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. Reprinted at EDINBURGH, by JAMES WATSON, and sold at his Shop opposite to the Lucken-Booths. 1712. (Price One Shilling.)
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 Covenants were entred into with England; Ambassadors 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 invent’d, call’d, 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 confisc’d, 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 afflicting him in the Year Forty Eight, were declar’d Void and Null, by an unparallel'd
(§)

169d Invasion, the General Assembly, (imitating in this, as in many other Things, the Church of Rome) raised themselves above King and Parliaments.

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 virtue of express Commission from the King, and such as rose in Arms for his Defence, tho' they had both His Commissions, and Remissions, though the Judges that Condemned them, sat by virtue 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 forbooth 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 express Acts of Parliament, and by many Acts in the like Cases in Scotland, and England, and so nothing which can be alleged 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 persuade 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 dissented) 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 uncontested 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 Pensland 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 Rebellion, and that a Preacher's Presence could legitimize the
(7)

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 Housel to Field-Meetings, so from Field-Conventicles to publish Proclamations; declaring, that the Covenant was the Original Contract between 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 Rhinés 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 Basinghall 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 200,000 Men should be raised in Scotland, and that the Garchons of Barmine and Carlisle, and all the Officers of State should be seised, which was likewise seconded by Monmouth, and Argyll'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 safer whilst every thing might be preach'd; they enacted, That the Ministers, who preach'd at Conventicles should be capitaly 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 admired why the Government is taxed with so much Cruelty, and the Acts themselves reproached as Disobedient: 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.

* Vide Cargill and Sanchez's Covenant at the End.
2. Whatever might be said against such acts in countries where Dissenters never entered 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 begotten to the covenant, which is a constant bond 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 meerly against treasonable combinations, which exceeded what was attempted in England, or elsewhere; and the governors (for the time) can truly and boldly say, That no man in Scotland ever suffered 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 sustaine'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 affil'd King Charles I. meerly 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 allege 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 timely 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 Baptism, 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 unprejudiced 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 unda, as was said by them in the B. Strafford’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 uncontroversial Laws, and upon long and deplorable Experience of the Mischiefs occasion’d by that Party. Whereas they who condemn our Proceedings, must, and do acknowledge before
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!) dared 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 Objections 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 Insurrection at Pentland-hills; and it is aflfected, that these Conventicles 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 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 jure bello: And it is to be remembered, that this Defence was not allowed to the worthy President Sir Robert Spotwood, Son to the famous Archbishop, in Anno 1645, tho' the War just on the King's side, and he acted by virtue 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 surrendering of the Castle of Dunvileigh, (which made Lieutenant General Leslie, 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 thou this bleeding, &c. *

As to the sending away People to the Plantations. It is answered, That none were sent away, but such as were taken at Bothel-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. Perat 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 be 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 to 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 Releasement; 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-Convicticles with Arms for several Years; and when these Convicticles, 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, entreat 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 Laws 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 those People did then for a Fortnights, and even during that Fortnights most Men paid for their Quarters: Nor was there any more Surety sought, at least from Masters and Heritors, than the ordinary Surety of Law-borrow; by the very Stile whereof, any private Man may force another by the Law to secure him against all Prejudices from his Men, Tenants and Servants, and others of his Command, Out-bounding and Ratification. 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 Tenants 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 ingaging 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 answered, 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, advi-

fed, 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 refused to come; but thereafter S. G. M. succeed-

ing 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 acquiesced 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 Balwark 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 Feuds, assert, That the Superior 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 laid to be invaded; and left this might be drawn to the Session, as is ridiculously pretend, 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 forfeited 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

† Ille tamen generaliter observandum, quod Jurisdictione nunquam privativa sed cumulative delegari potest, non est quasi transtio juris de una persona in aliam sed tantum mandata jurisdicio, quod non obstante Delegatione adhuc remanet in delegante.
(15)


ters 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 Assafination, and refusing to clear themselves of their having been in Assafion 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 persuading those Assafines 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 publishly 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 itself, and we desire to know how it could have been otherwise 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 Assafination for a Time, it took new Force, and several Proclamations for disowning the King’s Authority, and Murthering his Servants were posted upon all Church Doors, and Mercat-Croffes, 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 desir’d to raise Proceedings against some who owned those Pernicious 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 affirms 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, or are a part 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 easy for the Person accused, to clear himself, if he

* 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 presumptuous 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 foaulted, 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 aforementioned Opinions of the Judges are expressly ratified by Parliament, and consequently are the Sense of the Nation.

Before we enter upon private Process, we must complain, That tho' K. Ch. having by Act of Parliament added Five of the Learned 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 the
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 Nonence: Particularly, as that the Advocate threatened 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 favourably 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 Persuasion 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 Argyle'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 sho' 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
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 left their Depositions should be any. Tye upon them, the Judges, with Content of the Advocate, ordered, That the Depositions should be sworn 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 Cheshnock'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 frightened 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 Rebell ing against him: And many of them exhorted the People, to kill all such as oppos'd their Principles; alluring 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 Escutcheon 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 Prin-
Principles by Swearing: for Infiance, 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 Assoffine, 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 confessed, 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 Registrs 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 alleged) perjured themselves, and that the Registrs of Council were vitiataed; 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 alfo died glorying in his Crimes, and recommending to others the Sweetness of such Assofina-

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George
George Lermouth is alleged 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 received 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 Viceregent. 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 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.

Bailie of Jervisewood was executed for being accessory to, and concealing of a Design of raising Twenty Thousand Men, and seizing the Garrisons 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 Learned 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 itself, or with the Protestant Religion: And I declare, that I mean not to bind up myself 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 Radical; 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 to 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 affix 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 Text, to reserve to himself a Power to rise in Rebellion when he thought fit; as was argued in the former Procist; they therefore ratified the Proceeds of Forfauture (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 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 supervene, 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
is manifest by his Invasion of his Native Country, that the Design
of his explaining the Text in a Paper under his Hand, was to referre
to himself a Power to rebel, and till he had aggravated highly his for-
mer 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 Spotiswood, 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 Argyle, 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 Monmouth and Ar-
gyle's Invasion, and being convinced that Argyle had reserv'd that
Power in his Explicatory Paper, of the Text, meerly that he might
 invade his Country and its Laws; and reflecting on the Trea-
senable 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 Recognizing Act, but in the Narrative only of the Act
relating to the Excise) offer'd their Lives and Fortunes, with-
out Reserve; which Clause was insert'd by the Parliament, not
to introduce a blind Slavery, as some maliciously pretend, but
meerly to exclude these Rebellious Limitations of Obedience in-
vented by the Covenanters, which were inconsistent with for-
mer 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 People's Liberties, and ratified all Laws in fa-
vours 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 Conces-
sions granted to us by our Kings for securing our Lives and For-
tunes, 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 uncontrverted 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 Bothwel-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.
( 25 )

the Perseverance of the Duke of Monmouth, and all who adher'd to
him, and that of the Earl of Argyle, were repealed in cumulo; for
if it be lawful for Subjects to rise in Arms upon the single Pre-
tence of Conscience, no King, nor no Government can be se-ecure: 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 Repara-
tion afterwards, and many other Things which afford but too
great Ground for Satyr and Complaint, if I were inclined to ei-
er.

The Necessity of State is that Supereminent Law, to which up-
on Occasion all particular Acts must bow; what else can be al-
leged to justify the throwing out the first Estate of Parliament, the
passing by the Magistrates then in Possession in making of their Ele-
ctions; and allowing some who had been sentenced for Treason to
fit and vote in Parliament, without ever examining the Grounds
upon which they had been condemned? Those 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 Prede-
cessors for Severities, which some Men's ungovernable Humours
necessitated them to.

We must also be allowed to admire, how those who so emi-
nently comply'd with the Dispensing Power in taking an Indul-
gence 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 Po-
perty, 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 a-
gainst 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

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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 threatened 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 forry 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 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 Advocates 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 Decisions. 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
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, 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 * pænam talionis, if he fail in proving the Crime. When the Pursuit was to be carried on, for the publick Interest, the King’s Advocate examined the Witnesses alone; but Sir George Mackenzie thinking the Advocate might have been jealous’d, as too interested, prevail’d to get this Examination referred 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 Tryal, 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 look’d 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 accused, 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 accused 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 Argyll's, Ferviswood'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 left 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 Em-
ployst. Act 91. Parl. 2. fa. 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 Defen-
dant representing, that he has some Defences, a Warrant is giv'n to
force the Witnesses whom he names to appear, under severer Penali-
ties; and such Time is granted to him and them, as may be suf-
cient 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 Par-
lament. Act 16. 3 Sess. Parl. 2. Ch. II. Article 2. And also to
take off all Possibility of Packing Juries in Edinburgh, where gene-
rally 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 King's Advocate, and
so could not have Witnesses ready to prove his Obje-
tions against them, therefore Sir George prevailed with the Parlia-
ment
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 convenient 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 Cause 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 Tyre 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 disinterested, 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 prevailed. 

The Debate and Examinations thus ended, the Jury are enclosed, and get in with them the whole Debate, interlocutory Sentences, and Depositions in Writing, signed by the Judges, Clerk, and Witnesses. This instructs them fully how to proceed; and after they have chosen a Chanceller (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
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 Dependance 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 forefaid Act 16.

By this it appears, that no Nation is more nice in securing the Subject, or have ever shewed more Judgment in Proceses 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 Proceses, 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 Judicators, 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 referr'd to them by the Judges, be prov'd by these 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 extreamly 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 some King's Commission by whose Authority their Judges did sit; and yet none of the Advocates of those Times were ever quarrell'd with or misrepresented for debating even against their Mustred Commission and Remission, as will appear by the Proceses of Haddo, President Spotswood, Marques of Huntley, Montrose, and Hundreds of other Gentlemen, but Sir Geo. needs justifie himself by no such Precedents. In the Third place, Sir George Mackenzie may answerably urge, That no Man, who endeavoured 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 Processe; nor did he ever shew any Vehemence in the Processe, 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 Byass 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 Processe of Error, whereas all that he does is to protest for a Processe of Error, which is a Duty imposed upon him by our Law. They accuse him also for having occasioned great Expenses 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 processes raised in K. Charles II. and K. James VII's reigns, were against such as rose in actual rebellion at Pentland-Bridge, Bothwell-Bridge, and Argyle's Invasion; the first were pursued by Sir John Nisket, 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 traitors. All the nobility and gentry, almost all who were 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 archbishop of St. Andrew's, the other was of such as, in publick rendezvous of rebellion, at Sanguehar*, wherein they declared K. Charles II. to have forfeited his right to the crown, because he had broken the covenant, which was the fundamental contract between 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 20000 had been guilty of publick rebellion, yet 200 died not by the criminal court, and above 1500 of these might have saved their lives, by saying God bless the king, not that the refusing to say this was made a crime (as is villainously 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 Argyle 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 per-suade Judges or Juries to condemn in such Crimes?
TO THE

READER.

WHEN we inform Strangers of the Seditious Principles of the Scotch Presbyterians, they are justly surprized that such Villanies can be practised, 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.
1. That 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 Commisaries, 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; Let us 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, divid-
of 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 Judicators 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, Persuasion, 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 Indifferency, 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; Both 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.


The Committee of Estates having been 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, left 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, left we should (not being so engaged) vanish 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 Righteousness 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 ourselves 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 outmost 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, Intrachment, and Corruptaon of Prelacy on the one hand, and Erafianism on the other. And we shall to our Power, relieve the Church and Subjects of this Kingdom, (we being called there- to, 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 contrari 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 Erafianism over the Church, and exercises such a Lusiful and Arbitrary Tyranny over the Subjects, seeking again to introduce Idolatry and Superstition in these Lands, contrari 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 Virtue and good Government of their Predecessors, into Tyranny, and hath of late so manifestly rejected God, his
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 Cov-
enant 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 Go-
vernment, oppress Men in their Consciences and Civil Rights,
used free Subjects (Christian and reasonable Men) with less Dis-
scretion and Justice than their Beasts; and to not only frustrate
the great End of Government: (which is, That Men may live God-
ly, Holy and Peaceably under them, and might be maintained
in their Rights and Liberties from Injury and Wrong) but hath al-
so 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 them-
selves can be no more called Governours, but publick Grasstones,
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
Courte 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,
Forfaulet, Banished and Fined them, upon no other Account,
but for maintaining the Lords 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
Ends, (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 to, 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 byass'd, 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 unbyass'd 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 established 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 mischievous 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 Viceregent, 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 liable to Inconveniencies and Tyranny: We do declare, that we shall set up over ourselves, and over all that God shall give us Power, Government, and Governors, 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 fad 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,
also, so far as they teach, excepting only that Law, (viz. a cruel 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 Polygamy; 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 contrari to the first Institution of Marriage, crept 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 ignominious 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 Privileges 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,) contrari to our Covenant, against enacting of that blaspheuous (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 Sacreligious Prerogative given to a King over the Church of God, and against the other Acts and Incroachments of his Church, and hindered others also who were willing and would have testified against them, and confused 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 virtue of that blaspheuous arrogated and usurped Power, and hath appeared before their Courts to accept of that Liberty, and to be enabled and authorized there as Ministers, and so hath willingly (for this is an elicit 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 Conformities and Restraints, as 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 utterly 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 Sedition and Controversies,) and their advising these poor Prisoners to subscribe the Bond, and consequently could not but 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 calling off the Toke 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 for his Ministers, if not ascertaining and maintaining 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
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 hear 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 trafficked 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 hear 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 Fastings 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 Declaration and Testimony of the True-Presbyterian, Anti-Prelatick, and Anti-Eraftian, 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 Testimony of every Course of Defection which we were guilty of, which is a Token for Good, that he does not as yet intend to call 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, to 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 Man of his Practices, whether inferior 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 (forfaulted 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 Ecclesiastic, and by his Tyranny and Breach of the very Leges Regnandi in Matters Civil: For which Reasons, we declare, That several
Years since, he should have been denuded of being King, Ruler, or Magistrate, or having any Power to a, 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, or 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 Rutherglen, the twenty-ninth 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 alter this (if the Lord will) be published. As also, we disown, and by this respects the Reception of the Duke of York, a professed 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 Fanatics New Covenant and Declaration; collated with the Originals, which are kept amongst the Records of His Majesty's Privy Council, and attested by

Al. Gibson, Ch. Sti. Concili
And
A Blasphemous and Treasonable Paper,

Emitted by the Phanatical Undersubscribers,

On May 1, 1681.

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

We Undersubscribers, now Prisoners for the Truth in the Cannongate 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 Moneth, it seemed good to the Holy Ghost and to us, to take out of our Bibles the Psalms in Metre, 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 Tyrant 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 Scenes between 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, preffing 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 profane, 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
entered in by these same Covenanters, and now publishing our Lives for a Christian Walk. And likewise, we renounce the Covenant taken at Queensferry, commonly called Calf's Covenant, and likewise Hamilton Declaration, yea, and Sempill's Declaration, because they may and have owned these, and are owning these, who are Enemies to their lives, and are Enemies to us, as some of the unfaith. We should suffer Kirk Session for giving over the old Apostate Ministers to the Devil, and some of them counted as 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 Kirk Mosis, we justify the Lord likewise, in taking away that they call Field-Preaching, 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 hide by him, of the many Thoroughs has flocked to the Thing they call Preaching 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 and leadeth 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 Covenanters) 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 Covenanters and Declarations, because they are not strait enough according to Scripture, 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 overthrew, authoritatively burn all the former Works of the Clergy of Scotland, and throughout all the whole World, that are in Opposition to Hesitants, and 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 Tyrant Charles Euan, to the lowest Tyrant, and burn them the same Day, being the 6th Day of the Week, the 27 Day of the 5th Month, 1581, at Canongate Tolbooth Iron-house.

We renounce the Names of Months, as January, February, March, April, May, June, July, August, September, October, November, December, Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Martinmas, Holy-days, for there is none holy but the Sabbath-day, Lammas Day.
Day, Whitsunday, Candlesmas, Nativity, Fastes-stones, and Images, Fairs named by Saints, and all the Remnants of Popery, Tool or Christmas, old Wives Fables and By-words, as Palm Sunday, Carlistisunday, the 25th of May, being dedicated by this Generation to Prophanity, Peace Sunday, Hallowe'en, Hogman's-night, Valentine's-even; no marrying in the Month they call May, the innumerable Relics of Popery, Atheism and Sorcery, and New-year's Day, and Hansel-Monday, Dredgies and Likewakes, Valentine's Fair, Chappels and Chaplains: Likewise Sabbath-Days, Feasting, Blythers, Banquets, Revellers, Pippings, Sportings, Dancings, Laughings, singing prophane and lustful Songs and Ballads, Table-lawings, Monk Larks, Friar-Lands, Blackfriar-Lands, Kirkes and Kirkyards, and Mecat Croffes, Fount-Stones, Images, Register of Lands and Houses, Register Bonds, Discharges, and all their Law-works, Inquisitions, Hearings, Letters of Adjudications, Ships-Paffes, Prophanity and all unchristian Thoughts, Words and Actions, Formality and Indifference, Story-Books and Ballads, Romances and Pamphlets, Comedy-Books, Cards and Dice, 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 Tolbooth in the 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 iniquious Course, 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 Renunciation, they called us Devils. The Copy of this we burnt instead of the Books and Works of this Apostate Generation, and buried the Ashes in our Hand, 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 neither vindicate the cursed Murderers of their Bloodshed in Fields, and Scaffolds, and Seas; and other horrid Cruelties, such as Torturings, Imprisonments, Pillagings, Baufliments, Scourgings, Stigmatizings, &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 tarry 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, lest 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 Strains, 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 Reproach, 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, you eat and drink abundantly, we are rather in Paradise.

These Things were clear to us when fasting and praying, and we were pressed to do this by the Holy Ghost, we had many Passes 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 1684. And fasted neither Meat nor Drink, nor any other Kind of Living, till the 8th Day of the Week at 4 Day of Noon (and then we took a little Milk and Bread) tor to find out the Causes of his Wrath, we have wandered, mourned, wept, many a Night and Day in Houses and Fields, for
for we have and have 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 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 steady 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.

Curse we they that say 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 kept us from falling 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 Dooms, 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 Thousand, 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 Sector Council, beck and beinge, & please your Lordships Grace, &c., & now they are all at Peace with his Enemies, save one whom we disown, and for or long the Enemies shall curse them, when the Lord awakens their Conferences, (though we confess we have had some special Witnesses of Ministers), and we think of 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 unchaste in Thoughts, Words and Behaviour, and all that makes no Conscience.
Beneath their Way, and whatsoever loveth and makes a Lye, shall tremble that 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 Disatisfaction, at the abounding Corruptions, both of Translators and the Press, and likewise for a Testimony of our Defects, and Intentions for a new Translation & Impression, free of the forefaid and other Abuses, we to our Power reform 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 shortly 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 pebbles of fire, and he that sat upon him was called Faithful and True; and in Righteousness he shall 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 knew, but he himself, and he was Cloathed with a Vesture 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 reproach'd and mock'd 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 above 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 Bread of the Bible, but the simple Scriptures of Truth; the Psalms may be had in a Book by themselves.

We are so reproach'd and calumniated, that we are forced to make our Defence, and shew that we have mournd, 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, &c. our Feet frozen in our Shoes, as the Town of Curlet. Bornstoness can witness, &c. all this to find out the Causes of our Lord's starrying, when those who are now calling us Devils, were turning themselves upon their Ivory Beds, like a Door upon the Hinges, eating
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 Duty, 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 Esther'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.  David Jamison.
John Gibb.    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. Consili.

F I N I S.

G.W.T. Omont. "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."