk-Men and States-Men; so that Scripture towards the
End of the Rev. of *John* shall be fulfilled; *And I saw Heaven opened, and*
behold a white Horse, and he that sat upon him was called Faithful and
True; and in Righteousness he doth Judge and make War, his Eyes were as a
Flame of Fire, and on his Head were many Crowns, and he had a new Name
written that no Man know, but he himself, and he was Cloathed with a
Robe dipped in Blood, and his Name is called the Word of God.

And first, to shew that we take the Word of God in every Point to
be our Rule, the Sum and End of our so much reproached and mocked
at Exercise (Fasting and Prayer) will be found in the Book of *Psalms*;
Be thou exalted, O God, above the Heavens, and let thy Glory be a-
bove all the Earth. It is written in the *Acts* of the Apostles, *It seemed*
good to the Holy Ghost and to us: But they usurping Supremacy, says, by
the Authority of the General Assembly, allows these Psalms to be sung in
Congregations, &c. which we renounce: And more, we think the Psalm-
Book in Meeter, and no other Thing ought to be within the Bounds of
the Bible, but the simple Scriptures of Truth; the Psalms may be had in
a Book by themselves.

We are so reproached and caluminate, that we are forced to make our
Defence, and shew that we have mourned, fasted, and prayed many a
Day, and many a Night this last Winter, many Times in the open Fields,
in Frost & Snow, while our Cloaths were frozen upon us, & our Feet frozen in
our Shoes, as the Town of *Curlew* *Borlstonness* can witness, & all this to find
out the Causes of our Lord's starting, when those who are now calling us Devils,
were turning themselves upon their Ivory Beds, like a Door upon the Hinges,
cating

eating the Fat and drinking the Sweet at their own Ease : And when we were driven thence by Persecution, we took our selves to the Fields, holding still by our Dury, where many Women did offer themselves to the Work, with whom our Spirits was many a Time burdened, whom we could not put away (as our blessed Lord dealt with Judas, whom he knew would betray him) without manifest Causes : We stayed not with them but on solemn Days, such as *Sabbaths*, and appointed Times for publick meeting, but when they took their Rest betwixt Hands, we continued still in Fields, Nights and Days, fasting and praying for two or three Days together several Times, and it was always their Fear we should propose some Question to try them for Separation, and that Night before we was taken, we warned them that the Soldiers would come, and told them to use their Freedom : We saw them also a Mile off, an Hour before they came, and none of them would go away, and after we were brought in hither, after some several Days Fasting and Prayer, we being warned by the Holy Ghost, followed *Esber's* Advice, and continued from Eight a Clock of the Morning, the 24 Day of the 5 Month, till the 27 at Four Afternoon, Fasting and Praying, we sent them Word likewise to Fast and Pray, and when we sent them the Answer of our Prayers in the Writ, they called us Devils : Thence we fasted till the 28 Day at Night, and thence till the 30 at Night, waiting still to see if they would recover, but they waxed still worse, and we were forced to write this to vindicate our Carriage towards them.

*Walter Ker.
John Gibb.*

*David Jamison.
John Young.*

*This is Exactly Compared and Collationed with the Principal Copy, by
me*

W I L. P A T E R S O N,
Cl. Sti. Councili.

F I N I S.

The "Vindication" and the "Forms used in Pursuits of Treason" are reprinted in Mackenzie's Works, Vol II, fo 1722, p. 341.

G.W.T. Omond. "It may be worth remembering . . . that doubts have been expressed as to whether the Vindication of the Government of Scotland under Charles II, which Watson prints in the Folio Ed. as being by the Lord Adv., was by him or by the Earl of Cromarty. I forget the argument on this point, & who raised the question, but I know it made some impression on me at the time."