



1 5
CCO, BC, 42

NATIONAL LIFE
Company
EDINBURGH

Bought by Advocates' Library
22nd May 1909

CRIMINAL TRIALS
IN SCOTLAND,

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

EMBRACING THE ENTIRE

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

COMPILED FROM THE ORIGINAL RECORDS AND MSS.

WITH

HISTORICAL NOTES AND ILLUSTRATIONS,

BY

ROBERT PITCAIRN, ESQ.

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

VOLUME THIRD.

EDINBURGH:

WILLIAM TAIT, PRINCE'S STREET; AND
LONGMAN, REES, ORME, BROWN, GREEN, AND LONGMAN, LONDON.
M.DCCC.XXXIII.



PRINTED AT THE BANNATYNE CLUB PRESS BY BALLANTYNE AND CO.

TO
THE HON. DAVID HUME,
ONE OF THE BARONS OF THE COURT OF EXCHEQUER, IN SCOTLAND
LATE
PROFESSOR OF SCOTS LAW,
IN THE UNIVERSITY OF EDINBURGH,
AND
AUTHOR OF COMMENTARIES ON THE CRIMINAL LAW, &c. &c.
THIS THIRD VOLUME
OF A COLLECTION OF THE MOST ANCIENT TRIALS, NOW ON RECORD,
BEFORE THE
HIGH COURT OF JUSTICIARY,
IS, WITH EVERY SENTIMENT OF ESTEEM AND RESPECT,
DEDICATED
BY
THE EDITOR.

CRIMINAL TRIALS

AND OTHER PROCEEDINGS BEFORE THE

HIGH COURT OF JUSTICIARY.

[*Sir Williame Heart, Justice-Depute.*]

Treasonable Fire-raising — Cruel Oppression — Treason — Breaking Ward out of the Castles of Blackness and Edinburgh.

[THE almost incredible wickedness and atrocious cruelty of SIR JAMES MAKONEILL (MACDONALD), the individual whose Trial follows, and the horrible facts which the reader will find therein disclosed, afford a lamentable picture of the barbarous state of manners prevalent in the Western Islands of Scotland, even at so comparatively recent a period as the reign of King James VI. Did we not know that such outrageous proceedings were but too common in Scotland at this melancholy period, and especially in the Highlands and Islands, which were then far removed from the feeble arm of the Law, *Sir James's* misdeeds would hold a most conspicuous place in the dark catalogue of crimes. Without entering into any narrative of similar acts of violence and bloodshed, but merely to shew that *Makeoneill* was not a solitary instance of the perpetration of such execrable deeds, and that he was by no means unworthy of his descent and kindred, the reader need only refer to a previous portion of this Collection,¹ where a few of the acts of *Angus Makeoneill of Dinniveaig*, his father, and of *Maclane of Dowart*, his maternal uncle, are rehearsed.

It would be rather out of place to enter here into a detail of the frightful and bloody feuds and conflicts between the contending tribes of CLANDONALD and CLANLAIN; which are fully recorded by Sir Robert Gordon of Gordonstoun, in his valuable Genealogical History of the Family of Sutherland, who informs us, that these inveterate hostilities were long and fiercely 'prosecuted, to the destruction almost of both their families!'²

Of the personal history of SIR JAMES MAKONEILL little can now be collected, saving from the Books of Adjournal and of the Privy Council, and from the public transactions in the Isles, after he had effected his second escape from 'ward.' It is certain, that he could boast of a very honourable descent, being sprung from the ancient Norwegian family of the Lords of the Isles, who long maintained their independence of the Scotch Crown, and used and received the title of KINGS OF THE

¹ Vol. I. p. 224, Jan. 19, 1590-1.

² This is now rendered the more unnecessary, as the Editor has (since this Notice was in types) been informed by his friend, DONALD GREGORY, Esquire, one of the Secretaries to the Society of Antiquaries of Scotland, that he is now engaged in preparing, for publication, a HISTORY OF THE ISLES and adjacent HIGHLANDS, embracing a minute account of the various rebellions, feuds, and conflicts of the various families, who, after the fall of the Lords of the Isles, rendered this part of Scotland a scene of almost uninterrupted warfare and bloodshed: which MR GREGORY purposes to compile from Original Documents, the result of a laborious investigation into the Public Records, and other genuine and authentic sources of information. The publication of MR GREGORY'S History of the Isles, &c. will save the Editor the necessity of giving many of the Documents which he had prepared for publication, in illustration of various Trials; for they ought rather to form a part of such an historical work, which is a great desideratum, and cannot fail to be favourably received by every lover of Scotch History.

ISLES. JOHN OF YLE, or *de Insulis*, eldest son of *John Lord of the Isles*, was unquestionably the common ancestor of the *Macdonalds of Duniveg and Glynnis*, the *Marquis of Antrim*, in Ireland, &c., and predeceased his father; who, Nov. 15, 1369, gave his grandson *Angus* as a hostage to *King David II*, for his obedience, &c. Some of the descendants of this *John*, having settled in the North of Ireland, acquired by force, and afterwards maintained by violence, the *Route and the Seven Glynnis*,¹ and soon distinguished themselves by their services against the Scots. *Alexander MacDonell* was, in 1557, for his valuable assistance, presented by the *Earl of Sussex*, Lord Lieutenant of Ireland, with a gold sword and silver-gilt spurs; and others of the family were equally active against their ancient mother country. A brother of this *Alexander*, named *Sorley-buy*,² having seated himself elsewhere, built and fortified the strong Castle of Duluice, in the county of Antrim: and, as being of the Scottish-Irish race, was by patent, dated at Westminster, Apr. 14, 1573, created a free Denizen of Ireland. Having rebelled, *Sir John Perrot*, Deputy of Ireland, took the Castle of Duluice, with all his islands and loughs; and, next year, having sued for the protection and favour of *Queen Elizabeth*, he entered into Indentures for preservation of the peace, Jun. 28, 1586. *Sorley-buy* married Mary, daughter to Con O'Neill, afterwards created Earl of Tyrone. Their eldest son, *Randal*, was created *Earl of Antrim*.

The purpose of stating this connexion is to prevent *Sir James Macconeill* of Kintyre and Knokrynsay, the Chief or eldest son of the Chief of the powerful *Clanald* or *Clan Ian More* of Kintyre and Hay, from being mistaken for another *Sir James Macconeill*, one of his Irish relatives (the second son of this *Sorley-buy*), who, at this period, visited Scotland, and was honourably received by the King, when he had the honour of knighthood conferred upon him. He was afterwards created a Baronet, by Privy Seal, dated Southwicke, 20 June, and by Patent, at Dublin, Nov. 30, 1627, 'as well for his service done unto him, as for his other virtues;'³ and was known, in Ireland, by the title of *Sir James Mac-Sorley-Boye*. The first notice of the latter *Sir James*, which the Editor has met with, is in an Anonymous MS. History of Scotland, in the Advocates' Library, where mention is thus quaintly made of him. 'The 20 day of Aprylle. (1597.) JAMES M'CONNELL, alias *Soirllbowy*,⁴ cam to Edr, q'ha was maid kuy' be his Ma', the 24. This Schir James wes ane Scottis manne, of bluid, albeit his landis lysis in Yrland. He was ane brow manne of perfoum and behaviour, bot had nocht the Scottis toung, nor na langage bot Eirfe.' *Birrel*, in his gossiping Diary, contents himself with remarking, that 'Serle Bui cam to the toune, ane Hyland man.' And (May 4) 'JAMES M'ONEILL, alias *Serle Bui*. The 7 day of Maii he went homeward; and, for honour of his *boyalla*, the canons shott out of the Castell of Edinburghe.'⁵

With regard to *Sir James Macconeill* of Knokrynsay and Kintyre, as he lived in a district so remote from the seat of Government, and seems to have had his hands full at home, the first known mention made of him is—(Aug. 5, 1598.) 'M'LEANE was flayne be M'CONNELL,⁶ in Ylla, he being moder-brother to the said *Schir James M'coneill*, and ane of the brow man that wes in this cuntrey, in his tyme. Thair wes flayne that day betuix thame, on bayth fydis, to the number off 150 menne.'

These few imperfect sketches prove that *Macconeill* was reckoned a personage of considerable note, even at Court, and in the Capital, previous to the King's accession to the English throne.

The next prominent circumstance in the life of *Macconeill* which can now be collected, after the

¹ It is worthy of remark, that, from the age of *Donall de Insulis*, who flourished in 1449, to *Angus*, the father of *Sir James* of Knokrynsay, the lineal descendants of *John de Insulis* above noticed, resident in the Isles, are uniformly styled 'Lords of Dunmoway and Glynnis.' Whether they merely assumed the title as feudal superiors of the Irish branch, or whether they were actually the proprietors of the soil, of whom the Irish Macdonalds held, Mr Gregory will probably be enabled to explain. ² The yellow-haired Somerset. B. Lat. *Sorletus*, or *Sorlie*, and in Irish and Gaelic, *Sinmhaille*, had a prevalent name in the family of the Isles. ³ *Lodge's Irish Peerage*, I. 106. ⁴ *Sorle-Boiue* is interlined. ⁵ Anon. Hist. of Scotland, MS. Adv. Library. ⁶ 'NEIL (Hector) M'LEANE slaine, and twentie of his narrest freindis, and his awen sone, be M'Connell; thair being at ane tryst, under trast.—*Birrel*.

period of his apprehension and imprisonment, is the extraordinary attempt to escape out of Ward, from the Castle of Edinburgh,¹ which was so boldly planned, and so successfully accomplished by *John Lord Maxwell*. The event is thus briefly described in the above mentioned Chronicle, where the cause of Sir James Mackoneill's failure is rightly attributed to the circumstance of his having been unable to extricate himself from his heavy irons, whereby he dislocated or broke his limb, in leaping over the wall. This breaking of ward forms one of the leading Articles of Dittay against Mackoneill. (1607, Dec.) ' In the beginning of December, THE LORD MAXWELL, being wairded in the Castle of Edinburgh, deviseth a play² for the keepers, whereby it behoved them to runne out of the house where he lay. They lay aside their swords; Maxwell and another gentleman who came purpose to assist him, with the advice of *Mackoneill*, take their swords, cloffe them in a hodie, come to the Castle gate, hurt the porters, lappe the Castle-wall at the utter-gate. *Maxwell* and his friend departed. *Mackoneill*, because he had the boyes³ on his legges, wrestled his kute⁴ in leaping; yett he creeped to a dunghill. The crye⁵ rising, he was diligentlly fought, found casting the muck upon himself, and was brought to the Castle agane. This fell furth in the glomung.⁶ The rest of the Wairders were kepted the fraiter. *Clofburne* was intifed be thame, but refused to breake ward.'

The anonymous Chronicler, before quoted, thus narrates the proceedings which followed on the recapture of this refractory prisoner. ' Now as ye have hard befor, *Sir James M'concell* of Kintyre, being in ward in the Castell of Edinbroghe, was, one the 13 day of Maïi (1609), brocht to the tolbuyth of Edinbrughe, and thair, befor the Justice, put to the tryell of ane Adlyffe, for findrie poyntis of Treffoun, to witt, for Slachter, wader treit, of sum Heland-men, in his awin hous of Kintyre; as also, for diuerse flyris that he had raisit, contrair the Act of Parliament; and, in fpeciall, for the cryme of Treffoune, in breking of the Kingis ward, and streking of his Maiesteis fernandis: And, being convict, condemnit, as ane Traitor to his Maieity, to haue hes heid strukin off,—hot nather the day nor pleafe defignit. Quhairwpon he was convoyit bak to the Castell, to remaine during the Kingis will.' This History, unfortunately, terminates before Mackoneill's final escape.

Without rehearsing the substance of the interesting ORIGINAL LETTERS of Sir James Mackoneill and others, after the date of his second escape, (which at length he effected, and made a successful retreat to the Isles, and maintained himself and a considerable force which he had collected,) it is sufficient to mention, generally, that, according to Sir Robert Gordon, ' *Sir James Mackonald* was thereafter, by the Earle of Argyll his meanes, warded in the Castell of Edinburgh, and kept prisoner ther a long tyme; and from whence he escaped, by the meanes and diligence of his coufen *Mackrenald*, who then fled with him into Spain;⁷ wher they were weil interteyned. And vpon the Earle of Argyll his flight from Scotland to the King of Spain, they were both recalled home from thence by his Majestie, into England, the yeir 1620; and had there ane yeirlic pension of ane thousand merks sterling; wher Sir James Mackonald remained until his death, which happened the yeir 1626.' The Documents given in the APPENDIX explain fully all that can now be satisfactorily ascertained, so far as is necessary to elucidate the details of this Trial. It is certain that Sir James was pensioned, and was permitted to reside, without molestation, in England; but it is not so easy to account for the extraordinary policy of the King and his advisers, not only in sparing the life of so notorious a criminal and rebel, but in giving him likewise so liberal a pension, for so many years.

The arm of Government must have been weak indeed, when, after the forfeiture of Sir James, his

¹ See also *Lord Maxwell's Trial*, Jun. 24, 1609, and the Appendix of Original Documents, for farther particulars of this remarkable attempt.

² Sport, frolic.

⁴ Sprained or dislocated his ankle.

³ A cant phrase for *gyves*, or heavy irons used for desperate offenders.

⁵ *Spraiche*; hue and cry.

⁶ After sunset; towards

nightfall.

⁷ ' During *Sir James Mackonald* his stay in Spain, his brother ANGUS MACKONALD (*Angus Oig*), standing out against the Earle of Argyll, was trained into Edinburgh by the Lord Ochiltree and the Campbells, upon promise to saif his lyf: And the Castell of Douning was rendered unto them, upon the same termes. Nevertheless, the said Angus was executed, and put to death, at his coming to Edinburgh.'—*Hist. of Earls of Sutherland*, p. 229. See also this Collection, Jul. 3, 1615.

brother *Angus Oig* should have been able, in defiance of the various Royal Lieutenants sent to reduce him to obedience, to maintain the Castle of *Dunnievaig*, until 1615! The same barbarous policy which Argyle adopted in reference to the *MacGregors*, was resorted to with *Angus Oig*; who, under promise of safety, was trained to *Edinburgh*,—also by the *Campbells*, his feudal enemies; who had long been eagerly soliciting, and, by their treacherous conduct, finally obtained, a grant of the ancient inheritance of the *Macdonalds*,—and executed for Treason!

Sir *James Balfour of Kinnaird* and *Denmylne* has fortunately preserved a body of original and authentic information, relative to the state of the Western Islands, in his extensive and truly valuable MS. Collections,¹ which the Editor shall have frequent occasion to refer to, in the course of this Work. A selection from these Original Papers, given from time to time, will better, and much more forcibly, illustrate the causes and effects of those various commotions in 'THE ISLES,' which excited such lively interest during King *James VI's* reign, than any detailed Narrative, which, owing to the nature of this Collection, must necessarily be brief.

After considerable research, the Editor has the satisfaction of being enabled to append to the ensuing Trial, and to that of *Angus Oig*, a number of valuable Letters and Papers, taken from the Originals still extant amongst the Records of the Privy Council of Scotland, and in the Advocates' Library. These Documents will be found of considerable importance, as not only affording satisfactory elucidation of points connected with Sir *James Makconell's* Trial, but as supplying much curious information relative to the state of the Western Islands, during that unhappy period.

The History of Scotland, so far as concerns the various Expeditions against the *Islesmen*, which were fitted out at the public expense, as well as the numerous feuds and conflicts between contending Chieftains and Clans, is necessarily meagre and unsatisfactory; and, as is well known to those who have attempted such investigations, it is extremely difficult to obtain authentic information on the subject.²

It may, however, be proper to remark here, generally, that, owing to the inaccessible nature of their country, and the facilities which the natives possessed for carrying on a most harassing warfare against any invaders, however well appointed and disciplined these might be, the most vigorous steps taken by the ablest Royal Lieutenants or Commanders ever sent to quell the *Islesmen*, frequently proved abortive or nugatory. At other times, the natives contrived to protract the warfare, without coming to decided hostilities, in order that the season might elapse without any considerable advantages being gained by their enemies; and then, they had the whole winter and spring to repair their losses, and to arrange for a more vigorous resistance, should a landing be effected, during the next summer. On almost every such occasion, the largest expeditions ever fitted out by the Privy Council of Scotland, even when assisted by English vessels of war, (after King *James* had succeeded to the throne of England,) were baffled by the ingenuity and military skill of this handful of hardy and active *Islesmen*. Some of the Royal Lieutenants appear to have been furnished with large complements of troops; but this very circumstance, formidable as it might otherwise appear, frequently tended to their discomfiture. The castles of the Island Chiefs were usually places of great strength; and, on such occasions, were well victualled; and besides, many of them were, by nature, situated where the clumsy battering-trains then in use could not be brought to bear upon them. The setting fire to the wretched huts of the natives, and laying waste the country, was attended with comparatively little loss to them. Indeed, this was a measure often resorted to, on emergencies, by *themselves*; for it deprived the more effeminate Lowland troops of that shelter which was absolutely necessary for their health.

From the hour of their disembarking, the Royal troops knew no repose; and they suffered the most dreadful privations from cold, famine, incessant watching, and fatigue; for the *Islanders*, besides their

¹ Preserved in the Library of the Faculty of Advocates, *Edinburgh*.

² MR GREGORY'S Historical enquiries must throw much light on every point connected with the *Isles* and adjacent *Highlands*; and the authentic sources from which his materials are derived, must stamp the highest value on the work he has undertaken.

usual annoyances, harassed them chiefly during the night, by making continual attacks and skirmishes, setting fire to their huts, tents, &c. Besides all these hardships, owing to the tempestuous seas and the imperfect state of navigation at the period, the invaders were frequently cut off from their supplies for a long time. On the other hand, the vigilant Islanders, when they happened to be very hard pressed by a determined pursuit and onset, merely flitted from one Island to another, in their *currachs* or light boats, which they easily carried with them over land; and, almost before their enemies had prepared to rest from their fatigues, they were surprised and attacked during the night.

The chief cause of the numerous successes gained by the Islanders over their invaders seems to have arisen from the minute knowledge which they possessed of the fastnesses of the country, and their determination to avoid a general engagement. A common *ruse de guerre* was, for a party of active men to make a bold attack on the encampment, as if to carry off plunder, &c., at a time when the Royal troops were unprepared; and when pursued, they gradually fell back on the hilly ground, so as to lead their invaders into ambushes, which were frequently formed not far from the tents. In this way great numbers fell '*in detail*.' When the King's soldiers endeavoured to penetrate into the country, in pursuit of the enemy, they appeared to meet with little actual resistance, but were artfully decoyed farther and farther, by the occasional appearance of numbers of the Islesmen, as if in full retreat. The Royal troops, as soon as they were considered to be fatigued with the day's march, were, in their turn, severely galled, and the stragglers systematically picked off. Vigorous attacks were also occasionally made on the main body; and, on their finally returning to the tents, they found their guards killed, and the whole encampment plundered and destroyed by fire!

Thus, for want of a substantial enemy wherewith to contend, each campaign was, of necessity, terminated before any decisive blow could be struck; and while the Royal troops were greatly thinned in their numbers, by fatigue and famine, as well as by the ceaseless assaults of their enemies, the hardy Islesmen, trained to hardships, and inured to almost daily privations from their infancy, thought little of their toils and dangers. Indeed, they were often enriched by considerable booty, carried off from the enemies' camps; and, in reality, they almost always triumphed over their formidable, numerous, and well-disciplined foes, by stratagem, and the skilful employment of the most approved tactics then known in Highland warfare.]

May 13, 1609.—SIR JAMES MAKONEILL of Knokrynfay, kny^t.¹

Dilaitit of airt and pairt of the treflonable Raifcing of flyre and burning of the hous of Afkomell in Kyntyre, in the moneth of Januare, I^m.V^c.Jxxxxvij yeiris; and vtheris treflonabill crymes, contenit in his DITTAY vnderwrittin.

SIR JAMES MAKONEILL of Knokrynfay, kny^t, 3e ar indyttit and accuset: Foramekill as, frome 3our verrie 3outhe, 3e, being tranet vp in all maner of crewall barbaritie and wicketnes, and following the pernicious exampill of 3our godles parentis, kynfinen and cuntrie people, haifing committed infinit Oppreflions and violences aganis sic perfones as 3e millykit, in þe cuntreysis of Kyntyre, Ila, and vtheris Hielandis Iles of this Kingdome, to the heich offence of God, displesfour of the Kingis Maiestie, contempt of his authoritie, and violatioun of his Lawis: For forder manifestatioun of 3oure extreame and maift vnnaturall mischancie,² vnderstanding þat þe sones of þe vniq^{te} Tutour of Loupe war in 3our faperis hous of Afkomell, in Kyntyre, and that the Laird of Loupe (quho

¹ See Jul. 3, 1615, &c.

² Recklessness, wickedness. Old Fr. *meschancté*.

had flane ʒour fader¹) was verrie defyrrous to haif þair lyves : ʒe. accompaneit with ʒour broþer, Angus Oig. and the faid Laird of Loupe, with tua or thre hundredth barbarus, wikked and bludie Hieland-men, foirneris, and arowed maliefactouris, all bodin in feir of weir, with hagbutis, piſtolettis and vtheris forbidden wappones, vpon the . . .² day of Januar (fyftene dayis or pairby eftir ʒule) in þe ʒeir of God, 1^m.V^c. fourſcoir fevintene ʒeiris, (1597) come in the nycht to the faid hous of Aſkomell, quhair þe faid Tutour of Loupis ſones war, takand þe nychtis reft, liping for no trubill, danger or invaſiounne to haif bene maid be ony man aganis þame : and invironed þe ſamyn, in all tydis, with grit numberis of ʒour airmet men ; and about þe brek of day, calling in to theas who war within, to rander þe hous and þame ſelfis to ʒow, thay, for feir of þair lyves and of þe mercieles crewaltie of ʒow and ʒour bludie aſſiſteris, reſuſeing to rander ; albeit ʒe knew that Angus M^cconceill,³ ʒour faþer, was within the hous, with whome ʒe had privat and freindlie meiting and conference that ſame nycht, and had pairtit frome him in ſie profeſſioun of love and naturall deatye and reuerence, as ʒe had preſentit and gevin to him ane pair of piſtolettis : NEUERPELES, caſting of all bandis and reſpectis of conſcience, honeſtie, and of nature, to ʒour faþer, and to ʒour moþer Fynwall Nikelane,⁴ quhome ʒe knew to be alſo within þe faid hous, ʒe godleſſie, barbaruſſie, viprouſſie and treſſonabillie, be ʒour ſelf and ʒour complices, in ʒour name, of ʒour cauſing, command, aſſiſtance and ratihabitoun, ſet fyre in all þe four coirneris of þe faid hous ; quhairby ʒour ſaidis parentis, and hail remanent perſones being within þe faid hous, being brocht at þe verrie inſtant to extreme danger of þair lyves, and ʒour moþer crying out to ʒow, ‘ THIEF ! Will thou burne thy moþer ? ’ ʒe nawayis cauſit ſtay or ſlokin⁵ þe fyre, bot ſufferit þe ſamyn to rage, quhill⁶ þe ruif of þe hous began to fall ; and ʒour faþer, haifing ſufferit moſt crewall extremitie, and being brunt in thre or four pairtis of his body with þat fyre, was forcet to ruſch to the dur, quhair ʒe had preparrit ane number of grit treyis to be laid croce þe dur, aper to ſtay his furth cuming, to þe effect he nicht be brunt within the hous, or nicht be ſo hinderit in his furthcuming, as he ſould indoutitlie fall in ʒour mercieles handis : Accordiing to the quhill proiect, he, falling amangis þe faid treyis, was pudillit in ane myre⁷ be ʒour fervandis, in ʒour ſicht ; and paireftir tranſportit, in his ſark, to Smerbie, tuo myles diſtant from Aſkomell, quhair ʒe fetterit him in irnes, with ane vther

¹ Probably father-in-law ; the father of Margaret Campbell, his wife. ² ‘ Thretein ’ is partially erased. ³ Angus Macdonald of Dymievaig and Glymnes. ⁴ *Nye*, ‘ daughter,’ is ſometimes, in the public Records, uſed as a prefix to the patronymic, in the caſe of a female. *Mac*, ‘ ſon,’ is the maſculine, though, in modern practice, generally uſed indiſcriminately for the patronymic of both ſexes. *Nik* is conſidered to be a compound of *Nyn* and *Vic*, which is the genitive of *Mac*. *Nik* thus ſignifies *Daughter of the ſon of*, or *Grand-daughter of*. This Lady was a daughter of Maclane of Dowart. See Vol. I. 224, Jan. 9, 1590-1. ⁵ Quench, *slake*, extinguish. ⁶ Until. ⁷ Dragged through a miry puddle.

of your priffoneris, and detenit him in þat moft vmaturrell, mercieles and miser-
 abill eftait, be þe fpace of ane quarter of ane 3eir: AND fua, be þe crewall and
 wilfull flyre-raiting, committit be 3ow, and vþeris in 3our name, of 3our caulding,
 command, affiftance and ratihabitoun, in maner aboue writtin, quhairof 3e war
 and ar airt and pairt: 3e committit moft heigh and manifelt Treafone, and aucht
 and fould be pweinit þairfore, according to þe Lawis and practik of this realme:
 Quhilk is notourlie kuawin, and 3e can nocht deny. SECONDLIE, 3e ar indytit
 and accufet, florfamekill as his Maieftie. (quhome þe world knowis, and þis cun-
 trie hes evir experimentit to be ane moft godlie, juft, and gracious Prince,) de-
 tefting 3our vmaturrell crewaltie and wikketnes, haifing caufit tak and apprehend
 3ow, and commit 3ow to waired in þe Caftell of Blaknes, for þe faid treflonable
 cryme of flyre-raiting, committit be 3ow at þe tyme and in maner foirfaid, and
 many vtheris 3our haynons offences and crymes, 3e, in the moneth of,
 or þairby, þe 3eir of God 1604 3eiris, moft treflonabillie interpryfet, be þe affi-
 ftance of fun of 3our auld complices, to haif treflonabillie foreet þe faid Caftell of
 Blaknes: Quhilk purpois being difclofet and difapointit, and 3e, for 3our moir
 faif keeping, being tranfportit to þe Caftell of Edinburgh, 3e þair lykwayis inter-
 pryfet, in the moneth of, the 3eir of God I^m.Xj^c. and fax 3eiris, and pre-
 pared meanis to haif brokin 3our waired: And being alfo difapointit of that at-
 tempt, 3e war þairin detenit in irnes, till at laft, in the monethis of Nouember
 and December, the 3eir of God 1607 3eiris, 3e treflonabillie confultit, devyfet,
 refoluet, and concludit with Johme Lord Maxwell, and Robert Maxwell callit
 of þe Tour, being bothe his Maiefteis Wardouris,¹ forceable, violentlie and tref-
 fonabillie to force his Maiefteis Caftell of Edinburgh, and brek waired furth þair-
 of; conforme to þe quhilk refolutioun, 3e and 3our faidis complices, vpone þe
 day of December, the 3eir of God I^m.Xj^c. and fevin 3eiris, haveing pre-
 pairit all thingis neccffar for executioun of 3our devillifch proiect, be fubteill
 meanis, maid 3our felffis maifteris of 3our keiperis wapones; and than rufching
 furth of þe chalmere, and loking þame in within þe fame, quhairby thay fould
 naper be able to flay 3our purpois, nor to difcouer 3ow, 3e come to þe Inner-3et
 of the faid Caftell, quhair, being accompanyeit with þe faid Lord Maxwell and
 Robert Maxwell, with drawin fuordis in 3our handis, 3e treflonabillie invaidit
 Alexander Struþeris,² keiper of þe faid 3ett, for his flautcher; and becaus he,
 according to his deutie, refifted 3ow in 3our faid treflonabill interpryfet, 3e gaif
 him dyuerfe grit and dangerous woundis in his heid and airme, to the grit effu-
 fioun of his bluid and danger of his lyfe; and haifing left him lying for deid, 3e
 and 3our faid complices forceable and treflonable opmit þe faid Inner-3et, quhair

¹ Prisoners, persons detained in ward or captivity; not *Warders*, in the English sense of the word.

² Struthers.

5e lykways vnhoneftlie, crewallie, and treflonabillie hurt and woundit Margaret Phillope, wyfe to the said Alexander, in þe heid, with 5our fuordis, to þe grit effuoum of hir bluid, and left hir also lying for deid: And then, haifing no forder refiftance, 5e 5eid¹ forwartis to þe Myd-5et of the said Caftell; and þair 5e and þe said Lord Maxwell treflonabillie inuadit Archibald Cunninghame, Maifter-porter of þe said Caftell, for his flaughter; and becaus he wald nocht delyuer to 5ow þe keyis of þe said 5et, 5e gaif him ane grit and dangerus fraik, in þe left airme; be þe paine quhairof, and abundance of þe bluid rymning frome him, he being almost in found,² 5e reft the keyis frome him, and treflonabillie forcet þe said 5et, and past furth þairat; and than going to þe Bak-wall, 5e and 5our saidis complices lap ouer þe fame; and þairby treflonable brak þe said waird, and fled to haif efcaipid; quhill³ 5e, being followit be þe Constable of þe said Caftell, and vperis. his Maieftis guid and faithfull fubiectis, 5e war tane and brocht bak to þe said Caftell. QUHILKIS treflonabill crymes war most wiketlie and contemptioutlie committit be 5ow and 5our saidis complices; and 5e war and ar airt and pairt þairof: And þairfor aucht and fould be pwneifchet be tyndfall and fforsaltour of 5our lyfe, landis and guidis; accoirding to þe lawis and practik of þis realme.

THE said Sir James. eftir reding of the said Dittay. produceit certane Articles; togidder with ane Instrumēt, of the dait of thir presentis, quhair Margaret Campbell, his spous, past to Mr Johne Ruffell, Aduocat, and presentit him the Counfallis Warrant to compeir in his defence; quha refuifit to compeir, as the Instrumēt beris: And als produceit the Lordis of Secreit Counfall Warrant and delyuerance, quhair thay grant Licēce to procuratouris to compeir. Quhillkis being red. the Aduocat tuik instrumētis thairvpoun, and speciallie, vpoun the productioun of the Warrant gewin be the Lordis of Secreit Counfall to Aduocattis to compeir.—The Aduocat produceit ane Act of Counfall, for his Warrant to inifit in perfiut of Sir James Mcconnell.

Mr Johne Ruffell, Aduocat, compeirand iudiciallie, in prefens of the Justice, declairit he wald nocht compeir in defence of the pannell, without his Maieftis special Warrant and Commiffioun, commanding him to compeir.⁴

THE Justice declairit and anfuert to the said Mr Johne, that gif he wald compeir, bayth the Act of Parliament gevis him Licēce, and the Counfall hes gewin him ane particular Warrant for his compeirance: And thairfor, gif he

¹ Went.

² In a swoon or fainting-fit.

³ Until.

⁴ This refusal does not seem to have proceeded from personal fear of the consequences of undertaking this defence; for in numerous instances, this learned man undertook as desperate cases; and in the present instance, he had a special Licēce. It must have proceeded from the utter hopelessness of Makconell's defence; and the detestation naturally felt at the almost unparalleled cruelties committed by this ferocious barbarian. He absolutely refused to appear, unless *commanded* by his Majesty.

will nocht compeir.—delay nocht the Jugement ony langer.—The said Mr Johnne refusit altogidder to compeir.

Quhilk Dittay, eftir reiding thair of oppinie in Judgement, the Justice stand relevant: And thairfoir referit the samyn to the knowlege of ane Assyse, of the perones following.

ASSISA.

Andro Lord Stewart of Vchiltre,	Rob ^t Chemen of Chennentoun,	W ^m Sinclair of May, younger,
The Laird of Drumlanerig, elder,	Dauid Arnote of Chapell,	Mr Frances Bothuell, brother to
Sir James Douglas, kny ^t ,	James Tennent of Lennox,	my Lord Halyrudhous,
Sir James Cunningham of	(Lithoufe,)	William Trumbill of Airdrie,
Glegarnock,	Thomas Sibbald, Tutour of	Johnne Johnnefoun, Bailzie of
Mr Robert Fawfyde, elder, of	Rankelour,	the Watter of Leith,
that ilk,	Sir James Balfoure, brother to	Johnne Achiefoun, portioner of
Laurence Gordoun of Glenluce,	my Lord of Burie,	Innerak.

The said Sir James producit to the Assyse ane Warrant, subferyuit be his Maiestie, allowin^g the taking of his father Angus M'coneill, the maner, forme, and circumstances done thairin; quhilk is of the dait, att Falkland, the aucht day of August 1598: Quhilk he tuik vp agane, and wald not vfe.

It was allegeit (by the pannell,) that ony verificatioun that is product of Depositiounis, tane be my Lord of Ergyll, can nocht be availzeable; in respect my Lord Ergyll hes mellit with his blude and leving.

Our said fouerane lordis Aduocat, for verificatioun of the said Dittay, product to the saidis perones of Assyse, Angus M'coneill of Dymnievaig, father to the said Sir James, and Fynwall Nickelane, his mother, thair Depositiones; togidder with his awin Depositiones; made be thame, in presens of the Lordis of his hienes Counfall; for verifeing that article and poynt of Dittay, anent the raiseing of the ffyre, and burning of the hous of Askomell. And siclyk, for verificatioun of the last article of Dittay, repeitit the said Sir James awin Judicial Confessioun, maid be him in the said Justice and Assysouris presence; confessing the breking of the said waird of the Castell of Edinburgh: And als producit, for verificatioun thair of, the saidis Archibald Cunningham, Maister-porter, and Alexander Strutheris, thair Depositiones maid and subferyuit be thame, in presens of the saidis Lordis of Counfall: quhilkis tua Depositiones was ratifeit and approvyn, in Judgement, be the saidis Archibald and Alexander, in presens of the said Sir James: Quhilkis our fouerane lordis Aduocat also repeitit. And in respect thair of, protestit for Wilfull Errorr, in cais the saidis perones of Assyse Clange or Acquit him of the saidis crymes.

VERDICT. The Assyse, be the mouth of the said Andro Lord Stewart of

¹ Sanctioning, permitting; not *admitting* or *confessing*, as the word usually signified, in ancient legal pleadings.

Vehitrie, all in ane voce, ffand, pronuncet and declairit the said SIR JAMES M'CONNELL of Knokrynfay, knyecht, to be Giltie and convict of airt and pairt of the Raifeing of ffyre in the hons of Askomell and burning of the famyn, accoirding to his Dittay, in all poyntis; cleirlye verifeit to thame be his awin Depofitiones, and vtheris probationes productet in proces. AND lykwayis, the saidis perfones of Affyfe, all in ane voce, ffand, pronuncet and declairit the said Sir James to be Giltie, culpable and convict of the Breking of his Maiefteis ward of the Caftell of Edinburgh: And of airt and pairt of the forcing of the fettis of the said ward: And of airt and pairt of Hurting and Wounding of Archibald Cunninghame, Maifter-porter, Alexander Strutheris and Margaret Phillope, his fpons, ordiner fervandis and porteris of the said Caftell.

SENTENCE. To be tane to the place of his Executionn, and thair to be demaunt and execute as ane tratour: and his heid to be frukkin frome his body;¹ and all his landis, heritages, barroneis, takis, fteidingis, rowmes, poffeffiones, coirnes, cattell, inficht pleniffing and annuelrentis, guidis and geir pertening to him, to be fforfaltit, efcheit and inbrocht to our fouerane lordis vs: as convict and culpable of the saidis crymes.

APPENDIX OF ORIGINAL PAPERS.²

[THE following Documents are carefully taken from the Originals, which are preserved in Sir James Balfour's Collection of MSS. Advocates' Library. Had the Editor been earlier informed of Mr Gregory's proposed History of the Isles, &c. he would have left it to that gentleman to give the substance of them. It was, however, too late to cancel this Appendix; but indeed, this is the less to be regretted, as it is believed that Mr Gregory merely intends to give the spirit of such Papers as the present, and to incorporate the information conveyed, in the body of his work; which is all that is necessary for fuch historical purposes.]

I. DEPOSITION of *Sir James Makconell*.³

AT the Caftell of Ediuburgh, the xv day of Januare, 1608, in prefence of my Lord Advoocat, and Mr William Hairt, Justice depute, and Sir Johne Arnote, Thefaurare depute.

SIR JAMES M'CONNELL, knyecht, fworne and demandit, How lang is it fen he lies bene detenit and baldin prifoner? Deponis, that he wes tane be his fader, in Kintyre, vpoun informationn maid to his fader, that he wes to tak fome courfe aganis him; and efter he had remanit ane certane fpace with his fader, he wes delyuerit be his fader to *Auchinbreck*,⁴ be whome he wes detenit ane certane fpace; and

¹ It has already been stated, in the Notice prefixed to this Trial, that Sir James Makconell was not executed; but that he again effected his escape, went to Spain, and returned in the reign of King Charles I, from whom he received a large pension, and died a natural death, in England, in 1626.

² The remaining Papers fall more properly under the proceedings against *Angus Oig*, Jul. 3, 1615, where they shall be inserted.

³ From the Original, preserved among the Warrants of the Privy Council, General Register House.

⁴ Sir Dougald Campbell.

thairefter delyuerit to the *Erll of Ergyll*, who keipit him whill he wes chargeit be THE COUNSAILL to exhibite him; quhilk he did at Sanct Johnneftoun: fra that, he wes fend to the Castell of Blaknes. Demandit, yf at ony tyme he had tane his fader? Deponis, that he tuke him in Kintyre, in ane houfe callit *Aikomilne*, the deponer haueing his bruther, young Angus, (and) a company of the gentilmen of Kintyre with him. And that this wes about Candilmes, aucht yeir fyne, or thairly. Denys that he raied ony fyre in the houfe; and depones, that he hes Waitand of HES MAJESTIE, allowing¹ the taking of his fader as gude feruice.

Anent the interprife of his Breking of Warde furth of the Castle of Edinburgh, and demandit yf he wes the first mover to THE LORD MAXWELL, or yf the *Lord Maxwell* wes the mover thairof to him? Deponis, that vpon Sunday at even, afoir the interprife, *Robert Maxwell of Dynwiddie* come to the deponer, and tauld him, that thatwih few dayis he fould heir the best newis that he had hard this lang tyme bigane; and the deponer anfuierit, that he wald fane heir gude newis. And the deponer infitting with Robert, diuers times thairefter, to haif vnderftand quhat gude newis thefe wes? Robert evir conceillit the mater, whill² Fryday thairefter, quhilk wes the day that thair interprife wes putt in executioun. And grantis, that the said Robert cam to the deponer, about tua efter none, and putt him in remembrance of the wordis that he had fpoken to him vpon the Sunday preceding; and tauld him, that that nyght the *Lord Maxwell* wes to brek warde, and wald tak the deponer with him; and craved the deponeris opinioun, quhat he thought of that mater? To whome it wes anfuierit, be the deponer, that the executioun of that interprife wes fa suddanelie to be done, that the deponer could gif no avife thairin; and he thought that the *Lord Maxwell* fould haif communicat that mater to him fell, yf he wald haif had him to be ane afflier thairin. And depones, that fchortlie thairefter, about fourt efter none, the *Lord Maxwell* come in to the deponer, satt down beynde him, drank tua pypis of tabaca,³ and fpak no thing of his interprife to the deponer, quhill the deponer paft to the windo, to haif maid watter. The *Lord Maxwell* come to him to the windo, and tauld him, that he wes refolved that nyght to efchaip and brek warde; and defyrit the deponer to prepar him to go with him; for he had men attending vpon the yettis, to hald them oppin, and had horfes awaiting vpon the feildis to carry thame away.⁴ And the deponer anfuierit to the *Lord Maxwell*, that sik ane interprife required goode advife and deliberatioun; and defirit him not to be suddane, bot to be weil advift and refolved thairin. To whome the Lord replyis, 'Tuthe, man! sic interpryfes ar nocht effectuat with deliberationis and advifments, bot with suddane resolutionis!' And then the Lord caufit fetche in tua quartis of wyne; and, haueing maid fome confaitis of pastyme in the houfe, he defirit *William Simfone*, one of the deponaris keiparis, to gif him his fwerd; whilk he refufeing to rander, he thored the said *William*, held ane drawin quhinzear quhilk he tuke fra *William Maxwell*, avowing to haif his lyfe, yf he randerit nocht the fwerd; and tua, violentlie tuke the fwerd fra *Simfone*: Tuk ane vther fwerd fra *James Stewart*, ane vther of the deponaris keiparis; and tuke ane vther fwerd fra *William Armefrange of the Gynghelis*: And haueing the fwerdis, he then tauld planelie, that he wald brek warde; and sayd to *Young Cloburne*, 'Yee ar heir for a civile caus, yf it pleis yow to go, yee falbe welcome!' And *Cloburne* defittling, the *Lord Maxwell*, with *Robert of Dynwiddie*, *William of Kirkhous*, and the deponer, paft out of the chalmer, and come to the yettis; quhair sum of the portaris wer hurte: Bot denys that he hurte ony of thame him fell. And tua, haueing forceit the yettis, they lap ower the wall. Demandit yf *William Maxwell* delt with the deponer in this interprife? Deponis, vpon his aithe, that he nevir delt with the deponer in that mater; and that he knawis no thing of *William* doing; bot that he oppymit the Nether-yett of the turnepyke, quhare the deponeris chalmer is.

(Sic fubfcribitur) SR J. MACKONALL. SR T. HAMILTON. SR J. ARNOTE. MR W. HEART.

¹ Admitting, approving of, acknowledging.

² Until.

³ This was a phrase in common use, shortly after the introduction of tobacco into Scotland. The Editor has seen the term 'quaff' similarly used, which may be the origin of 'whiff,' a vulgar phrase now in use.

⁴ See the particulars of this desperate and admirably executed escape, in the Trial of John, Lord Maxwell, Jun. 24, 1609.

II. LETTER, *Sir James Mackconell to the Duke of Lennox.*¹

PLEIS YOUR GRACE,

I AM in verie greit misery, as this beirar can tell. Your grace knawis I have depended vpon your fawor, befor I was put to this miserie; and now, I wil befeik your grace to gett his Ma^{tie} power to taik ordour with me, at your graces cuning heir. I am willing to acceptt quhatt his Ma^{tie} wil bestow on me, ather in my awin kyndly roume, or in oney vther partt of his Kingdwmes; and fall find caufione for my obedience; quik I will befeik your grace to report to his Ma^{tie}, and patt your grace will gett me patt fawor as to be baimishid, rather or I be in this miserie. As for my baltard brother, quha hes brokin your graces ward, iff your grace taik ane doing for me, and taik me in your awin hand, I fall find pe way he falbe putt in your graces reverance, as he was befor. Befeking your grace to remember my miserie, and gett me libertie or banishment. I reit on your graces favorable doing, quhatt I vrett anent Archibald, Your grace will hold it quyett till your grace cum hame.

FROM ED^R CASTELL,

Your graces ferwand duiring lyfe,

27 Junij, 1607.

S^R J. MACDONALL.

To my very gud Lord, my Lord DUKE OF LENNOX.

III. LETTER, *Sir James Makeconell to the King.*

MY GRACIOUS SOVERAN,

MAY it pleis your Maiestie to apardoune my importunitie, being inforfid pairtis, throw the greit misery qu^{ik} I aknawleg to have maist justly deseruid, for my bypast offences towards God and your Ma^{tie}: Sett my foveran, your Ma^{tie} hes graciously forginein gretter offences; sea, the grettest Treson gatt ewer was denyfid aganft aney Prence, your hiennes hes forgiwein. For Chrystis caus, Sir, ane forgie me my bypast offences, and with Godis grace I fall ewer behawe my selff dentiffually hereifter; and fall find caufione to obey quhatt your Ma^{tie} will injune² to me; befeiking pat je Declaratioun of your Ma^{ties} will may be sent to je Contall; seing, without je same I can gett na anfuier of pair Lordschippis. Humble kissing your Ma^{tie} handis, I commit your Ma^{tie} ewer to Godis protectione.

Your Maiesties maist humble and pair subiect

FROM EDINBRUCHE CASTELL,

to be employid to dethe,

28 of Junij (1607.)

S^R J. MAKDONALL.

TO THE KING HIS MAIST EXCELLENT MAIESTIE.

IV. LETTER, *Sir James Makeconell to the Earl of Caithnes.*³

MY VERIE HONOURABLE GUD (LORD,)

FEIRING that your lo., to whose fawor I am so much obithid,⁴ suld not mistaik pe caus of this my last offence, in braicking of Ward, I haue beine this⁵ bauld to vrytt to your lo. the only motion quhillk, I protest to God, maid me to braik Ward. It is trew, my lord, patt *the Laird of Calder* said to honest men, wha can beir record, patt how soever my pairt was anent Dunoveg, sett he had ane Warrant past be HIS MA^{TIES} hand, quhillkis je *Confall* law nott, to command je *Confall*, presently efter pe sicht of patt Warrant, to putt me to executioun; and how lytill refone I had to trust my lyfe to *C Calder*, your lo. self and others of je *Confall* knawis; for, be his misreport, he did all he culd to have perallid my lyfe. And jis trewly was pe caus I fled with my awin lyfe, and for no mistrust I had in HIS MA^{TIES} clemence, or in *the Confallis* fawor; nor sett, for oney feir I had off oney thing pay culd try aganes me, anent Dunoveg; for as I said when I was in ward, I will say now; God is my vittnes, my pairt, ever, anent je talking or keeping of Dunoveg aganes HIS MA^{TIES}, hes beine ever moft

¹ This and the following Letters are from the Originals preserved among the *Denmyne MSS.* Adv. Library. When procured from other sources, the circumstance is explained in the Notes. ² Enjoin. ³ George, fifth Earl of Caithness. He married Jean, only daughter of George, fifth Earl of Huntley. ⁴ Obliged. ⁵ Thus.

honest and lyall;¹ and efter all juft tryall, I will defy my onfreinds² privè³ vtherways. And fence þe braik of Waird I maid with þe *Lord Maxwell*,⁴ by⁵ my expectatione, to þis night I brak Ward lall, be God him self, I was never privie nor a confenter to aney Platt againes HIS MA^{TIE} or my cuntre, I mein his MA^{TIES} dominions. And now, feing my braik of Ward was nott, as God is my judge, for no desyre of Rebellion, nor no vther desing,⁶ bott only for saittie of my avin pur lufe, I will moit humblich befeik your lo. speik such as is your freinds in *Confall*, þatt HIS MA^{TIE} might be moveid, nott to tak no hette or violent curfe⁷ aganis me, onto⁸ the tyme thatt þair lo⁸ will heir my Peticione. And give⁹ your lo. will gett me þat favor that my Peticion falbe hard, and þatt oney whom I fall fend with my Letters to your lo. fall nott be troubled; and I being advertesid by your lo., I will, be your lo⁸ advyfe, do aney thing þatt may best satisfie HIS MA^{TIE} and *Confall*; my lyfe, and the lyfis of these þatt helpid to saif my lyfe being faiff. So, with þe remembrance of my humble deute, I reit

Your lo⁸ pur freind ever to serve you,

S^R J. MAKDONALL.

To my verie honourable gud lord, my Lord ERLE OF CAITHNES.

V. LETTER, *Sir James Makconell to the Earl of Caithnes.*

MY VERIE HONORABLE GOOD LORD,

PLEAS your lo., the ondeserved fauour and courtsee which I refused by your lo., in flowing your selue my frend, that tyme at Court, when my onfrendes did misreporthe of me to his Maiestie, makes me now this bold to befeek your lo. to continew my frend, according to my reasonable lufe. And, in speciall, that your lo. will meane my caise to your frendes in Counfall; for I protest my beeng ten yeeres in ward in the Castle of Edinburgh, and the dispoing of my kyndlie lendes, made me not so much to tak that haillie resolution to esheap, as when I was assured, by his owine frendes reportes, that my lyf wes geven over in *the Larde of Caddelles* handis; who beeing, as your lo. knowes, nowise my frend, or one to trust my lyf to; alwise¹⁰ now I befeek your lo., as yee shall till death have my poore service, try by the Counfall, yf vpon any conditiones, not diminishing his Maiesties comoditie,¹¹ I may have this peece of old possidionnes, which is Illa, to suiteane my selue and all my kinne that now folowes me; that his Maiestie may have his owine, with honour and ease, and wee to leeve in peace and offend no manne, and I, getting suretie of my lyff and of this peece land, shall find sufficient suretie, both for my obedyance and good ordour, keeping by all my kinne and frendes. As your lo. learnes in this, or can be hable to do me fauour in getting me his Maiesties peace, your lo. will aduertese me. And I befeech your lo., so far as you can, erosse *the Campbells* to gett any employementes againes me—for they caire not how much they trouble the countree¹² and put his Maiestie to charges needles. As for the Houfe of Dwnoreg, I tooke it from *Calderis* menne, in the space of one day,¹³—killed parte of thame, vpon the Greene of the Houfe,—chained in the rest,—tooke there watter and the two Barmkines¹⁴ from tham,—and forced thame to yeeld in my will, the next morning. So I have the Houfe, neuer to be gevin to these that is not worthe of it. But yett, his Maiestie may ever command it and my selue, I feeng how I may leeve with the assureance of my lyff and my poore frendes. So, abyding your lo. advertisement, with the remembrance of my humble seruce, I shall ever remaine,

Your lo. assured frend to serve you,

S^R J. MAKDONALL.

IIA, 2 Julii.

I BESEECH your lo. let me know how *my lord Secretar* is towards me?—Or who is moit for *Calder*?—Or how he is now thought of be HIS MA^{TIE}?

TO THE ERLE OF CAITHNES.

¹ *Leal*, loyal. ² Enemies. ³ Prove. ⁴ See Lord Maxwell's Trial, Jun. 14, 1609. ⁵ Against, contrary to. ⁶ Design. ⁷ Course. ⁸ Until. ⁹ If. ¹⁰ At all events; nevertheless. ¹¹ Pecuniary interests; the King's Rental. ¹² Disturb the public peace. ¹³ See p. 14, &c. ¹⁴ Fr. *Barbacane*, i. e. *propugnaculum antemurale*; being the outer fortified works or ramparts of the Castle. There wer often several lines of circumvallation, to prevent surpris.

VI. LETTER, *Sir James Makcneill to the Earl of Caithnes.*

MY LORD,

GEVE *the Confall* be curius to knaw whom it was patt *Calder*¹ fend to, he had the Warand for talking my lyfe. *The Pryor of Ardehatten*² and *M'kroll*³ his sone, *Allan McDougall* is my authours : and they will not, nor can not deny ity. Alfo *Calder's* avin agent, *James Moratt*, maid no secreitt pairfof; for he tauld it both to *the Erle of Crawford*⁴ and to *M'vintois*.⁵ I wald not nov, becaus I had nott ane beirar of my avin, haifart to vryt to *je Secrettar*,⁶ bott it is only in your lo. and his lo. patt I trull. I know *Calder* and *je Cambellis* wilbe buiffie to feik employment of service aganes me; bott the fame fall nott be neidfull, for your lo. and my Lord *Secrettar* may better bring me to that quhilik falbe most to HIS MA^{TE} commodite and *je* quyetnes of *je* contre, without bestoving oney chargis nor all *je* Cambellis liveand may or can do by HIS MA^{TES} fors, quhilk I will ever except; and honour, and respheck what your lo. wryttis to me, onles the Confall dereck one to me. Your lo. may fend your Letters to *my Lord Tuillibairne*,⁷ to be sent be his lo. to the Officer of Lochaber, wha will fend pame to me whair ever I be. So abyding your lo. anfuer, I rest,

Your lo^s ever to ferve you,

(Without date.)

Sⁿ J. MAKDONALL.

To my verie honourable gud lord, my lord ERLE OF CAITNES.

VII. LETTER, *Sir James Makcneill to the Bishop of the Isles.*⁸

MY VERIE GUD LORD,

I DOUTT nott bott, or⁹ now, your lo. hes hard of my braiking of Ward; and *je* only caus quhilik maid me ventour *je* fame, quhilik, as God knawis, was for no vther caus bott only for *je* faiste of my lyfe, quhilik *je Laird of Calder* faid was in his will only. Allwayis,¹⁰ prais to God, I am out of *Calder's* denger; and sett, geve¹¹ be oney meines I may have HIS MA^{TES} graciuss pardon to my self and these genill men patt affited me, I will latt your lo. fe HIS MA^{TE} commodite fall novayis be impaired, *je* pace of *je* contrie fall novayis be trublid, nor HIS MA^{TE} putt to no chargis, be givenge employment to *je Cambellis*, wha erawis ever to fill in drwmly¹² watters; and pairfoir, I pray your lo. deill with HIS MA^{TE} and *Confall*, for a continewatioun of oney violent curse¹³ to be tane be HIS MA^{TE} aganis me, ontill yow may gett one of your avin to cum to me; and with patt man, or with your lo. self, geve I know how to sie yon, I fall fend such Offers as I hop fall content HIS MA^{TE} and *Confall*. So, as my tref is and was ever in your lo., I pray you vryt to me, what I may luik for? As for pat erand of Dwnveg, God is my vittnes, I am inofent pairfof; and I pray your lo. try pat erand, as geve I war in ward; and I tref se will find my pairt honest. So, luiking your lo. anfuer, I commit you to God; and rest

Your lo^s ever att command,

Junij 3.

Sⁿ J. MAKDONALL.

I PRAY your lo. gett me Lifence to fend ane man or boy with my Letters to your lo.

To my verie gud Lord, my lord BISHOP OFF THE IYLLIS AND RAPHO.

¹ John Campbell of Calder, or Caddell, as he was often styled. ² . . . Campbell. ³ . . . McDougal of Dundlych, Laird of McDougal. ⁴ David, eleventh Earl of Crawford. ⁵ Sir Lauchlan MacIntosh of that ilk, whose father, Angus, had married Lady Jean Campbell, daughter of Archibald Earl of Argyll.—*Douglas*. He was heritable Steward of Lochaber, and one of the Gentlemen of the Bedchamber to Prince Charles; and married Agnes, daughter of John Grant of that ilk. ⁶ Lord Binning, afterwards Earl of Huntington. ⁷ William, second Earl of Tullibardine, who, for his services to the King, in the affair of Gowrie's Conspiracy, Aug. 5, 1660, had the heritable Sheriffship of Perthshire. His second wife, Lady Dorothea Stewart, being eldest daughter of John, fifth Earl of Atholl, and the male line having become extinct, their eldest son John was created Earl of Atholl.

⁸ From the Original, preserved among the *Dennys* MSS. Adv. Library. Andrew Knox, Parson of Paisley, the first Protestant Bishop of the Isles, was translated to the See of Raphoe in Ireland, but held both Bishoprics for some time. He assumed both titles. ⁹ Ere; before. ¹⁰ At all events; nevertheless. ¹¹ If.

¹² Who ever crave to fish in 'troubled waters.' A well-merited, though bitter, sarcasm. ¹³ Course.

VIII. LETTER, *Sir James Makconcell to the Bishop of the Isles.*

MY VERIE GOOD LORD,

PLEIS your Lo. war not I hard your lo. was in Ireland, and could find no meanes to wreit to yow. I was not four nightes out of Edr, quhan I would have writtin to your lo. as to one quhom I hane euer found my friend. And now, my Lord, I proteff, albeit I was xij zeires in waird, and all my kyndlie landis disponed to itrangeres, my lyff left in his Maiefties handis, yett the fame maid me not fo mvche to braik ward as it did quhan I was offered be the Laird of Calderes awin freendis, quha can not deny it, that his Maieftie, be lus fecreit Warrant, had gevine ower my lyff in the Laird of Calderes handis. And now, my lord, I proteff to God my defyre is not to rebell or truble the Eiteat of the cuntry, bot ferue his Maieftie with all humilitie, and mak my kin and freindis paccable men, iff I may haue his Maiefties pace, with the assuurance of my lyff and the lyfe of my pur freendis, and some meanes to susteane ws rather nor to fors ws, for want, to opres otheres. Heirfoir I beseech your lo., seing my Race has bene tenne hundreth yeeris kyndlie Scottis men, vnder the Kinges of Scotland; and war I willing to leive vpoun ane pair part of that quhilkis our foirbeiaris had, and I to find gud furtie for all that becomes loyall subiectis to do, both for myself and my quholl kin that followes me, that your lo. will, as ze euer did, interfeed for me at his Maiefties handis to se quhat grace or fauour your lo. may obtien to me; and in specciall, to se give, without diminifching his Maiefties commoditie, I may have the lland to my self and my kin to fulfeine ws; wtherways that your lo. will get that fauour that no heite curse falbe taine againes me, be geveing imployment to my onfreendis, till your lo. may have tyme first to speek with me; att quliche tyme, albeit I gett not the lland, yett, provyding your Maieftie will haud it in his awin hand, I will shaw your lo. how his Maiefties commoditie heir may be increffed, and I to be satisfied, and this cuntry to be frie of ony truble of me or my freendis.

As for this Houfe of Dunoveg, I proteff to God, give either his Maiefties Gaird or your lo^s men war keepers of it, I wald neuer enter within it, albeit it war without keeping—bot finding in it sache as serued them quha fought my lyf and landis, and quho crewally opprest this pur lland in such fort, that I proteff to God thair desing was rather to waitt it, nor mak it able to pay his Maiefties rentes. The fame maid me preferue the hous; and albeit that Hous cost his Maie^{tie} muche money in putting it in Calderis handis, it pleased God that, in one day (I took it), with the lose bot of one man. And now iff your lo. may get me ony fauourable conditiones be his Maie^{ty}, ze may assuir your self I will give you the Hous, provyding it be in your handis, and nane of the *Cambellis* to gett it. As your lo. does in this, or is lyk to do, advertis me. And so, repofing in your lo^s conftand freendfchip, I commit your lo. to God, and restis

Your lo^s ever assuired to command,S^R J. MAKDONALL.

Ix hope, with Goddis grace, I will geve your lo. zitt ane better propnyie, I pray your lo. fend me ane Inventare¹ with this bearer, for I am far from the clock.

S^R J. MAKDONALI.

TO THE BISCHOP OF THE ILLIS.

IX. LETTER, *Sir James Makconcell to the Privy Counfall of Scotland.*²

MY VERIE HONOURABLE GUD LORDS,

PLEIS your lo^s, my offence in braiking ward fuld mak me to be loth to presume to vrytt vnto your lo., yett, seiring the mostioun quhilk maid me to eschep fuld be vtherways thocht be your lo^s nor the trowth of my intencion, I am this³ bauld to deleaitt vnto your lo^s the only caus quhilk maid me to braik ward; and this is itt. *The Laird of Calder* said to twa fewerall honest gentillmen, patt how

¹ This is from a copy. The word should be 'mounter.' Fr. *montré*, a watch. ² In a Letter from Lord Binning to Lord Tullibardie, Jun. 13, 1615, he states that the Council would not forward such Letters to the King; and that 'so long as he remaynes within his Maie^{ties} dominions, and hes societie and dealing with rebellis and broken men, I cannot expect that his Petitions can be received be his Maie^{ty}, unless he wold do such notable service againt some principall Rebellis, as might perswade his Maie^{ty} to think him worthe of mercie.' ³ Thus.

foever my tryall past anent the erand of Dunoveg, 5ett he had ane Warand, in his avin keeping, past be his MA^{TE} quhilk þe *Confessall* novayis did sic, commanding, immediatly efter the presentyng þairof to putt me to executione, butt¹ farther profes; and so, my lyfe as itt war gevin be HIS MA^{TE} over in the hands of him who had not only medlid with my kyndly lands, my frends lyfes, and withall þe only man who reportid warft of my self, to haue gottin my lyfe with my lands, þe only feir þairof maid me flie with my lyfe, and no desire of Rebelion; nether aney mistrust I had of HIS MA^{TES} clemencie, nor of your lo^s favor; nether wald I braik ward for oney thing (they) culd try aganes me, anent þe erand of *Dunoveg*; for God is my vittnes I am inofest þairof. And I befeik 5our lo^s try þe fame, as giwe² I war in ward to be accufid, and I trest your lo^s fall find my pairt, in all that buislines, honest and loyall. And now I will, in all humilytē, befeik 5our lo^s to pitē my case, and grant me þatt fauor as to fuffler me to fend in ane humble Peticione to 5our lo^s, be the quhilk I hop to give fuch satisfacion to HIS MA^{TE} and 5our lo^s as I may best, to fatisfe his Ma^{ty}s will and your lo^s in all thingis, my aviu lyfe and these who hes assistid me being faiffe. And, in þe meintyme, praye your lo^s moit humble, befor I be hard, not to wis³ oney wiolent curse aganes me, ether to putt his Ma^{ty} to expenceis, and me to disparacione. So, befeiking þe grett God to move HIS MA^{TES} hartt and your lo^s to pitē me, according to the intencion I have to be ane paceable man, with the assurance of my lyfe; only luyking your lo^s will latt me know what fauor I may luyk for, committing your lo^s in Gods protexcion, I humbly taks my live, and rests

Your lo^s humble fervitour,

Junij 3.

S^s J. MAKDONALL.

To my verie honourable gud Lords, my LORD CHANCELLAR of SCOTLAND, and the remement of HIS MA^{TES} honourable PRIVIE CONSALL.

X. LETTER, *Sir James Makconell to the Earl of Crawford.*⁴

MY VERIE HONORABLE GUD LORD,

It may be 5our lo. think it streng þatt I obfcurid my intencion of braiking Ward, fra your lo., in reag of our luif and familiaritē; 5ett I hop your lo. will excusis me. For þe reveilling þairof to your lo. nicht do 5on hairme, being whair 5e ar, and no furthurance to my intencion. Allways, as God fall judge my faule, my braiking ward was nott throw aney mistrust I had in HIS MA^{TES} clemencie, nor in the *Confessalls* fauor, nor 5ett for feir of oney thing culd try aganes me, anent þatt treson of *Dunoveg*; bott the only thing which moued me was only thatt I was credably informid, be honest men, þatt *Caldar* said it to (þame,) þatt howfoever þe erand of *Dunoveg* 5ed,⁵ he had ane Warand past be HIS MA^{TE} þatt com never in þe *Confessalls* sicht, commanding to put me to executione, immediatly efter þe presenting þairof. Your lo. self and *Mintois*⁶ nicht heir *James Morat* fay þis; bott my authors ar better nor *James*. Allways,⁷ as I said aft⁸ to 5our lo. self, when I was in ward, I will now fay; þatt, as God fall judge my faule, I was never airt nor pairt of the taking or keeping of *Dunoveg* aganes HIS MA^{TE}, nor of no vther plaitt,⁹ fence þe braik of ward þat I maid with þe *Lord Maxwell* till now, and give¹⁰ efter fuch long miserē of imprifonment, lose of lands, and kin, my braiking ward for þe faiffē of my lyfe, be thocht be 5e fenfur of my onfrendis,¹¹ fuch ane offence as will not be pardonid, I moit tak pacience; for I am better now, prais to God, nor¹² as I was; and I will, as long as I live, pray for HIS MA^{TE} long and prosperus regne. 5ett, feing give I be croft now, it cumis moir be my onfrendis nor be HIS MA^{TE}, albeit I will never preis¹³ to liue long in HIS MA^{TES} dominions, by¹⁴ his lienes orin will, altho I nicht; I wov to God, or¹⁵ I live¹⁶ þe contrē, I, and moir nor I, fall ether lose our lyfes, or than I fall, God willing, live¹⁶ ane remembrance to my onfrendis; I mein only sik of þe *Cambellis* as wilbe my onfrendis. þatt itt falbe hard of when both they and I is deid and gone! I hop, to pair

¹ Without. ² If. ³ Use. ⁴ David, *eleventh* Earl of Crawford. ⁵ Went. ⁶ Sir Lauchlan MacIntosh of that Ilk. ⁷ Nevertheless. ⁸ Often-times. ⁹ Plot. ¹⁰ If. ¹¹ Enemies. ¹² Than. ¹³ Strenuously endeavour; press. ¹⁴ In opposition to. ¹⁵ Ere; before. ¹⁶ Leave.

small commodité; Bott I had rather gett liwe¹ to livs in pace, and find gud fuirté for my obedience and gud ordour. I wilst to God, with HIS MA^TES contentment, 5our lo. war ane fré man, both for your avin weill and þe weill of 5our friendis; and feing itt lysis in your avin hand, better be fré nor liwe þair with fik crofis as I knaw men will have in þatt place.² I heir maney of the *Keipers* of þatt *Cyffell* ar putt in ward, for my brak;³ bott, as God sall judge me, þair was name of þe keipers of þatt Castell þat ever I thoct to mak privé to my defing. I proteit to God, I love þe gud *Confiable* and all þatt is þair. I haitt none of þame; bott I culd nott bott love my self befor. Thair is name within þatt Castell to whom I am adelted, þat salbe oney wayis intréll⁴ be me, if God grant me HIS MA^TES pace. I desyre *Petie Gileriff* keip my flare.⁵ Remember on our last discourfe, þatt fame nicht I brak ward, anent *Margarett*. Sik newis as may nott be thoctt offenceive, I pray your lo. vrytt to me. *My Lord Tuillbairne* and þe men of Atholl, on þat Fryday after I brak ward, perlewid me fo hardly, þatt I was almost tane. We loit our hors, and all our clais. His lo. maid me to gett mair speid on fuitt, in one hour, nor⁶ I thoctt to have gottin in ane 5eir, give⁷ fik fudent medefin⁸ had nott bein aplyid to me. Liewing⁹ to truble your lo. with longer discourfe, wiling 5ou ever all hap-pines, I rett
Your lo^s avin euer to command,

S^B J. MAKDONALL.

I PRAY YOUR LO. AS 5e do theringis, lovfe¹⁰ my myntour¹¹ fra *Pittindie*, for 48 lib; and gett my buiks fra him, and fra *Elizabeth Gib*. Sho hes twa buiks. Commend me to *Christiene*. When your lo. vrytis to me, send itt to my *Lord Tuillbairne* to be fent to me. For fun of your lo^s avin perticular, I wald gladly fe your man *William Rattra*, or oney of 5ours; the erand tuichis only 5our self.

To my verie honourable gud lord, my lord ERLE OF CRAWFURD.

XI. LETTER. *Sir James Makconell to the Earl of Craufurd.*

MY VERIE HONORABLE GOOD LORD,

I WES not four nightes out of the Castell when I wrotte to your lo., but he not fure if your lo. hes refusaid my Letter. I have now wrotten thir few lynes, praying your lo. to remember me 5our professe and conference with me. As for my selue, I am well, praied be God, and all my kyndlie men hes refusaid me most glaidlie. I will do all I can to have HIS MA^TES peace, and find also good fuiretie for my obedience and yeirle dewtie¹² as may suffice. And if my onefrendis crose me, I trest in God, how fo euer the mater go, to be evin with thame. I pray your lo. fee if it be possible yee may gett outhir manne or boy to come speik with me, and aduertese me moir of all your avin estate and dyett, and of all such newes as occurs. Any of my bookes that your lo. can gett, fend them to me, and vse your moyed to thrie from the Erle of Atholl the bookes that was tane from me at that onfett in Atholl. They gatt the thrie convesions of England, Burnes book, and it that Phillip fett out on the controverted heades, it 5e saw Makcartney wrotte, the Medle old Cornikle, in wrett. Ther wes other bookes that I remember not, bot your lo. may seek thame all to your selue. I pray your lo. gett me word from Pittindie, and try if I will gett my mounter and chiffer¹³ to lovfe.

This was the forme of the taking of Duneveg. We lay in ane buis¹⁴ about the hous, till the Captane and twelf of his best men com out. We persewed ouer rasilie or they come far from the hous. The Captanes men fled, bot¹⁵ him selue and three or foure, they wer flane. We 5eid in at the vtter Barnkin with the rest, but they closed the 5ett of the inner Barnkin. Or tuelf hours we took the yatter,

¹ Leave.² This evidently alludes to a proposal for breaking ward; which, it may be conjectured, is the meaning of the Postscript. It is very probable that this and other of Sir James Makconell's Letters had been intercepted.³ On suspicious of aiding his escape out of confinement.⁴ It is left to the reader to settle whether this word is used for 'interested' or 'increased.'—It seems to signify that none of them could hope for reward from him; so that bribery was out of the question.⁵ The word is written so as to read *stane* or *stare*. The article intrusted may therefore have been some precious stone or jewel, or an order of merit.⁶ Than.⁷ If.⁸ Sudden or powerful medicine.⁹ Leaving; ceasing.¹⁰ Loose; release from pledge.¹¹ Watch.¹² Annual-rent.¹³ Probably his coffer or chest. Old Fr. *chestron*.¹⁴ Perhaps for *hush*, or thick; or, more probably, it may be a slip of the pen for *ambush*.¹⁵ Excepting; saving.

the vtter tour, and the tuo Barnkyns from thame, and fett fyre to the zett of the inner Barnkin, brunt it, killed and hart some of there menne in with our thott; for we thott from four in the morn-
ing till efter tuelffe. Tuo of myne wes killed, a shoulldiour and ane boy; tuo lightlie hurt. The hous
wes promefed to yeeld or ten hours the morn. And fo wes the Pryour and all that come out gatt
thair lyff and there cloathes.

I tref in God that all the Campbells in Scotland, without HIS MA^{TIES} powar, thall not recouer it,
fo long as they live. I heare Patie Kilchrit is troubled for me; bot I proteft to God he is innocent
of my break, and all that is in that Caste. No more, but remember me to all frendes, speciale to
Margrate, to Cristian, and all your owne frendes in the breathing; and also my homble feruice remem-
bered, I rest

July 3, Fra Duneveg.

Your lo. owin to command,

S^a J. MAKDONALL.

TO THE ERL OF CRAUFURD.

XII. LETTER, *Sir James Makconell to Lord Tulliebardin.*¹

MY VERIE HONORABLE GUD LORD,

TRULY the tyme hes beine, when I wald never a luiked þatt your father sone fuld perfew me to
hardly of my lyfe; for I proteft I was never fo hardly followid; and was fo neir tane, þatt your lo. self,
and sum few with you, was within thre pair² to me. Bot I am much oblit to zour lo., for in faith
ze maid me to be ane better fuitt-man, in one hour, nor I thocht to haue beine in ane zier. All-
ways,³ feing itt was HIS MA^{TIES} service your lo. did, I forgiwe you with my hart; and I with att God,
my self had þe place to serue HIS MA^{TIE}, quhilk in my hart I fall ever do. And this offence quhilk I
have now committit, I proteft to God, is nott for defyre of trubles or Rebellion, nether for oney misfruit
I had in HIS MA^{TIES} clemencé, or his honourable *Confall*, nor zett throw feir of aney thing þatt can
be tryed⁴ aganes me, anent þatt erand of Dwnoveg; bot, as God knawis, my braiking Ward was only
for þe saifté of my lyfe; for it is fertan, and I will gett veré honest wittneffis, to whom the *Laird of
Caldar* said itt, þatt he had ane Warrant from HIS MA^{TIE}, quhilk the *Confall* never fawe, for to put
me to present exsecutione, efter þe presenting of þatt Warrant; fo þatt my lyffe was in *Caldar's* will:
and how tyllt refone I had to trust to *Caldar*, pairt of þe *Confall* self knawis; for, not only all vther
vranis he did me, he vrett both to HIS MA^{TIE}, and vthers att Court and in *Confall's*, shawing, I was
giltie both of þe talking and keeping of Duneveg, þat pairby my lyfe nicht be tane. Bott now, þat
þe world may fo his maillith, whan I am, as I hop in God, out of his denger, I will say to zour lo., as
I fall answer to God, I am and was ever as inofent of þe talking or keeping of Duneveg aganes his
MA^{TIE} as zour lo. is; and when all is tryid, I defy my onfreindis to try⁵ vtherways, be oney just
tryell. And pairfoir, feing, efter such long miseré, and þe lofs of all my kyndly⁶ lands, I bott only
sted with my awin lyfe, I hop þe *Confall* will evin pité me. And I besekit your lo. to be my freind,
fo far as ze may, without offence to HIS MA^{TIE}; only, in moving your freinds in *Confall* nott to be
over hesté,⁷ att ze defyre of my onfreindis, to tak oney violent curris aganes me, whairbé thay may
gett preferment, and cairis nott what may follow, in exipence to HIS MA^{TIE}, or truble in þe cuntre;
quhilk fall nott be neidfull: For, give⁸ your lo. will gett me an affurance, þat HIS MA^{TIE} honourable
Confall will heir þe fame, I will give in such ane humble Peticione to pair lo⁹ in fulfilling HIS MA^{TIES}
will, and pair lo⁹ in aney thing posebill to me; my lyfe and liberté being only refervid: And give
HIS MA^{TIE} dispence with my lyfe, and offences, fall mak gud fuirté to truble no man, by⁹ ordour off
law. So loking for your lo⁹ answer, be þe *Barron Rid's* meins, committing your lo. in God's protex-
tion, I rest

Your lo⁹ assured freind to command,

Junij 2.

S. J. MAKDONALL.

TO MY VERIE HONORABLE GUD LORD, MY LORD ERLE OFF TULLIBAIRNE.

¹ William, second Earl of Tullibardine. See No. VI. Note. ² Three pair of butts; three butts' lengths.
³ Nevertheless; at all events. ⁴ Verified; proved; established. ⁵ Prove; establish. ⁶ The lands
which he held as 'kindly Tenant' to the King. ⁷ Precipitate; hasty. ⁸ If. ⁹ Contrary to.

XIII. EXTRACT OF A LETTER *from Sir Rorie Makcleud¹ to Lord Binning*
(*received June 30, 1615.*)

Now, since I perceive *Sir James (Makoneill)* hes broken warde, and come to Lochquhaber, and out of that come to Moror and Knoddort, where he took per force a young youth, the second sone of *Gleugarric²* on a worfe,³ and keeps him still in custodie; and the Captaine sone, a son of Donald M^cAllan M^cEan, Captain of the Clan-Ronald. And thereafter, come to Sleat, to *Donald Gorme's* bounds,⁴ where he gott a bigg boat, with oares, saile, and taikleing; and intercomened at lenth with *Donald Gorme* there; and a number of *Donald Gorme's* folkes of Sleat, called *Clann Tarlich⁵*, is gone with him. And thereafter, pass'd till the Yle of Egga, where he mett *Coill⁶* and his companee, togidder with his faie sone, and a sone of *Sir James Makforle* of the Route.⁷ And they ar in number, as I lerne, twelfe or threiteinth score, at the present tyme. And whidder they go South or North I can not tell, at the writteing heerof. It is my advyse to your lo. and Counsell, that your lo. derect a ample command and charge, till all and findrie the Superiours of the Yles, till convocat thame selues in armes, with a full Commission till⁸ everie one of ws, till perlew the said rebelles, by sea and land, with fyre and sword, in thrie severall armies and companees. That is, *Makelaine of Doward⁹* and *Makelaine of Lochbuy¹⁰* in a companie and armie; *Donald Gorme* and *the Captaine of Clann Ronald¹¹* in a other armie; and I, *the Lairde of Coill¹²* and *Mackynnon¹³* and *my Lord of Kyntails¹⁴* forces, in a other companee; and lett everie one of thir armies endeavour thame selues in HIS MA^{ties} service; and he that doeth best therein, have the greatest honour, and preferment, and reward of HIS MA^{ties} and *Counsell*. And becaus the said *Sir James* and his companee hes taken thame selues to the sea, in two barks and findrie other boates, it were expedient that your lo. and *Counsell* would send me ane Commission and powar to embark any ship I can apprehend, in thir Iles, to the better perfwte of thame in thir Iles; otherwise, your lo. and *Counsell* till furnishe out two or three shippes, well provyded, to thir Iles; and derect one of thame to me, that I and they may concure togedder, in his highnes service. And I desyre the Iles Superiours to be devyded in three factions, for this caus. *Sir James* and the rebelles of the *Clanndonald* ar of kynn, blood, and aill¹⁵ to *Donald Gorme* and to *the Captaine of Clann Ronald*; and *Sir James* and his rebelles ar deullie enemies to *Mackelaine* and his name, and they will never agreee in a¹⁶ companee and armee. And as for me, your lo. knowes verie well that I have geven a proof of my obedience and service to HIS MA^{ties} and *Counsell* alledredde, in taking, and apprehending, and delyvring my own name and blood, the rebellis of the Lews;¹⁷ and in making these landis peaceable to HIS MA^{ties}. Lett the rest do the lyk service now to HIS MA^{ties}, and it is verie well knowne to HIS MAJESTIE and Nobilitie of Scotland, that my hous neuer rebelled, nor yett shal rebell.

Your lo. humble servitor at powar,

DUNVEGANE, 18th of June, 1615.

S^r RORIE MAKCLEUD.

XIV. LETTER, *Lord Tullibardine to Lord Binning.*

MY VERRIE HONOURABIL GOOD LORD,

I HAUE reffawit *M^cAllane M^cEan*, Capitaine of the *Clan Ronald*, his answer of my Letter, quhair-

¹ Sir Roderick Makleud of that Ilk, and of Harris, called *Rorie More*, who married a daughter of Donald Mac-Angus MacAlister of Glogary. ² Donald MacDonell, afterwards of Scotchouse; who married Mary, daughter of Sir James Macdonald of Sleat. ³ Unawares. ⁴ Of Sleat in Skye. ⁵ Clan Tarlich, that is, the descendants of Charles. ⁶ Coill Makgillespik. ⁷ See Notice prefixed to this Trial. ⁸ To. ⁹ Hector Maclean of Doward, called Eachin Oig. ¹⁰ Hector Owir Maclean. He married a daughter of Lauchlan More, Maclean of Doward. ¹¹ Donald MacAllan MacEan. ¹² Lauchlan Maclean of Coll; who married a daughter of Sir Roderick Macleod of Harris. ¹³ Lauchlan MacKinnon of Strathordill, Laird of Mackinnon. Strathordill is in Skye. He was knighted before his death. ¹⁴ Colin, second Lord Kintail, created Earl of Seaforth, Dec. 23, 1623. ¹⁵ Alliance by marriage. ¹⁶ One. ¹⁷ Lewis.

by I perceave þat he is nocht previe to *Sir James* his brekking of Waird, and is resolu't nocht to mell¹ with þair courffis, for *Sir James* and *M^cRonnald* did all þat þai culd, be meffages, to haue met with him, vpon preteuce to haue delynerit him his sone; bot he onnawys wald haue ony midding with þame, nor wald nocht reflaue his sone, becaus he wes in thair company, without ane Warrant of 5our lo^s of þe *Counsell*. Bot I heir þat þe sonyne, quhan *Sir James* tuik þe fea, he fend him frome him. *Sir James*, at his parting out of Lochabber, wes onlie accompaneit with fountene men and boyis, and *M^cRonnald* followit him with fextene men and boyis. They past out þat to *M^cEan* of *Ardnamurchais*² cuntrie, quhair I heir þat *M^cEan* him self, with all his company with him; at þe leil, þair is ane great pairte of þame. He gat sum boittis þair, and past þairfa, langis þe coift; bot he culd haue no landing, nather in *M^cAllane M^cEane* his cuntrie, *M^cclawd Hereis*,³ nor *Donald Gormis* cuntrie;⁴ ffor þai þat forcis on all þe fea-poitris, to ftop his landing; and I think þei had meid sum onfet on him, if þair boittis had not bene all fuk of befor, for feir of fuppryng þame.

I heir he landit into þe Hes of Rowme and Eg, quhair *Coull M^cGillepie* did meit him with ane company of hagbutteris, about þe number of fewin feoir of men. Thair forme of meiting, as I heir, wes this. *Sir James* and his company stude in ane plaice be þame selfis, quhair þe wþer with his company went round about him, onis;⁵ and at þe nixt going about, salutit him with þair wolly of fchoittis;⁶ and continowit sua fchuiting and inuiring⁷ of him, for þe spaiice of half ane hour; and þair-efter com to him euerie man, particularie,⁸ chapping handis.⁹ Wpon þe morne, þai conuenit all þe haill bestial, horfe, and ky, to one plaice, quhilke þei thoct to haue flayne baill;¹⁰ bot, vpon better aduyfement, þei flew onlie ane number of ky, for meat, quhilke þei caryit immediatlie to þair boittis; and þair-efter tuik þe fea,¹¹ to þe number of Thre hunder men, of all. *Cold*¹² brocht him tua crearis,¹³ with sum wþir boittis þat *Sir James* him self gat in Ardnureche, and fuppryit in wþir pairtis. It is thoct þat þei haue tane þair woyage to Ilay; and if þe cuntrie be vpon þair gaird, as þai fuld, I think þai fall nocht profreit mekill. The occasioun of my mannis flay: it wes long befor he could get tryell¹⁴ quhair *M^cAllane M^cEan* wes; for he wes buffie, in gewing of ordour, þat *Sir James* fuld nocht land¹⁵ on any of his Illes; and abfcuring¹⁶ him self, þat þei fuld nocht get him. I vnderland he hend fend him Letteres to the *Counsell*, quhilke I think 5our lo. knawis of befor now. I will request 5our lo. to lat me vnderstand, quhat directioun is cumit 5it frome HIS MA^{ty}, concerning *Sir James M^cconcell*, and qubat conclusioun 5our lo^s of *Counsell* hes taiken þairnant. Sna, hawing na farder at þis present, committis 5our lo. to þe protectioun of God; and restis

5our lo. enir affuirit freind and seruaut,

PERTHE, þe 24 of Junii, 1605.

TULLIBARDINE.

I VNDERSTAND *Glengarrrie*¹⁷ is presentlie in Ed^r, and is trublit be *my Lord Lovat*¹⁸ in sone actiounis betuix þame. I wald request 5our lo. to be his freind and to forder him hame our; for I mynd to meit with him, in his by-cuming, and fall lay him rycht to any thing þat concernis HIS MA^{ty}'s seruice, to my power. And becaus he is dealer betuix me and *M^cAllane M^cEane*, *Capitane of the Clan Ronnald*, pleas 5our lo. wret to me, quhat particular 5e wald haue me to lay to thair charge; and I fall do þe best.

The pretext þat *Sir James M^cconcell* and *M^cRonnald* myndit to haue vit, to haue persuadit *M^cAllane M^cEane* and *Glengarry* to haue taikin þair pairte, is þis auld actioun þat *my Lord Lovat* hes

¹ Meddle; interfere; mingle. Fr. *meler*.

Ardnamurchan, a powerful branch of the Clendonald.

² Macdonald of Ardnamurchan, Chief of the CLAN IAN of

³ Sir Roderick MacLeod of that ilk, commonly called *Rory More*. He married a daughter of Glengarrrie's, and was the founder of the families of Talisker, Bermer, Muir-avenide, Hammer, Grisenish, &c.

⁴ See Note relative to *Donald Gorme*, (No. XXII.) III. 25. ⁵ Once.

⁶ Volley; feu de joie. ⁷ Encircling. ⁸ Separately; individually; one by one. ⁹ An impressive mode of swearing feudal obedience, and to live and die in his service. ¹⁰ Entirely; wholly. ¹¹ Set sail. ¹² Coill

Makgillespik Macdonald. ¹³ A cragar, sort of large galley; or rather a bark or sort of sloop. Cray is used in O. E. in a similar sense. ¹⁴ Advice; satisfactory intelligence. ¹⁵ Should not be suffered to effect a landing.

¹⁶ Obscuring, concealing. ¹⁷ Donald Macdonald of Glengarrrie (*Donald MacAngus MacAlister*). ¹⁸ Simon, seventh Lord Lovat. See *History of the Frasers*, by John Anderson, Esq. W.S.: a work of great ability and research.

aganis þame, and þe taking of *M. Altane McEanes* landis our his head be *Sir James Stewart*. In my opinioun, ʒour lo^s of *the Counfall* suld do weill to delay þe difcouling of þir debaittis for ane quhyle till þir wþer materis of *Sir James* war fetlit.

XV. LETTER, *Sir James Makconell to Lord Binning.*

MY VERIE HONOURABIL GUDE LORD,

PLEIS your lo. I wald haue writtin to your lo. long or now, had not I culd find no bearer, becaus name of my awin dar go thair. Ahnye,¹ I will ener think myself bund for the fauour your lo. schew me at my being laft in *the Cuyfell*,² whanne God knawis vtheris wes bent to wrong me be thair fals accusationis; whofe feir, and the report they gave out that my lyfe was onlye in thair willis, was the onlye motione of the braik of ward; and no intentione nor desyre I had, or hes, to live as ane Rebelle or outlaw; whiche traid, the Lord knaves, I abhorre; but that I wald glaidlie live at libertye with my lyfe saif. And now, my lord, I besaik your lo., for the fauour of God and my perpetuelle seruice, pitie me and be my freind, that his Maiestie may be gracioulye moved not to ʒield to my vnfreindis, to ruit me and my whole race out, being fyve or sex hundreth ʒeiris possessouris, and now willing to obey and serwe his Maiestie, in all humilitie, I, seing how I and my pure freindis may live; and if ʒour lo. culd find the meanis that HIS MA^{TIE} and *Counfall* may be moved to let me posses this pure land, paying for it as anie vther may or hes ʒit offerit to do, and getting my pardone, fall find sufficient furetie, both for my ʒeirlie dewtye and the peace and quyetes of me and all that dwellis vnder me. Gif ʒour lo. may or will do me any guid in this, I will not onlie be ane to do ʒour lo. guid seruice, bot, with Goddis graice, let ʒour lo. be my thankfulness. besaik ʒour lo., for Goddis cause, be playne with me, and if HIS MA^{TIE} may not be mooved to let me haue this land, diminishing nothing of HIS MA^{TIE}'s commoditie, that ʒour lo. will let me know, be ʒour advise, be what vther meanis HIS MA^{TIE} may be mooved to grant ane generall pardone to me and all myne; and that we may haue to susteine ws in sum meafour, leif we be forcit, being without oure living, to oppres vtheris. This abyding ʒour lo. anfeuir, committing ʒow to God, I rest

ʒour lo. euir to command,

Julij 1.

SIR J. MAKDONALL.

MY LORD, IF HIS MAIESTIE be not willing that I fall be his heighnes tennent in Ila. for Goddis cause let HIS MA^{TIE} hauld it in his awin hand; for that is certane, I will die befor I fie a *Campbell* posses it. And HIS MA^{TIE} haulding it in his awin hand, HIS MA^{TIE} may haue ane thousand merkis mair be þat, nor *Calder* suld pay; I making it quyte of me and my kin, whiche I will do vpon suche reasonabill conditions as I will schew ʒour lo., if ʒe may assure me that ʒe may get HIS MA^{TIE} brocht to this poynt, and in the meintyme no imprisonment³ be gevin aganis me, till ʒour lo. fie how this may be brocht to pas. As for this *Houfe of Duneryg*, which I tuik in four and twenty houris from *Calderis* menne, your lo. getting me fauour of HIS MA^{TIE}, the houfe salbe to serwe HIS MA^{TIE}, and nener to be kept aganis his hienes. And if HIS MA^{TIE} awin Gaird or *the Bischopes* had bein in the Houte, befor God I wald neuer perform it; bot finding thefe in it, who crewellie oppres the pure cuntry, wes the onlie suttieris of my lyfe and landis, I wald I culd do thame mair digrace! Referring all to ʒour lo. consideratione and anfeuir, I rest

ʒour lo. euer to be commandit,

Julij 1.

S^R J. MAKDONALL.

TO MY LORD SECRETARE.

XVI. LETTER, *Sir James Makconell to Mr James Knox.*

RIGHT WORSHIPFULL,

I HAVE, for some buisinesse, partly concerning your father, sent this bearer to Edinburch; and geve

¹ At all events. ² Of Edinburch. ³ This is taken from a copy. The sense appears to be, that, in the interim, no one should be employed against him by Commission, or Letters of fire and sword.

my lord be gone to England, I pray yow fail not, as yee respect his lo. well,¹ to fend his Letter to him, with furetie that it may com to his handes; for I have written to his lo. the thing that I hope ihall come to his lo. honour and credite; and there is none leaneand vnder his Maieftie that I will do mor to, till do be, and do him all the honour and credite I can. Heir I will entreat yow, give^c 5e be in Ed³, and any of my Letters come to your hand, yee will deliever thame to sutch as I have wretten thame to. And so, reposeing in your good will, and assuering you I am to ferue and honour your father and your felne, I rest

FROM ILA, 4 Julij.

Your assured friend to command,

S^r J. MAKDONALL.

(*Postscript.*) Sir,

ALBEIT it be too great paines, yet in hope I will, God willing, do you yett more fernice, fend ony of your fervandis with all the rest of my Letters to such as they are dierected to, and what answer bees gotten, geve it to the berar. I rest

Your assured friend,

S^r J. MAKDONALL.

TO MR JAMES KNOX, sone to my Lord Bishope of the Illis and Raupho.

XVII. LETTER *from Archibald Campbell³ to Lord Binning⁴, 'anent his persute of Sir James Makoneill.'*

RIGHT HONORABELL,

AS I writ to your lo. from the Wode of Messen, SIR JAMES M^cONEILL and M^cRANALD went by pat way; and, as I was informed, he had staved Wednesday night and Thursday in Murthlie. So I, heaving riddin Wednesday night and Thursday all day, I waclit at Murthlie all pat night, bot jay maid no stay pair: Bot M^cRanald sent a man of his for a young boy of his awin pat he had in Murthlie, and convoyed him with him. On Wednesday, at night, they were in a pure man's house in Strabrane; and on Thursday, at night, jay wer in the East end of Ranoch, quhair I might haue bene sex hours before jame, gif I had bene fartane of thair way. *The Erle of Atholl⁵* was advertised by *je Erle of Mar⁶*, and he followed jame. And on Fryday, in the morning, com in fight of jame; bot my lordis men had run so far, and his spayis pat went before him so wnprovedent, pat *Sir Jeames* and his companie wer advertised be *Strowan* bis wyf,⁷ quho is *M^cRanald* his dochter. They wer forfild to leive pair horfils and clothes, and teake jame to je wodis. *The Erle of Atholl* apprehendit *Sir Jeames* his man, pat was with him in the Castell, and quho stayed efter him in je Castell pat morning he brake ward, and too men of *M^cRanaldis*; bot my lord tels me he difmilt jame all. My lord, so far as I culd learne, *the Erle* was exceeding willing in this persute, bot pair was sum wronge done him, pat I beleive his lo. as yet knows not of. Those pat I fend to be before jame ar not as yet returned, nor no word from jame. I hope in God your lo. fall heir pat jay haue mett; for jay can hardlie pas by jame. *The Erle of Atholl* aduris me pat pair cam a compaue of men to meit *M^cRanald*. My lord, if pair wer bot too hunder men and ane honest commander on je feildis, they wer not eabell to do any thing be hand; nor culd jay lane tyme to mowe⁸ any to follow jame: Bot in treuth, if jay be permittit, they will no dout grow stronge. *Sir Jeames* man pat je *Erle of Atholl* apprehendit, told, pat jay resoluit to burne *Cadell⁹* his landis of Mukarne; and pat he thought a grait many illenderis ver on pair course.¹⁰ My lord, jo schune as I heir from those I dieretit eftir jame, and pat I kno quhat course

¹ Weal; advantage.

² If.

³ Son of Sir James, and brother of Sir John Campbell of Lawers. Afterwards Sir Archibald.

⁴ Sir Thomas Hamilton, afterwards Earl of Haddington, Secretary of State.

⁵ James, second

Earl of Atholl, son and heir of John, sixth Lord Innermeath, who had obtained the Earldom, Mar. 6, 1595-6. He married Lady Mary Stewart, second daughter of John, fifth Earl of Atholl, by his stepmother, Lady Mary Ruthven, and died without issue, anno 1625.—*Wood's Peerage.*

⁶ John, seventh Earl of Marr, who had been intrusted

with the education of Prince Henry, and was, in Dec. 1615, appointed Lord High Treasurer of Scotland. He married Anne, 2d daughter of David, second Lord Drummond, and died Dec. 14, 1634, æt. 77.

⁷ Robert Robert-

son of Strowan married a daughter of Macdonald of Keppoch.

⁸ Induce; persuade; more.

⁹ John Campbell of Caddell or Calder.

¹⁰ Were his abettors and maintained his cause.

Sir James teakis first in hand, or quhich way he teakis him to be feie, I will, God willing, retourne; not douting bot *my Lord Thejturer*¹ will haue some consideratioun of my peas,² as I fall be reddie at all occasiouns to adventur my self in HIS MA^{TIES} seruice; I reft

FROM THE FURD OF LYON, þis Saterdag 3our lo. ewer to serue 3ow,
at xij hours of þat day. AR. CAMPBELL.

I pray 3our lo. adverteife Cadell, þat he may send word to his men of Mackarney, to be war of þe rebels.

To þe right honorabell, and my spefeall good lord,
MY LORD OF BINNING, Secreter, &c.

XVIII. LETTER, *Lord Binning to Archibald Campbell.*

LOVING FREIND,

I RESSAVED your Letters of the 15 of this moneth, from Dunoveg; bot now newes in thame; becaus, vpon the 12 day, I hard the substaunce of all that your Letter beares; quhilk that same 12 day was written to Court be my Lord Chancellor. I am glad that my Lord is maister of thesfe frefenthis, and forie that all the principall men are efaped, except *Coll*, who lies gottin conditions; bot I hope that my lordis diligence, wifdome, and gud luk, fall owertak thame, and red HIS MA^{TIE} and the cuntrie of thair cummer, for if it fould fall vtherwayes furth (as God forbid) yow know quhat contruaciouns men wald mak of the great preparatioun maid be sea and land, at fo great charges to HIS MA^{TIE}, without any effect, bot the wrak of the poore beggarlie tenants of Ilay and Kintyre. For, since *Sir James* and his sone, with *Mr Ronald* and his sone, and *Glengarries* sone, and *Mr Sorle*,³ ar all efaped, and *Coll*⁴ pardoned, I know not quhat ringleaders thesfe ar, whome ye vryt 3e ar to bring in. Allwayes, it is gud that thair forces ar feathered, without harme or danger; yit, fo long as the heades ar all to the fore,⁵ the Rebellioun will never be thought quenched. Quhairfor, I know my Lord will haue fuch cair as agrieth with his honour and HIS MA^{TIES} expectatioun. I haue no certantie of *the Thejturer* deputies dyet, bot I hope he will be heir about Hallowmes, and will afuredlice performe his promeis, yours being obserued, quhilk I hartelic wilhe. So, remembering my loving commendatiounis to your brother *Collin*, and praying you to prevent your curious nighbouris in the aduerteiements of my lordis proceedingis, quhilk I wilhe may be prosperous, I reit

Your verie loving freind, at powar,

[BINNING.]⁶

XIX. LETTER *from Sir Dougal Campbell of Auchinbrek to the Chancellor* (received Aug. 4, 1615.)

HONORABLE GOOD LORD,

My humble dewtie remembrit, please 3our lo. to wit, that I am heer in the Tarbet, attending vpone our enemies coming farder in the cuntrie. 3our lo. fall vnderstand, since my last wryting to 3our lo., *Sir James* the traitour hes latlie directit out ane *fyrie croce*⁷ from the head of Lockerrane, quhair he makes his residence for the tyme, to the Tarbart, vpon the pretence that all maner of man betuix the Mull of Kintyre and the Tarbart fould come and tak land of him. And to preveine this, that the cuntrie fould get no skaith, I haue directit for to get more assistance of men throw Argyle and Lorne. 3our lo. fall know that I was not anferit, according to my Commiffioun. The moneyet⁸ that came to me was ane hundreth men; the number of the hail thrie hundreth men. Withiing 3our lo. to tak ourdour with the cuntries difobediencie, for farder inconuenience; quhilk I fear will come to more

¹ Sir Robert Carr, Earl of Somerset, held the office at this time. ² A gentle hint that remuneration was looked for, to quicken his zeal.

³ A son of Sir James MacSorle of the Route, formerly mentioned, both in this Appendix and in the Introduction to this Trial.

⁴ Coll Macgillespieck Macdonald.

⁵ In being; existing.

⁶ From a copy, marked by Lord Binning himself.

⁷ See Notes to *Sir Walter Scott's Lady of the Lake*, &c.

⁸ Most; greatest number.

ikaith, if they be not punifcht for thair fault. I fall give vp in forov to your lo. the particular dif-obeyars. Thefe Rebels ar in readines with fyve nichtis provifoun and lone. Quhair they ar to mak thair onfet I know not; bot they ar mor in number than I wret to your lo. in my laft Letter. I dowt not bot your lo. remembers the dait of my Commiffion, quhilk approchis neir to the next day of Auguft; quhairfor I thocht good to mak your lo. forfein of this, that your lo. may tak ane ordour farder with thir Rebels. So, not troubling your lo. with farder writ, committis your lo. to the protectioun of the Almighty God.

Your lo. to be commandit to my power,

TARBART, 30 July, 1615.

AUCHINBRECK.

XX. LETTER, *Lord Binning to the Earl of Argyle, 5th Aug. 1615.*

MY MOST HONO^U GOOD LORD,

THINKING my felf affured that your lo. wald, according to your promeis, contenit in your Lettre of the 24 fent to me, begin your journey homeward ypone the next day, and end it, at fardest, within ten or tuell dayes; I certified the *Counfell* pairof, and be Letteris to *Auchinbrek* and vtheris officeris, wndowtedlie that your lo. wald keip that dyet: but now, wnderftanding your lo. cairleffnes of that weightie charge, quhilk ze have wndertaine againis the *Trotoris*, who daylie grows in number, force, and prefumptioun, becaus they find no refiftance, far les perfute aganis them, quhairby they have left fun forces in Ila, to keip *Duneveg* and *Lochgorne*; and *Makoneill* felf and fex hundreth with him, having maid thamefelfis maisteris of *Kintyre*, ar fo fwelled in pryde, that they have fent the fyre-corfe¹ throw the cuntrie, and warnid all the inhabitants betwix *Tarbert* and the *Mull* of *Kintyre*, to tak their land of the *Traitour Makoneill*. We heir of fo much boldnes in the rebels and fear in the cuntrie people, as we expect daylie to heir of thair farder futing ypone your lo. cuntrie of *Argyle*; which your owne people does fearfullie apprehend. We ar affured of *Auchinbrekes* faithfulness to HIS MAJ^{TIES}, and your lo. do exceidinglie diftruft his gouernement, in refpect of his owne feiklines, the difloyaltie of many of the *Irifche* people, and boldnes and fubtiltie of the Rebels, too able to keip advantage of him. Nather will I conceall, that your lo. name² is envyed, your owne autoritie and wounted elimatioun infinitlie impared, be your abfence and neglect of your cuntrie; and releiff of your freindis, engadged and wraiked for your debitis: And now, if your lo. fall kythe³ cairles, or flouthfull and fluggithe in this great charge, ze will increas the libertie of your ewil-willaris, who have boldlie spokin to your difadvantage and difcredit, difcourage HIS MAJ^{TIES} good fubiects, embolden the Rebels, and mak your task more difficile nor⁴ your lo. apprehends. My affection to my maisteris honour, and refpect and good will to your lo. felf, makis me to wryt more liberallie⁵ in this mater nor vtheris will, which I hope and requeri your lo. may tak in good pairt; earnestlie befeking your lo., all empechments removed, to come heir with all poffible expeditioun and refolutioun, to go forward with wifdom and diligence. Your lo. will find that your following your owne will, aganis my opinioun, in purchafing ane Commiffioun in this fervice, to ane particular number of the *Counfell*, will do hinder to the buifines. Bot the next beft muft be done; nothing being able to remove all difficulties, but your lo. prefence and diligence; which I recommend to your lo., as ze affect your maisteris favour and your awne honour. So, lufking for your lo. extream diligence, to amend bypaft sleuth and ouerflights, I commit your lo. to the protectioun of God.

Your lo. verie affectionat to ferve you,

EDS, the fyft of Auguft (1615.)

[BINNING.]

XXI. EXTRACT from *Minutes of Privy Council, Jun. 20, 1615.*⁶

The *Marques of Huntly*⁷ hes gotten a verie ample Commiffion for perfute of the Rebelles, efpe-

¹ The *Fly-crofs* so often described by Sir Walter Scott in *The Lady of the Lake*, &c. ² Clan Campbell.
³ Prove careless. ⁴ Thin. ⁵ Freely. ⁶ From the *Deanshous MSS.* Adv. Library. ⁷ George, sixth Earl and first Marquis of Huntly, the same person who was concerned in the traitorous correspondence with Spain, the burning of *Dunibersel*, and slaughter of the Earl of *Moray*, &c.

cialie of *Macronnald*¹ and his sone, who ar his owne tennentes; and the Counsaile hes wrotten vnto him to fend his sone *the Erle of Enyce*,² with diligence, to Lochquhaber,—to persue the rebelles, to tak, demolithe, and destroy *Makronnaldes* houffes, to meddle with his whole goodes, and with the goodes of such as did relifft and supplie *Sir James Makronnald* and *Makronnald*, and not to come out of that countrie, will he assure the countraie to be keeped vnder his Maiesties obedience.

There is a Proclamation sett oute againes *Sir James Makronnald* and his sone, *Coill Macgillepik*,³ and some othères of the principall ringleadares in this rebellion; conteneing a reward to any such persone or persones as will tak or slay onie of thame; to witt, for *Sir James M'Donald* there is a promefte of fyve thousand pundis; for *Makronnald* and his sone and *Coill Makgillepik*, fyve thousand markes a peece; and for some others of the rebellis, thrie thousand markes. And there is a promefte of pardon proclaimed to such of the rebels thame selues, as will tak, and exhibite, or slay onie of these owene companie, being of a better rank and qualitie nor thame selues.

Sir James Makronnald and *Makronnald*, in there going towards the Hes, took a sone and a fervand of the *Lorde of Glengarryes*,⁴ information whereof being made to *Yonny Glengarrye*,⁵ he, with such forces as he could mak vpon the suddane, followed thame to the sea fyld, and in a conflict betwene thame, he hes taken two of the principallis of *Makronnaldes* companie, for whose releef *Makronnald* offered delyerie off *Glengarryes* sone; but *Glengarrye* refused to delyuer his two prisoners, and hes promised to exhibite thame here within ten dayes.

*Donald Gorme*⁶ and the *Captane of Clannronald*⁷ hes by there writtinges promised to continue in there obedience, and to do the best of there endeoures in the persute of the rebelles.

XXII. EXTRACT from 'The Historie of King James the Sext,' (published for the Banatque Club.)⁸

In the moneth of Maij (1615), *Sir James Makoneill*, eldest sone to muchlike *Angus Makoneill of Dunnevaig*, who was before condamnitt for certain crymis committed be him, and for efcaiping furth of the Castell of Edinburgh, in companie of *Johne Lord Maxwell*, as is before tauld, efcaipit furth therof; becaus it was constantly supponit that he had gevin counsell, be word and writt, for the violent keeping of that Castell; and fearing the cryme sould have bene tryit aganis him, be witnes, he tuk therefore tyme and occasion to efchew unpuneit. This Castell of Dunnevaig was ombeset be certain of the Kingis shippis, be sea, that name of the *Keperis* sould efcape that way, nor be furneit with viuers be sea. And *the knyght of Caddell*, brother-in-law to the said *Sir James*, took in hand to ombeset the same be land; as he did; and wan the fame. Sum of the preafoners he put to death ther; others he convoyit sailtie to Edinburgh; and the greatest number efcaipit, be sea, and became Pirats. In the meane season, *the Erle of Argyle*, having maid long residence at Court, and understanding that *Sir James Makoneill* was destroyand his landis and tennents, maid narrative thair of to the King; and obtenit ane ample Commiiffioun of his Maiestie, to pas aganis him, with fyre and sworde, and to apprehend him, ather quick or deid, as he best could; and so, haited himself toward Scotland, with all speed, for the purpose. His voyage maid no good succets, as falbe, God willing, declairit beirefter, at mair lenth.⁹

¹ Alexander M'Donald or M'Ronald of Keppah or Gargavache. ² George Earl of Enzie, afterwards second Earl of Huntly, who was beheaded at Edinburgh, Mar. 22, 1619. ³ Father of Alister M'Donald, Lieutenant to the great Marquis of Montrose in the civil wars. He was popularly styled *Coll Keitach*, i. e. Left-handed Coll, from which his son Alister took his designation of McColl Keitach, abridged to *Colkittie*.

⁴ Donald MacAngus of Glengarie. ⁵ Alexander or Alister, father of the first Lord Macdonell of Arras. ⁶ Of Seat, called *Sassenach*, having been educated in England. He married Mary, daughter of Hector MacLean of Dowart, leaving three sons. ⁷ *Donald Gorme*, the eldest, married Margaret, sister to Colin Lord Kintail; and dying, without issue, in 1616, his nephew, *Donald Gorme Oig*, son of his brother Archibald, by Margaret, daughter of Angus Macdonald of Dunnevaig and Glynnis, succeeded. See (Archdall's) *Lodge's Irish Peerage*, VII. 115.

⁸ Edited by Thomas Thomson, Esquire, quarto, Edin. 1825, p. 388. ⁹ Donald M'Allan M'Earl.

⁹ The author either did not live to fulfil this intention, or at least did not complete his History, which terminates abruptly, anno 1617.

XXIII. THE EARL OF ARGYLE'S REPORT TO THE PRIVY COUNCIL OF SCOTLAND of his *Comiſſioun of Licutenantry*.¹

(1615, Sep.) IMMEDIATLIE after that the *Erle of Ergyle* had receavit HIS MAIESTEIS Commiſſioun of Lieutenandrie over THE ILLIS, he addreſſit him ſelf, with all convenient diligence, in Duntroone,² quhair the greateſt part of his forceis did meete him. And being fuirle informit, that the Traytour *Sir James M'Concill*, and his complices, to the nower of fevin or aucht hundreth men of weere, for that preſent in KINTYRE, and of full intention thair to rewane, quhill³ they wer by the grutter power forcit out of it, his lo. reſolut to mak ane onſett without ony delay, allweill on thair veſchellis as on the *Rebellis* thame feltis; and thairfore commandit the *Laird of Caddell*, who had the conducting of the forceis of Lorne, to mak his onſet on thair veſchellis, quhair he could heir thame to be, ather in YLE OF GIGA, the ILE OF CARA, or on the MAINE-LAND OF KINTYRE. Lykewyſe ſo, his Lordſchip gaif command to the *Laird of Auchinbrek*,⁴ and to ſome ſpeciall of *Auchinbrekis* freindis, to merch over land to the Tarbart, with his lordſchepis forceis of Ergyle. My lord him ſelf, being accumpaneid with the men of Coule,⁵ went by Sea to the Tarbart, on the vther fyde of the Maine-land. My lord went from Duntroone on the day of September, and was that night in the Tarbart; quhair *Auchinbrek*, with the men of Ergyle, did meete him that ſame night. *Coll M'illeſpik* haiving⁶ *Coline Campbell of Kilberrie*, fet out to him, come with fyttie men the foirſaid night to Loch Tarbert, quhair he apprehendit the ſaid *Coline*, and ſome foure or fyve with him, quhome he maid his prifonairis. Airlie the nixt moirning, *Coll M'illeſpik*, being on his way bak agane, towardis the Ile of Cara, quhair he had left *M'Rannald*, and his ſones, and *Sorle M'James*, who wer appointit to remane in Cara, for keeping of the *Rebellis* veſchellis; he being on his way, as ſaid is, perſauit my Lord of Ergyle his forces of Lorne, ſailing towardis Gizza; and ſome of thame, haing gone in the bak ſyd of Gizza, maid ane onſett on the *Rebellis* who wer in Cara, bot wer preventit⁷ by ſome of the *Laird of Largy*'s his ſervandis, who perſauit my lord of Ergyle his forces going towardis Ergyle, quhair the *Rebellis* wer, and fet on grite beikynis⁸ to mak thame warr.¹⁰ The foirſaid Ila not being diſtant frome land above twa or thrie myllis of ſea, ʒit before the *Rebellis* could get away in thair botis, thair wer ſome of *M'Rannald* his men apprehendit and flane. *Coll M'illeſpik*, as ſaid is, being on his way to the Ile of Cara, was advertieit to be ſervand of the *Laird of Largyis*, that my Lord of Ergyle his forces had chaffit *M'Rannald* and thoſe that wer with him out of the Ile of Cara, and had plantit thame ſelfis thair; ſo he immediatlie was forcit to land in Kintyre. Some of the *Erll of Ergyle* his men, haing forgadderit¹¹ with him in his landing, killit a fyttene or ſaxtene of his men, and took his foure veſchellis frome him. My lord of Ergyle, the foirſaid day, ſend his forces of Conell and Ergyle, within twelf myles to the place quhair *Sir James M'Concill* and his complices wer; bot he being advertieit that my Lord of Ergyle his forceis wer coming, by ſea and land, vpon him, fled away to the *Ile of Raehlin*,¹² quhair he remanit twa nightis, and thairefter went to Ila. My Lord of Ergyle being advertieit thairof, and heiring that his Ma^{tie}'s ſchippis wer arryvit at the *Ile of M'acharnnik*, his Lordſchip went with his forces of Lorne and ſome of the men of Ergyle, who had thair veſchellis on that fyde of the Meane-land, towardis his Maieſties ſchippis; quhair he was ſtormeflayd for the ſpace of thrie dayis. And thairefter went to *Loddummes* in Ila, a harbour convenient for his Maieſties ſchippis to abyd in, and good for landing of his lordſchepis forces, out of the danger of

¹ Presented to the Privy Council by 'Archibald Campbell,' (Brother to the Laird of Lawers.) 'ſeruitour to Archibald Erle of Ergyle,' Nov. 23, 1615.

² Probably meant for *Dunoon*, of which the Duke of Argyll is ſtill nominally the Heritable Keeper. The *Dun* on which the ancient Caſtle ſtood is all that remains to point out its ſite.

³ Until. ⁴ Sir Dugald Campbell. ⁵ Cowell, a diſtrict of Argyll. ⁶ Some words appear to be omitted here,

ſuch as 'ſet for,' or 'laid in wait for.'

⁷ Fruſtrated. ⁸ Macdonald, anceſtor of Sir Charles Macdonald Luchhart.

⁹ Large beacons. ¹⁰ To make them aware; put them on their guard. Such beacons were uſually large fires placed on the tops of the higheſt mountains or eminences, and carefully fed with tarred wood, &c.

until answered from adjacent heights. ¹¹ Met; rencountered. ¹² Raehlin or Raehrin.

the enemy. Haueing flayed their twa dayis, for refresh- being of his men, and till he fould heir quhair *the Rebellis* wer, immediatlie being adverteit that *Sir James*, with his complices, wer in *the Riades of Ita*, and in a little Ile noir by, called *Ithamouffay*, *my Lord* maid oufet on thame, by sea; quhairin his lordschipis men wer preventit by some, who fet on beakynis in the *O of Ita*, quhairby *Sir James* was aduerted that my lord his forces wer comand on him, so as *Sir James, M'Rannald* and his fones, and *Sorle M'James* fled over that nicht to *Lochdubchele*, ane Ile on the coall of Ireland. *Coll M'Illeppik* haueing the keeping of the CASTELL OF DUNYVAIG and the ILE OF LOCHGORME, randerit thame bothe to the *Erll of Ergyle* and *Colin of Kilberrie*, quhome he had taikin captiue; and apprehendit *M'iphie*,¹ on of the principallis who followit *Sir James*, and deliuerit him to the *Erll of Ergyle*; and I haue presentit him this day before your Lordschipis, with vther fyve of *Sir James* his complices. Efter that the Castell of Dunyvaig and force of Lochgorme wer taikin in, *my Lord* apprehendit fyfteen of the principall men of Ita, who wer leadairis of the poore ones, to follow *Sir James*; whome he causit be execute thair. And haueing deliuerit the foirlaid Castell of Dunyvaig and the force of Lochgorme to the *Laird of Caddell*, his Lordschip come frome *Ita* in his Maiesteis schipis, and arryved in *Loch-itarrane*² on the sextene day of October last. His Lordschip no thooner come thair, than thair come on of the said *Sir James* his followaris who went with him to Ireland, and vndertook to bring come of my lordis seruandis to the place quhair he left the said *Sir James*; and gif he were not to be found thair, he was saire to find him in the toune of Galloway, in Ireland, in *Vallentyne Blak* his houte, or *Robert Blak* his houte, thair; two, who are alledged to be relettairis of *Jesuities*. *My Lord* being thus fairlie informit of the said *Sir James* his proceedingis, hes directit threttie of his men, in two onfettis, to Ireland, efter him. As to *Sorle M'James* and the twa and twenty that he had with him, thay ar in the *Route and Glenues of Ireland*:³ It is alledged that the sub-officer thair hes gevin thame promeis of protection for two monethis. As to *M'Rannald* and his fones, thay ar fled to *Loch-quhair*; and my Lord his forces ar in perfute of thame thair. As to *Glengarric* his sone, he is restit in his fatheris boundis, and my Lord hes some of his seruandis efter him. At my Lord his coming to Kintyre out of Ita, he apprehendit some of the principallis thair, who had followit *Sir James*, and those who maid warniing to the Rebellis of the *Erll of Ergyle* his forces coming to *Cara*. *Lykwyte* his Lordschip dismissit *Capitane Wood*, *Capitane Monke*, with his Maiesteis Schipis, and the Bark quhairin his Maiesteis camoun and munition wes, on the tent day of Nouember instant.

As alswa, the said *Archibald Campbell* gaif in the ARTICLES following, quhaironto he craved the saidis Lordis aduise and ANSWER; off the quhilkis Articlis and Answaris the temour followis.

ARTICLES and ANSWERIS.

FIRST, to inquire, gif your lordschipis thinkis it not ane sufficient exoneratioun to the *Erll of Ergyle*, that *Sorle M'James* is in Ireland, and hes tua monethes Respett,⁴ as is allegit?

ANSWER. *The Lordis thinkis that the Lieutenant hes done his dewtie, and fould be exonerat of Sorle M'James, gif he be in Ireland, as is alledged; seeing, his lordschipis Commissionis givis him nocht power to perseue Sorle M'James, in Ireland.*

SECUNDLIE, to enaue thair Lordschipis opinionis, gif thair Lordschipis thinkis it nocht sufficient, that gif *M'Rannald* his fones may nocht be apprehendit be *my Lord of Ergyle* his travellis, before my Lordis coming to the Commissionairis, that my Lord prove in quhais boundis thair haif had actual residence?

ANSWER. *Gif M'Rannald and his fones can nocht be had afore the Lieutenants coming heir, gif the Lieutenant will verifie and prove quhair and by quhome they are restit, and within whose boundis thair haif thair actual residence, he dois his dewtie, in that point.*

THRIDLIE, to inquire thair Lordschipis, gif *Glengarric* will nocht be obleigt for his sone, it being cleirlye provin, that he has actual residence within his fatheris boundis?

¹ M'iphie of Colonsay. The modern name is M'Fee. Mac-Sorle-Boye, mentioned in the Notice to this Trial.

² Loch-Kilkeran.

³ The property of Sir James

⁴ Respite.

ANSWER. *Glengarric willbe holdin to ansuer for his sone, it being prouin that he is reffct and hes his actual residence within Glengarrys boundis.*

FOURTLIE, to schaw thair Lordschipis, that *my Lord of Ergyle* findis the hail cuntrey people of KINTYRE, ILA, COLONSAY, JURA, and EIGA, guiltie in being in company, and beiring wapponis, and beiring with *Sir James Mcconell*, at suche tymes as he appointit; and in geving of meite, drink, and harborie to him, his followaris; and for the most pairt thay neur left *Sir James*, nather in KINTYRE nor ILA, vntill he was confynned to leive thame; yit *my Lord of Ergyle*, finding the nowmer so grite, and that thay alledgeit that it was throw jul feir that thay went with him, or schew him ony fauour; thairfoir my Lord hes put to the knowledgement of ane Allyfe, suche as had commandiement of companyis with him, who might haue done seruice on *Sir James* and his followairis, and haue left thame at thair pleafoure; and forbearis the rest, vntill he knaw the Commissionaris pleafoure; altho' the extremite of the law wald tak all thair lyveis.

ANSWER. *The Lordis ar of the Lieutenentis opinioun, concerning this Article; bot thay will first acquent the KINGIS MAIESTIE thairwith, and haue his Maiefties will and pleafour thairaunt, afore thay gif thair aduise to the Lieutenent.*

FYFTLIE, to schaw thair Lordschipis, that the CASTELL OF DUNYVAIG and the ILE OF LOCHGORME, being randrit to the *Earl of Ergyle*, he hes deliuerit thame to the *Laird of Caddell*; and deliuis THE COUNSALLIS allowance of the fame.

ANSWER. *At the comeing of the Lieutenent and of the Laird of Cadell heir, this Article fall refuse an ansuer.*

(SAXTLIE,) To schaw thair Lordschipis, that he who hes vndirtaikin to bring my Lordis servendis to the place quhair *Sir James McConell* hes residence in Ireland, thew my Lord, gif *Sir James* wer out of that place, quhair he houpit to find him, he wald fairlie be in the toune of Galloway, in Ireland, hudget ather in *Vallentyne Blakis* houfe, or in *Robert Blakis* houfe, for thay dwell in that toun—and has a certane sowe of money payit vnto thame, yeirlie, for refflaueing of Jesuitis; and *Sir James* had his moyen maid, that be thair meanis, he fould be transportit out of the cuntrey.

ANSWER. *The Lordis will wryte to the Lord Deputie of Ireland, concerning this Article.*

Treason — Breaking the King's Ward — Treasonable Murder, &c.

[JOHN, seventh LORD MAXWELL, of the ancient and distinguished family of Caerlaverock, and brother of the first Earl of Nithsdale, was a powerful but turbulent Border baron, and was one of those individuals, whom a daring and restless temperament, and their crimes, have 'damned to eternal fame.' He appears to have fallen a victim to an unhappy indulgence in those reckless and deadly feuds, which were alike the disgrace and the curse of the Scottish Nobles and gentry, for many centuries.

In order more clearly to comprehend the history and causes of his crimes, originating in disappointed ambition, to which at length Lord Maxwell fell a sacrifice, and account for the hereditary feud, which terminated in the perpetration of the disgraceful Murder for which he was eventually brought to the scaffold, it seems necessary to premise, that his father, John, sixth Lord Maxwell, Warden of the West Marches of Scotland, &c., had the address and fortune, shortly after the Execution of the *Regent Morton*, to obtain, as in right of his mother, *Lady Beatrix Douglas*, the Regent's second daughter, a Charter to the Earldom of Morton, Jan. 5, 1581. This grant he had also interest enough to get publicly ratified by Parliament, Nov. 19 thereafter. Lord Maxwell, however, did not long enjoy the title of Earl of Morton, and the domains annexed to it;—for, in Jan. 1585, the Attainder

was solemnly rescinded by Parliament,¹ and the title and estates were declared to revert to Regent Morton's lawful heir. Sir Walter Scott informs us,² that *the Laird of Johnstone* (John) was employed to apprehend Lord Maxwell, who had been declared his Majesty's rebel, on account of his Religion, &c. in 1585; and was entrusted with two bands of hired soldiers for that purpose, who were destroyed by the Maxwells. Johnstone himself was subsequently defeated and made prisoner, and his house of Lochwood taken and set on fire, 'that Lady Johnstone might have light to put on her hood!' This Laird³ shortly afterwards died of grief, in April 1586;⁴—and to these circumstances we must unquestionably ascribe the origin of the deadly hate between the two Clans, and especially between their chiefs.

Maxwell, thus baffled in his aspiring hopes, was speedily imprisoned on account of his religious tenets, and for his share in the above-mentioned outrages. He was afterwards liberated, on condition of leaving the country; and being strenuously attached to the Religion of the Church of Rome, he shortly left Scotland, in the highest disgust. Having proceeded to Spain, he instantly offered his services to 'His Catholic Majesty,' who had, about that time, commenced active preparations for his threatened invasion of England and Scotland, which he arrogantly intended to overwhelm and subjugate, by means of his '*Invincible Armada.*' There, Lord Maxwell matured his plans; and after being furnished with pecuniary assistance, and having received full instructions from his new sovereign, he returned to Scotland, in 1588, and immediately commenced to levy men on the Borders,⁵ where his influence was still indisputable. News of his Plot having reached Edinburgh, the most active preparations were made, and he was quickly surprised by the King in person, at Dumfries, made prisoner, and his Wardenship of the West Marches bestowed on his rival, *the Laird of Johnstone*, the son of the last Chief of that name, one of the most powerful of the lesser Barons on the Borders, and ancestor of the Noble family of Annandale.

SIR JAMES JOHNSTONE of that Ilk, the new Warden, besides being thus distinguished by the Royal favour, in being intrusted with so honourable and important an Office, was afterwards Knighted at the Queen's Coronation, in 1590. However, owing to some political reasons, and principally, the King's desire to conciliate his Roman Catholic subjects, by the display of a few popular acts of clemency, the Wardenship was restored to Lord Maxwell, on his submitting to certain reasonable conditions. The frequent transference of so envied a dignity, and that, too, upon powerful rival Chieftains, was unquestionably providing fuel to feed the fire of ancient jealousy, and more recent deadly feud, which had been rankling in the breasts of both parties, and only required the intervention of some such occurrence to be fanned into the fiercest flames.

Besides the occasional skirmishes with the Maxwells, it appears that the Johnstones, as well as Lord Maxwell, had given assistance to the Earl of Bothwell, in his numerous daring attempts in 1592, &c. It is probable that, on this account, Sir James had been warded in the Castle of Edinburgh, either for his own personal conduct, or as responsible for his Clan, and for failing to give security, &c. Nevertheless, it is certain, that (from whatever cause he was confined) he contrived to make his escape from the Castle, Jan. 4, 1693.⁶ Through powerful mediation, the rival Chiefs were induced to enter into mutual alliance, and bound themselves to support each other in all their lawful quarrels. On the faith of this, the Clan of Johnstone concluded they had little to apprehend from the *justice* of the new Warden, provided they did not plunder any of the name of Maxwell. They accordingly made a descent upon Nithsdale, where they committed sundry depredations on the Lord Sanquhar, the Lairds of Drumlanrig, Closeburn, and Lagg, and killed eighteen persons, who had 'followed their own goods.' Counting upon the hereditary enmity subsisting between the two names, a Commission was given to Lord Maxwell, who was instructed to pursue the Johnstones with all hostilities. Being

¹ *Acta Parl.*

² *Tales of a Grandfather*, 2d Series, I. 93.

appointed Warden of the West Marches and Justice in 1570.

³ *Wood's Peerage*, I. 73.

⁴ *Wood's Peerage*, I. 73.

⁵ *Robertson's*

Hist. II. 357. *Redpath's Border Hist.* 672. *Moyse's Memoirs.*

⁶ See this Collection of Trials, I. 359.

informed of this, Johnstone obtained assistance from Annandale, and was joined by the Scots of Teviotdale, the Grahames and Elliots of Eskdale; and besides, according to the Records of the Privy Council,¹ 'diuers Englishmen, treifounable brocht within this realme, armed in plane hostilitie,' &c. On the other hand, Maxwell, contrary to Law, entered into 'Bonds of Manrent' with the Lord Saugubar, Drumlanrig, and others who had been pillaged by the Johnstones, wherein they bound themselves to maintain each other's quarrels; so that each party thus possessed a large force.

MAXWELL, in his capacity of Warden, and also as holding the King's special Commission, summoned the Laird of Johnstone to surrender; which he refused, on the ground of the illegal bonds into which Maxwell had entered. The Warden, therefore, without further parley, sent forward Captain Oliphant with some troops, to Lochmaben, to await his arrival in Annandale; but the Johnstones, marching suddenly upon them, killed the Captain and a number of his soldiers, and set fire to the Parish Kirk of Lochmaben, whither a number had fled for shelter, but were thus forced to surrender. In revenge, Lord Maxwell, intending to raise the inhabitants of the different towns in his aid, as his Majesty's Lieutenant, entered Annandale; but Johnstone, having obtained early information of his motions, suddenly attacked him, and overthrew his forces, and slew Lord Maxwell 'and sundrie Gentlemen of his name.'² This fatal affair took place, Dec. 7, 1593, and is well known by the name of THE BATTLE OF DRYFFE SANDS, having been fought close by the river of that name, near Lochmaben. Archbishop Spotswood remarks, 'The Lord Maxwell, a tall man and heavy in armor, was in the chafe overtaken and striken from his horse. The report went, that he called to Johnstoun, and desired to be taken,³ as he had sometime taken his father; but was unmercifully used; and the hand that he reached forth cut off; but of this I can affirm nothing. There always⁴ the Lord Maxwell fell, having received many wounds. He was a Nobleman of great spirit, humane, courteous, and more leaured than noble-men commonly are; but aspiring and ambitious of rule.'⁵

The issue of the Conflict of DRYFFE SANDS, or battle, as it may almost be termed, (for Maxwell had above two thousand men on his side, and it is stated that Johnstone had not quite so many,) was evidently accomplished by manœuvre. Johnstone sent 'forth some prickers to ride and make provocation,' after the Border fashion, which succeeded in drawing out a number of the other side, 'who, encountering with a great company, were beaten and chafed back to the stall or main holl; which, by their breaking in, was wholly disordered. Johnstoun, that stood on a piece of high ground, beholding the issue of the skirmish, took the advantage of their confusion, and breaking upon them, without any resistance made, put them all to flight.'⁷ The Maxwells suffered very severely, and in their retreat great numbers perished. They were pursued through the streets of Lockerby, where they were cut down in scores. Those who escaped bore on them, to their dying hour, marks of this fatal day, which occasioned the proverbial phrase of 'a Lockerby lick,' to denote a frightful gash over the face or skull. So dreadful was the carnage in this disastrous Conflict, that not fewer than *Seven Hundred* of the Maxwells and their adherents were slain! The routed enemy were pursued as far as the Gotterby-ford of the *Annan*, where many were drowned.⁸ It is worthy of remark that there still exist, in the Holm of Dryfe, about half a mile below the old Church-yard of Drysdale,⁹ two very aged Thorn-trees, with a tumulus at their base, called *Maxwell's Thorns*, evidently in commemoration of the fight, and probably marking the place where he fell.

It is evident, then, according to the sentiments of those times, imbibed from their earliest years, which

¹ See *Trials*, I. 305. ² *Ibid.* and I. 360. *Matj. Annals*, p. 57. *Balf. Ann.* I. 394. *Birrell's Diary*, p. 19.

³ Viz. called or begged for quarter.

⁴ Formerly or previously granted quarter to Johnstone's father, by taking him prisoner, instead of putting him to death.

⁵ At all events; nevertheless.

⁶ *Spots. Hist.* 407.

⁷ Whatever opinion may be entertained of the treasonable conduct of Johnstone, in thus openly resisting the King's Lieutenant, merely because he happened to be his personal enemy, it is impossible to withhold admiration at the masterly manner in which this skirmish was conducted, which showed military talents of a very high order.

⁸ *Statistical Account*, IX. 424.

⁹ Q. d. *Dryfe's-dale*.

'grew with their growth, and strengthened with their strength,' that natural duty and filial piety required such a feud should become hereditary, and behoved to be handed down from one generation to another! The attempts by the King and his Council to procure an effectual reconciliation, although strenuously made and often repeated, at length proved abortive. The re-appointment of the Laird of Johnstone to be Warden of the West Marches, in 1596,¹ appears to have served as a signal for the resumption of immediate mutual aggressions. Birrell records 'an feicht or combat betuix the Laird of Drumlanrick and the Laird of Johnstoun and thair affilliteris,' Jul. 13, 1597;²—that, on May 27, 1598, 'the Laird of Johnstoun his pictor (was) hung at the Croffe (of Edinburgh) with his heid domwart, and declarit ane manfworne man; and upone the 5 of Junij, he and hes complices wer put to the horne and promuncit rebellis at the Croffe, he opin Proclamation.'³ This gossiping Chronicler farther informs us, that, on Jul. 2, 1600, he was 'retorrit to hes honours, at the Croffe of Ed', be the Proclamatione of a Herald and four trumpettis.' It is likely that Sir James Johnstone did not long retain the Wardenship at this time; for, as may be seen in a former part of this Collection,⁴ Thomas Armstrong, 'fon to *Sandies Ringane*,' was condemned to be hung in chains, &c. for the Murder of Sir John Carmichael of that ilk, Warden of the West Marches, in the month of June, 1600. How long Sir John had filled that office has not yet fallen within the Editor's observation. From the above announcement by Birrell, that Johnstone had been 'retorrit to his honours,' it may be inferred that he succeeded Sir John Carmichael, and once more held the ill-fated dignity of Warden of the West Marches.

The principal parties, as well as their dependents and kinsmen, lived at such mortal and bloody feud, and the peace of the country was so much disturbed, that mutual friends, for their own personal safety and comfort, suggested the expedient of an amicable and private meeting between Lord Maxwell and Sir James, for finally arranging all their differences. At length, they were prevailed upon, under solemn pledges, to meet at a particular spot, each having one attendant, on Apr. 6, 1608, when the principals, with Sir Robert Maxwell of Orchardton, (Sir James's brother-in-law,) as a mutual friend, having removed to some distance, to converse apart, a quarrel arose between the two attendants. Sir James, having turned about to separate them, or to admonish them to keep the peace, Lord Maxwell suddenly and traitorously drew his pistol, fired at him, and shot him through the back with two bullets. There is some reason to suspect that this rencontre between the attendants had been plotted by Lord Maxwell, and arranged before the parties came upon the ground. From the evidence adduced, it is evident that no provocation was given, but that Maxwell, without any previous intimation, drew his pistol, and instantly shot Johnstone dead.⁵

The perpetration of *treasonable Murder*, as 'Slaughter under trust' was then termed, was one which, in any circumstances, but especially in such a country as Scotland, at the beginning of the seventeenth century, could not be pardoned. Accordingly, notwithstanding Lord Maxwell's great connexions, (having married Lady Margaret, only daughter of John, first Marquis of Hamilton, and being related to many of the principal nobility of the kingdom,) the strictest search was made, and Lord Maxwell was at length committed to ward, in the Castle of Edinburgh.

His admirably contrived, and boldly executed, escape from this fortress, is fully detailed in the Appendix to this Trial. He was denounced rebel for breaking his Majesty's ward and failing to underlie the law for the treasonable Murder of Sir James Johnstone. After this, his lordship took refuge abroad, where he remained till 1612, when he returned to Scotland; but so hardly was he pressed, in the Borders, that he had instantly to prepare for embarkation to Sweden. His kinsman, *George, fifth Earl of Caithness*, dissuaded him from this project; and easily prevailed on him to accept of his pro-

¹ *Rymer's Fœdera*, XVI. 60 D.

² *Birrell's Diary*, 41.

³ *Ib.* 46.

⁴ Vol. II. 363, Nov. 4, 1601.

⁵ *Ib.* 49.

⁶ For a number of extremely interesting and minute particulars, the reader is referred to *Tales of a Grandfather*, Second Series, which the Editor had not had the advantage of perusing, until this Notice was written. The difficulty of procuring minute and authentic information on such points of history is best known to those who have made the attempt; and even after the most laborious research, the most anxious enquiries often prove fruitless.

tection. He lured him to Castle Sinclair, under the pretence of affording him shelter and secrecy until he could conveniently prepare for his voyage. The real motive of this treacherous Noble, however, was, that he might obtain favour at Court,¹ by delivering up so great an offender.

The Countess of Caithness, (*Lady Jean Gordon*, only daughter of George, fifth Earl of Huntley,) who was Lord Maxwell's cousin, and greatly interested in his safety, was likewise deceived by her husband, who had told her that a report was spread abroad that it was already known at Court that Lord Maxwell was in hiding in Caithness; and that it was necessary, for their mutual safety, to set off for Edinburgh, to explain the matter; and thus, time would be afforded for Lord Maxwell's escape. The unfortunate Maxwell, then in poor health from his great exertions, was trained to leave Caithness, and pass through *Sutherland*, in order that he might be taken there; and thus spare the Earl the imputation of having so basely violated the laws of hospitality! But so anxious were his servants to execute their commission, that Maxwell was actually taken within the county of Caithness, conducted to Thurso, where Captain George Sinclair² was impatiently awaiting his arrival, and carried him back a prisoner to Castle Sinclair, where he had so lately been apparently a favoured and honoured guest.

By command of the *Lords of Privy Council*, Lord Maxwell was shortly afterwards delivered up: and was, upon May 21, 1613, beheaded at the Cross of Edinburgh. It may be gratifying to know that the Earl of Caithness obtained no reward for his most traitorous conduct;—but, on the contrary, his treachery served as a source of constant reproach to him and his family.

A variety of interesting DOCUMENTS are appended, which throw great light upon this matter, and upon the extraordinary state of the country at that period. If the Editor has been too minute or prolix, it is hoped that the singular interest and importance of this remarkable passage of History will prove his best excuse; especially, when it is considered that the previous materials were so very meagre and unsatisfactory.]

[*APUD EDINBURGH, JUN. 24, 1609, per Georgium Comitem Mariscalli, Virtute Commiffionis, de data apud Grenwiche, Jun. 6, 1609, et per omnes Regni status; vna cum Jacobo Stewart pro Mariscallo, Willelmo Hay pro Constabulario, M. Roberto Lermont pro Vicecomite de Ed', et Davide Lyndesfay, Adiudicatore.*]

JUN. 24.—JOHNNE LORD MAXWALL.

Sir Thomas Hammyltoun of Bynnie, knycht, aduocat to our souerane lord, productit, lykas he did diuerse tymes of befoir, ane summondis of Treaffoun, rafit and perfewit be oure souerane lord and be his hienes Aduocat, aganis John Lord Maxwell, to haue anfuert to the pointis of the said summondis and to the crymes of Treaffoun and lese-majestie contenit thairintill, the quhilk summondis, and reafones and cauffles thairin contenit, being first red in prefens of the Lordis of Artielis of this present Parliament, they fand the samyn summondis relevant: And thaireftir, this instant day, the samyn summondis of Treaffoun being red in

¹ In June, 1612, the Earl got in bad odour at Court by creating a broil on the High Street of Edinburgh, where he assaulted George Lord Gordon; and great slaughter might have been committed, but for the extreme darkness of the night, owing to which the parties could hardly distinguish their own friends.

² This person was bastard nephew to the Earl, and afterwards raised 150 men, and joined the unhappy expedition of Colonel Ramsay and Captain Hay, who had volunteered to assist the King of Sweden, in his war against the King of Denmark. 'They were all miserable cut in peeces by the bours,' in their journey thither through Norway.—*Gordon's Hist. of Sutherland*, p. 289.

prefens of the said lord Commiffionar and of the haill eftaittis of this prefent Parliament, the said Lord Maxwell, being thryle callit at the tolbuthe windo, to haue anfuerit to the said fummondis of Treaffoun; and compeirit nocht, the saidis haill Eftaittis fand the saidis fummondis, rafit be oure said fouerane lord and his hienes Aduocatt, aganis the said Lord Maxwell, and the haill thrie reffones and cauffes thairin contenit, and euerie ane of thame relevant: And thairfoir admittit the famyn to the said aduocattis probatioun. And immediatlie thaireftir, the said Aduocat, for preving of the pointis of the said fummondis of Treaffoun and haill reffones and cauffes contenit thairin, Repetit all the Depofitionis of the Witnelles, examinat befor the lordis of Artielis, and lordis of Secreitt Counfaill, of befor, ffor preving of the saidis haill thrie reffones and euerie ane of thame; togidder with diuerfe Actis of Parliament, lawes and conftitutionis of this realme, Sir James M'Concillis Convictioun¹ for brakng of waird flurth of the Caftell of Edinburgh: Lettre of Horning aganis the said Lord Maxwell, for nocht compeirance befor the Lordis of Secrete Counfaill, to anfuer befor thame, for his breking of waird furth of the Caftell of Edinburcht, for the Burning maid be him at Dalfeble, and for Slauchter of the LAIRD OF JOHNSTOUN; with diuerfe vtheris wryttis and probatiounes productit be the said lord Aduocatt, for preving of the foirsaid fummondis of Treaffoun, and haill thrie feneral reffones and cauffes contenit thairin, and euerie ane of thame; and renuncit forder probatioun: And thairvpoun the said Aduocat alkit Infrumentis. AND lykwayes, the said Aduocat productit, in prefens of the said lord Commiffionar and haill eftaittis, Lettres of Relaxatioun, beirand the said Johne Lord Maxwell to be relaxit, be James Dowglas, meffinger, fra the proces of all Horningis, at the marcatt croces of Lochmaben, and Dumfreife, vpoun the xv day of March 1609 yearis, and at the marcat croce of Edinbur², be Johne Moncur, meffinger, vpoun the xxiii day of Marche, the yeir of God abonewrittin: As at mair lenth is contenit in the saidis Lettres of Relaxatioun, fubferyuit be James Primrofe, clerk to the Secrete Counfaill, of the date the fext day of Marche laftbipafl, and regiftrat in the clerk of Registeris buikis, the xxij day of Marche, 1609 yearis: And vpoun the productioun of the saidis Lettres of Relaxatioun, the said Aduocat lykwayes alkit Infrumentis, and defyrit the said proces of Foirfaltour to be advyfit be the saidis haill Eftaittis.³

SUMMONS OF *TREASON and FORFEITURE*, &c. *againft John Lord Maxwell.*

JACOBUS, Dei Gratia, Magne Britannie Francie et Hibernie Rex, fideique defenfor; dilectis noftris Leoni Regi armorum, Ilay, Albanie, Rofs, Rothefay, Snawdoun, Merchemont, heraudis; David Bryfoun, Alexandro Dowglas, Jacobo Chahmeris et M. Willelmo Stewart, clavigeris; Ormont, Butte, Vnicorne, Carrik.

¹ See May 13, 1609, in the preceding Trial, Vol. III, 1, &c.

² See *Acta Parl.* 1609, 414.

figuiferis, nuntiis, et eorum cuilibet, coniunctim et diuifum, vicecomitibus noftris in hac parte fpecialiter conftitutus, Salutem. Mandamus vobis et precipimus, Quod fummeate legitime et peremptorie, coram teftibus, JOANNEM DOMINUM MAXWELL perfonaliter, fi eius perfonalem prefentiam commode habere poteritis; fin minus, per publicam proclamationem apud Cruces forales burgorum noftrorum de Edinbur' et Drumfreis, et apud Arces de Carlaverok et Drumfreis, et domicilia dicti Joannis Dominum Maxwell, ante fuam a legibus fugam et rebellionem; necnon apud portum vulgo lie *fehore and peire of Leith*, aliaque loca neceffaria, fuper premonitione fexaginta dierum, quia extra regnum noftrum Scotie effe exiftimatur; quod compareat coram nobis noftrone Commiffionario et Jufticiario ac regni noftri Scotie ordinibus, in Parlamento noftro apud Edinburgh, vel vbi nos dictumve noftrum Commiffionarium et Jufticiarium, ac dicti regni noftri ftatus pro tempore convenire contigerit, tenendo duodecimo die menfis Aprilis proxime futuri, hora caufarum, cum continuatione dierum, ad refpondendum nobis noftrone Commiffionario et Jufticiario, in prefato Parlamento; necnon ad infantiam dilecti et fidelis confiliarii noftri Thome Hammylton de Bynnies militis Aduocati noftri, pro noftro intereffe, pro ipfius Joannis nefarijs, fecleratis, et proditorijs Lefe Maieftatis criminibus infrafcritis, per ipfum et alios eius mandato, perfuafione, confilio, auxilio, et ratihabitione perpetratis et commiffis; ac quarum confcius, particeps, ars et pars fuit et eft: Necnon dictus Joannes Dominus Maxwell ad videndum et audiendum per nos noftrumve Commiffionarium et Jufticiarium, ac dicti regni noftri Scotie ordines, decerni fe crimina Lefe Maieftatis infrafcrita modo fubfequente commiffiffe, penafque illas conftitutas, vite, fcilicet, terrarum, et honorum omnium, mobilium et immobilium, dignitatum, officiorum, jurium, aliorumque omnium, infra dictum regnum noftrum ad fe pertinentium, vel que vilo modo ad illum fpectare vel pertinere poterunt, amiffionem incurriffe; ac dicta omnia bona, predia, terras, tenementa, officia, dignitates, jura, et commoda quecumque, illi infra dictum regnum noftrum competentia, vel que ad illum vilo modo fpectare poterunt, nobis Foriffeciffe; eaque ad nos pertinere et nobifcum in perpetuum remanere, juxta leges et Regni noftri confuetudinem; ob caufas et rationes fubfequentes. IMPRIMIS, quod non folum chariffimi quondam avi noftri Jacobi V. Regis illuftriffimi conftitutione, in Parlamento fuo, anno 1528 promulgata, fed etiam lege per nos in Parlamento noftro anno 1567 lata, cautum eft, quod quecumque homines infra domicilia fua comburunt, omnefque incendiarii edificiorum et frumentorum, omnefque alii voluntarii et maligni incendiarii, dictum crimen certo propofito et deliberato confilio committentes, Lefe Maieftatis rei erunt. Ac certum eft, quod dictus Joannes Dominus Maxwell, ab ipfa juventute ad contunaciam, rebellionem, legum et authoritatis noftre contemptum, tum natura et prava confuetudine deditus,

quum plurimis literis nostris, in annis 1598, 1599, 1600, 1601, et 1602, sub pena rebellionis ei imperatum fuisset, ut redditus prediorum futurorum de Duncow, Trive, Grange, et molendini eiusdem, que pars domini corone nostre vinit et annexate sunt, et per dictum Joannem Dominum Maxwell et predecessores suos tanquam emphiteutas feudifirmarios et tenentes nostros possessere fuerunt, persolveret: Necnon ut rationes nobis de aliis redditibus et taxationibus infra senescallatus nostros Vallis Annandie et Kircudbricht, predictis annis, multisque alijs precedentibus, nobis debitis, tanquam dictarum provinciarum et linitum Senescallus, ut ei ex officio incumbebat, nobis et nostris Scaccarii auditoribus redderet; et dictos redditus, decurias taxationes, aliasque pecuniarum summas, ubi deberat, sub pena rebellionis persolveret: Ac etiam, ut coram Consilij nostri dominis, per se, in dictis annis compareret, ad respondendum pro variis suis contemptibus, rebellionibus, carcerum nostrorum effractionibus, et violentis extra custodias nostras eruptionibus, aliisque delictis et maleficijs per ipsum commissis et perpetratis: Ille tamen, omnia nostra imperia et mandata pertinaciter contemnens, easque ob causas multasque alias rebelliones ad cornu nostrum existens, quo tamen omnem venie sibi a nobis spem precinderet, et flagitiosissimis criminibus extremas legum penas mereretur. . . die mensis Februarij, aut eocirca, anno 1602, comitatus Carolo Maxwell vocato de Kirkhous, Roberto Maxwell de Duuiddie, et alijs suis satellitibus et criminum socijs, ad numerum viginti hominum illegitime convocatorum, galeis, lanceis, loriceis, bombardis, sclopis, aliisque armis prohibitis munitorum, pro inveterato odio et malicia, diu ante per dictum Joannem contra quondam *Gulielmum Johnestoun* fratrem Wilkini Johnestoun de Elchefchellis, et *Joannem Johnestoun* fratrem Jacobi Johnestoun de Hilliebray, concepta, ob capitales inimicitias inter MAXWELLIOS et JOHNESTONES, accessit ad villam de Dalfibbill, infra parochiam de Kirkinichael et vicecomitatum nostrum de Drunfreis jacen.: ibique, per seipsum, dictosque Carolum Maxwell vocat. de Kirkhouse, Robertum Maxwell de Duuiddie, aliosque servos et socios suos, dictum Willelmum Johnestoun, in dicta villa de Dalfibbill quiete et pacifice degentem, nullasque iniurias, insidias, aut invasionem suspicantem, immaniter et maliciose aggressus, eundem infra habitationis sue domum in dicta villa de Dalfibbill fugavit; ut omnis salutis spes ei auferretur, dicti Willelmi domum, certo proposito et per industriam, proditorie incendit et flammis vastavit; cunque ignis violentia dictum Willelmum erumpere coegisset, crudeliter eum interfecit: Ac statim ad domum *Cuthberti Brattene*, in eadem villa existentem, accedens, eam pariter maliciose, crudeliter, consulto et deliberato animo, proditorie incendit; ac dictum quondam *Jacobum Johnestoun* vocat. de Briggis infra eandem vivum combussit; domumque dicti Cuthberti incendio penitus consumpsit. Eaque proditoria crimina ipsius Joannis Domini Maxwell consilio, mandato, auxilio, et rati-

habitione, perpetrata sunt; dictusque Joannes Dominus Maxwell eorum ars et pars, vulgo *airt and pairt*, fuit et est, et dictas penas Proditionis et Lese Maieftatis iisdem criminibus, de jure constitutas, subire et perferre debet. SECUNDO, quia per nos et dicti regni nostri Scotie ordines in Parlamento nostro vndecimo statutum est, quod Homicidium alicuius subditi nostri, quando is qui trucidatur existit sub fide, fiducia, assècuratione, et potestate occidentis, vulgo *under the trust, credit, assurance, and power of the slayer*, omne tale Murthurum et Homicidium impofterum committendum, Lese Maieftatis crimen erit; et qui illius criminis legitimo juris ordine convictus fuerit, vitam, terras, et bona omnia nobis forisfaciet: Atque verum est, quod dictus Joannes Dominus Maxwell, vndecimo die mensis Junii, aut eocirca, anno 1605, coram Dominis Secreti nostri Consilij, in gratiam et amicitiam cum quondam DOMINO JACOBO JOHNSTOUN de *Dunskellie* milite rediit, ac omnium preteritarum inimicitiarum oblivione sancte promittens, in signum sincere reconciliationis et future amicitie fidem, et dextram ei dedit, et ab omni iniuria, damno, invasione, et periculo, a se, parentibus, affinis, amicis, clientibus, seruis, aliisque omnibus assistentibus suis, impofterum inferendo, se dictum quondam D. Jacobum saluum et incolumem prestitarum, magno interposito sacramento, promisit; et Reconciliationis literas, vulgo *ane Letter of Slaynes*, manu sua signatas, ad premissorum testimonium et confirmationem dedit: Quarum fiducia illectum, dictum quondam D. Jacobum, quum negligentius et incautius se gerere dictus Joannes Dominus Maxwell intelligeret, summa fedissime vindicte cupiditate flagrans, consilium cum dicto Carolo Maxwell vocato de Kirkhouse, in mensibus Martio et Aprili proxime preteritis, iniit, quibus potissimum dolis dictum quondam D. Jacobum Jolnestoun in insidias pertrahere et proditorie occidere possit: tandemque concluderunt D. Robertum Maxwell de Spottis militem, nominibus vtrique charum et fidum, ad dictum D. Jacobum in insidias pertrahendum maxime idoneum futurum; ideoque vocato ad se dicto D. Roberto, dictus Joannes Dominus Maxwell diligenter cum eo egit, vt dictum quondam D. Jacobum ad colloquium ad se pertraheret, vt et arctiorem amicitiam et familiaritatem contrahere, et dicti D. Jacobi opera criminum suarum veniam obpredictarum rebellionum, multarumque aliarum, propter Literarum nostrarum in annis 1603, 1604, 1605, 1606, 1607, et 1608, contra se, sub pena rebellionis et ad cornu nostrum denunciationis, directarum contemptum, a nobis obtinere possit: Quod quum dictus D. Robertus revera expeti existimaret, dicti Joannis hortatu. fide prius ab eo data, congressum dum tutum et regressum pacificum et indemnem futurum, cum dicto quondam D. Jacobo sepins egit, eidemque tandem persuasit vt dictum Dominum Maxwell vno tantum comitatus amico, se arbitro, ad effectum predictum pacifice conveniret, sancte promittens, nomine et mandato dicti Joannis Domini Maxwell, accessum et recessum ei securum, tutum, et incolumem

futurum ; quibus adductus persuasionibus et promissis, dictus quondam D. Jacobus, sexto die mensis Aprilis ultime elapsi, accito secum *Gulielmo Johnestoun* vocato *de Lockerbie*, gladio, sine vllis alijs armis, accinctus, dictum D. Robertum Maxwell fecutus ad moram inter Arthurslane et Traillflat pervenit, vbi duos equites adventum suum operientes percepit, dictique D. Roberti hortatu paulatim in eo loco substitit, donec D. Robertus progrediens dictosque duos equites Joannem Dominum Maxwell et Carolum Maxwell vocat. de Kirkhous esse perspicuus, adduxisse se dictum D. Jacobum Johnestoun ad destinatum colloquium declaravit, a dicto Domino Maxwell jurisjurandi privs dati, pro dicti D. Jacobi et Gulielmi Johnestounes incolunitate, salvoque et tuto accessu et recessu a dicto colloquio. renouationem exegit ; et Dei nomine et Numine interposito, a dicto Domino Maxwell pro seipso et dicto Carolo Maxwell obtinuit : Sicque dictum quondam D. Jacobum Johnestoun, tot promissis et juramentis fidentem, ad locum colloquio destinatum ad dictum Dominum Maxwell aduxit, et mutua data et accepta, vt inter amicos fieri solet, salute, detectis capitibus congressi, dicto Carolo Maxwell et Gulielmo Johnestoun imperarunt vt seorsum subsisterent, ipsique ad colloquium ita progressi sunt, vt, D. Roberto Maxwell medio, vnus ei ad dextram, alter ad sinistram obequitaret : Dumque de rebus ob quas convenerant pacifice et vti videbatur amanter colloquerentur, dictus Carolus Maxwell, ita vti prius inter eum et dictum Joannem Dominum Maxwell convenerat, ad dictum Willelmum Johnestoun, contra quem constitutum erat. accessit ; et vt discordie et rixe ansam nasceretur. adeo ingratum sibi illum congressum esse affirmavit, vt si illius causam prius intellexisset, ei se haud assuturum profiteretur. Respondenti vero Gulielmo, sperare se colloqui illius finem dictis nobilibus viris amicisque et clientibus eorum gratum et vtilem futuram : Id fieri non posse Carolus asseruit, dictumque D. Jacobum, omnesque alios Johnstones, latrones et proditores vocavit. Gulielmus autem, ne sua culpa discordie initium preberetur, dixit se quamlibet iniuriam passurum, potius quam duorum colloquium disturbaturum ; et quamvis, tanta dicti Gulielmi patientia frustratus, Carolus nullam pugne occasionem inveniret : Illud tamen quod prius intenderat omnino peracturus, dictum Gulielmum, nec verbo nec facto prouocatus, crudeliter et proditorie parato seipso invasit, et pallium et vestes eius duobus globalis transfudit ; cuius fragore, et Gulielmi voce proditorie vim vite sue inferri clamantis, turbatus quondam D. Jacobus Johnestoun, ab eo se convertens, et que tam fedi facinoris causa esse rogans, dictus Joannes Dominus Maxwell, a tergo, dicto quondam D. Jacobo Johnestoun, nil tale metnenti, imminens seipso, quem sub palio clam paratum habebat, in dictum D. Jacobum, proditorie directo, per humerum duobus glandibus plumbeis venenatis¹ in corpus et

¹ This circumstance of the two lead BULLETS having been previously POISONED, is a very strong fact against Maxwell ; and if borne out by the evidence, satisfactorily proves the deadly intention of

vitalia eius addictis, eum inhumaniter, crudeliter, fede, et proditorie occidit; ac sub fide, fiducia, affecuratione, et potestate sua, vulgo *vnder his truſt, credit, affurance, and power*, trucidavit; contra fidem datam et amicitiam initam coram dictis Conſilij noſtri dominis, et dieti D. Roberti Maxwell, intervento ſepius juramento, per dictum Joannem Dominum Maxwell renovatam. QUORUM criminum dictus Joannes Dominus Maxwell eſt conſcius, et particeps, ars et pars; ideoque penas Leſe Maieſtatis iis jure conſtitutas, vt antea dictum eſt, ſubire et perferre debet. TERTIO, quia, tam Communi gentium omnium quam Civili Romanorum Jure, et regni noſtri Legibus ſtatutum, et vltra omnem memoriam recepta et approbata conſuetudine obſervatum eſt, eum qui Maieſtatem publicam leſerit, cuiusve opera, conſilio, dolo, malo, conſilium initum eſt, quo quis contra Rempublicam arma ferat, aut qui Leſe Maieſtatis reum in vincula conjectum dimiſerit, Maieſtatis teneri: Ac vero manifeſtum eſt, dictum Joannem Dominum Maxwell, in Arcem Edinburgenam, quia noſtris Conſilii noſtri mandatis obtemperare pertinaciter recuſauerat, in cuſtodiam miſſum, conſilium cum JACOBO M'CONNELL *de Dunyreg milite*, in eadem Arce, ob multa Leſe Maieſtatis et Proditionis crimina in vinculis detento, inſiſſe; quibus potiſſimum rationibus de dicta cuſtodia violenter et proditorie, in Maieſtatis noſtre manifeſtum contemptum et leſionem, erumperent, et aſſito in ſceleris conſcientiam dicto ROBERTO MAXWELL *de Dunwidie*, conſpiraffe, ereptis cuſtodum armis illis, ſibi exitum e dicta Arce per vim proditorie parare; quod vt facilius perfecerent, . . . die menſis Decembris, anno 1607, ad hilariorem et liberiorem computationem nouitatis, invitatis cuſtodibus, gladiiſq. illorum per vim ereptis, ipſos deinde cuſtodes in cubiculum obſeratum inermes incluſerunt, et ad interiorem diete Arcis januam armati accedentes *Alexandrum Strutheris* ejus cuſtodem, quia pro ſua in nos fide eos exitu prohibere conatus eſt, multis vulneribus, in capite, brachio, manu, alijsq.ve corporis partibus, faucium et prope exanimem proſtraverunt; et ob parem cauſam *Margareta Philop*, vxore eius, barbare et crudeliter etiam vulnerata, per dictam januam interiorem ad mediam Arcis portam pervenerunt, vbi *Archibaldum Cunyng-hawe* illius cuſtodem, claves tradere recuſantem, proditorie etiam inuaderunt, et in brachio crudeliter vulnerato claves ei violenter eripuerunt; et aperta per vim porta proditorie erumpentes, muro qui Portam vrbis Occidentalem pertingit tranſenſo, dicti Joannes Dominus Maxwell, et D. Jacobus M'Connell, proditorie et

Lord Maxwell, who, in appointing this meeting, had unquestionably predetermined the destruction of his rival. On the other hand, it seems clear that the Laird of Johnstone, his attendant, and Sir Robert Maxwell, their mutual friend, were only possessed of their side-arms, the distinguishing mark of a Gentleman at that period. It is well worthy of remark, that Sir Walter Scott relates, that 'while the gallant old knight lay dying on the ground, Maxwell rode round him, with the view of completing his crime; but Johnstone defended himself with his sword, till strength and life failed him.' It is unnecessary, here, to enter into any detail on these points, as such copious illustrations have been given in the Notice and Appendix to this Trial.

violenter aufugerunt ; donec fub Castellam noſtri et aliorum fidelium ſubditorum infequentium diligentia, captus et in carcere retractus eſt, dictus Jacobus M'Connell ; dicto Joanne Domino Maxwell celeri fuga euadente : Sicque, Joannes Dominus Maxwell Maieſtatem noſtram leſit, eiufque opera, confilio, dolo, malo, confilium inuitum eſt, quo arma contra nos per ſeipſum et dictos Jacobum dominum M'Conneill et Robertum Maxwell de Duuiddie lata ſunt, ac etiam dictum Jacobum M'Conneill militem Maieſtatis reum in vincula coniectum dimiſit, dictorumque omnium Leſe Maieſtatis criminum conſcius, et particeps, ars et pars fuit et eſt, et penas iis a jure conſtitutas ſubire et perpeti debet. ET PROPTEREA, dictus Joannes Dominus Maxwell ad videndum et audiendum, per nos, dictumve noſtrum Commiſſionarium et Juſticiarium, ac dicti noſtri regni Scotie ordines, decerni et ordinari, ſe, predicta Leſe Maieſtatis crimina, per ſeipſum et alios ipſius mandato et perſuaſione, confilio, auxilio et ratihabitione comiſiſſe et perpetrariſſe ; ac eorum conſcium et participem, vulgo *airt aud part*, fuiſſe et eſſe ; ideoque penas dictis Proditionis et Leſe Maieſtatis criminibus competentes ferre et ſubire debere, vite, ſcilicet, et honorum omnium, mobilium et immobiliarum, terrarum, tenementorum, dignitatum, officiorum, jurium, aliorumque omnium ad ſe ſpectantium, amiſſionem et conſiſcationem ; dictaſque terras, predia, bonaque omnia, mobilia et immobilia, dignitates, officia, jura, aliaque omnia ad dictum Joannem Dominum Maxwell ſpectantia et pertinentia, vel que ad illum ſpectare et pertinere vlllo modo potuerunt, nobis conſiſcari, ad nos pertinere et perpetuo nobiſcum in proprietate permanere : ET vterius, in premiſſis reſpondendum et juri parendum : Intimando dicto Joanni Domino Maxwell, quod ſiue, dictis die et loco, cum continuatione dierum, comparuerit, ſiue non, nos tamen dictuſue noſter Commiſſionarius ac Juſticiarius, et dicti regni noſtri ordines, in premiſſis, juſticia mediante, procedemus et procedent. Inſuper ſummonueatis ad comparandum coram nobis, noſtroue Commiſſionario ac Juſticiario, et dictis regni noſtri ſtatibus, in dicto Parlamento, dictis die et loco, hora cauſarum, cum continuatione, ad perhibendum fidele teſtimonium in premiſſis, ſub pena legis : Et preſentes literas debite executas et indorſatas earundem lateri reddatis. Et vos qui preſentes executi fueritis ſitis ibidem dictis die et loco, cum continuatione dierum, coram nobis dictoue noſtro Commiſſionario et Juſticiario, ac tribus regni ordinibus, portantes vobiſcum veſtre ſummonitionis teſtimonium, in ſcriptis, pro premiſſis aut ipſos teſtes. Ad quod faciendum, vobis et veſtrum cuiſlibet, coniunctim et diuiſim, vicecomitibus noſtris in hac parte, noſtram plenariam virtute preſentium committimus poteſtatem. Datum ſub teſtimonio noſtri magni Sigilli, Apud Edinbur' vigeſimo ſexto die menſis Januarii, anno domini milleſimo ſexcenteſimo nono, et regni noſtri annis quadrageſimo ſecundo et ſexto.

THE quhilk ſummondis, with the executiones and indorſationes thairof,

being this instant day red, in presens of our fouerane lordis Commissiounar and Estaittis of Parliament, first in Latine and thairefter in Scottis, the said Johne Lord Maxwell, being oft tymes callit of new at the tolbutth window of the said burcht of Edinburcht, to haue compeirit, &c. And he nocht compeirand to haue defendit in the said mater, and to haue answertit to the said summondis, the said Sir Thomas Hammyltoun of Bynnie, kuy^r, Aduocat to our fouerane lord, desyrit the saidis Estaittis declaratioun, gif the ressones of the said summondis wer relevant aganis the said Lord Maxwell. The quhilkis Estaittis fand the said summondis, and the ressones and causses thairin contenit, and euerie ane of thame relevant. Thairfor the said Aduocat, of new, for preving of the foirsaidis thrie ressones and euerie ane of thame, beirand and contenaund as is abone writtin, repetit all the Depositiounes of the Witneffes, examinat befor the saidis Lordis of Articlis, and Lordis of the Secrete Counsaill, respectiue, with diuerse Actis of Parliament, Lawes and constitutiounis of this realme, Sir James M'Conneillis Convictioun, &c. with all vtheris wryttis and probatiounes producit of befor, this instant day, be the said Aduocat, for preving of the foirsaidis summondis of Treaffoun, and hail thrie ressones and causses contenit thairin, and euerie ane of thame; and desyrit the saidis Estaittis of Parliament to advyse the probatiounes foirsaidis led and deducit in the said mater, and to pronunce thair Sentence of Parliament thairintill, according to the samin probatiounes, and thair consciences: And thairefter, the hail wryttis, Depositiounes of Witneffes and probatiounes being red, sene, and considerit be the saidis hail Estaittis of Parliament, and they thairwith being ryplie advyfit,

VERDICT. The saidis Lord Commissiounar and Estaittis of Parliament, findis, decernis and declaris, that the said Johne Lord Maxwell Committit and did oppin and manifest Treffoun, in all the pointis, articlis and maner contenit in the said Summondis: And thairfor, it wes gevin for dome, be the mouth of David Lyndsay, dempster of Parliament, in maner and forme as followes:

SENTENCE. This Court of Parliament schawes for law, the said **JOHNE LORD MAXWELL** to haue committit and done all the foirsaidis crymes of Treaffoun and Lefemajestie, be him self, and vtheris of his causing, command, assistance and ratibabitoun, aganis oure said fouerane lord and his autoritie; and that he is and wes giltie and pairtaker, airt and pairt, of the samin crymes of Treaffoun; all in maner at leuth contenit in the ressones of the said summondis: And thairfor, Decernis and Declairis, that the said Johne Lord Maxwell aucht and fould vnderly and suffer the paynis competent to the saidis crymes of Treaffoun and Lefemaestie, to wit, the tynfall and confiscatioun of his lyfe, and all his guidis, moveable and vnmoveable, landis, tenementis, digniteis, offices, richtis, and all vtheris thingis belonging to him; and all the saidis landis, rowmes, and all guidis

moveable and vnmoveable, digniteis, offices, richtis, and all vtheris belanging and perteing to the said Johnie Lord Maxwell, and quilkis may ony way belang and pertene to him, to be confiscatt, to pertene to our said souerane lord, and to remane with his Maiestie for eur in propertie. And this I gif for dome.

APPENDIX OF ORIGINAL DOCUMENTS, ILLUSTRATIVE OF THE TRIAL OF JOHN LORD MAXWELL.

I. DEPOSITIONS taken before THE LORDS OF PRIVY COUNCIL, relative to the *Escape of LORD MAXWELL and SIR JAMES MAKONEILL from the Castle of Edinburgh.*¹

(1.) DEPOSITION of *Archibald Cunynghame, Master Porter of the Castle of Edinburgh.*

At the Castell of Edinburgh, the xv day of Januar, 1608.

ARCHIBALD CUNYNGHAME, Maister porter of the Castell, fworne and demandit what he knawis of the mater foirsaid of the breking of Warde? Deponis, that he, being sittand in his chalmere in the yett,² he fend his boy to haue fetchet him a drink: In the meantyme, Williame Maxwell of Kirkhous come to the deponer and desyrit him to oppin the yett; and that immediatlie the Lord Maxwell him self come and cryed, 'fals knave, oppin the yett!' And the deponer refuseing, and begynnand to haue spokin to the Lord, he cryed agane, 'fals knaif, oppin the yett!' And with a drawin sward gaif the deponer ane greit fraik vpoun the arme; and mynting³ again to haif struckin the deponer, he wes slayed be Williame Maxwell of Kirkhous, who threw the keyis frome the deponer, efter that he wes hurte, and oppynit the yett. And deponis, that the Lord Maxwell wald haif slane the deponer, wer nocht he wes slayed be Williame of Kirkhous.

(2.) DEPOSITION of *Alexander Struthers, Porter of the Castle of Edinburgh.*

ALEXANDER STRUTHERS, Porter, fworne and examinat vpoun his knowlege of the interprise foirsaid, deponis, that Williame Maxwell of Kirkhous come to the yett,⁴ and cryed, 'Porter, oppin the yett, and latt me oute!' And the deponer having oppynit the yett, Williame Maxwell past oute,⁵ and then patt his bak to the wicket of the yett, to haif slayed the deponer fra closing of it: And the deponer preading to haif cloist the yett, the Lord Maxwell and Sir James Makoneill and Robert of Dynwyddie come to the yett; and the Lord Maxwell, with a drawne sward, fraik the deponer vpoun the hand, and Sir James gaif the deponer ane fraik with ane sward vpoun the heid: And thay haueing past oute at that yett, the deponeris wyffe meiting with thame betuix the yettis, and trying to haue releit the deponer, hir husband, the said Sir James gaif hir ane fraik vpoun the heid; and that scho refusede fundrie vther fraikis, bot knawis nocht who gaif thame.

(3.) DEPOSITION of *Sir James Makoneill, knight.*

At the Castell of Edinburgh, the xv day of Januare, 1608, &c.⁶

(4.) SECOND DEPOSITION of *Archibald Cunynghame, Master Porter of the Castle of Edinburgh.*

APUD ED⁷, xx Junij, 1609. WITNESSES producit be the Advoocat, for proving of the *Third Responne of Treffoun anent the Breking of Ward furth of the Castell of Edinburgh.*

ARCHIBALD CUNYNGHAME, Porter of the Castell of Edinburgh, of the aige of lxxij yeiris, or thair- by, deponis, that vpoun the fourt day of December, the yeir of God 1607 yeiris, this deponer for the tyme, about fyve horis befor supper, sittand in the myd Porter-hous of the Castell of Edinburgh, and

¹ The following Depositions are taken from the Originals, preserved in his Majesty's General Register House, Edinburgh. ² In the Guard house, at the inner gate. ³ Essaying. ⁴ Viz. the second gate, kept by the under Porter, or 'Keeper of the Inner-yett.' ⁵ As a visiter permitted to see his friends in ward. ⁶ See his Trial, May 13, 1609, Vol. III. page 10, where this Paper is given at length.

the key being in the wicket of the said mid-5ett, Williame Maxwell of Kirkhous cummis furthe of the Castell, and defyris this deponar to oppin the wicket; and as the deponar was villing to haif oppinit the said wicket, the Lord Maxwell come vponn this deponar with ane dravin fuerd, faying, ' Fals knaif! oppin pe 5ett, or ellis I fall hew the all in bladdis!' The deponar anfuert, ' Schanit theif! quhat ar ze doand heir?' And then the Lord Maxwell incontinent fraik at this deponar with his dravin fuord, and mwtilat him of his left arme; and gif the said Williame Maxwell had nocht favit the deponar from the said Lord Maxwellis furie, he had flane the deponar. Then the Lord Maxwell oppinit the wicket, and he and Sir James Makeoneill paffe furthe thairof, and pass to the veft Castell vall that gois to the West-poit of Edinburgh, and haveing elwne that wall, the said Lord Maxwell efchapit with faitht¹ flycht; and the Constable of the Castell, with vtheris keparis thairof, apprehendit Sir James Makeoneill, and brocht him bak agane and pat him in the irnis; and Williame Maxwell left the Lord Maxwell at the vtter 5ett, quhair he was lykwayis tane by the Constable; and hard nocht quhen Alexander Strutheris, kepar of the Inner-port, was forcit and hurt be the Lord Maxwell; and nevir hard any tumult quhill the Lord Maxwell come vponn him self.

(5.) SECOND DEPOSITION of *Alexander Struthers, Keeper of the Inner Yett.*

ALEXANDER STRUTHERIS, kepar of the Inner-5ett of the Castell of Edinburgh, of the aige of 1² 5eiris, or thairby, mareit, deponis, That vponn the ferd day of December, 1607 yeiris, this deponar, about fyve horis at night, sittand in the Inner-porter-hous of the Castell of Edinburgh, and haveing the keys of the Inner-5ett hyndand² vponn his arme, Williame Maxwell of Kirkhous, seruand to the Lord Maxwell, come to this deponar and defyrit him to oppin the 5ett, and the deponar haveing oppinit the inner weiket, and the said William haveing pass furth thairof, the said William stayit the deponar to cloife and loik the weiket of the Inner-5et, and in the mentyme of the stryiff, Johne Lord Maxwell, Sir James Makeoneill, and Robert Maxwell of the Tour, all thrie with dravin fuordes in thair handis, come to this deponar, and the Lord Maxwell with his fuord first fraik at the deponar, and cuttit his left hand: Thairefter Sir James M'coneill and Robert Maxwell, ilkane of thame, gaif him bluidie fraikis in his heid, and the deponar cryand ' Fy! Treffoun l' Margaret Philp, his vyiff, come furthe to help the deponar, (quha was lykvyis voundit be the foirfaidis perfonis,) and gat four bluidie fraikis in his bodie: And in the mentyme, quhill Robert Maxwell and this deponar war in gryppis and stryiff, the said Lord Maxwell and Sir James M'coneill pass furthe of the said Inner-5et, the quhill Inner-5et this deponar than lokit and held in the said Robert Maxwell, quha incontinent thairefter law the said Castell vall, and eshapit furthe thairof; and within ane hour thairefter this deponar saw Sir James M'coneill brocht within the said Castell be the Constable, quhair he zit remainis, lyand in irnis.

(6.) DEPOSITION of *Thomas Home, Constable of the Casyle of Edinburgh.*

THOMAS HOME, Constable of the Castell of Edinburgh, of the aige of 1x yeiris, or thairby, mareit, deponis, That vponn the said ferd day of December, 1607 yeiris, the twa Inner-portis of the Castell of Edinburgh being forcit and oppinit be the Lord Maxwell and Sir James MacConeill, efter that thai had hurt the tua portaris, and had loppin the wall about the Vest Port. This deponar, vponn the cry of the weehemen, followit thaim with diligence; and as he cam neir the Barres,⁴ certane men at the West Port tauld to this deponar, that ane of thaim that had brokin ward was lyand in ane meiddane,⁵ and had irnis vponn him: And thairefter this deponar brocht Sir James M'coneill bak agane to the Castell of Edinburgh, quhair he yit lyis in irnis. And the deponar saw the saidis tua Portaris bayth hurt, quhen he come in with Sir James M'coneill to the Castell of Edinburgh agane.

(7.) DEPOSITION of *William Symfons, souldier in the Casyle of Edinburgh.*

WILLIAME SYMSONE, ane of the fuldaris of the Castell, of the aige of xxvj yeiris, or thairby, mareit, deponis, that vponn the ferd day of December, 1607 yeiris, about fyve houris, befor supper, the Lord

¹ Hasty, precipitate.

² Fifty.

³ Hanging.

⁴ The *Hasitulum*, or ' Barras,' under the Castle, where, for a long series of years, the Tilts and Tournaments had been held. It was situated near what are still called the King's Stables, at the West Port of the city.

⁵ A *midden*, or dunghill.

Maxvell come to Sir James M'conceillis chalmere to pas his tyme, according to his cutlome; quhair war present, for the tyme, the Lord Maxwell, Sir James, Young Cloitburne, Robert Maxwell of the Tour, William Maxwell of Kirkhous, William Armitrang of the Gungillis; and efter that the Lord Maxwell and his colligis had marchit throuche the chalmere, be way of paityme, for the tyme, he come to this deponar, quha than was speciall kepar of Sir James M'conceill, and having put his hand within this deponaris fuord gardis, preiflit to haif drawin the famin, bot being impedit be this deponar, the Lord Maxwell tuik from William Maxwell his quhinger, and held the famin to this deponaris breill, fuering with ane great ayth, that gif he lat nocht the fuord cum, he fuld rik him with that quhinger. Then this deponar, for feir of his lyiff, deluerit his fuord with the feabert to the said Lord Maxwell, and thairefter the Lord Maxwell come to James Stewart, his awin keper, and William Armitrang, and tuik from thame ilkane of their fuordis; and gaif ane of the fuordis to Sir James M'conceill, the vther to Robert of the Tour, and kept the thrid to him self, vterand thir wordis, 'All gud fellowis that luitis me, follow me! For I fall ather be furthe of the Castell jis nycht, or ellis I fall loife my lyiff!' And then the Lord Maxwell and his colligis having patt furthe of the said Sir James chalmere, he cloit within the famin chalmere, Young Cloitburne, William Armitrang, James Stewart, and this deponar, and felchynit the famin dure with the catbunde, that thair mycht nocht oppin the famin; saying, he vowit to God, that, 'Gif ony of them fuld cry, he fuld cum bak agane and tak thair lyiffis!' And this deponar having maid the dure fast within, cryit furth at the Southe vyndow towartis the West Port, 'Trefloum! Trefloum!' And be that cry the men of the West Port come and apprehendit the said Sir James M'conceill.

(8.) DEPOSITION of *William Armitrang in the Chengillis.*

WILLIAM ARMSTRONG in the Chengillis, of the aige of xxx yeiris, or thairby, deponis conformis immediate preceden. *Gulielmo Symfoun, in omnibus; reddens eandem causam scientie;* becaus that famin nycht that the Lord Maxwell and Sir James M'conceill patt furthe of the Castell of Edinburgh, this deponar was present in Sir James M'conceillis chalmere, in cumpanie with the Lord Maxwell and remanent peronis foirfaidis, all myrrie be drinking of wyne. This deponar saw the Lord Maxwell tak the thrie fuordis from the foirfaidis thre peronis, and patt furthe of the dure, and clois the famin efter him, saying, 'Gif ony of thame cryit, he fuld tak thair lyiffis!' And this deponar was ane of thame that was cloit within the chalmere, be the Lord Maxwell; be reffonne that he refusit to acumpanie the Lord Maxwell, in breking ward.

II. DEPOSITIONS taken before the Lords of Privy Council, relative to the Treasonable Murder of SIR JAMES JOHNSTONE of that ilk.

(9.) DEPOSITION of *Sir Robert Maxwell of Spottis.*

AT Edinburgh, the xxvij day of Aprile, 1608, In presence of the Lords of Secrete Counsaill.

SIR ROBERT MAXWELL of Spottis, sworne and examinat vpon the forme and maner of the Slaughtering of the Laird of Johnstoun, and of the said Sir Robertis awne cariage and behaviour, in that mater: Deponis as followis: *Firff,* that the Laird of Johnstoun desyrit the deponar, being in his house of Lochwood for the tyme, to speik the Lord Maxwell, quhen he fand the oportunitie, to sie yf the deponar could mak a good in the materis betuix thame. To quhom the deponar anfuertit, that he wes a feiklie man, and had no credite at the Lord Maxwellis hand; becaus the Lord Maxwell haid evir a mistyking of him, becaus he maryed Johnstones suster. And deponis, that he said to the Laird of Johnstoun, that he had no will to mell in that turne, becaus it wes so weghtie a mater; and the Lord wes a perellous man to haif ado with! And denyis that evir he proponit that mater to the Lord Maxwell, in the Laird of Johnstones name, as having directioun from him. DEPONIS, that aucht or nyne dayis afoir the Slaughtering of the Laird of Johnstoun, the Lord Maxwell send Edward Maxwell,

fone to the Laird of Tynwall, to the deponer, to defyre him to 'come and speik with his lordship.' And the deponer, mislyking the messinger, refusit to gang to my Lord, saying that he stood in that estait that he nicht no weill speik with him. And yit the principall caus that movit the deponer to refusit to go with him, wes the mislyking of the messinger, fering that he fould reveill it. Thairefter, that fame day, the deponer fend Johnne Maxwell, his awin fervand, to my lord, to vnderstand his l. will and pleafour, and defyre his l. to schaw any thing he had to say to the said Johnne, als yf the deponer had bene present: And that my lord refusit to schaw any thing to Johnne, quhill he mett with the deponer him self; and willit Johnne to tell the deponer, that he defyrit to meitt with him at efter none. Quhairpoun the deponer raid to him to Kirkennane hill; and at thair meeting, my lord sayd to the deponer, 'Cofine, it wes for this caus I fend for 5ow. 5e fee my estait and danger I stand in; and I wald crave 5our counfell and advise, as ane man that tenderis my weill.' To quhom the deponer anfuert, that the mater wes so far past, as hardlie could he gif his l. ane counfall; and gif he laid a counfall, he wald gif him the best he could. The deponeris opinioun wes, that he fould keipe him quiet, and do no thing quhill nicht offend the Kingis Maiestie farder nor he had done; and that he wald move the noblemen, who wer his freindis at Court and Counfell, to report the best of him to his Maiestie and Counfell. And the Deponer sferit at him 'In quhat estait his l. and his nichtbouris, the Barones of the countrey, stood into?' His anfuwer wes, that he could not weill tell that him self. Vpoun thir speiches, thay fell in speiking with the Laird of Johnstoun; and my lord defyrit to gett him knowlege, yf the Laird of Johnstoun had bene ane platter aganis him, fen thair agreement? And quhat he nicht look for att his handis in tyme comeing? The Deponeris anfuwer wes, that he knew no thing of that mater, whill he had spokin with Johnstoun, or gottin his anfuwer, in wryte; and at that tyme he could not meete with him, because he wes to ryde to Edinburgh for some of his awne adois. And my lord defyrit the deponer to wryte in his awne name to the Laird, to vnderstand quhat certantie my lord nicht haif of him. And my lord promeit to fend to the deponer, in wryte, the headis quhairpoune the deponer fould forme his bill to the Laird, the nixt morning; quhill my lord did. And the deponer said to my lord, 'Yf this be a mater that 5our l. thinkis, in 5our hairte, 5e can tak vp and remett to the Laird, I will very willinglie travell in the mater and do the best I can; vtherwife, I defyre nocht to mell in it.' To quhom my lordis anfuwer wes, that of all evils the least wes to be tane, feing he had at the Kingis commandment done it alrede. Yf he saw ony willingnes in the Laird to do his dewytie to him, he wald willinglie pas it over, and if he ressaunt ane ressonable anfuwer of the Laird, he wald be content to meete with him, at ony convenient place: And promeit, that he fould keepe honnestlie, for his pairt and thefe that wer with him, providing it war kept quiet, for both their weillis. AND upoun the morne, the deponer ressaunt the headis in a Tickett sent to him to his awne houfe; quhairpoun my lord defyrit him to wryte to the Laird; quhill the deponer thinking mistie, the deponer wryte bak agane to my lord, and fend his Tickett cloit in bes awne Bill, schawing my lord that he wald not deale in that turne, quhill he spak with his lordship, and that he laid the Heidis mair cleirly fett down. Quhairpoun my lord wryte bak to the deponer, and defyrit him to meit his lordship at the Kirk of Butill: And the deponer comeing thair and missing my lord, and persaving some personis attending to meit his lordship, the deponer raid away, and wald not meit with him at that tyme; and left ane fervand to tell my lord that he laid bene thair, and wes riddin away: And that fame nicht, my lord caufit the deponeris man come bak to the deponer, and defyre him to meit him, about the setting of the fone, beyd the place of Butill, at the water fyd; quhill the deponer did: And the deponer asking of him quhat he meant be thefe Articles and headis he had sent vnto him? My lord anfuert, that he wes not a good wreater, and wald not commit the trust of this to ane vther; alwife, his meaning wes, that the deponer fould defyre the Laird to cleir him self that he had not bene a dealer aganis him in tyme bigane, and to lat my lord vnderstand quhat he nicht look for at his handis in tyme comeing. According to the quhill, the deponer wryte to the Laird, and gett his

anſwer within tua or thrie nichtis. AND deponis, that he promeit to my lord, yf his lordſchip wer in theſe fieldes, that he ſould gett his lordſchips ane (*own*) anſwer, and bring it to him; bot yf his lordſchip wes not in theſe fieldis, the deponer ſould be in Terriglis vpon Monunday thairefter, quhair my lord ſould find him. According to the quhilk, my lord appointit his man, Johne M'brair, to attend the deponer at Terriglis; and efter the deponer lichtit (*alighted*), Johne M'brair deſyrit him to go and ſpek with my lord, who attendit him befyd Halcwode. AND deponis that thay mett in the wod, quhair the deponer hute my lord ſee the Lairdis anſwer in wryte; quhilk he red, and (was) weill content thairwith. AND thairefter, the deponer takand my lordis faithfull promeis, with my lordis hand ſtrekit in the deponeris handis, that he, nor the man he ſould bring with him, ſould do no wrang, bot keepe honneſtie, quhiddir thay aggreit or not, my lord, with the deponer, fett down the tryit to be vpon Wodniſday thairefter, beyond the Houſe of the Beal, betuix thrie and four efter none; quhair ather pairty ſould come accompanied with one onlie, and na vtheris to be preſent bot the deponer: And my lord promeit to bring Robert Maxwell of the Tour with him, or ane vther quhom the deponer ſould lyk als weill of, for quhom my lord ſould be anſwerabill. AND, pairing with his lordſchip, the deponer, vpon the morne, raid down to the Laird of Johnſtoun, and tauld him of the appointing of the tryit; who being verie willing to it, and his faithfull promeis to keepe honneſtie, for his pairte, he, with the deponer and Willie Johnſtoun of Locurbie, come, vpon the morne thairefter, agaitward to the tryit, within a myle or thairaboute to the place appointit; and in the way, the Laird ſay¹ to the deponer, that quatevir courſe he tooke with the Lord Maxwell, he wald ever reſerve his dewitie and allegiance to the Kingis Ma^{tie}, and that he wald counfell my lord to begyn with Sir Williame Cranſtoun, to be at ane point with him, that by his meanis and procurement the Erll of Dunbar might be intreatit to interceed for his lordſchip, at the Kingis handis; and ſua, comeing within a myle to the place appointit, the deponer hute the Laird ſie quhair my lord wes; and the deponer cauſt the Laird ſtay thair, and he raid forward to my lord, who wes attending at the place appointit, as ſaid is, and tauld my lord that the Laird wes come, according to the appointment; and that he repoſit fo grite trait and confidence in my lord, that he wes onlie ryding vpon ane anling naig; and that Willie of Lockarbie wes with him and na mae, as his lordſchip himſelf ſaw. AND than the deponer of new took my lordis promeis for keeping of his former promeis and credite, and quhilk my lord frielie gaf: And my lord deſyrit the deponer to tak Charlis Maxwellis promeis lykwiſe, who wes with him; quhilk the deponer reſuſit to do; and wes verie miſcontent (miſcontent?) that Charlie wes thair. AND than my lord promeit to be anſwerable for him. Sua the deponer raid bak to the Laird, and brocht him forward, and took the lyk promeis of the Laird that he ſould be anſwerabill for his man Willie Johnſtoun: AND afoir the deponer come from my lord, baith my lord and the Laird commandit Charlie Maxwell to ryd af theme, and not to go towardis Willie Johnſtoun. AND the deponer and the Laird gaf the lyk command and direction to Willie Johnſtoun to ryd af them, and not to go toward Charlie Maxwell. AND ſua, my lord, the Laird, and the deponer mett; and mutuall ſalutationis paſt betwix theme, and they raid togidder, the deponer in the midis, my lord on his left hand, and the Laird on his richt hand; and efter ſome ſpeiches, my lord directit his language to the deponer, and the Laird and the deponer directit thair language to my lord; and ryding thus way, and thair bakis to the vther tua, the deponer lookis about and ſaw Charlie Maxwell go fra the place quhair he wes appointit to ſtay, directlie towardis Willie Johnſtoun, and efter ſome few ſpeiches betwix theme, quhilk the deponer hard not, the deponer ſaw Charlie Maxwell ſchoote a piſtolett at Willie Johnſtoun; quhairvpon Willie gaf a ſchoute and cryed. AND thairefter the deponer clappit to my lord, and preit to haif tane him be the brydle-renzeis, and, miſſing his renzeis, gat ane grip of his clok, quhilk he pullit to him—and cryed to my lord, ‘ Fy! my lord! Mak not your ſelf a Traitor and me both!’ To quhom my lord anſwerit, ‘ I am wytes!’² With this, the Laird of Johnſtoun ſlip-pit af³ the deponer, and wes ryding for relief of his awne man; and my lord followit him, and behind

¹ For *said*.² Free of *wyte* or *blame*.³ Slit or stole away unperceived.

his bak, flout him—and raid his way : And the Lairdis horfe making foue sturr,¹ his girdis² brack, and the Laird fell ; and efter his fall gat vp agane on his feitt : And Charlie come agane, and offerrit iudric ftraikis ; bott gat not leave to do any harme.

ROBERT MAXWALL OF SPOTTIS.

Tenet cum principali, J. PRYMOIS.³

(10.) DEPOSITION of *William Johnston of Lockerbie.*

APUD ED^B, *decimo nono Junij*, 1609. WITNESSES producit for proving of the *Secund Reffoun of Treffoun aient the Slaughter of the Lard of Johnestoun.*

WILLIAME JOHNESTOUN, callit of Lockerbie, of the aige of xl yeiris, or thairby, mareit ; deponis, that vpon the fest day of Aprile, the yeir of God 1608, this deponar cumming to the place of Lochwod, about ane efternone, THE LARD OF JOHNESTOUN tuik this deponar to the clois, and said to him, ‘ 5e ar velcum, for I haif ane gritar turne ado with 5on nor ewir I had befor this day ; I am to meit with the Lord Maxwell, and 5e fall go with me, and loip on vpon 5our horfe, and raik fordwart to Lytill Lochwod, quhill I owirtak 5ow, and let nane ken quhair 5e ar rydand to.’ Immediatlie thair-etter the Lard of Johnestoun and *Sir Robert Maxwell of Spottis* owirtuik this deponar within ane myle from the Lochwod ; and thei raid altogidder towartis the place appoyntit, quhill thai come to the Cowart-croce, quhill was within a myle quhair THE LORD MAXVELL and *Charlis Maxwell* was huif-faud⁴ on horbak togidder. Then Sir Robert Maxwell directit the Lard of Johnestoun and this deponar to itay thair, quhill his returne to thame, or ellis that he gif thame ane flog to cum fordwart, quhill was be hallin vp of his nepkyn vpon his wand end.⁵ Schortlie thairefter Sir Robert Maxwell cumming from the Lord Maxwell, about the mydway betwix the faidis parteis, the said Sir Robert held vp his nepkyn vpon his wand end ; and vpon that finge the Lard of Johnestoun and this deponar raid fordwart to the said Sir Robert. At thair meting the said Sir Robert flew to the Lard of Johnestoun, that the Lord Maxwell, accompaneit with Charlie Maxwell allane, war awayingt vpon thair cumming, and that the Lord Maxwell inquiryt of Sir Robert quho vas with the Lard of Johnestoun ? The quhill Sir Robert anfuertit, that he had tauld to the said Lord Maxwell, that this deponar was onlie in companie with the Lard of Johnestoun ; and that the Lard of Johnestoun, for secrecie of the tryit, was rydand vpon ane naig, and had left his best hors behind him. Then the Lard of Johnestoun anfuertit, that he was weil content that Charlis Maxwell vas rather thair nor ony vther, be refoun he was John Murray of Cokpulis suster-son ; and at that famyn tyme, Sir Robert tauld to the said Lard of Johnestoun, that he had tane the Lord Maxwellis ayth and promeis, vpon his fayth and honour, that he fuld meit fairlie, and depairt fairlie. And that the Lord Maxwell defyrit the said Sir Robert to tak Charlis ayth thairvpon ; the quhill Sir Robert refusit to do, faying, that ‘ he wald haif na promeis bot the Lord Maxwellis awin promeis for his man.’ Lyk as, at that famyn tyme, Sir Robert tuik the Lard of Johnestounis ayth and promeis, be his hand laid in his, that he fuld meit fairlie and depairt fairlie with the Lord Maxwell, quhidder thai aggreit or nocht. Immediatlie thairefter Sir Robert raid to the Lord Maxwell, the Lard of Johnestoun and this deponar followand adreicbe ;⁶ and thairefter, Sir Robert haveing an thort space spokin with the Lord Maxwell, they turnit towartis the Lard of Johnestoun, and the Lard of Johnestoun towartis thame ; and etfir salutation, the Lord Maxwell, the Lard of Johnestoun, and Sir Robert, raid togidder to and fro, the said Sir Robert being in the myddis ; bot quhat thai spak togidder kennis nocht, be refoun the said Charlis and this deponar flayit about ane pair of but-landis, or thairby, from thame, as Sir Robert Maxwell had directit tham of before : And feshortlie etfir that the said Charlis and this deponar had flayit pairt and iudric,⁷ the said Charlis Maxwell cummis first to this deponar, and said to this deponar, ‘ Gif I had knawin of this tryit, the Lord Maxwell nather culd nor fuld haif brocht me heir.’ The deponar anfuertit, ‘ I hoip in

¹ Growing restive.

² Girths.

³ Clerk to the Privy Council.

⁴ Riding ; literally, *hoofing*.

⁵ The end or point of his riding switch.

⁶ Leisurely, loiteringly.

⁷ Apart and separate, or asunder.

God, Charlis, 5e fall nocht rew of 5our cumming heir! For pir twa noble men hes bene lang in variance, and I hoip now jai fall aggrie.' Then Charlis anfuierit, that 'The Lard of Johnlounne was nocht able to mak ane amendis, for the great kayth and injurie he had done to tham!' This deponar anfuierit, that 'The Lard vald cum in vill, and do to his powar to fatisfie the Lord and his freyndis.' Charlis anfuierit, that 'The said thyrift was onlie maid to the prejudice of the said Charlis and his freyndis, for that man' (luikand towardis the Lard of Johnstounne) 'had focht his wraik; and thairfoir we fuld nocht haif met 5ow, for 5e ar all Traitouris!' The deponar anfuierit, 'Charlis, fay quhat 5e will jis day, I will mak no anfuer thairto, be refoune of my maisteris prouneis.' Then Charlis said, that '5e ar all Traitouris! be refoune 5e flew Francie of Carlile vnder trest.' Then this deponar anfuierit, 'Say quhat 5e will this day, I will gif 5ow na anfuer; bot within ane day or twa, gif 5e will fend 5our man to me, I fall fatisfie 5ow.' And incontinent vpoun that last speiche Charlis schott ane pistolet at this deponar, and throit him throuche the cloik; and than this deponar preffit to haif thoit his awin pistolet, and it misgait, cryand 'Treadoune!' And the Lard, vpoun that cry, raikit fordwart from the Lord Maxwell; and then the Lord Maxwell, with his pistolet, throit at the Laird of Johnstoun behind his bak; at the quhilk throit the Lard thortlie thaireftir fell, and incontinent Charlis throit ane vther thoit at the Lard and this deponar, being bayth standing togidder: And this deponar, preiland to haif put the Lard vpoun this deponaris meir, quha throuche waiknes was vnable to loup on, the deponar fett the Lard vpoun the grund; and the deponar halding the Lard vp, and inquiring quhat he had to fay, the Lard luikand vp to hevins and said, 'Lord haif mercie on me! Chryst haif mercie on me! I am dissavit.' Then the Lord Maxwell cryit to Charlis, 'Cum away!' Then the said Charlis anfuierit, 'My Lord, will 5e ryid away, and leif this bludie thief behind 5ou?' Then the Lord anfuierit, 'Quhat rak of him—for the vther lies aneweche!' And then thair bayth raid away togidder.

III. (11.) CONTEMPORARY NARRATIVE of the *Escape of LORD MAXWELL and SIR JAMES MAKONEILL from the Castle of Edinburgh, taken from MS. History of Scotland.*¹

Now, my Lord Maxwell being put in ward, in the Castell of Edinbrughe, and nocht seing how he was to be releist, dewyllis with Schir James M'Conneill and Robert Maxwell of Dinwiddie, quhat way he and thay mycht escheap. And on the fourt of December, he callis ane gritt number of the Keiparis of the Castell into his chalmere, quhair he drinkis theme all fow;² and defyring quhilk of thame voir the best fuord, he gait ane fuord to Schir James M'Conneill, and heaffand ane him self, drawis to the Chalmere dur and lokis them all in. And thay thrie passis fordward to the 5ett, quhilk he had causit ane seruand of his to keip the 5ett fra nocht cuming to;³ bot the porterris, nocht being willing to lett thame go, maid resistance: Bot my Lord Maxwell, being resolut to departt, itrak the Maister porter, and wondis him in his airme; and also findrie of the rest; and ane woman, that maid sum resistance, thay hurtt also: And vinnaud out at the inner-5ett, he loppis the wall. Schir James, heaffand the irlis⁴ on him, he, lowpand the toum wall, hurttis his leg; quhairby he was nocht abill to steir; and so was tane and brocht bak in the Castell. Bot the Lord Maxwell, heaffand horse preparit, raid his wayis, and Robert Maxwell of Dunwooly with him. Quhairat the King was werray far offenditt; and maid Proclamatione, that nane sould refett him, vnder the payne of deathe. Bot Maxwell remaynand in the cuntry, thoct that the Laird of Johnstoun had the wyte of all his trubill: And seing that thair was (na) meanis to gett the Kingis gude will, bot he the Laird of Johnstounne moyane, quha had slayne his fader, as 5e have hard, and had causit the King compell him to iak him be the hand, he was in ane gritt reade aganis the Lard of Johnstounne, bot buir the fame within him self. And on the vther part, the Laird of Johnstounne, thinking that this wes the best tyne to

¹ Advocates' Library, A. I. 35.² Drunk, intoxicated.³ From closing or shutting.⁴ Fetters.

winne the hairtt of my Lord Maxwell, giff (he) his meanis and trawell he mycht purches his Maieftiys gude will to his lordfchip : Quhairwpone, he fendis to Schir Robert Maxwell of Orchorrt-toune, kny't, quha had mareyit the Laird of Johnftonis fister, as, also, Johnftoun had mareyit his fister, to trawell with Maxwell, to fie gif he wald fpeik with him : And quhat he wald direct him, in that turne, he wald do to the wtirmerf of his power. The quhilk the faid Schir Robert did, and brocht thame to ane meitting, the fext day of Apryll, the 3eir of God 1608 ; and Chairlly Maxwell with my Lord, and Williame Johnftoun of Lochirbie with the Laird of Johnftoun. Thay mett on the hill befyde the pleace of Ellifcheillis, the faid Schir Robert being with thame ; quhair thay, being mett, the tua ferwandis rydis a pairt off thame, leaffand my Lord and the Laird and Schir Robert ; bot, or euer thay had conferrit ony fpeace, the tua ferwandis fallis in wordis, and also in fchottis of pittollattis, the fame cuming be this Chairlly Maxwelllis motioune : The quhilk, quhen the nobill menne feis, Johnftoun cryis, ' Fy ! Red ! ' and fpurris to thame. And my Lord, being ryding with pittollattis, cumis behind Johnftoun and fchuttis him throw the hartt, quhairof he fallis : And yit his curragde maid him to draw his fuord ; bot being fchott neir to the hairtt, he fallis deid. The Lord Maxwell, feing him fallyn deid, giffis him na ma fraikis, bot rydis his wayis. Bot albeit he had gottin his lyff, zit he gat the fame with fchame, it-being gottin wnder tryfling. Quhairfor the King eftemeit the fame as Trefoun, being done vnder tryfl.

IV. LETTERS *from* THE KING *and* *Privy Council* of Scotland *relative to* LORD MAXWELL.

(12.) LETTER *from* THE KING *to* THE PRIVY COUNCIL OF SCOTLAND, *as to the eſcape of Lord Maxwell from the Caſtle of Edinburgh.*²

Richt truſtie and weilbelouit counſingis and counſallouris, We greitt 3ou weelle. The leatt eſcheap of the LORD MAXWELL furth of our Caſtell of Edinburgh, haueing geuein to ws moir nor juſt caus of difcontentment at his foly, We haue thoct meitt heirby to direct 3ou how to proceid aganes him. And firſt, We will this Proclamatiou, heirwith ſent, to be publiſſed at all placeis neidfull ; and that 3ou pairefter tak ordour for tryall of all reſeattares and ſuppleares, and caus the extreametie of the law to be profequit aganes thame. And alſo 3ou fall, upon reſait heirof, preſentlie fend chaيرges of Trefoune, for the randering of his Caſtellis and houſſis, and 3ou fall put garefounes and keiparis in everie one of the fame, to be interteined vpon the rentis belonging to the houſſis, wnto ſuch tyme as We doe tak farder ordour thairwith. And als, our will is, that 3ou give particular directioune to fuehe as fall reſſaue the Caſtell of Lochmabene, that thay mak delyverie of the fame to our rycht truſtie coifing and counſallour the Erl of Dumbar, or to ony wther quhome the faid Erl of Dumbar fall direct, with our wther Warrand, for reſſaueing pairof. Furthermore, 3ou fall caus charge the principallis of the faid Lord Maxwell his name and followaris, being ony way men of mark, to find cautione and fuertie, wnder gritt pecuniail panes, that thay fall noway reſſait, ſupplie, nor intercommoune with him. 3ou fall in lyk maner geue ſpeciall ordour to onr garifoune, wnder the Lord of Scones command, and als to that wther, wnder Sir W^m Cranfounes charge, that thay mak ſpeciall ſearche, for the faid Lord Maxwell his taking and apprehending. And heirof, willing 3ou to be cairfull, and to omit nothing that may haiften ane exemplar pwnailment vpon him, for his prowde contempt, We bid 3ou fairwelle. FROM our Court at ROYSTOUNE, this 14 of Dec. 1607. [JAMES R.]

To our rycht truſtie and weilbelouit counſingis and Counſallouris, the Erl of Dumfermling, our Chancellor and remanent Lordis and otheris of our PRIVIE COUNSALL in that our Kingdome of SCOTLAND.

¹ Agree ; ſeparate ; make up your quarrel.

² From a Collection of State Papers formed by the firſt Earl of Hadington (at that time Sir Thomas Hamilton), preſerved in the General Register Houſe.

(13.) LETTER from Sir Thomas Hamilton to the King.¹

Pleafe your moft sacred Maieftie,

KNOWING that your Maieftie will expect and requyre of me ane difcharge of my dewtie, in performing your Maiefties commandement, geuin for perfewing the LORD MAXCELL and SIR JAMES MAKONEILL, for thair treafonabill breaking wairde furth of your hienes Castell of Edinburgh, becaus I have hard that fun, whos opinion may have place in fun of the circumftances of thair tryell, inclynes to juge, that, vales the crymes for the whilk thay wer imprifoned have bene treafonabill, that thair break of wairde can not import Treafoun, I have bene the more folit to inquire of thair vther offenfis, which may be found treafonabill of the law: And albeit the Examination and re-examination of Sir James Makoneill I have had funall aduantage, in refpect of his refolution to deny all the poyntis of his crymes, at the Slauchter of his vncle, and taking of his parentis, whilkis might infer Treafoun; yet I hope that fufficient information fall verie fchortlie cum, of the trewth of his moft heynous and vnnatural factis, from thofe to whom my Lord Chancellor hes writtin, to that effect. As to the Lord Maxwell, I have hard of his wriling of fyre at Dalhbill, whan he flew Willie Johnftoun, callit of Etchie-fchiellis and ane vther Johnftoun; bot becaus he hes fenfyne had the honour to be admitted to your Royall prefence, I wald not presume to fummond him for that fact, whill firft I fould knaw your Maiefties mynde thairanent; the knaulege whairof fall lead me to proceed or defit. The progres of the Commiffionaris at the mynes² I hope your Maieftie hes hard from thamefelis, and what I know I have writtin to my Lord of Dumbar; becaus I fand him moft defyrous to vnderftand the fucces of that whilk concernit your Maiefties feruice and contentment. Swa, attending moft humblie your Maiefties farder pleafour for my directioun, I pray God long to bleffe ws with the continuance of your moft gracious regue, and your Maieftie with all honour and wiffed contentment. ED^B, this 28 Januar, 1608.

Your moft sacred Maiefties moft humbill and bundin feruand,

S. TH. HAMILTON.

(14.) LETTER from THE KING to the Privy Council to apprehend Lord Maxwell.²

RIGHT truftie and veilbeloveit counfines and Counfallouris, We great 3ow weell. We ar informed that, notwithstanding of the treffonable fact committit be the Lord Maxwell in efchaping fourth of our Castell of Edinburgh, and in forcing and hurting of the keipares and poytaris of the fame, and of our fpeciall commandis and Proclamatiounes fend doune for his taking and apprehending, that, nevertheless, in plane contempt of our autoritie, that he oppinley travellis throuche the cuntries, accompaneid with no fewer than twentie horfe, and hes mead his repaire, at fyndrie tymes, to our burgh of Drumfres; quliche infolence is no way tollerabill, and ikairfe excuffabill one 3our pairtis, that ony of our declarit tratouris fould affume to theme felfis fo mutche libertie, without controlment. And thairfor, our pleafour and will is, that vponn refleit heirof, 3ow direct that our Gaird, vnder the command of the Lord of Scoone, to repair to the burgh of Drumfres, and there, with that Gaird, vnder Sir W^{ts} Cranftounes charge, to make a prefent diligent fearch for the faid Lord Maxwell, and either to apprehend him or put him out of thofie boundis. Thairwith alfo the Baillies of Drumfres wald be chaigrit to compeir befor 3ow, and if 3ow can try any thing of thair knowledge of the faid Lord Maxwellis being in thair toune, We ar to will 3ow to indiet ane exemple p^{ne}incement vponne thame, baith by fynning and wairding. And als, 3ow ar to proceed in rigoure, according to the warrant of our lawis aganes all reflettaires and accompaniaris of the faid Lord, that fo wtheris may be affrayed frome coming within the compas of the lyk contempe. And, remitting thofe matteris to 3our fpeciall cair, We bid 3ow fairweill. AT OUR PALICE OF QUHYTHALL, the 2 of Feb^{ry}, 1608. [JAMES R.]

¹ From the original, preserved among the *Decumythe MSS.* Adv. Library.

² At this period the King was deluding himself as to the discovery of silver mines, &c.

³ From *Haddington MS.* General Register House.

(15.) EXTRACT from Letter, the Privy Council to the King,¹ relative to Lord Maxwell, Sc.

MOIST SACREID SOVERAIGNE,

We have hard, to our gritt greiff and sorrow, by the report of your Ma. Secretare and be the Instructions committit be your moist sacred Ma. to his credeit, how far your lienes is discontented with the government of this Effait, as of the haill misfordouris and accidentis that fallis out heir. . . .

As to the particular prosecuting of the Lord Maxwellis reffettares, thair is a nymber of thame callit, fynned, and wairdit. The rest ar summondit to particular dyettis, and falbe pwnneifchid. As to the particular Slauchter of Cowhill, that feid is weall knawin to your Ma^{tie}, and no complent of it maid by ony to the Counfall, and thefe brether of Kirkhoufe had alwis favour, bot not for the Counfall; and the committer of it is come in England. And quhairas your Ma. is informed, that thefe who wer appoynted to prosecute the Lord Maxwell hes keptit companie with him, theafe that hes commandement of your Ma^s Guairdis humlie craves tryall of that calumnie; as alsua, that that Cove, quhilk is the allegit place of his reffeat, may be defigued; for we cannot find any countrie man that knawis any place in Nithistail or Galloway that careyis that name.

The tryall of that royat, at Drumfres, wes wnder tryall befor your Ma. directioun cam, and falbe prosecuted with all regour.

The buriall of the Lord Maxwell wes a calumnie quhairwith many mo (than) your Ma. is importuned; for he lwis still wnburied quhair he wes. And lykwayis the slauchter of Johnstoun of Howgill ves alyk falsé.²

AL. CANCELL. LOTHEANE. VCHILTRIE. BALMERINOCH. SCONE. HAILRUDHOUS.
S. T. HAMILTOUNE. BEULIE. COMPTROLLER. JO. PRESTOUN.

(16.) LETTER, the Privy Council to the King, for Instructions.³

MOST GRACIOUS SOVERAIGNE,

ACCORDING TO your Maiefties directioun, We wryte for the Laird of Johnstoun, his moder and goode dame, to vnderstand of thame, gif thay wald perfit in the perfute of that Petitioun, exhibite vnto your Maieftie in thair names, whairby thay craved iustice to be execute vpon the florseyted Lord Maxwell, for the Slauchter of the laite Laird of Johnstoun? They come all to this burgh, and the Laird of Johnstoun, with his moder and Tutour, presentit thame selfis before ws, and declairit that thay wald insit in that perfute and prosecution of that mater, according to the tennour of thair Petitioun. The auld Lady Johnstoun, through seiknes and inhabilitie of hir persone, being vnable to comper before ws, haueing, with grite difficultie, come to this burgh for this fame errand, we directit and fend the Bishop of Caithnes, the Lord Kildrymie and Lord Preuey Seale to hir, to vnderstand hir will and pleafoure in this mater; vnto quhome scho declairit, that scho come heir propofelic for that mater, and that scho wald insit, according to the tennour of the Petitioun; sua that now thair restis no farder bot your Maiefties will and pleafoure to be declairit, quhat forder your Maieftie will haif to be done; wherein, althocht the conclusioun of your Maiefties Lettre beiris, that we fould proceed to the administratioun of iustice, zitt, in respect of a worde cassin in the preface of the Lettre, being that your Maieftie had not as zitt gevin a direct answer to thair Petitioun, we haif perfomed, first, to acquent your Maieftie afor we proceed ony forder; and whateuir it fall pleis your Maieftie to direct, in this mater, falbe immediatlie and without delay execute. Thair was a Petitioun gevin in this day vnto ws be Robert Maxwell, bruthir to the said laite Lord, with some offeris to the partie; bot, becaus the mater concernit not ws, we wald not mell thairin; alwyse, we haif heirwith fend the fame to your

¹ From the *Haddington MS.* General Register House. The remainder of the Letter (which is very long) relates to a great variety of subjects, entirely unconnected with each other. ² The date of this Letter is omitted, but it must be between Apr. 28 and May 9, 1608.

³ From Original *Denmylne MSS.* Advocates' Library.

Maiestie, to be confidderit of as your Maiestie fall think goode. So, praying God to blisse your Maief- tie with all happynes and felicitie, we rest

ED^s, 28 Aprile, 1613.

Your Maiesteis maift obedant subiectis and feruitouris,

AL. CANCELL^r. HAMILTON. MAR. GLENCARNE. ALEX^r HAY. LOJLEY^{TCW}. GLASGOW. KINGORNE.

TO THE KING his moft sacred and excellent Maieftie.

V. (17.) OFFERS OF SUBMISSION *by* LORD MAXWELL, *for the Settlement of all differences between him and the surviving relatives of* SIR JAMES JOHNSTONE *of that Ilk, knight.*¹

THIR OFFERRIS following ar maid be me, Johnne, sumtyme Lord Maxwell, for my selff, and in name of my kyn and freindis, to _____, now Laird Johnstoun, and his Tutouris and Curatouris, Dame Sara Maxwell Ladie Johnstoun, younger for the tyme, his mother, Dame Margaret Scott Ladie Johnstoun, elder, his guddame, and to thair kyn and freindes, for the vnhappie Slauchter of vmq^{lc} Schir James Johnstoun of that Ilk, kny^t, committit be me.

IN THE FIRST, I humbly confes my offens to God, the Kingis Maieitie, and to the foirfaidis per- sones, for the said vnhappie slauchtir, and declairis my selff to be maift penitent thairfoir; craveing first, mercie at the Almighty God for the same, nixt, favour and grace of the Kingis Ma^{tie}, my fourcane lord, and forgifnes of the great offens done to the foirfaidis perones; testifeing be my soleme aith, vpon me my saluatioun and condempnatioun, that the foirsaid vnhappie slauchter was nawayis committit be me vpone forthocht felonie or fett purpois, bot vpone meir accident: Lyk as, for cleiring thairof, I am content to purge my selff be my greit aith in publick, quhair it pleissis the parteis to appoint, and do quhat farder homage salbe thoucht expedient.

SECUNDLIE, I am content, not onlie for my selff, bot for my haill kyn and freindis, to forgiff the slauchter of vmq^{lc} Johnne Lord Maxwell, my fathir, committit be the said vmq^{lc} Laird of Johnstoun and his complices, and to mak all perones quha wes ather gyltie, culpabil, or airt and pairt of the said slauchter, in securitie thairfoir, sua that thair nor nane of thame fall nevir be trublit for the same be me, nor be nane of my kyn and freindis, directly nor indirectly, in tyme cuning; and, for that effect, fall mak sik forme of securitie as fall agrie with reasoun.

THRIDLIE, becaus Johnstoun, dochter to the said vmq^{lc} Sir James, wes, by the suddant and vnhappie Slauchter of hir said vmq^{lc} fathir, left vnprouydit of ane sufficient tocher, and for the better avoyding of all inimitie that may arryse betuix the houffis of Maxwell and Johnstoun, and for mair suir establisching of freindschip amangis thame in tyme cuning, I am content to marie and tak to my wyffe the said, without ony tocher.

FOURTLIE, I desyre that the Laird of Johnstoun may be mareit to Dame Maxwell, eldest dochtir to Johnne Lord Hereis, and suster dochtir to me, quha is a person of lyke aige with the Laird of Johnstone. Lyk as, I salbe obleist to pay to the said Laird of Johnstoun, in name of tocher with my said suster dochtir, tuentie thowfand merk Scottis; and quhat farder salbe thoucht expedient, be the sicht of freindis.

FYFTLIE and last, I am content, for the farder satisfaccioun of the houfe of Johnstoun, to be Ban- nischit his Maiesteis dominions, for the space of fevin 5eiris, and farder at the will and plesour of the Laird of Johnstoun.

Thir Offeris to be augmentit, at the sicht and discretioun of newtrall freindis, to be chosyn to that effect. Vnder protestatioun alwayis, that thir Offerris befoir wryttin, maid vnto the partie, be nawayis offensue to the Kingis Maieitie, nor to his hienes Counfall.

¹ From *Sir James Balfour's MS. Collections*, Advocates' Library.

VI. (18.) SUPPLICATION *by* ROBERT MAXWELL, *brother to John, sometime Lord Maxwell, to the LORDS OF PRIVY COUNCIL, to intercede with the KING, and with the private prosecutors, &c.*¹

MY LORDIS OF COUNSAILL, vnto 5our l. humble menis and schawis 5our l. seruitour, Robert Maxwell, brothir to Johnne, sumtyme Lord Maxwell: That quhair, it is not vnknawin to 5our l. the miserabil estait of my said brothir, be the offences committit be him, to his God, the Kingis Maiestie, to the Marques of Hamiltoun and that name, and to the Laird of Johnnestoun and his freindis, besyde maufald vperis misbehaviouris; for þe quhilkis (being now, throw his miserabil estait, brocht to þe knowlege þairof) he moit humble cravis mercie of God, favour and grace of his Maiestie his Prince, and forgifnes of his offence done to the Marques of Hamiltoun and his freindis, and to the Laird of Johnnestoun and his freindis: Lykas, for cleiring of his penitencie for þe offence committit be him in Slauchter of þe Laird of Johnnestoun, he, with all humblynes of mynd, is maist willing to mak satisfactioun to the partie; vnder protestatioun, that the offer of satisfactioun to þe partie suld naways be offensive to his Ma^{tie} nor 5our l. And his hail freindis haifing, for þat effect, causet þen certane Offeris in his name, to haif bene presentit to the Laird of Johnnestoun, his moir, and guddame, and for presenting thair of, haifing desyrit and earnestlie entreitit certane of þe Ministrie of Ed^r, and sum of the Bischopis to haif presentit the same; thai and all vper men of qualitie hes alluerlie refusit þe same, without þai had 5our l. Warrant for þat effect: Sa þat now þair restis na menis quhairby þe Offeris may cum to þe parteis handis, except 5our (l.) will athir appoint sum persones to present the same, or vperways that 5our (l.) wald conuene þe partie befor 5our l., that þe same, in 5our l. audiens, may (be) red and delyerit to þame. HEIRFOR, I maist humble besek 5our (l.) to haif consideratioun of þe premiis, and þat 5our l. wald gif directioun to sum of þe Ministrie of þis burgh to present þe said Offeris, or vperways, that 5our (l.) wald call þe partie in 5our prefens, to þe effect foirsaid. And sikelk, that it might pleis 5our l. to acquent þe Kingis Maiestie, our sonerane, of þe willingnes of my broþer, both to satisfie þe parteis offendit, and maist humble, and with all dewtifull obediens, to submitt him self in his Maiesties handis:—And 5our l. answer.

VII. NOTICES *relative to* LORD MAXWELL'S EXECUTION, *his behaiour and dying Confessions on the Scaffold, &c.*

(19.) ACCOUNT *taken from the Dennyne MSS.*²

Vpon the xvijth of this moneth advertiment being maid be the balzies of Ed^r to the late Lord Maxwell, that vpon the next Fryday, xxj of this Maj, justice wes to be executed vpon him, at the mercat croce of this burgh of Edinburghe, and he willed to prepar his conscience and dispose him self to die, he professit to thame his willingnes to abyde the pleasour of God and his Prince, and obtent Licence of the Counfall that siche ane number of his freindis might haue access to speik with him, as he suld requyre, by name. He had diuerse conferences with sundrie of them, in prefens of ane of the Balzies, bot refusit to ressaue ony assistance or confort from the Ministeris, professing him self not to be of thair Religioun, bot ane Catholik Romane; wherby, it being foirsene be the balzies of the town and wtheris, that gif he suld at his death enter in any discourse of that subiect befor the people, it might breid offence and slander, he wes desyrit, and yielded to bind him self, be promeis, to forbear at his death all mentioun of his particular opinioun of Religioun, except the professioun of Crutianitie; whiche he sensyne repented, as he declared to the balzies, when they wer bringing him to the scaffald, whare he declared that as he had iustlie deseruit his death, so he wes reddie patientlie to suffer it, asking mercie of God for his sinnis, and hartlie wishing that his Maiestie might be gratioulie pleased to

¹ From the *Dennyne MSS.*, Advocates' Library.

² Advocates' Library.

accept his lyf and blood as ane different¹ punishment of his offences; and to relent, and remove his wraithe from his brother and hous, being pleidit to restore his brother to the rank and place of his predecessoure, where he nicht, and, as he hoped, wald, do his Maiestie guid and faithfull seruice, as his forbearis had done to his Maiesties Royall progenitouris. Nixt, he alkit forgiuenes of the Laird of Jhonefoun, his mother, grandmother and freindis, acknawelegeing the wrong and harme done to theme, with protestatioun that it wes without dishonour or infamie (for the worldlie part of it—for to wer these his wordis reported to me.) He lykwayis crawd pardoun of Polloke, Calderwode, and his wther freindis, being present, acknawelegeing, that whare as he was borne to haue bene author of their honour and faistie, he had procured to thame hairme and diseredit. And then he retired him self neir the block, and maid his prayeris to God; which being ended, he tuike his live of his freindis, and of the balzies of the toun; and, suffering his eyes to be covered with ane handcourchef, offered his head to the axe, and suffered deathe, the xxj of Majj, at four a cloke in the efternone.

(20.) NOTICE from *Minutes of the Privy Council.*²

MAY 18, 1613. Ane Warrant patt and exped to the Pronet and Balzies of Edinburghe, to tak the lait Lord Maxuell to thair mercat croce, vpon the xxj of this instant, and thair to caus strik his head from his body. The delay of tua dayis wes thoct meit to be grantit, to the effect he nicht haue leifer to be refolued; and that the Minifteris nicht haue tyme to confer with him, for his better refoloutioun.

(21.) NOTICE *preferred by Calderwood.*³

THE Lord Maxwell was behended at the mercate croffe of Edinburgh, betuixt three and four after noone. He died confortlesse, having none of the Miniftrie present to pray for him, or make exhortation to him or the people. He desired them not, neither was he content to receive informatione from them touching his Religione. This executione was procured be the Laird of Johnstons friends, specially be Sir Robert Ker, Erle of Rocheiter, the chief guider of the Court at that time. Papits, nevertheles, tooke boldnes to professie their Religione, in fundry parts of the country; for it was well known to them, that Maxwell suffered not for his Papiltry.

(22.) NOTICE by *Sir James Balfour.*⁴

THE 21 day of this mounth, Johne Lord Maxwell of Caerlauerock, was takin from the Tolbnith of Edinburghe to the mercat Croffe of the fame, quher, on a scaffold, he had his head chopped offe from his bodey, for the slaughter of the Laird of Jhonstone.

Slaughter.

JULY 28.—HENRIE BLAK, Capitane of the Castell of Kirkwall (Orkney), William Kirkues, Robert Hammiltoun, Williame Davidfoun, alias *Liericok*, Magnus Bankis, alias *Johnefoun*, Ar^d Dundas, Magnus Draver, Gilbert Brabner, fudartis,⁵ and keiparis of the hous of Greucroft; Johme Reid in Selkfarie, Gilbert Blak in Farray, Malcolm Mowat in Ethia, and James Mowat, thair.

Dilaitit of airt and part of the Slauchter of vmq^{le} Donald Grote, (of Wairis.) Walter Grote, and James Stewin, all in Duncanifbey.

¹ Sufficient?

² Minutes of Privy Council Proceedings, *Dumfryne MSS.*, Adv. Library.

³ *MS. Church History*, Adv. Library.

⁴ *Balf. Ann.* II. 42.

⁵ Soldiers.

Williame Sinclair of Etha, oftymes callit, as cautioner for repoirting the Letteris duellie execute and indorfate and perfewing thairrof, purchest be Margarete Grote, the relict of vmq^{le} Donald, Malcolme, his sone, Johnne Grote, brother to vmq^{le} Walter, and Allaster Stewin, as brother-sone to vmq^{le} James Stewin.

Compeirit Mr Johnne Mansoun, feruitour to my Lord of Kathnes (Caithness), and productet ane Warrant of the Lordis of Secreit Counfall, anent the deserting of this dyet ; quhairof the tennour followis.

JUSTICE, Justice clerk and 5our deputis. Forfamekill as the xxvij day of Junij instant is appointit to Henrie Blak, Malcolme Mowat, Williame Kirknes, and certane vperis þair complices, tenentis and fervandis to þe ERLE OF ORKNAY, for þair compeirance befor 5ow, to vnderly the law for þe Murthour of vmq^{le} Donald Grote of Wairis, and sum vtheris, tenentis and fervandis to þe ERLE OF CAITHNES : And seing, all differences and questiones standing betuix the saidis Erles of Orknay and Caithnes ar reconciliat and agreit, except þe said Murthour, the perfute quhairof, be baith the saidis Erles contentis, is continewit to ane vper dyet, to be perfewit, aþer befor þe Justice or his deputis in the bur^t of Ed^s, or in Caithnes. Thairfoir, theas ar to command 5ow to desert þe said dyet, and defit fra all proceeding þairin ; dispensing with the personall compeirance of þe partie. Quhairanent thir presentis falbe 5our Warrant. Subseruyit with our handis, ATT ED^s, þe xxvij day of Junij, 1609.

AL. CANCELL^{RIUS}. DUMBAR.

The Justice Desertit the said dyet : Quhairvpoune the said Mr Johnne askit instrumentis ; and protestit for the said Williame Sinclair of Etha, his releif of his cautionerie ; quhilk the Justice admittit.

Burning the Place of Littlegill — Slaughter — Stouthreik — Horse and Cattle-stealing, &c.

Aug. 9.—THOMAS JARDANE of Birnok, and Vmphra Jardane his sone.¹

Dilaitit of airt and part of the Slaughter of vmq^{le} Johnne Tuedie of Southwood. . . . Broun of Coulter, Williame Campbell of Walwoid : And certain other crymes of Thift, &c.

PERSEWARIS, Elspeth Bailzie, mother to vmq^{le} Johnne Tuedie ; Bessie and Sibilla Tuedeis, his siteris ; Robert Tuedie, his brother ; Williame Broun, brother to vmq^{le} Robert Broun ; Williame Broun, as sone to the said Robert ; Mathow Bailzie, brother to vmq^{le} Alexander Bailzie ; and as fader to vmq^{le} Rachaell Bailzie, perfewis Vmphra Jardane allanerlie ; Charles Campbell of Horf-cleuch, neir kynfinan to vmq^{le} Williame Campbell of Walwoid ; Hew Campbell of Garallane, for himself ; Johne Farquhar in Cavill, for himself ; George Slowane in Knokburne, for himself ; Williame Campbell, as sone to the said vmq^{le} Williame ; Charles Murray, for himself. Sir Thomas Hammitoune of Bynnies, kn^t, Aduoocat to our foverane lord, for his hienes entreis.

PRELOCUTORIS for the pannell, The Laird of Lanmyngtoun, The Laird of Carmichell, The Laird of Covingtoun, Williame Carmichell of Rownetricorfe, Mr Johnne Ruffell, Aduoocat.

DITTAY against Thomas Jardane.

FOR airt and part with the said Vmphra, his sone, of the tresonabill Raifeing of flyte, burning and distroying of the Place of Littlegill, with the hail offices, houffes, barnes, inficht and pleniffing, being thairintill, worth the fowme of flyve thousand pundis ; committit vpon the saxt day of July, 1^m.V^c.

¹ See Jul. 30, Aug. 9, and Nov. 5, 1605.

fourfour nyne zeiris: And of the trefonabill burning to deid, at that same tyme, within the said Place, of vni^o Alexander Bailzie of Littilgill, Rachael, dochter to Matthew Bailzie, now of Littilgill, Andro Achiefoun and Katharene Forrell, ordiner fervendis to the said vni^o Alexander, within the said place. ITEM, flor airt and pairt of the Slauchter of the said vni^o Robert Broun in Coulter; committit be the saidis Thomas and Vmpra, in the moneth of Junij, the yeir of God I^m.V^c. fourfoir faxtene yeiris, vpon the Grene of Coulter, with schottis of hagbuttis and pitolettis. ITEM, flor airt and pairt of the steilling of the hors, pryce of the peice ane hundreth pundis; with ane grit ox, pryce thairof fyftie merkis, pertening to Williame Broun in Coulter; committit be him and the said Vmpra, his sone, at Mertines, or thairby, in the yeir of God I^m.V^c. fourfoir faxtene yeiris. ITEM, flor airt and pairt of the Slauchter of Johne Tuedie of Southwoid, committit be the said Thomas and Vmpra his sone, vpon Harlaw-mure, beyde St Ninianes Kirk, in the moneth of July, I^m.Vj^r. yeiris. ITEM, flor airt and pairt of the Steilling of faxtene scheip furth of the landis of Scorefeld, pertening to Johnnefoun, put be him vpon the saidis landis in girteing; committit be the said Thomas and Vmpra his sone, in the yeir of God I^m.Vj^r. yeiris. ITEM, flor airt and pairt of the thiftious Steilling, at the leit refetting of faxtene stowin scheip, stowin at his command be vni^o James Thomefoun his man, in the moneth of November, in the yeir of God I^m.V^c.lxxxix yeiris. AND flor Cowmoun Thift, and Cowmoun Reflet of Thift, fra land to land, fra cuntries to cuntries, baith of auld and new; preceding the nynt day of Maj, I^m.Vj^r. and fyve yeiris.

DITTAY againji Vmpra Jardane.

INDYTIT, accuset and persewit of the crymes perticulerlie aboue writin: And als, accuset and persewit of the crymes *respective* and perticulerlie following, viz. FOR airt and pairt of the Steilling of ellevin nolt, price of the peice ten pundis, pertening to Johne Farquhair in Cavill, furth of his duelling hous thairof; committit be the said Vmpra and his complices, in the yeir of God I^m.Vj^r. and tua yeiris. ITEM, for airt and pairt of the Steilling of ane hors and ane meir, price of the peice ane hundreth merkis, fra George Slowane in Knokburne, furth of his duelling hous thairof; committit be the said Vmpra and his complices, vnder silence and chnd of nycht, in the moneth of Junij, the yeir of God I^m. fax hundreth and foure yeiris. ITEM, flor airt and pairt of the taking fra William Craufurd in Sillichoillis, furth of his duelling hous in Sillichoillis, of ane naig, pryce thairof fyftie pundis; committit be him and the said Thomas his father, in the yeir of God I^m. fax hundreth and thre yeiris. ITEM, flor airt and pairt of the thiftious Steilling, be way of maisterfull Thift and Stouth-reit, fra Charles Murray, of tua hors, price of the peice, ane hundreth merkis; togidder with his cloik, fuord, pitolettis, steilbonet, and purse, with threfoir pundis, being thairin; committit be the said Thomas and Vmpra Jardanes, vpon the Brokin-calfay, betuix Davieschaw and Littilgill, in the yeir of God I^m.V^c fourfoir sevintene yeiris. ITEM, flor airt and pairt of the steilling fra Hew Campbell, sone to Hew Campbell in Garallane, furth of his landis of Eitmark³ committit be the said Vmpra and his complices, in the zeir of God I^m.V^c.lxxxix yeiris.

For the quhilkis crymes *respective* aboue writtin, the saidis Thomas and Vmpra Jardanes tuik thamefelfis to our souerane lordis Remission, productet be thame, vnder his hienes Grit seill, of the dait the nynt day of May, the yeir of God I^m. fax hundreth and fyve yeiris. Quhilk Remission the Justice admittit.

LYK AS, the said *Thomas Jardane*, elder of Birnok, being indytit and accuset,

FOR putting handis in vni^o James Thomefoun, his man, binding of him hand and fute; and at his awin hand, bot² ordour of Law or ony Commilliou gevin to him, drownet and execute to daith the

¹ The articles stolen are not detailed in the Record. ² Without.

faid vmq^{le} James Thomefoun, his man, in Robertoun burne; and fa, is and was airt and pairt of his daith and slauchter; committit in the moneth of November, the yeir of God I^m. fyve hundreth fourfoir nyntene yeiris. ITEM, ffor Cowmone Thift, Cowmone Reflet of Thift, outputing and inputting of Thift, fra land to land, fra cuntrie to cuntrie, at dyuerfe tymes, fen the moneth of May, in the yeir of God I^m. fax hundreth and fyve yeiris; quhilk is the dait of his Remiffiounne. AND SICLYK, the faid *Vmphra Jardane* his fone, being indyttit and accufet, ffor airt and pairt of Steilling of ane broun horfe of four yeir auld, price ane hundreth merkis, fra Andro Slowane in Laneheid, furth of the landis of Watterheid in Cunnok, in the moneth of Junij, I^m.Vj^c. and fyve yeiris. ITEM, ffor airt and pairt of the Steilling fra Williame Rankene of ane gray hors, pryce thairof I^c li. furth of the landis of Boigcorroche; committit in the moneth of Junij, I^m.Vj^c. and fyve yeiris. ITEM, ffor airt and pairt of the fleilling of fourfoir hogis,¹ price of the peice fyftie fchillingis, furthe of the landis of Woulferuikis, within the barronie of Douglas, pertening to the Erle of Angus and his tennents; committit in the moneth of October, the yeir of God I^m.Vj. and fax yeiris. ITEM, ffor airt and pairt of the Slauchter of vmq^{le} Williame Campbell of Walwoid; committit be him and his complices, at the Kirk of Douglas, be hurting him, deidlie, in his heid and vtheris pairtis of his body, in the moneth of October, or thairby, I^m.V^c. and four yeiris; at the leift, fen the yeir of God I^m. fyve hundreth fourfoir fevintene yeiris; quhairof he depairtit this lyfe, in the moneth of I^m.Vj^c. and fax yeiris thairefter. ITEM, ffor Cowmone Thift and Reflet of Thift, &c. fen the dait of his faid Remiffioun, viz. the nynt day of Maj, I^m.Vj^c. and fyve yeiris.

THE pannell and thair preloquoutouris declarit thay will nocht feik delay. nochtwithftanding thay ar nocht fummond, and hes nocht gottin ane copie. Quhairvpoun my Lord Aduocat afkit instrumentis.—The pannell afkit instrumentis, that na partie competent to perfew thame, bot the perfonis aboue writtin.

The Advocat allegit that Mr Johnne Ruffell can nocht be hard to compeir and defend, becaus the pannell ar att the horne.—It is anfueric, that *defensio est juris naturalis*; and thay haif obtenit ane delyuerance of Relaxatioun (from the horn) —The Aduocat in the contrar, becaus he producet Hoirning aganis the pannell. —The Aduocat paffis fra the allegance.

The pannell allegis, that na proces can be led aganis thame, for ony cryme committit be thame, preceding the moneth of Maj Vj^c. and fyve; becaus his Maieftie hes grantit thame ane Remiffioun, for all crymes committit be thame before the faid moneth. Quhilk Remiffioun thay produceit; and tuik instrumentis thairvpoun; and this but² preiudice of thair defence aganis ony vther cryme.—Allegis the Aduocat, this Remiffioun can nocht fatisfe for the Slauchter of vmq^{le} Johnne Tuedie; becaus it is gewin only to Alexander Jarden; nixt, becaus it is grantit vpoun ane fals caufe, viz. vpoun fatisfacioun of partie, quhilk is nocht; for the mother, or brother, and the fisteris of Johnne Tuedie ar nocht fatisfeit, —The Aduocat afkis instrumentis, that the pannell v^{is} the Remiffioun for the hail crymes contenit in the Dittay, preceding the dait of the Remiffioun.

It is allegeit, that the Remiffioun is null, be Act of Parliament, quhair the partie is nocht fatisfeit; and na cryme contenit in the Remiffioun is fatisfeit.—

¹ Young sheep of a year old, or unshorn.

² Without.

The Pannell anfueries, that the Remiffioun ftandis; and thay ar content to find Cautioun to fatisfie the partie.

Allegis the Aduocat, the Remiffioun can nocht be extendit to Williame Campbell; becaus it is provydit, that itt fould nocht extend to ony Slauchter, bot thais quhilk ar committit fen the fourfoir auchtene yeiris.¹—The Aduocat afkis infrumentis, that Mr Johnne Ruffell grantis the Slauchter; bot it wes committit befor the fourfoir and auchtene yeiris.—It is allegeit, that the Slauchter of Williame Campbell can nocht be putt to ane Affyfe; becaus thay offer to prove that he levit tua yeiris eftir his hurting; and that he fall offer to be verifeit to the Affyfe, that he reparit to kirk and mercat, be the fpace of twa yeiris eftir his hurting.

The quhilk day, Sir Alexander Jardene of Apilgirth, togidder with Thomas Jarden of Birnok, and Vmphry Jarden becom fouerteis, conunetlie and feuerallie, to fatisfie all parteis for the quhilkis the faidis Thomas and Vmphry vfit Remiffioun, as Law will.

The Aduocat takis infrumentis of the fweiring of that poynt of Dittay, auent the Slauchter of Williame Campbell; fhuorne be Williame Campbell his fone.

QUHILKIS feuerall crymes, abone writtin, being nawayis comprehendit vnder the faid Remiffioun, and haillilie² denyit be the faid Thomas and Vmphra to be of verritie, the Justice referrit to the knowlege of ane Affyfe of the perfones following.

ASSISA.³

James Tailziefeir, in Strangelench, ⁴	Williame McCall of Boighous,	Mairtene Mare, in Boigend,
Williame Wallace of Wallacetoun,	George Dunbar of Knokfchyn-	Williame Chamlay, in Nethirtoun,
Johnne Broun, in Schaw,	noche,	Mungo Reid of Drumfork,
James Tailziefeir, in Abingtoun,	Anthone Couthird, 5ounger, in	Johnne Robfoun, in Craigheid,
James Wallace of Boigheid,	Nethirtoun,	Johnne Wilfoun, in Cruik,
Jo. Makmorrane, elder of Glafpen,	Williame Craufurd, in Creeche,	Johnne Thomefoun, in Bankend,
Ja. Makmorrane, y ^e of Glafpen,	Dauid Durie of Hielare,	Patrik Wilfoun, in Craig.

The Aduocat afkis infrumentis of the fweiring of the Affyfe; lykas, the perfewaris and defendaris, *hinc inde*. Proteftis aganis the Affyfe for Errour, gif thai follow nocht thair knowlege in this matter.

VERDICT. The Affyfe, be the mouth of the faid Dauid Durie of Hiellar, chanceller, in prefens of the Justice and Lordis of his Maieftis Previe Counfall, thair prefent, ftand, pronunceit and declairit, be pluralitie of voittis, the faid *Thomas Jardane elder of Birnok*, to be flylet, culpable and convict of airt and pairt of the drowning and puting to daith of the faid James Thomefoun, his man, committit be him in maner and at the tyme fpecifeit in his Dittay: AND the faid *Vmphra Jardane* to be flylet, culpable and convict of airt and pairt of the Slauch-

¹ Since the year 1598.² Wholly.³ This Assise, *nineteen* in number, is one of the largest which the Editor recollects to have observed as being sworn and officiating on any Criminal Trial, in Scotland.⁴ 'Straukla,' in another place.

ter of vniq^{le} Williame Campbell of Walwoid, committit fen the yeir of God I^m.V^c. fourfoir fevintene yeiris : in maner contenit in his Dittay : AND ficylk, ffand, pronuncet and declairit the faidis Thomas and Vmphra, to be Clene, Innocent and Acquit of the remanent crymes contenit in the faid Dittay, nocht comprehendit vnder the faid Remiffioun, viz. of the Steilling of the faid Andro Slowanes broun hors, of the quhyte-gray hors pertening to Williame Rankene, and of the feilling of the faidis fourfoir hogis ; in maner, and at the tyme contenit in the faid Dittay : And ficylk, of Commone Thift and Cowmone Reffet of Thift, &c. fen the faid nynt day of May, I^m.Vj^e. and ffyve yeiris.

SENTENCE. For the quhilkis tua Slauchteris, contenit in thair convictioun aboue fpecifieit, committit be thame, as faid is, the Justice, be the mouth of Johne Laufone, dempfter of Court, decernit and ordanit the faidis Thomas and Vmphra to be tane to the mercat croce of Edinburghe, and thair heidis to be ftrukin frome thair bodevis ; and thair haill guidis, geir, inficht and pleniffing, to be efcheit and inbrocht to his Maiefteis vfe, as culpable and convict of the tua Slauchteris aboue fpecifieit. Quhilk was pronuncet for dome.

Wamesucken—Remembrance.

Sep. 14.—ANDRO HENDERSONE, fone of vniq^{le} Johne Henderfoun, merchand burges of Edinburghe.

Dilaitit, accufet and perfewit of the crymes contenit in the DITTAY vnderwrittin.

FORSAMEKILL, as ye, haifing confaet ane deidlie feid, rancour and malice aganis Williame and Adame Montgomeris, tua honest men, merchandis burgefis of Edinburghe, for concuring, affifting, mantening and fortifeing of Daid Johnneftoun, ane of the Bailles of the faid bur^g, in the executioun of his office, in the taking and apprehending of yow at your motheris hous, about ten oulks¹ fyne or thairby, for the crewall and fchamefull hurting and wounding of . . . Harper, than your motheris fervand, in the heid, to the grit effufioun of hir bluid ; ye, in revenge of the Law, haveing ferchet and foelt the faid Williame Montgomerie dyuerfe tymes at the yet² of his duelling hous, be way of Hamefuckin for his slauchter, leitle, vpon the fecund day of September infant, being bodin in feir of weir,³ with ane grit battoun and ane fuord, awaittit the faidis Williame and Adame Montgomeris in Libbertones-wynd-heid, at the yet of the faid Williames duelling hous thair, as thay war, in fober and quyet maner for the tyme, cumand frome thair mercheand-buthes, a littell afoir aucht houres at evin, hame, towards the faid Williames duelling hous, dreidand na evill, harme, iniurie, or perfute of any perfones, within sic ane reformet toun, bot to haif levit vnder Godis peax and our fouerane lordis : And thair ye, vnder nycht, fet vpone thame, and crewallie invaidit thame for thair Slauchter, ftrak at the faid Adame with the faid battoun, preiffing to haif ftrukin him thairwith in the heid, and to haif fellit him : Quhilk ye had nocht failzeit to haif done, war nocht, be the Providence of God, he drew his dager, for defence of his lyfe ; vpone the quhilk¹ ye brak the faid battoun. And finding yow dif-apoyntit of your firft intention, quhilk was to haif ftrukin the faid Adame in the heid with ane battoun, ye thaireftir drew your fuord, and of new fett vpone him, and crewallie invaidit him for his slauchter, hurt and woundit him thairwith in the left hand, to the effufioun of his bluid in grit quantitie ; and

¹ Weeks.

² Gate.

³ Arrayed or provided in warlike manner.

⁴ Upon which dagger.

hes demembrit him of thre fingeris of his left hand; committit be way of Hameluckin and brigancie, vnder fence and clud of nycht, vpon fet purpois, prouitioun, precogitat malice and foirthocht fellonie: And ye ar airt and pairt of the saidis crymes, committit in maner foirfaid: In hie and manifest contemptioun of our foverane lordis authoritie and lawis, in evill exampill of vtheris to commit the lyk barbarus, crewall and inciull crymes and offences, within ane reformet cite, gif ye be nocht rigoroullie pweineit thairfore, be ane feueir and examplarie pweineitment, conforme to the lawis and practik of this realme. To the taikin,¹ ye, eftir the committing of the said crewall fact, fled vp the Hie-gait to the Over-bow,² quhair ye was apprehendit with the drawin bludie fuord in your hand, and was committit to waird, within the Tolbath of Edinburgh, quhairin ye haif remanit, in the ernes, quhill now that ye ar broecht to the bar, to be tryit and pweineifchet as said is.

PERSEWARIS, Adame Montgomerie, Williame and Alex^r, his brothers, Sir Thomas Hammitoun, &c.

PRELOCUTORIS in defence, Mr Johne Ruffell, Mr Oliver Colt, younger, Mr James Halyday.

My Lord Aduocat passis fra that poynt of Dittay of Mutilatioun, *pro loco et tempore*; and insiftis vpon the Disinembring.

It is allegit, that the disinembring of ane finger, tua, or thre, aucht not to be put to the tryell of ane Aslyse, *quia non est crimen; et digitus non est membrum, sed tantum pars membri*; and for verificatioune thairof, allegit the lawis and textis of Julius Clarus, and the Ciuill Law.—It is answert, aucht to be repellit, in respect of the Dittay and daylie practik of this judgement.

THE JUSTICE findis proces; and repellis the allegiance.

The pannell acceptis the Dittay; and takis instrumentis of the conclusioun of the Dittay, beirand pweineifchment conforme to the lawis of this realme.—It is allegit, that gif ony disinembring was done be the pannell, (nocht granting the famyn,) that the famyn was done in his awin defence; in fa far as thair was tua persewaris of him, viz. Adame Montgomerie and his brother, the ane haifing ane battoun, and the vther ane dager; and thairfoir, the fact lybellit, done be the pannell, was lauchfull.—It is answert be the Aduocat, aucht to be repellit, in respect of the Dittay.—The pannell desyres the persewer, present at the bar, to geve his aithe, quhiddir the pannell did the hurt to him in the pannellis defence: or gif the pannell persewit him first; quhairupoun the Aduocat alkit (instrumentis.)

Adame Montgomerie, present, vpon his grit ayth, declairit, that Andro Henderfoun was the first fetter vpon him, in his brotheris clofe, at his ganging hame to his hous; quhair, with ane battoun, he invaidit the deponer, of purpois to haif sellit him thairwith; quhilk the deponer foirseing,³ drew his dager and kepit⁴ the straik of his battoun thairupoun: And thairupoun and thaireftir, Andro Henderfoun steppit bak and drew his fuord; at quhilk tyme, the deponer tuik vp Henderfounes cloik, quhilk he cuist about his left arme and left hand, of purpois to gaird himself thairwith: And that the said Andro thaireftir, with his

¹ In proof or testimony.

² Up the High Street to the Over or Upper Bow, now called the West Bow.

³ Perceiving, *foresceing*.

⁴ Caught the blow; *keppit* the stroke.

fuord, gaif him ane fraik vpone his left hand, and throw the cloik, tua ply,¹ cuttit the deponer, and frak fra him his thre fingeris.

The Advocat takis instrumentis of the sweiring of the Dittay be the perfewar, in prefens of the Assyfe; and protestis for Wilfull Errour, gif thay acquit.—Mr Johnie Ruffell product ane tiket of fax persones, as witnessis, quha can declair to the Assyfe, that the pannell was perfewit be the tua brether, the tyme contenit in the Dittay; and that the hurt was gevin to Adame, be the pannell, in his awin defence; and thairupone askit instrumentis.—The Advocat anfuerit, that thair is na necessitie to the Assyfe to refflaue ony witnessis, becaus thair ar witnessis thame selfis,² and duellis within this burgh, and vnderstandis that this fact was committit be the pannell, in maner contenit in the Dittay; and protestis for Wilfull Errour, gif the Assyfe acquit.

VERDICT. The Assyfe, be the mouth of David Fergushill, mercheand, Pro-veist of the burcht of Air, chanceller, all in ane voce, stand, pronunceit and declairit the said Andro to be Giltie, culpable and convict of the disinembring of the said Adame Montgomerie of thre fingeris of his left hand; committit at the tyme contenit in the Dittay, vpone set purposis, prouisioun and foirthocht fellowy.—After publicatioun of the quhillk Convictioun, THE JUSTICE ordanit the said Andro to be tane bak agane be the Magistratis of Edinburgh to his waird, within thair tolbuith thairof; thairin to remane in sure keiping, in the irnes, as ane convict persone, quhill he war forder advyset anent his dome and pwneischment.

(1610, April 18.)—THE pannel was presented at the bar, by ‘Robert Banatyne, one of the Bailleis of Edinburgh,’ by virtue of an Act of the Privy Council, dated at Edinburgh, April 12, 1610; in consequence of his Majesty, ‘in his princelie wisdome,’ having signified to them his Will.

SENTENCE. FOR obedience of the quhillk act and ordinance, the Justice, be the mouth of Johnie Laufoun, dempfter of Court, decernit and ordanit the said Andro Henderfoun to be Baneift our sowerane lordis haill dominionis, during his lyfytyme; and nocht to returne agane within the samyn, vnder the pane of deid: And thaireftir, ordanit the said Andro to be tane bak agane to his waird, be the Magistrattis of Edinburgh, to the tolbuith of the said burgh, thairin to remane with the remanent wairdouris, quhill he be reddie to imbarque: and that ordour be tane for convoy and transpourt of him to his schip.

¹ Two folds thick. Lat. *plica*. ² This is a strong illustration of the anomalous office of an Assisor or Juryman, in early times. From the peculiar mode in which he was chosen, from among those of the pannel’s peers, who were resident nearest the spot, and knew the common report of the country, he was himself presumed to be a witness; and, in many instances, *de facto*, was a witness of the whole circumstances of the case;—but it is obvious that this very circumstance must have frequently proved a real disqualification to the honest discharge of so important a duty. For the history of the ancient modes of choosing Assises, &c. see the valuable Commentaries of *Baron Hume, Burnet* on the Criminal Law, *MacLaurin’s Trials*, &c.

[*Mr Alexander Colvill, Justice-Depute.*]
Slaughter of Alexander Lord Spynie.

[SIR ALEXANDER LINDSAY, LORD SPYNE, whose life unhappily fell an untimely sacrifice to one of those deadly feuds, which the demon of domestic strife then too frequently, indeed almost universally, stirred up in the breasts of our Scottish Nobility and Gentry, of all ages and ranks, urging them to the commission of the most frightful excesses and crimes, and whose wrath and rancour, even the nearest ties of relationship could not appease,—was the fourth son of David, ninth Earl of Crawford. Having accompanied King James VI. to Denmark, in his matrimonial expedition, and enjoying his Majesty's intimate personal friendship, the King, on his return to Scotland, in fulfilment of a promise then made, erected the lordship of Spynie, Kinnedder, Raffart, and other lands in the shires of Elgin, Banff, and Inverness, formerly pertaining to the See of Moray, into a free Barony, and conferred upon him (then designed 'Vice Chalmerslane to oure tourane lord') the title of Baron of Spynie,¹ May 6. 1590. This Letter is so extremely characteristic, that the Editor needs no apology for transferring it from the original to this Collection.²

¹ SANDIE,

· QUHILL³ yourre goode happe farneis me with sum better occasioun to recompence youre honett and faithfull seruice, uttريد be your diligence, and cairfull attendaunce upon me. speciallie at this tyme, lett this affiure, in the inuicollabl worde of your awin Prince and maister, that quhen God randeris me in Skotlande, I fall irreuocablie, and with content of Parliament,⁴ erect you the temporalitie of Murraye in a temporall Lordship, with all honouris thairto appertaining: and lett this seruie for cure of youre present diseafe. FROM the Castell of Croneburg, quahaire we ar drinking and dryuing our, in the alde maner. J. R.⁵

He also obtained another Charter, creating him a Peer of Parliament, Apr. 17, 1593.⁶ This distinguished Nobleman married Jean, eldest daughter of John, tenth Lord Glamis, she being also the relict of Robert, Master of Morton, and of Archibald, Earl of Angus. It is probable that this marriage took place on the suggestion, or through the influence, of the King, who thus notices the Countess in one of his Letters:—'Mind *Jean Lyon*, for her auld tout will make you a new horn!'

In order to arrive at the facts relating to this feud, a few quotations shall be made from contemporary sources, the only authentic and satisfactory mode of treating such a subject in a Work of this description. We are informed by *Birrel* and by *Sir James Balfour*, that previous to the fatal skirmish, when Lord Spynie was slain, there had been a similar rencontre, also on the streets of Edinburgh, on the 17th day of June, the same year; which the authorities and the citizens had been wholly unable to put down. That affair is thus related, in the expressive language of the day.

· THE 17 of Junij, (1605.) ane Combat or tulzie foughten at the Salt-tron of Ed^l, betuix the Laird of Edzle, zonger, and his complices, and the zongue Laird of Pittarrow, Wifhart. The faucht laifit frae 9 hours at night till 11 at night, twa hours! Thair wer fundrie hurt one both fydes, and ane Guthrie flaine, which was Pittarrow's man; ane verie prettie zongue man. The 18 day they wer accutit befor the Councell, and wardit.⁷—THE 17 day of Junij, a combat betuix the Lairdes of Edzell and Pittarrow, one the Heigle Streite of Edinbrughe! The fight laifit from 9 in the night till almost 2 in the morning, befor they wer seperated! In this fight diuers wer hurte; and one only killed. They wer fumond to compeir befor the Lordes of his Maiefties Priuie Councill, and wer bothe of them committed to prifone.⁸ Sir Thomas Hamilton, then Lord Advocate, preserves the following interesting notices in his Minutes of the proceedings of the Privy Council,⁹ which tend to throw much

¹ *Reg. Mag. Sig. Lib.* xxxvii, No. 415.

² It has been published before. See *Dalzell's Fragments*, App. 83. *Wood's Peerage*, II. 517. And a *fac-simile* of the Letter has been given by Mr J. T. Gibson Craig, in his Contribution to the Bannatyne Club, being 'Papers relative to the Marriage of King James the Sixth.'

³ *Acta Parl.* III. 659.

⁴ *Reg. Mag. Sig. Lib.* cxxxix, No. 140.

⁵ *Robertson's Proceedings*, p. 126.

⁶ *Bir-*

rel's Diary.

⁷ *Balfour's Annales*, II. 7.

⁸ *Lord Hadington's MSS. Adv. Library*, A. 4. 22.

light on the matter. 'EFTER the Combat in Ed^r betuix *Young Pittarro* and *Mr Alex Lindfay*,¹ vpon the xvij day of Junij, vpon the morne thairefter, *Auld Pittarro* and his sone, and *my lord Chancelloris* mēſſage, be his ſervand, is ſend to thame to keip pair houſis, and certane pair bairnes thairin; and that thair not obeying and doing pair of gif ocaſione of the ſkaiſthe and ſlauchter that followed: Thairfoir thay wer commandit to enter in the Caſtell of Ed^r; and furthe pair of, *Pittarro elder* and *younger* to the Blakneſs, and *Edzell* to Dunbartane. That ſame day, or the next day thairefter, vpon *the Laird of Edzellis* Supplicatioune, be arand, that he wes informed, that the Lordis, havinge reſpect to the Slauchter of *William Guthrie*, ſeruitour to *Pittarro*, had commandit him to waird, alheit he vnderſtude þe ſaid *Guthrie* to have reſtaned na woundis, bot to have been ſmored² in the throng; at his deſyre, thay ſ-nd for *David Pringall*, þat had handlit him, and examined him vpon his woundis, and quibbder thay war deidlie or not? And alſo directed *David Bailzie* and twa vther chirurgiens to veſie the corps, and hand pair report; quihilk monie thoct ane ſtrange and extraordiary forme.'

The ocaſion of this preliminary quarrel probably aroſe out of ſome family difference, which, it would appear, the heads of the reſpective Houſes could not prevent. SIR DAVID LINDSAY, YOUNGER of Edzell and of Glenesk, married Margaret Wishart, who, likely, was ſiſter of young Pittarrow.

The cauſe of the ſecond quarrel, which unfortunately reſulted in the death of Lord Spynie, can be more ſatisfactorily accounted for. 'DAVID LINDSAY, younger of *Edyell*, ſeeking to revenge the ſlaught-er of his Uncle, *Mr Walter Lindfay*, whom *David, Maſter of Crawford*, had killed, as he lay in wait of the ſaid *Maſter*, (who was then, by the deceaſe of his father, ſucceeded in the Earldom,) through a pitiful miſtake, did invade *Alexander Lord Spynie*, and killed him inſtead of the other! The Noble-*man's* death was much regrated, for the many good parts he had, and the hopes his friends conceived, that he ſhould have raiſed again that noble and ancient *houſe of Crawford* to the former ſplendor and dignity; all which perſiſhed with him. He that was in place, and eſcaped the peril, being a baſe unworthy prodigal, and the undoer of all, that, by the virtue of his anceſtors, had been long kept together.'³— THE 5 day of July, in rewendge of the Slachter of *Sir Walter Lindfay*, the young *Laird of Egell* lettis for the *Maſter of Crawford* in the hie toune of Edinbrughe; the Lord of Spynnie being with the *Maſter*, quha was trauelland betuix thame, to haue had thame agreitt, the *Maſter* being his broder-ſone, and *Eagill* his ſiſter-ſone; and being bayth *Lindfays*, had grit reſſone to mowe (him) to rewell to haue them at concord;⁴ bot this perſuitt being betuix nyue and ten houris at nycht, thay culd nocht knaw ane be ane vther; *Egell* being the number of acht men, in geir; and thair being wane with the *Maſter* bot *my Lord of Spynnie* and the *Laird of Drumlaymerig*,⁵ quha being all hurt with ſchottis and ſtraikis, the *Maſter* hurt and *my Lord of Spynnie* with mony ſtraikis, thay had gottin ane *Drumeldry* ſchott throw the airme; *Egell* paſſis his wayis in ſaiftye, and his folkis with him. *The Lord of Spynnie* deparitt off the ſaid hurtis, the 16 day of Julij; bot the *Maſter* recowerit his healthie, bot with grit loſs of his blude.⁶

This unhappy Feud was kept alive for many years, and was productive of mutual miſery to every member of theſe families. The diet was not finally deſerted againſt the Earl (formerly the Maſter) of Crawford, until Jun. 9, 1613.⁶

Before cloſing this Notice, it is proper to ſtate, that SIR DAVID LINDSAY, ELDER, was called *Lord Edzell*, from the circumſtance of his being one of the Ordinary Lords of Seſſion, having ſucceeded his brother, Sir John Lindsay of Balcarras, the Parſon of Menmure (Lord Menmure), on the appoint-

¹ This Notice is preceded, in *Lord Hadington's Minutes*, by the following remark. 'EDZELL and Pittarro committed to waird; becauſ that neglecting to contean their ſonnes in their houſes (as thay war commandit be *my Lord Chancellor*) was the ocaſion of tumult and ſlauchter. At deſyre of *my Lord of Edzell*, the deid corpes of *William Guthrie* was uſited be the *Bulzeis of Edinbur* and the Chyrurgiars, that ſaw him examined, gif his woundis wer mortall, and gif he died of thame?' ² Smothered; ſuffocated. ³ *Spotswood's Hiſt.* p. 504. ⁴ Had great reaſon to move him to *rule* (or exerciſe his authority) to reconcile them. ⁵ Sir James Douglas of Drumlanrig, aneſtor of the Marquis of Queensberry, a powerful baron, who was moſt active in ſuppreſſing diſturbances on the Borders. ⁶ *Anon. Hiſt. Scot.* MS. Adv. Library, A. 4. 35. ⁷ See this Collection under that date.

ment of that distinguished person to the office of Secretary of State, Feb. 23, 1597.¹ He was the eldest son and heir of David, *eighth* Earl of Crawford; to which title Lord Edzell would have succeeded, had not his father generously conveyed back the title to David *ninth* Earl of Crawford, the grand-son of David the *seventh* Earl, who had disinherited his sons for their ‘unnatural barbarity’ to him.² In order to cement that transaction, and to preserve the most intimate terms with the House of Crawford, Sir David married Lady Helen Lindsay, the daughter of the person who had thus obtained the Earldom on his father’s voluntary resignation, viz. David *ninth* Earl of Crawford, who had been a steady adherent to the interests of Mary Queen of Scots; and who married Margaret, daughter of Cardinal Beaton, in April 1546. However piously this respectable man was inclined to preserve the most friendly terms, the deadliest passions seem to have rankled in the bosoms of his son, the Young Laird, and of David, Master of Crawford, the only son of David the *tenth* Earl,³ who had succeeded his father previous to Dec. 11, 1581,⁴ and died, Nov. 22, 1607. At the date of this Trial, therefore, THE EARL OF CRAWFORD, alluded to in these proceedings, and in the Letters, &c., is the *eleventh* Earl, who, at the time of the skirmish on the streets of Edinburgh, was *Master of Crawford*. ‘THE YOUNG LAIRD OF EDZELL’ was Sir David Lindsay, younger of Edzell, and of Glenesk, and as has already been remarked, married Margaret Wishart, one of the family of Pittarrow. His father having been interdicted from giving him harbour, in any of his houses, ‘he built for himself a small Castle called Auchmull, in the parish of Edzell, and another, called Innermusk, in Lochlie, as lurking holes, while he was forced to skulk several years, for the murder of Lord Spynie.’⁵

The Appendix of Original Papers which follows, contains all the additional information on the subject of this deadly Feud, which the Editor can at present obtain.]

Sep. 19.—SIR DAVID LYNDSEY of Edzell, kny^t, (LORD EDZELL,) one of the Senatouris of our souerane Iordis College of Justice, and Mr Alexander Lyndfay of Canterland, his sone.

Dilaitit for the Slauchter of vng^le Alexander Lord Spynie.⁶

Compeirit and product ane Act of the Secretit Counfall, extract furth of the buikis thairof, be James Prymrois, ordiner clerk, of the dait the tent of August lastbypast, beirand, that this fix of September infant was appointit to David Erle of Craufurd, of his awin content, for him self, and takand the burding on him for the remanent perfonis contentit in the Act, to perfew the said Sir David and his said sone, for the forefaid allegit Slauchtir. According to the quhilk Act, and temour thairof, the said Sir David and Mr Alexander his sone offeris thame reddie to abyde tryell for the said allegit Slauchter, quhair of thair ar alto-gidder innocent. And proteftis, becaus na partie compeiris to perfew, that thair never be hard heireftir to infilt in the perfute for the said allegit Slauchter; and thairpoune affkit infrumentis.

¹ Wood’s Peerage, I. 165; but according to *Lord Hailes’* Catalogue, Feb. 23, 1598. He was afterwards one of the Commissioners of Treasury and Exchequer, called from their number *the Octavianus*, Jan. 5, 1595; and was in Mar. 1595 appointed Lord Privy Seal; and, likewise, was Chancellor of the University of St Andrews, &c.

² Peerage, *ibid.* and I. 379.

³ Who married Lady Grizel Stewart, eldest daughter of John fourth Earl of Atholl.

⁴ Wood’s Peerage, I. 380. *Reg. Mag. Sig.* xxxv. 467-769, &c.

⁵ *Statistical Account of Scotland*, X. 102, which asserts that ‘THE CASTLE OF EDZELL’ is one of the most magnificent ruins any where to be met with. It consists of two stately Towers, evidently in different styles, and built at different periods. These are connected by an extensive wall; and large wings went backwards from the Towers. Tradition says that the square Tower, the most ancient, was built and possessed by the Family of *Stirling*, from whom it descended to Lindsay of Glenesk.

⁶ See Jul. 8, 1607, and Jun. 2 and 9, 1613. It appears that he died of his wounds, July 16, 1615. See the foregoing Notice prefixed to this Case.

Compeirit Gilbert Rynd, feruitour for the tyme to vniq^{le} Alexander Lord Spynie, and in name and behalf of the Lord Spynies bairnes, proteffis, that quhatfumeur be done in this Judgement and Justice Court this day, preiudge nocht the perfute to be movet at the instance of the said vniq^{le} Lord of Spynies bairnis, for thair fatheris Slauchter : And thairupoun askit instrumentis.

APPENDIX OF DOCUMENTS illustrative of the preceding Case.

I. LETTER, *the Laird of Edzell to the King.*¹

MAIST SACRED SOVERAINE,

IT MAY pleise your Ma^{tie} albeit I have stayit hier in Ed^l ane yeir and three moonthifs bygane, craving ewer to be tryit of the onhappie Slachter of my vniq^{ll} LORD OF SPYNIE, quhairof I proteff befoir God and your M^{tie} I am maill innocent, *my Lord of Craufurd*² will nather call me thairfoir, nor flaye, baith privatlye and publikeye, yea in face of yo^r M^{ties} ho^{ll}³ Priue Counfell, to calumat me : Quhairfoir, seing my modesté moowife⁴ nocht *my Lord of Craufurd* rightlye to consider my innocencye, I maill humilye pray your M^{tie} to direct yo^r Thesaurar and Advocatt to call and pwt me to ane honest and onsubject Triall ; and being tryit innocent, that I maye have suretye to lieue in peace, to serue yo^r M^{tie}. I have swfferit manye injureise, specialye fyiwe of my seruitouris schott with pittoillis and hwit, yit hes nocht compleint ;—my self also, during the tspace forsaide, nocht wairdit onelye, bot banishit from my vertue ; and yit *my Lord of Craufurd* his infolence no^s moowit nor flayit from feiking of my wraik. Praying yo^r M^{tie} to consider and to cause ordour be pwt to the premissis, I pray God to grant yo^r M^{tie} ane lang and prosperus reigne, and to bliss yo^r Royell progenie. Sa kissing humilye yo^r handis, I rest ewer,

ED^l, 1608. 16. Aug. Yo^r Sacred M^{tie}⁵ maill humill and obedient subiect and seruitour,

TO HIS MAIST SACRED M^{tie},

EDZELL.

II. EXTRACT *from* LETTER, *the Privy Council of Scotland* · TO THE KING *his most sacred and excellent Ma^{tie}, Mar. 28, 1609.*⁵

THAIR was a Petitioun presentit vnto vs, in name of THE LAIRD OF EDYELL, complaining that THE ERL OF CRAUFURDE, vnder the pretext and colour of a Commiffioun granted be your Maiestie to some of his domestiquis and seruandis, for perfute of the Criminalis for THE LORD OF SPYNIES SLAUCHTER, intended to persue and assledge his HOUSE OF EDYELL, wherein his mouablis and euidents⁶ ar, and his ludgeing in this burgh whair he presentlie duellis ; and sua, vnder the pretense of Law, and of your Maiesties auctoritie, to execute his privat revenge aganis him ; and thairfoir, he craved, that this Commiffioun, and the executioun thairof, aganis him and his Houffis, myght be suspenderit and dischargeit. We could not judge vpoun the tennour and natour of this Commiffioun, becaus it was never shawne nor presentit in Counsaill, and, as we ar informed, it is noutler registrat nor signett ; and we wold not presume nor tak vpoun vs to discharge your Maiesties Commiffioun, without your beynes awne allowance ; alwayes,⁷ becaus Edyell hes found caution not to reflect thair hornaris in his saidis Houffis, vnder the pane of ten thousand merkis, we haif suspenderit the executioun of the said Commiffioun aganis the saidis tua Houffis, allanarlie,⁸ vntill the tent day of Aprile nixtto come, that in the meantyme we may know your Maiesties will and pleasour thairanent, and in all vtheris Commiffiounis of the lyk nature, not presentit nor showne in Counsaill.

¹ *Denmygne MSS.* Adv. Library. ² David eleventh Earl of Crawford, who, at the date of the rencontre at which Lord Spynie was killed, was the *Master of Craufurd*. ³ Honourable. ⁴ Moves. ⁵ *Denmygne MSS.* Adv. Library. The Letter, which is very long, craves instructions on a great variety of subjects. ⁶ Title-deeds of his property. ⁷ Nevertheless. ⁸ Only.

III. LETTER, *the Laird of Edzell to the King.*¹

MAIST SACRED SOVERAINE,

IT MAY pleise your Maieſte, Being advertetit that THE ERLE OF CRAWFWRD hes ſent expreſs to your hienes of that certane Lettres as writen be me to my ſone, and recoverit be him within the Howſe of Auchinwell, quhair my ſone was wont to dwell; quhilkis informis, it was my will and command to ſlaye the wnu^q *Lard of Spynie*, and ſa, plotter and contriver of that vnhappye and wyilld ſlauchter; thinkand thairbye to awert your Maieſtes woontit favor from me, and to diſgrace me at the hands of all honeſt men; I have choiſne and preſumit to tak the hardiment humblye to pray your hienes nocht to giwe credit to anye cōpye of anye Lettre cōwing from the handis of my enemyis, wnto the tyme the principall be tryit² to be wrettin, ſubſeriwit, or directit be my ſelf; for I proteſt, in preſence (of) God, I newer had anye ſick innaturall and ongodlie interpryſe in my hart, mekle leſs directi the doing thairof. And to mak this mair maniſt to all the world, I have inventit³ Improbationne, that all living may know howe injuſtlye I am vit be the *Erle of Crawford*, and howe be quha was the beginner of all thir trowblis, be the Murder of my wnu^q brother *Sir Walter*⁴ onder traitt, wald nowe eik⁵ craft to his cruelteis; and in place of repentance, be fals calumnyes, wald alſo bereawe me of my fame and lyiff, albeit I have ewer beine, and yit am maist willing to abyed all ordinar tryell of Lawe. Farther, I moſt alſo regrait that the ſaid Erle, being laitlye at Cowrt, hes privelye obtinut ane Commiſſione wnto ane numer of hes rioteris and defenderis, for ſerching of my ſone; and onder colour thairof, hes intentit nocht onlye to ſurpryſe my howſe of Edzell, quhair my haill evidentis, and of vther freindis yit remanis, bot alſo to berawe me of my lyiff within my awin wldging in Edr. And to the effect forſaid, wearis daylye pittolettis and hagbwttis, prohibitit be your Maieſteis Actis, alledging ewer they ar ſeiking Rebellis. For remeid quhairof, and my awin ſecuritie, in reſpect of the reaſonis forſaidis, ſpecialye, becauſe your Maieſties honourabill Priwey Counfell hes alreadye grantit ane verie ample Commiſſioun, excepting onlye my Howſe of Edzell, within the quhilk I have ſynd Cautione nocht to receit⁶ my ſone, nor anye of theiſe Rebellis, onder the paine of ten thouſand merkis, *toties quoties*, I will maist humilye praye your Maieſtie to direct ane Warrant to your hienes Priwey Counfell of this countrie, to ſuſpend the laſt privatlye obtinut Commiſſione, as your Maieſtie will have me free of that ſchaddowe,⁷ be the quhilk my ondeſerwit enemye cravis⁸ my lyiff and land; for vtherwayis, the Counfell, for the reverence they carye to that Commiſſione feygnd be your hienes, will nocht mell⁹ thairwith. Hoping for your Maieſteis woontit protectione, nowe, ſa mekle the rather that I am ſo onkyndlye, onnaturalye, and without deſerwing, twrlbit be that Howſe,¹⁰ of the quhilk ewer of ald, nocht onknoin to your Maieſtie, in thair trowblis, I have ſa weil meritit vtherwayis. Yf I find nocht ſecurite hier, I wilbe foreit, altho' be ſea, in reſpect of my aige and inhabilyte, vpon my kneife to beg the fuming¹¹ at your hiechneſs ſelf. Thws, maist humblye kiſſing your hienes handis, and praying the Eternall lang to preferwe your Maieſtie and Royell progenie, I reſt ewer,

Your Sacred Maieſteis maist humble and ohedient ſubiect and ſerviteur,

ED^s, 1609. Penult. Marⁱⁱ.

EDZELL.

Slaughter of James Lord Corthorwald.

[THE following Trial, in addition to the preceding Case of the feuds of the Lindsays, affords another, among the many melancholy instances, of the 'deadly feuds' which unhappily existed in Scotland at

¹ *Denmylne MSS.* Adv. Library.² Judicially proved.³ Should be *intentit*; raised.⁴ *Sir Walter Lindsay of Balmaculvie*, who was murdered betwixt Brechin and the Place of Edzell, Oct. 25, 1615. See Jun. 2 and 9, 1613, &c.⁵ Add; join.⁶ Resett.⁷ Pretence; mockery.⁸ Craves.⁹ Meddle; interfere. Fr. *medler*.¹⁰ Viz, the House of Crawford.¹¹ Same.

this period. The arrogant CAPTAIN JAMES STEWART of *Bothwell-muir*, second son of Andrew Lord Ochiltree, well known as the EARL OF ARRAN, and who had been successively Governor of the Castles of Edinburgh and Stirling, Lord Privy Seal, and Lord Chancellor of Scotland, was, in the year 1596, slain, in revenge for his rigorous procedure against his uncle, at Symontoun, near Douglas, in Lanarkshire, by Sir James Douglas of Parkhead, nephew of the Regent Morton. Archbishop Spotswood thus notices these remarkable events.

‘ A little before these fits with the Church, *Captain James Stewart* (who had been sometime Chancellor, and carried the title of the *Earl of Arran*) was killed by *James Douglas of Torthorald*. This man, after he was put from Court, had lived obscure, in the North parts; and was entertained by the Lady Salton, his sister-in-law. Being in hope to come again by the office of Chancellery, which was yet void, by the death of *Lord Thirlestean*, he came South, and had a long conference with the King, which did greatly encourage him; but till matters might be better prepared, he took purpose to visit his friends in Kyle. Taking his journey by Symington, nigh unto Douglas, he was advised by his friends in those parts to look to himself, and not ride so openly, because of *Torthorald*, that lived not far off, whose uncle he had followed (as he spake) to the death. His reply (as he was a man proud and disdainfull) “ that he would not leave his way for him, nor for all the name of Douglas ! ” being overheard by a fellow, and reported to *Torthorald*, did so inflame him, the old ulcer remaining uncured—as he avouched, “ to have his life, at all hazards ! ” So, getting intelligence that he had taken horse, he made after him, with three of his servants; and overtaking him in a valley called *Cotfack*, after he had fricken him from his horse, did kill him without resistance. It is said, that when *Captain James* saw the horsemen following, he asked, “ How they called the piece of ground on which they were ? ” And when he heard the name of it, he commanded the company to ride more quickly—as having gotten a response to beware of such a part ! He was a man full of violence; and, when he was in place of rule, executed it with much cruelty—which was now paid home in the end ! ¹ *Mr Wood* ² relates, that ‘ his head was cut off, and carried on the point of a lance, in a kind of triumph, through the country; and his body was exposed to dogs and swine before it was buried ! ’ In accordance with the usual feelings of those times, dictated by a blind and barbarous revenge, (which was, in those days, considered merely as indicating proper spirit in a man of *gentle blood*,) Sir James was, in his turn, murdered on the streets of Edinburgh !

Two contemporary writers thus briefly state that fact to have occurred, simply, as a matter of course :—‘ THE fewint of Julij, *James Douglas of Torthorwall* slayne be *William Stewart*, sone of Sir *William Stewart*, in rewenge of Captane *James* slauchter. ³—‘ The 14 day of Julij, this yeire, *James Douglas of Torthorwall* was killed, on the Heighe fliereit of Edinbrughe, betuix 6 and 7 houres in the morning, by *William Stewart*, sone to Sir *William Steuarte*; quho escaped. ⁴—‘ The 18 day of this fame mounth (May, 1613,) the Lord Ochiltreie solemnlie, by his grate othe, purged himselfe (in prefence of the Lordis of his Ma^{ties} Priuey Counsaill,) in being airte or pairt, ore aney wayes accesseorey to the Murthour of the Lord *Torthorell*’s father; and so thay war reconcilled by the Lordes, hartly chapen handes, and mutually embracing one ane another. ⁵

A very interesting LETTER from the Privy Council to the King, taken from the *Haddington M.S.S.* General Register House, is appended. It gives the most authentic account of the matter which can now be procured.]

Sep. 20.—ANDRO LORD STEWART of Vchiltreie, and Andro Stewart, his fervand.

Dilaitit of the Slauchter of vniq^{le} *James Lord Torthorell*. Compeirit and producte ane Act of Secreit Counfall, extractit furth of the buikis thairof, vuder

¹ *Spotswood’s Church Hist.*, 433.

² *Wood’s Peerage*, I. 123.

³ *Anon. Hist. Scot. M.S.*

Adv. Library. 28.

⁴ *Balf. Ann.*, II.

⁵ *Ibid.* 42.

the signe and subſcriptioun of James Pymrois, Clerk of Counfall, of the dait the tent day of Auguſt laſtbypaſt; beirand, that Williame Lord Douglas and James Lord Torthorrell compeirit perſonallie befor the ſaidis Lordis, and promeit in thair preſens, that betuix and the tuentie day of September than nixtocum, quihilk is this day, thay ſould ather perſew the ſaid Andro, criminallie, befor his Maieſteis Juſtice and his deputis, in the Tolbuthe of Ed^r, ſfor airt, pairt, red and counfall of the Slauchter of vnr¹⁰ James Lord Torthorrell, or ellis, that thai ſould reconceill thame ſelffis with the ſaid Lord Vchiltrie, and be agreit with him.—And in reſpect, that thai tuik betuix and this day to perſew him, quihilk is the laſt day contenit in the Act; thairfoir, the ſaid Lord Vchiltrie, for tryell of his innocencie of the ſaid allegit cryme, now compeiris, and offeris him reddie to abyde the tryell of the law, for airt, pairt, red and counfall of the ſaid Slauchter; quhairof he is atogidder Innocent, diſſalenting to all maner of continuatioun; proteſting, that the ſaid Williame Lord Douglas and James Lord Torthorrell, nor na vtheris perſones be hard to perſew him for the ſaid allegit cryme, in ony tyme cuming; in reſpect that thai nor nane of thame compeirit to inſiſt in this perſute.

And lykwayis, the ſaid Lord Vchiltrie aſkit inſtrumentis, of the entrie and productioun to the Juſtice of *Andro Stewart*, his ſervand, to abyde quhatſum-euir tryell can be laid to his charge, for the ſaid allegit Slauchter. Lykas, the ſaid Andro Stewart, for himſelf, being perſonallie preſent, offerit himſelf to the tryell of the law, for the Slauchter aboue ſpecificit; quhairof he declairit him ſelf to be maift Innocent; diſſalenting to all continuatioun; and thairupone aſkit inſtrumentis.

LETTER, *the Privy Council to the King, anent the Slauchter of the Lord Torthorwall.*¹

MOST SACREID SOUERAYNE,

THAIR hes ane whappie accident fallin out heir, this morning, betuix ſex and ſevin of the klok, by the ſlauchter of *James Douglas of Torthorwell*, committit be *W^o Stewart*, ſone to vnr¹¹ *Sr W^o Stewart*, quho, althocht the priucipall partie had agreid with the ſaid vnr¹¹ *James*, and reſſaveit Aſſythment and ſatisfactioun to his awin contentment, the ſaid *W^o* miiknew this agrement, paſt to the horne for not geving aſſurance, and awaitit the occaſioun of this morning; quha, finding the ſaid *James* ſimple accompaneid vpon the Hie Streit, a littill beneth Croce, he diſparitlie ſett vpon him, and, with ane ſtraick, ſlew him; and the gait² being quyett, he eſcheapid. We have cauſit chairge the partie compeire and anſwer, and fall proſequut and follow out all wther ordinarie courſe of law and juſtice quihilk is vſual and accuſtomed in the lyk caiffis. And, in cais of his not compeirance, fall caus denunce him, and pairpone fall direct Commiſſiounes to the ordinarie Magiſtratis of the country for the perſute of him, with Proclamaſtiounes, containing a promes of reward to ony perſounes quho will tak him. Quhairof we haif thocht meit to mak your ſacred Ma^{tie} aquented, and in all reverence fall conforme our ſelffis to quhatſumevir forder directiounne it fall pleis your hienes to give in this mater.

¹ From the *Earl of Haddington's MSS.*, General Register Houſe.

² Siret.

And sua, praying God to grant unto your sacred Ma. a long, happie, and prosperous regnne and eternal felicitie, we rest your Ma. most humbill and obedient subjectis and fervitouris,

A. CANCELLS, DUMBAR, CRAFURD, LOTHANE, LOVAT, BLANTYRE, BALMERINOCH,
HALLIBROODHOS, BURLY, R. COCKBURNE, S. J. SKRYMGER of Dudop. S. T. HAMILTON.

[DATE not preserved; but Jul. 7 (or 14) 1608.]

Child-Murder.

Nov. 9.—BEATRIX WEIR, spous to Johnne Ferrie, buikbinder.

Dilaitit of airt and pairt of the distruction of an infant bairne, procreat in Adulterie.

Compeirit James Hammiltoun, feruitour to my lord Aduocat, and producet ane Warrant of the Secreit Counfall; quhair of the temour followis.

JUSTICE, Justice Clerk and your deputtis. Forfamekill as the nynt day of November instant is appointit to Beatrix Weir, spous to Johnne Ferrie, buik-binder, and Bessie Pook, dochter to William Pollok, for pair compeirance befor you, to vnderly the lawis for the crewall, barbarus and detestable Murthour of the said Beatrix bairne, procreat be hir in Adulterie: And feing the said Beatrix constantlie abydis be hir denyell of that odious and vyld fact, thinking pairby to eschew pwnschment, althocht the said Bessie Pollok hes confessit ye fact and Murthour to haif bene committit be jame two, and constantlie standis be hir Confessioun.—It is our Will pairfoir, and We command you, to continew the said dyet for a fyftene dayis, to ye effect, in this meayne tyme, the tua women may be confrontit, and siche ordinarie meanis as may discouer and bring to licht the certane treuth of that matter: And that you gif ourdour and directioun for committing thame bothe to strait waird, within the Tolbuth of Ed^r, thair to remane quhill the next dyet to be appointit for pair tryell: ffor doing quhair of, thir presentis fall be your Warrant. At Ed^r, the fevint of November, 1609.

JO. PRESTOUN. S^r. R. COCKBURNE. L. CRAIG, Cl^r Reg^t.

Conforme to the quhilk Warrant, the Justice committit the said Beatrix Weir to Waird, &c.¹

Witchcraft — Administering Enchanted Drink.

Nov. 9.—JAMES MURE in Mymielagen.²

Dilaitit of airt and pairt of Bewitching of Margaret Wicht in Dalmellingtoun, and taking fra hir of hir Wittis, be miniustrating to hir of ane Inchantit drink.

PERSEWAR, Margaret Wicht. PRELOCUTOR for the pannell, Joseph Myller, Aduocat.

The pannell takis instrumentis of his entrie, and offeris him self to the tryell of the Law, disaffenting fra all continuatioun; and protestis for releif of his cantioun.

THE JUSTICE, in respect thair is na sufficient number of Assyse compeirand this day,³ continewis this dyet to the 3 day of the (Justice) air (of the shire of Air), or soner, vpon xv dayis wairning, to vnderly the law for the said cryme, vnder the paines contentit in the Actis of Parliament; quha fand Sir Johnne Wallace of Carnell, kny^t, cautioner for his entrie, to the effect foirsaid.

¹ No entry appears to show the result of this matter. ² A defender of the *Mures of Auchin- drane* and *Muilbagan*. See their Trial for Murder, Jul. 17, 1611, &c. ³ All the Assisers absent, eighteen in number; 'ilk one of thame vnlawit in the pane of ane hundreth merkis.

(1610, Feb. 7.)—For the relief of his cautioneris, and tryell of his awin innocencie of the saidis alegit crymes,¹ he now compeiris, and maist willinglie offeris him self to the tryell of the law for the samyn, disaffenting fra all continuatioun. And in respect that the said Margaret nor na vtheris compeiris this day to infisit in his persute, for the saidis alegit crymes, and that this is the secund dyet keipit be him, for abyding tryell thair of, haifing cum threfoir myles, or thairby, to that effect; and that the samyn persute is bot malicioullie inventit aganis him, be the said Margaret, for hir awin previe advantage, be raising of Letteris aganis him; and the persones summond be hir vpon his Assyfe, of quhome scho hes ressaunt grit sowmes of money in compositioun, to abyde at hame: Protestis, in respect of the premisses, for (Sir) Johne Wallace of Carnall his releif of his cautionerie, and that he be nocht callit, trubellit, or persewit, at the instance of the said Margaret, or ony vther partie, for the allegit crymes aboue specifeit; nather yit that my lord Justice suffer Letteris to be direct aganis him to that effect, in ony tyme cuning: Quhilke protestation the Justice admittit, &c.

[*Sir Williane Hairt, Justice-Depute.*]

Hurting and Wounding — Shooting of Pistolets.

NOV. 17.—ALEXANDER FRENCH, brother to Johne French, Tutour of Thornydykis.²

Dilaitit of airt and pairt of the Hurting and Wounding, with sehottis of pistolettis, of George Home of Balfinden and Andro Home, his brother, as in the following DITTAY.

FORSAMEKILL as it is expresse provydit, statute, and ordanit, be the Actis of Parliament, that na manner of persone nor persones tak vpon hand to beir, weir, or sehute with hagbuttis or pistolettis, or have the samyn in thair cumpanies, oppinlie, outwith houffis, vnder the pane of cutting of thair richt hand; as the saidis Actis of Parliament at lenth beiris: And trew it is, that the said Alexander French, accompaneit with Johne French, Tutour of Thornydykis, his brother, and vtheris thair complices, nocht only hes borne and worne pistolettis vpon thair persones and in thair cumpaneis, oppinlie and avowedlie, within dyuerse pairtis of the boundis of the seherefdome of Beruik, and bailzerie of Lauderdaill, thir dyuerse yeiris bygane, daylie and continuallie, as thair ordiner wappones; bot also, the said Alexander and Johne, his brother, being surelie informet, that the said Andro Home was to cum furth of the said Place of Bal-

¹ Having been summoned to appear before the Justice this day.

² The pursuers passed from the pursuit of Patrick Cranitoun of Corbies, Robert Ker of the Schaw, Patrick Tait, and Williane Cranitoun, his tua fervandis, Johne French, callit *the Baynard*, sone naturall to Robert French of Thornydykis; and Thomas Erkyne.

finden to Reidpeth, for doing of certane his necessar eſſairis and buſſines; thay, vpon the xxv day of September laſtbypaſt, being bodin in feir of weir, with ſecrettis, plait-flevis, lances, hagbuttis and piſtolettis, lay at await in the ſaid Andro his hie way, befye Fawnes-furd, and thair fet vpon him, and crewallie invaidit him for his Slauchter. ſhot and dilafchet¹ thair hagbutis and piſtolettis at him, hurt his horſe, and chaifit him ſelf to the Place of Caroleſyde; contravening thairby the tennour of the ſaid Actis of Parliament. Be occaſion of the quhilk perfute, thay being raiſit in the cuntrie, and the bruit paſſand, that the ſaid Andro was flane and tane in to Carroleſyde, and the ſamyn haifing cum to the ſaid George knowlege, he, to try the certantie thair of, lap on vpon horſebak, and cam ryding to the Place of Caroleſyde, in ſober maner, him ſelf allane, lipuing for na harme, iniurie or perfute to haif bene done to him,—the ſaid Alexander French, accompaneit with his ſaid brother, and vtheris thair complices, nochtwithſtanding of the former iniurie done as ſaid is, being bodin in feir of weir, with hagbuttis, piſtolettis and vtheris wappones, *invafive*, convenit thame ſelfis at the Chapel-wallis befye Corſbie and dykis² thair of, quhair thai lay darnit³ in ſecreit maner, awaiting, gif ony wald cum and revenge the former deid; and thair, at the Chapell-dykis, in the ſaid George cuning to the ſaid Place of Caroleſyde, vmbieſet his hie-way, and maift crewallie invaidit him for his Slauchter, ſhot and diſcharget thair piſtolettis and hagbuttis at him, quhairwith thay ſhot ſewin bullettis in his left thie, hurt and woundit him thairwith, to the eſtufouſ of his bluid in grit quantitie: And the ſaid Alexander is airt and pairt of the ſaidis crymes; and hes thairthrow incurrit the panes and puniſhment preferyuit be the ſaid Act of Parliament.

PERSEWARIS, George Home of Baſſindene, Alexander Home, his brother; Sir Thomas Hammitoun, PRELOCUTOR for the pannell, Mr Williame Oliphant.

It is allegit aganis the firſt article of the Dittay, anent the generalitie of the beiring and weiring of piſtolettis, that the ſamyn is nocht relevant, nocht conſiſtending the ſpeciall tyme and place, quhair and quhan the ſamyn war borne or worne. The Aduocat declairis he perfewis the pannell for beiring and ſchniiting of hagbuttis and piſtolettis, the tyme lybellit, outwith the boundis of his duelling houffis, cloiffis and yairdis. Andro Home, ane of the perſewaris, declairis, that in his perfute be the Tutour of Thornydykis, Alexander his brother was in company with him, with ane lance; the Tutour haifing piſtolettis, and ſchniitting at him thairwith.

It is allegit be Alexander French, that this Dittay can nocht be put to the knowlege of ane Allyſe; under proteſtation, that he nawayis grantis the Dittay, becans the ſamyn was done within the Place of Corſbie, and yairdis thair-

¹ *Deſſaſcher*, Old Fr. to diſcharge, to let off. ² Walls, ſtone fences. ³ Hidden, concealed.

of.—It is answerit be my lord Advocate, aucht to be repellit, in respect of the fummendis and place thairin designit, viz. outwith the Place of Corbie; rather yit was the Place of Corbie the said Alexander Frenche duelling place.

It is allegit for the said Alexander, vnder protestatioun foirsaid, that the said Alexander, the tyme lybellit, and the space of the moneth befor, duelt and maid his residence within Corbie; lyk as, the persewar, George Home, assistit with some persons, bodin in feir of weir, with hagbutis and pistolettis, persewit and invaidit the said Alexander, and schot thair hagbuttis and pistolettis at him, he being then ganging within the corne yaird of Corbie, at the barne-dur thairof; of the quhilk schot the barne-dur can yit record: And vnder protestatioun, that he nawayis grantis ony sehuting, as he schot nocht, he aucht nawayis to be put to the knowlege of ane Inqueist for the said cryme lybellit, becaus he mycht haif lauchfullie borne and worne pistolettis, and vset thame for his awin defence, within his awin duelling place, he being persewit, as said is.—Answeris, vnder protestatioun, that I nawayis grant Corbie to be the defenderis duelling place; that he aucht to be put to the knowlege of ane Assyse, becaus the fact lybellit was committit outwith the place of Corbie and yairdis thairof, in the place lybellit; rather is hagbuttis or pistolettis wappones of lauchfull defence.

THE JUSTICE referit the sanyu to the knowlege of ane Assyse.

George Home of Bassinden, be his aithe, declairit, that Alexander French, being outwith the dykes of Corbie, schot ane pistolet at his servand Johnne Baird, the tyme contenit in the Dittay. The said Andro Home, his brother, lykwayis suorne, declairis, that he, being persewit be Johnne French, Tutour of Thornydikis, with hagbuttis and pistolettis, the tyme lybellit, the said Alexander Frenche, his brother, followit him with ane lance in his hand, being vpone fute, and persewit him. The said George Home, be his ayth, declairis, that Alexander French, this tua yeir bygane, hes borne and worne pistolettis, as his ordinar wappones; contrair the Actis of Parliament.—Upone the quhilkis Declarationis, be the perseweris athis, gevin as said is, askit instrumentis.

VERDICT. The Assyse, be the mouth of Johnne Cranftoun in Bassinden, chancellor, for the maist part, Clenges the said Alexander Frenche of beiring, weir-ing and schutting of hagbuttis and pistolettis; and of schutting of hagbuttis and pistolettis at Andro Home, brother to George of Bassinden; and of the tua first articles of Dittay foundit thairupou: AND all, in ane voce, flindis the said Alexander to be Giltie of his being in companie with Gilbert Cranftoun; quha, the tyme contenit in the Dittay, schot ane hagbute or pistolett at George Home of Bassinden, and hurt him thairwith in his left thie; quhilk schote was schote be the said Gilbert, outwith the barne-yaird-dykis of Corbie, the said Alexander being remaining within the barne-yaird for the tyme.

THE JUSTICE ordanit the said Alexander Frenche to be committit to waird, within the Tolbath of Edinburgh, thairin to remane vpon his awin expensfis, vnto the tyme he war advyset with the Counfall, anent his dome, to be pronuncet thairuponne.

Wurting and Wounding — Shooting of Pistolets.

Nov. 17.—JOHNE FRENCHÉ, Tutour of Thornydkis, and Gilbert Cranftoun, father-brother to Patrik Cranftoun of Corfbie.

THE JUSTICE ordanit Laurence Symfoun of Craighous and James Sandilandis of Gilliswallis, cautioners for the said Johne, to be in amerciament in the pane of ij^c merkis, for his nocht entrie; and Robert Hepburn in Eist Fentoun, brother to the Laird of Craig, as cautioner for the said Gilbert, in the pane of ij^c merkis: And siclyk, that the said Johne and Gilbert fould be denunciit rebellis and put to the horne, and all thair moveabill guidis to be escheit, &c.

Resetting and Maintaining Alexander Ruthven — Gowrie's Conspiracy.

Nov. 17.—DAVID SPALDING of Effintullie

Compeirit with M^{rs} Williame Oliphant and Henrie Balfour, his prelocutouris, quha enterand him self vpon pannell, exponit and declairit, that fforfamekill as, vpon sinifterus informatioun gevin to the Lordis of Secreit Counfall, command was gevin be thair lordschipsis to Sir Thomas Hammiltoun of Bynnne, kny^t, Aduocat to our fouerane lord, for his hienes entreis, to persue him befor the Justice or his deputis, for the allegit treffonable Resetting, supplieing, and maintening of Alexander Ruthven, burges of Perth, his Maiesteis declarit tratour, within his duelling places of Effintullie and Enoche, at the tymes particulerlie fet down in the said informatioun: lyk as, criminall Letteris being direct at the said Aduocattis instance, aganis the said David, be the quhilkis he was charget to find cautionn actit in the buikis of Adiornall, that he fould compeir befor the Justice or his deputis, this day and place, and vnderly the Law for the saidis allegit crymes, and vtheris contenit in the Letteris direct thairupoun, quhairof he is altogidder innocent: ffor obedience quhairof, vpon the fourt day of July lastbypast, he ffind Harie, Lord St Colme,¹ cautioner for his compeirance this day, &c.: for quhais relief, and tryell of his awin innocencie, he now compeirit; disflawenting fra all maner of continuatioun: And in respect our fouerane lordis Aduocat, nor na vtheris his lordshipsis informeris wald insist in his per-

¹ This Nobleman was the second son of James, Lord Down, and brother of James, Earl of Moray. He had the monastery of St Colme's Inch and lands belonging thereto, erected into a temporal lordship, with the title of a Peer of Parliament, as Lord Saint Colme. He died Jul. 12, 1612.

fute, tuik instrumentis, &c.; and proteffit for his said cautioneris relief; and that he him self fould nocht be callit, trubillit, nor perfewit for the allegit crymes aboue mentionet; bot that he fould be alloilzeit *simpliciter* thairfra, in all tyme cuuing.

Striking a Person within the Tolbooth of Edinburgh, during the Sitting of the Lords of Session.

Nov. 18.—Mr JOHNNE KERR, sone to Andro Ker of Mylnerig, and George Lokhart, feruitour to the Laird of Corstorphin, younger.

Dilaitit, accuset and perfewit, be DITTAY, of the Crymes following.

FORSAMEKILL as, be Act of our fouerane lordis threttene Parliament, his Maieftie and eilaistis ordanit, that quho euir fould strek or hurt in any tyme thaireftir, any perfone within the Vtter-Tolbuth of Ed^e, the tyme that the Lordis of Sessioun fittis for administratioun of Justice, fal incur the pane of dait; and fall be accused criminalle thairfoir: Without regard quhairof, and of that respect and reuerance quhilk it became the saidis Mr Johnne and George, or ather of thame, to haif borne to the Lordis of Sessioun, being conuent in the Inner Tolbuthe of this burcht, for administratioun of Justice to his Maiefties legis, and thairby representing his Maiefties perfone and authoritie; the said Mr JOHNNE, vpone the achtene day of November instant, cam to the Vtter-hous of the said Tolbuth, callit the Mid-hous, and seing the said George Lokhart, feruitour to the Laird of Corstorphin, Younger, following his maister, in companie with my Lord of Kilfithie,¹ desyrous to enter within the said hous; and he beiring grudge and malice aganis the said George, vpone sum former difcoirdis betuix the said Mr Johnnes father, him self, and his vni^q brother Andro Ker and the said George Lokhart, the said Mr Johnne fluid in the said dur, and wald nocht suffer him peceable to pas by, bot forceable rusched the said George, in the bygoing, and had almost strukin him to the grund; and immediatlie thairefter, drawing his dager, inuaidit him thairwith, and strak at him for his slauchter; and strak the said George throw the cloik, within the said hous, and had nocht faillit to haif flane him, gif the said Mr Johnne had nocht bene stayit and red be sum gentilmen being present for the tyme, quho wer commandit be my Lord of Kilfithie to red² thame; and tuik the said Mr Johnne to waird, for his said offence: Quhairby he hes transgrefsed the said Act of Parliament, and incurrit the panes contenit thairin.

LYK AS, the said GEORGE LOKHART, vpone the said achtene day of November instant, about nyne houris, or thairby, befor none, haifing of lang tyme of befor confaunt ane deidlie feid, haitrent, and malice, aganis the said Mr Johnne Ker, sone to the said Andro Ker of Mylnerig, for certane iniurius langage past betuix thame, and for the said George hurting of Andro Ker, brother to the said Mr Johnne, in the hand; and this day, finding the said Mr Johnne standing in the dur of the Mid-hous of the said Tolbuth, quhilk cumis in frome the bak-turnepek thairof, the said George violentlie rusched the said Mr Johnne forward within the said dur, immediatlie thaireftir drew his dager, and strak at the said Mr Johnne thairwith, for his slauchter, vpone the heid, with the said dager; and had nocht faillit to haif flane him, gif the said George had nocht been stayed be sum gentilmen, being present for the tyme. quha entred betuix thame, and be commandiment of my Lord of Kilfithie, in quobis presence the said cryme was committit; quha cauit apprehend the said George, and put him in waird; Quhairby he hes lykways transgrefsed the said Act of Parliament, and incurrit the panes thairin contenit.—To

¹ Sir William Livingston of Kilsyth, one of the ordinary Lords of Session, and afterwards a Privy Councillor, &c.

² To separate them; by no means a safe or easy office in those times, when 'quingaris' and 'pistolets' were the swift messengers of vengeance. The *redder's* portion, in an affray of this sort, became proverbial—for both parties often joined in punishing his temerity! Hence, the *redding-straik* was frequently one of the deadliest in the 'tulzie.'

the taikin, the said Lordis of Sessioun, haiffing callit thame, and ather of thame, befor thair Lord-
schipis, for tryell of the said cryme, thay, be the saidis perfonis awin Confessioun, and Deposition of
dyuerse famous witneffes, said that the saidis Mr Johnne and George, and ather of thame, had con-
travenit the said act; and Ordanit thame to be put to ane Tryell for the samyn.

Eftir reiding of the quhillkis tua Dittayis, and accusatioun of the said Mr
Johnne Ker and George Lokhart, be vertew thair of, our fouerane lordis Aduo-
cat, for verifeing thair of, product the said Mr Johnne and George awin Confes-
sioun, togidder with certane Depositiones of dyuerse famous¹ Witneffes, suorne
and examinat in presens of the Lordis of Sessioun, in the said matter.

The pannell, Mr Johnne Ker, denyis that poynt of Dittay, quhair he was
' within the Tolbuth,' the tyme of the committing of the cryme; bot was vpone
the fair and entrie of the dur. Lyk as, the saidis perfonis on pannell, being
inquiryet, judiciallie, be the Justice, Gif thai had any thing to say, quhy the saidis
Dittayis product aganis thame sould nocht be put to the knowledge of ane
Assyse? flor ansuer thairto, maist humlie acknowlegit and confessit the premisses
to be of veritie; and referrit thame selfis in his Maiesteis will for the samyn. In
respect quhair of, the Justice Ordanit the saidis perfonis to be tane bak to waird
to the Tolbuth of Ed^r, thairin to remane quhill his Maiesteis will war schawin
thairanent.

Jamesucken—Murder under trust.

NOV. 22.—JOHNNE STEWART, sone to vniq^{le} James Lord of Doun, (bro-
ther-german to Harie Lord St Colme.)²

Dilaitit of airt and pairt of the murthour of vniq^{le} Johnne Gib in Over Les-
foddie; committit in the moneth of Junij 1608 yeiris.

PERSEWARIS, Bessie Dik, the relict of vniq^{le} Johnne Gib. Sir Thomas Hammiltoun.

THE said Johnne Stewart, being accuset of the said slauchter, maist humble,
vpone his kneis, in presens of the Justice and Lordis of Secretit Counfall, Con-
fessis the slauchter, and craves God and the Kingis Maiestie pardoun; And
offeris to the partie quhat satisfacioun he is able to content thame with, be the
advyse of his frendis. Quhairupoun the Aduocat askit instrumentis.

The Aduocat product the DITTAY, following.

JOHNNE STEWART, sone to vniq^{le} James Lord Doun, 5e ar indytit and accuset: Forflamekill as 5e,
hauing confauet ane deidlie feid, haitrent, and malice, aganis vniq^{le} Johnne Gib in Over Lesfodie,
caufles, without ony occasioun gevin be him to 5ou; bot ony, for ane suddane discord falling furth
betuix 5our horfe-boy and servand, quhair of the said Johnne was altogidder innocent and ignorant, 5e,
vpone the . . . day of Junij, the 5eir of God I^m.Vj^e, and aucht 5eiris, drinkeand at Keltieheuch, in the
hous of Johnne Greve pair, avowit maist crewallie and maliciously to bereif 5e said vniq^{le} Johnne
Gib of his lyfe: And for performinge pair of, being instantlie bent to feik him at his awin hous, and 5e
being itayit be James Craufurd, and sum vtheris quha hapnit than to be in 5our company, 5e, to red

¹ Persons of good fame and credit.

² So described in the second diet. See Note to Nov. 17, 1609.

3our self of pat impechment,¹ faythfullie promittit and gaif 3our hand² to the said James Craufurd, that 3e fould nocht pat nycht go towardis the said Johnne Gibis hous, bot pat 3e wald ryd towardis the brig of Gairny: Nochtwithstanding quhairof, fa fone as 3e gat 3our horfe, 3e raifd in all haill to 3e said vmq⁴ Johnne Gibis hous, in Over Lefladie, about þe glomyng of the nycht,³ and chopping⁴ at þe dur, and calling vpon him be his name, he being than lyand in his naikit bed, takand the nychtis rest, and feiring na iniurie, inuafoun, nor harme to haif bene done to him, be any perſones, and ſpeciallie by 3ow, quha in all tyme preceeding had bene in profellit freindſchip with him, and had reſſauit dyuerſe pleſouris and gratitudis of him, fa fone as he hard 3our voce, infantlie raiſe in his fark,⁵ and oppint his dur to 3ow; quhair 3e, without ony caus, vpeging of freindſchip, or adverteiſing him of his ſkaith or danger, ſtraik him with 3our dager in the breiſt, neir the heart, and gaif him pairwith anc deidlie wound, vnder treſt, freindſchip and credeit: Of the quhill wound he departit this lyfe within les nor fourtie aucht heuris pairefter. AND ſua, 3e maif crewallie and vnmerciefullie flew the ſaid vmq⁶ Johnne Gib, vnder clud and ſilence of nycht, within his awin hous, be way of Hame-fuckin and vnder treſt; to þe grit contempt of our ſoueraue lord, his bienes auctoritie and lawis, &c.

TO THE TAIKIN,⁶ that, incontinent pairefter, 3e returnet bak to the ſaid Johnne Grevis hous in Keltieheuch, and calling furth vpon Nicoll Rowane, inqyret of him, ‘ quhais man⁷ Johnne Gib was?’ Quha anſuerit, that ‘ he was my Lord Chancelieris man;’ 3e ſaid, ‘ and⁸ he war the Devillis man, 3e had gevin to him the thing that wald ſlaik⁹ him!’ To the taikin alſo, pat vpon þe morne pairefter, 3e, cuming in, in the moiring, to anc houſe in Aberdour, quhair James Baveredge, in Keltieheuch, and Alex^r Kellok war drinking, 3e demandit at James Baveredge, ‘ Quhat newis?’ Quha anſuering, that ‘ He hard na newis that was guid!’ and, ‘ That 3e mycht haif bene in 3our bed that nycht, quhan 3e gaif that hurt to Johnne Gib, quhairof he wald die!’ 3e, taking out 3our bludie dager, ſaid, ‘ he could nocht be the war,¹⁰ becaus 3e had gevin him bot anc po^r!’¹¹ To the taikin lykwayis, 3e, being charget to ſind caution, to compeir befor the Juſtice, at anc certane day bygane, to haif vnderlyne the law for the ſaid cryme, paiſt to þe horne; quhairat 3e haif lyne continuallie ſenſyne.

THE JUSTICE continewis this matter, anent Johnne Stewartis tryell, to Fry-day nixt, quhill¹² he be adyſet with the Counſell.

(Nov. 24.)—THE JUSTICE Ordanis the pannell to be put to anc Aſſyſe; nochtwithſtanding his becoming in Will, the laſt dyet.

ASSISA.

William Trumbill of Airdrie; Johnne Dunbar of Mynnieweik; William Cuming of Erneſyde; The Laird of Partoone, 3ounger; Johnne Johnneſtoun of Raiceluch, tuteur of Johnneſtoun.¹³

THE pannell of new agane Confeſſis the Dittay, and craves Godis mercie, &c.

VERDICT. Eſtir accuſatioun of the ſaid Johnne Stewart, be Dittay, and the ſaid Johnnes Judiciall Confeſſioun, maid in preſens of the Juſtice and Aſſyſe, granting the ſaid fact; and maif humble, vpon his kneis, craveing God, our ſoueraue lord the Kingis Maieſtie, and the partie, pardoun thairfoir; the ſaid Aſſyſe, be the mouth of the ſaid Johnne Johnneſtoun, chancellor, all in anc voce,

¹ Hindrance, old Fr. ² A ſolemn mode of affirmation and promiſe, ſtill uſed amongſt the paſantry of Scotland; and conſidered as ſacred and binding as an oath. ³ Twilight. ⁴ Knocking at the door.

⁵ Night-shirt. ⁶ In token; proof, or teſtimony of the above. ⁷ Feudal vaſſal. ⁸ If; *au*. ⁹ Literally, quench; *ſtoken*, or *ſtake*. ¹⁰ Worse. ¹¹ Probably for *power*, only one blow or ſtroke. ‘*Purr*’ is ſtill uſed, to denote a puſh made by a bull or an ox, &c. when he runs at and gores another. ¹² Until. ¹³ The reſt were ‘*mercheandis*,’ and perſons of no note.

ffand, pronuncet, and declairit the said Johnne Stewart, according to his awin Judiciall Confessioun, to be ffylet, culpable, and convict of the crewall Murthour and slauchter of the said vniq^{lc} Johnne Gib: committit in maner, and at the tyme spfecifit in his Dittay.

SENTENCE. To be tane to the place of his Executioune, and thair his heid to be struckin from his body; and all his moveabill guidis to be efcheit and inbrocht to his hienes vse, as convict of the said cryme. Quhilk was pronuncet for dome.

Wearing of Hagbutts and Pistolets—Perjury.

Nov. 22.—ROBERT JOHNESTOUN, sernitour to my Lord Forbes.

Dilaitit of the beiring and weiring of hagbuttis and pistolettis, contrair the Actis of Parliament; and of Periurie, as the Dittay beiris.

PERSEWAR, Sir Thomas Hammiltoun of Bynnie, kny^t, Aduocat to our fouerane lord.

PRELOQUUTOUIS for the pannell, Mr Alexander King, Mr Johnne Ruffell, Mr Robert Learmonth.

My Lord Adnocat produceit ane Decreit of the Lordis of Counfall, decerning the said Robert to haif contrauenit the Actis of Parliament, in beiring and weiring of hagbutis and pistolettis; of the dait, at Ed^r, xxvij of Junij. The Aduocat infistis vpon the beiring and weiring of hagbutis and pistolettis, quhairuppon the pannell askis instrumentis. My Lord Aduocat produceis his Maiefteis Letter, as Warrant of this perfute.

It is allegit be Robert Johnnestoun, that he can nocht be put to ane Assyse, for weiring of hagbuttis and pistolettis, lybellit; becaus, be Act of Parliament, in November, 1600 yeiris, it is speciallie provydit, that sic personis as fall be perfewit befor his hienes and Lordis of Secreit Counfall, and tryit be probatioun of Witnesses, giltie of beiring and weiring of hagbuttis or pistolettis, fall nocht incur the corporall punisshment in the former Actis, be amputatioun of the rycht hand; bot only to be punisshit, be warding of thair personis, efcheit of thair guidis-moveabill, or payment of sic pecuniall sowmes of money as his hienes and lordis of Secreit Counfall fall declair: And trew it is, that in the perfute, intentit be my lord Aduocat, quha is now persewar aganis Airthour Lord Forbes, for the particuler factis contenit in the perfute intentit thairuppon; bot speciallie, of his Lordship being accompaneit with David Forbes of Petlethie, his brother, Williame Garioche, younger of Kinftair, and the said Robert, now enterit vpon pannell, was challanget *per expressum*; in maner as is contenit in the said Decreit: Be the quhilk Decreit, the saidis Lordis of Counfall, nocht only tuik tryell anent the said Lord Forbes, for him self, bot also anent the saidis Williame Garioche and Robert Johnnestoun thair beiring and weiring of hagbuttis and pistolettis; and finding thame giltie thairof, ordanit the said Robert Johnne-

floun and Williame Garioche to be committit to the tolbutth of Ed', and that for weiring and beiring of pistolettis, in the tyme contenit in the Dittay : And thairfore, the said Robert Johnnestoun can naways be put to ane Assyfe. And for verificatioun, producet the Act of Parliament, with the Decreit of Counfell.— It is answert, be my lord Aduocat, that the Act of Parliament ordanis na process intentit befor the Justice for weiring of hagbutis and pistolettis to stay, bot quhair the saidis defenderis has been persewit befor the Lordis of his Maiesteis Secreit Counfell, be his Maiesteis Thesaurer or Aduocat : And the Decreit of Secreit Counfell producet beiris na actioun to haif bene intentit or persewit, be his Maiesteis Thesaurer or Aduocat, befor the Counfell, aganis the pannell, for the cryme contenit in the Dittay. Thairfoir, the Decreit of Counfell producet can nocht stay proces.

It is allegit, that the Justice can nocht proceed aganis the pannell, for the Periurie, in respect thair is na Warrant gevin for his persute thairfoir. And forder, the Warrant producet resolues only anent the punisshment to be inflicted, be amputatioun of his rycht hand, he being convict of beiring and weiring of pistolettis.—To the quhilk, it is answert, be my lord Aduocat, aucht to be repellit, in respect of the Warrant gevin to him be the Lordis of Secreit Counfell to persue the pannell, baith for the beiring and weiring of pistolettis, and for the Periurie contenit in the Dittay.

THE JUSTICE continewis this matter to the xxiiij *instantis*, quhilk is Fryday ; and ordanit the pannell to be tane bak agane to waird.

(Nov. 24.)—THE JUSTICE, haifing acquetit the Lordis of his Hienes Secreit Counfall with the proces persewit be his hienes Aduocat, aganis the said Robert Johnnestoun, for bering and weiring of hagbutis and pistolettis, and with the hail allegiances and defensis proponit *hinc inde* be thame, and answert maid thairto ; Eftir reding of the Act of Parliament and Decreit of the saidis Lordis of Secreit Counfall, quhairupoun the defenderis alledgeances and defence is foundit, and producet for verificatioun thairof ; findis, with expres auise of the saidis Lordis of Secreit Counfall, that this mater aucht nocht to be put to the knowledge of ane Assyfe, in respect of the foirsaid Act of Parliament, and Decreit of the saidis Lordis of Secreit Counfall, producet : And Ordanis the said Robert to be tane bak agane to the Tolbuthe of Ed', thairin to remane, vpon his awin expensis, quhill he satisfe his hienes Thesaurer, according to the Counfall modificatioune.

Slaughter.

Dec. 29.—WILLIAME GUTHRIE of Ravinlie.

Dilaitit of airt and pairt of the Slaughter of vniq^{le} Patrik Gairdin of that Ilk : committit in Maj I^m.V^c. lxxviiij.

PERSEWERIS, Robert Gairdin, oy¹ to the defunct, Mr Tho^s Henderfon, substitute to the Lord Advocat.
PRELOCOUTOUR for the pannell, Mr Thomas Hoip.

The pannell takis instrumentis of his entrie; and producet ane Respett, vnder the Previe Seill, of the dait, Jan. 24, 1600, maid and grantit for the space of six yeiris: And, in respect thairof, allegit that the Justice could nocht put him to the tryell of ane Assyse.—It is answert, that the Respett is null; in respect, conform to the Act of Parliament, he sould haif satisfeit the partie, and schaw ane Letter of Slanes thairpoune.

THE JUSTICE admittis the Respett producet; and Ordanis the pannell to find cautione to satisfie the partie; quha fand Alexander Guthrie, ffear of that Ilk, cautione with himself, to satisfie the partie; conforme to the lawis of this realme.

[*Sir Williaime Heart, Justice-Depute.*]

ASSESSORES JUSTICIARIO.

Mr Johnne Prestoun, President,² Walter Lord Blantyre, My Lord Previe Seill,³ My Lord Kilsyth.⁴

Barbarous Murder—Shooting with Waggbutts, &c.

Feb. 2, 1610.—JAMES GORDOUN, in Over Auchinrath, eldest sone to Johnne Gordoun of Liechfoun, and Alexander Gordoun of Oxhill.⁵

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Alexander Abircrumbie of Pitmedden.

PERSEWERIS.

Hectour Abircrumbie of Westhall, Adame, McWalter, and Robert Abercrumbie, all sones; Williaime Abercrumbie, as oy; Sir Thomas Hammiltoun of Bynnie, kny^t.

PRELOCOUTOURIS for the pannell, Mr Alexander King, Mr Thomas Mawer, The Laird of Lesmoin.

DITTAY againji the Pannels.

FORSAMEKILL as the faidis JAMES GORDOUN and ALEXANDER GORDOUN, with thair complices, with convocatioun of our fouerane lordis legis, to the number of fyfene perfones, or thairby, all bodin in feir of weir, with jakis, fecreittis, steil-bonnettis, lance-stalfis, fuordis, lang culveringis, dagis, and pistolettis, expresse prohibeit to be borne, worn, vsed, or schote with, be the Actis of Parliament, vnder the panes mentionat thairintill; vpone the twelff day of Marche, the yeir of God Im.Vc. lxxxiiij yeiris, haifing confauet ane deillie feid, rancour, and malice agenis the faid vniq^{le} Alexander Abercrumbie of Pitmedden, set vpone the faid vniq^{le} Alexander, at the Moss of Cokfoun, lyand within the scherefdom of Elgyn and Forres, quhair he was passand his tyme at the haliking, but⁶ ony company, except his falconeris, in fober and quyet maner, dreidand na evill, harme, iniurie, or perfute of ony perfone, bot to haif levit vnder Godis peax and our fouerane lordis; and thair, expresse contrair the tennour of the Actis of Parliament, schot and dilafchet⁷ tuentie schote of hagbuttis and pistolettis at the faid vniq^{le} Alexander; quhairby thay schote dynerse and findrie bulletis in dynerse partis of his body: And haifing circuit him round about, that he was nocht abill to efsaip, thay thairefter pat violent handis in his perfone, tuik frome him his awin horse, and cuist him vpone ane bachillane naig,⁸

¹ *Oe or Ore*, grandson.

² Of Fentonburns, President of the College of Justice.

³ Sir Richard Cock-

burn of Clerkington.

⁴ Sir William Levingston of Kilsyth, one of the Ordinary Lords of Session.

⁵ The

case was argued before the Justice-Depute on Jan. 31; and in consequence of objections being started to the production of a Remission in favour of Alexander Gordon, and of a Relaxation granted to James Gordon by the Duke of Lennox, &c., the Justice continued the diet to this day.

⁶ Without.

⁷ Old Fr. *decharger*, to discharge, &c.

A foundered jade of a horse; selected, no doubt, for the greater dishonour, and to give greater pain to the wounded man by its unsteady and jolting motion. *Schuchilland* has a similar signification.

quhairpone thay convoyit him, as ane captiue and priffoner, the space of ane myle, or thairby, fra the said Mofs, towards the Place of Licheftoun : And being the lenth of ane half myle to the said Place, ane of the perfonis that war of thair companie, of the speciall knowlege of the reit, haifing ane chargeit hagbut in his hand, charget with thre bullettis, preparit for the purpois, at thair speciall command and directioun, behind the said vmq^{le} Alexanderis bak, feshot him with thre bullettis throw the body ; and thairefter, maik barbarouslie and crewallie, with thair drawin fuordis, cuttit him all in peces ; and, as moniteris in nature, left nocht fax inche of his body, armes, legis, and heid vnderdyit, and cut afunder : And sa, was maik monstroullie and crewallie flane and Murthorit be the perfonis foirfaidis : And thay and ilk ane of thame ar airt and pairt of the said crewall flanchter ; and aucht and fould be puneit thairfoir, and for contravening of the Actis of Parliament, in beiring, weiring, schmitting, and slaying with hagbuttis and pistolettis, in maner foirfaid.

The said James and Alexander Gordoun tuik thame to tua feneral REMISSI-
 STONES, producet be thame, for the crymes aboue writtin. The ane, grantit be
 our fonerane lord, vnder his lienes Grit Seill, to George Marqueis of Huntlie
 Erle of Enzie Lord Gordoun and Badzenoche, Sir Thomas Gordoun of Glwne,
 kny^t, the said James and Alexander Gordones, and dyuerse vtheris perfones, thair
 affliseris and pairt-takeris, for thair tressonable cuming, in opin hostilitie and
 armour, to the landis of Auldquhamoquhen and Glenlivat, aganis Archibald,
 Erle of Ergyle, his Maieftis Lieutenant for the tyme, and aganis his Maieftis
 oift and cumpaneis, vnder the said Erles leiding and command, in the moneth of
 October 1594 yeiris ; and for the Slauchter of quhatfumeuir perfone or perfones,
 committit aganis his Maieftie or his lienes Lieutenant foirfaid, quhais names
 ar haldin as for exprefsit, in the said Remiffioun ; and namlie, for the Slauchter
 of vmq^{le} Robert Frafer, his lienes Herald, &c. As the said Remiffioun, of the
 dait at Halyrudhous, the fecund day of Apryle, 1603 yeiris, in the self proportis.
 —The vther of the saidis Remiffiounes, grantit be Ludovick, Duik of Lennox, his
 Maieftis Lieutenant and Justice, ouer the North partis of this realme, for the
 tyme, Remittand Johnne Gordoun of Licheftoun, the said James appeirand thair-
 of and Williame his fones, Alexander Gordoun in Fernauchtie, and Williame
 Ewin, fervandis to the said James : ffor thair tressonable being in cumpanie,
 afflitting, airt and pairt-taking with George, funtyme Erle of Huntlie, frances,
 funtyme Erle of Errole, and certane vtheris his Maieftis declairit traitouris
 and rebellis, at the lait Conflict aganis Archibald Erle of Ergyle, &c.

It is allegit, befoir Interloctour, be Mr Alexander King, that now he may
 compeir for James Gordoune, becaus he is relaxt ; quhilk relaxatioune he pro-
 ducet.—It is allegit, be my lord Aduocat, the Relaxatioune is null ; becaus it is
 execute at Ed^b, and nocht at the mercait croce of the head bur^{gh} of the schyre.—It
 is anfuerit, the Relaxatioune is guid aneuch at the mercait croce of Edinburghe.

It is allegit that the perfones on pammell can nocht be put to ane Affyfe, be-
 caus thay haif obtenit Remiffioun fra the Duik of Lennox, quha had Commif-
 fioun of his Maieftie to that effect ; quhilk Remiffioun he producet. It is alle-

git, that the Remiffioun is null, gevin be the Duik of Lennox; becaus his Commiffioun gevis him power to grant Remiffioun, be advyfe of his Counfall; lyk as, the Remiffioun producet beiris, ' with advyfe of his Counfell,' and yit mane of his Counfell hes fubferyuit the famyn. It is anfuert, that thair is na fpeciall perfones nominat Counfallouris in the Remiffioun, and thairfoir thair is na neceffitie of thair fubfcriptioun; and haldis him at his Remiffioun, quhilk he referris to the Lordis. It is forder allegit, that the Remiffioun is nocht pafte the Seillis, and is exped be ane quha had na place in the office of Thefaurer for the tyme; and forder, the faid Remiffioun has pafte the Register, and thairfoir fould pafte the Seillis.—It is anfuert, thair is na neceffitie of paffing the Seillis, feing it is grantit be his Maieftis Commiffioun.

THE JUSTICE, with advyfe of his Affeffouris, appointit be the Lords of Seccreit Counfall, findis, that this matter can nocht be put to the knowlege of ane Affyfe, in refpect of the Remiffiounes producet. And ordanis the pannell to find caution, for fatisfactioun of the partie perfewaris, accourding to ordinance of the Lordis of Seffionne.

Quhairupoun the perfones on pannell askit instrumentis: And ffand my Lord Saltounne and the Laird of Lefmoir cautioneris, conjunctlie and feuerallie, to fatisfie the parties: And the Laird of Lefmoir become obleift to warrand my Lord Saltounne.

The perfewaris proteftis, that this perfute now intentit be thame, and Interlocutor aboue written, gevin thairupoun, be nawayis preiudiciall to thame in ony vther perfute movet aganis the pannell, in ane vther nature or qualitie, in ony tyme cuming: Quhilk the Justice admittit.—Lyk as, the pannell proteftit in the contrair; and askit instrumentis thairupounne.

Slaughter.

Jul. 25.—WILLIAME GUTHRIE of Ravinfbie, lauchfull fone to vmq^{lc} Alexander Guthrie of that ilk.

Dilaitit of airt and pairt of the Slaucher of vmq^{lc} Robert Gairdin of Tullois; committit vpon the Mure callit Carbound-mure, in the lie-way betuix Brechin and Dundie, in the moneth of Nouember, 1589; vpon fet purpois, proutioun, and foirthochit felony.

PERSEWARIS, Robert Gairdin, as only fone to vmq^{lc} Robert Gairdin of Tullois; Mr Robert Gairdin, appeirand of Blairtoun; Commiffar Clerk of Aberdene, as neir kinfman; Mr Robert ffoullis, fubffitute to our fouerane lordis Aduocat.

PRELOCUTORIS in defence, Mr Johnne Ruffell, The Laird of Guthrie.

The faid Williame Guthrie tuik him to our fouerane lordis Refpett, gevin and grantit to him be his Maieftie, vnder the Previe Seill, for the faid Slaucher, for

the space of nyntene yeiris eftir the dait thairof; quhilk is of dait, at Halyrud-hous, the xxiiij day of Januar, 1^m.Vj^e. yeiris; and in respect thairof, allegit, that the said Dittay could nawayes be put to the knowlege of ane Affyse, for the said Slauchter.—To the quhilk it was anfuercit be the Advocat, that the Respett is null, becaus, conforme to the Act of Parliament, na Respett nor Remission can be grantit without satisfiounne of partie; and this persewar nocht being satisfeit, the Justice aucht to put the pannell to the knowlege of ane Affyse.

THE JUSTICE, nochtwithstanding of the Advocattis anfuerc, eftir reiding of the Dittay and Respett aboue spicifeit, Admittis the said Respett; and ordanit the pannell to find caution to satisfie the partie persewar, conforme to the lawis of this realme; but preudice alwayis of his lauchfull defensis: Quha, for obedience of the said Justice ordinance, stand, with him self, Alexander Guthrie fhear of that Ilk, cautioneris, &c.

High Treason — Tyrannical Oppression of the Inhabitants of Orkney and Zetland, &c.

[As the subsequent Trials of PATRICK, *second* EARL OF ORKNEY,¹ and of ROBERT STEWART² and others, contain the most ample information relative to the infamous and almost unparalleled cruelties and oppressions committed by this tyrannical individual, against the unoffending Inhabitants of Orkney and Zetland, it is unnecessary, in this place, to anticipate the extraordinary circumstances which are there detailed. The Editor has been at much pains to procure the most authentic Documents, in illustration of these very remarkable Trials; to which the reader is referred. They contain the fullest and most minute accounts of the shocking atrocities committed by this savage and relentless Noble, whose life, estates, and honours, were at length forfeited, in atonement, so far, for his frightful crimes. He was beheaded at the market-cross of Edinburgh, Feb. 6, 1614.]

Aug. 2.—PATRICK EARLE OF ORKNAY LORD ZEITLAND, &c.

Dilaitit of certane Treffonable crymes, at lenth spicifeit and sett down in our souerane Lordis Letteris, vnderwritten:

FOLLOWIS *the tennour of the Letteris* (DITTAY.)

JAMES, be the grace of God, King of Grit Britane, France and Ireland, defender of the faith. To our Louittis [Johnne Blinfull, Hay Herauld] Messengers, our schereffis in that pairt, conuinctlie and feuerallie, spiciallie constitute, greting. sforamekill as it is humbie meanit and complenit to ws be our trustie and weilbelouit counsalour Sir Thomas Hammiltoun of Bynnies, kny^t, our Advocat, for our intreis, vpon PATRICK, ERLE OF ORKNAY, Lord Zeitland, &c.: THAT quhair, it is expresse statute, ordanit, and obseruet, be our lawis and Actis of Parliament of this our realme, and be the Cowmoun Law and consuetude inuolabillie obserued in all Christiane and civile Nationes, that quha enir

¹ See Feb. 1, 1615.

² The Trial of Robert Stewart, 'base sone to vmq^{re} Patrik, lait Erle of Orknay,' and others, will be found under Jan. 5, 1615, of the present Collection.

dois Treafone aganis the Kingis persone, or his Maieftie; or vsurpes vponethame his fouerane authoritie, in poyntis of royall foueranitie, falbe pwnfeiched as Traturis. AND trew it is, and of verritie, that the said Patrik, Erle of Orknay, atlogidder vmyndfull of that dewtie, qulilk, be the bandis of nature, subiectioun, and allegeance, he aucht¹ to ws, and infinite fanouris and benifeitis reffauit be him frome ws, hes, be him selff, and vtheris in his name, of his caulfeing, command, refset, affiftance, and ratilabitoune, in contempt of ws and our auctoritie royall, committed and perpetrat the most (cruel) and trefoneable crymes following, at the tymes and in maner vnderwrittin: And was and is airt and part of the famyn. IN the first, the said Patrik, Erle of Orknay, be him selff, his deputis, Magiftrattis, and Judges, appointed and depute be him, in the offices of Scherefschip, Stewarrie, and Bailzerie of our scherefdome and bishoprik of Orknay, and lordschip of Zeitland, *respectiue*, of his caulfeing, command, affiftance, and ratilabitoune, monethlie and ilk moneth, in the yearis of God I^m.V^c. fourfeoir nyne, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, and ane thousand six hundreth and ten yeiris, at the leift in ane or vther of the saidis monethis and yeiris, persewed, accused, proceedit, and pronouced dyuerse decreittis and sentences aganis vniq⁶ Sir Patrik Bellenden of Evie, kny^t, Balfoure of Montquhanie, Robert Menteithe of, Williame Banmatyne of Gairfay, Sinclair 3ounger of Etha, Bruce of Cwltmalundie, Henrie Wardlaw his seruant, Adame Mudie,² with mony vtheris our faithfull and obedient subiectis of the countreyis of Orknay and Zeitland, accoirding to lawis trefnonabilie maid and practized be him selff, direct contrair and repugnant to the lawis of our realme, and Actis of our Parliament, maid be ws and our maist noble progenitouris, Kingis of this our realme, to quhome only the power to mak lawis belongis, as ane peculiar poynt of our and thair regall foueranitie; and thairby decernit thame to haif committit capitall and trefnonable crymes; and of his awin presumpcioun and vsurpationn of our authoritie royall, without ony warrand of ws, hes trefnonabilie dispenfit with the poyntes of death, and ordanit the saidis persones quha war convict and condemned, in maner foirsaid, only to be banisched furth of the saidis boundis of Orknay and Zeitland; and hes trefnonabilie adiudget thair landis, guidis and geir to be fforsaltit and escheit to him selff. AS ALSO, the said Patrik, Erle of Orknay, be him selff and his foirsaidis, in the monethis and yeiris of God foirsaidis, att the leift, in ane or vther of the saidis monethis and yeiris, trefnonabilie persuadit, induced, counfallit, and commandit Williame Sinclair of Etha, Henrie Sinclair of Tenquhie, Mr Robert Henderfoun, Williame Irwing of Saba, and mony vther gentilmen of the saidis countreis of Orkney and Zeitland, to

¹ Owes.² A blank of about six lines is left here in the Record.

subferyve and delyuer to him ane Band callit Band-mutus,¹ and thairby obleife thame felfis and thair airis, that thai fould ferue and mantene him aganis qubat-fuineuir perfones, without ony referuatioun of ws;² and that thay fould nevir heir nor knaw his hurt or skaith, bot fould reveil it within tuentie foure houres, without ony exceptioun of impossibilitie or diftance of place, contrariete of wind, wedder, or vther impediment; vnder the pane of tynefell³ of lyfe, landis, and guidis; contening alfo this claufe, 'that gif it happin that þe contravening of this Band, be ony of the faidis subferyveris, fould (fall) nocht cum to þe faid Erles knowlege, quhill⁴ eftir the committeris deceife, it fould (fall) be leifun to him to try the famyu eftir þair daitis aganis þair airis, and pwneife þair faidis aris as he mycht haif done the principall offendour: And that the faid probatioun of þair contravening of the faid Band fould (fall) be fufficient be tua witneffis: Bindand lykwayis the faidis Gentilmen and vtheris of the cuntry to be judged be the faid Erle; and nevir to feik to King, Counfell, nor Sefsioune!' Quhilk Band the faid Erle hes debaited to be lauchfull, and hes confest the refflaucing and haveing thairof; althocht it be maift vnmaturall, uniuft, tyrannicall, impoffible, and treflonable; bindand men to impoffibilities, and inioyneing to thame, in caice of contraventioun, the paynes of Treafone, ffor naiked conceilling and nocht reveilling his skaith, generallie, in ony matter; it being of verritie, that no man hes power to preferyve or exact fuch paynes, bot only fouterane poyntes, and that in matteris trefonable allanerlie. Quhairby, the faid Erle hes manifetlie and trefonable vferped vpon him our royall authoritie and princelie power, in poyntis of our abfolute foueranie. LYK AS, the faid Patrik Erle of Orknay hes treflonable tane vpon him, in the faidis yeiris and monethis, at the leif in ane or vther of thame, to call and perfew befor him and his pretendit deputtis and Judges, in his pretendit Jurifdictiones of Orknay and Zeitland, Adame Mudie, and many vtheris our frie and obedient fubiectis; and eftir his pretendit maner, haifing accused and convicted thame of dyverfe crymes, hes nocht only pronounced aganis thame the Sentence of Banifchement, and fforfaltour to him felff of thair landis and guidis; bot thaireftir componed, tranfacted, and agreid with thame, and trefonable vferped our royall authoritie and fouerane power, be Remitting to thame the faidis capitall crymes; quhilk no man hes power to do, within this our realme, bot the King and fouerane of the fame. AS LYKWAYIS, the faid Erle, bereifing our faithfull fubiectis of the benifeit of

¹ Query, *Band-mutus*? A bond for mutual protection and defence, secretly and solemnly binding the obligants to maintain each other, in their quarrels, 'against all deadly.' These illegal engagements were formally put down by various Acts of Parliament; as 'Bonds of Manrent' were the principal means of encouraging and keeping alive those deadly feuds which disgraced the country, and rendered the state of society in Scotland very insecure, and in many instances almost intolerable. ² Without even reserving their lawful allegiance to the king. ³ Loss. ⁴ Until.

our peace and generall protectione, and the fredome of thair travelling and traffique be sea and land, hes, in the yeiris and monethis foirfaidis, att the leift in ane or vther of thame, difcharged the passageis and ferreis of Orknay and Zeitland, that nane fould haif entreis or outgoing furth thairof, without his Passport and Licence; and did incarcerat, in stokis and irnes, the fervandis of James Stewart of Gramesay, for tranfpoirting of Robert Mentithe his guidbrother,¹ without his licence; and caufed incarcerat the fervandis of Frances Mudie, for tranfpoirting thair said maifter;—the men of Sowna, for tranfpoirting Williame Bannatyne;—and the men of Flottay, for tranfpoirting of thair maifter; held and detenet thame captiues and priffoneris, in irnes, stokis, cloifs-priffone and firmance, dyuerse dayis and outkis;² vſurpeing thairby, moſt treflonable, our authoritie royall, and bereifing our lauchfull ſubjectis of the vſe and benefite of thair natieue libertie, dew to thame, in thair frie paſſage and traffique, vnder our peace and protectioun, throw all the partis of this our kingdome, be sea or land. AND nocht content thairwith, the said Erle, leiſing na foirt of extraordinier Oppreſſioun and trefoneable violence vnpracticed aganis the ſaidis Inhabitantes of Orknay and Zeitland, at the tymes perticulerlie aboue reherted, at the leift in dyuerſe of the monethis and yeiris foirfaidis, hes compellit the maift part of the gentilmenis tenentis of the ſaidis contreyis of Orknay and Zeitland to work to him all maner of work and laubour be sea and land, in rolling³ and ſailling his ſchipis and boittis, working in the flane-querrel,⁴ wynning and beiring furth thairof flanes and red furth thairof, laidning his boittis and ſchellopes⁵ with flane and lyme, and loifeing the fame, biging his park dykes, and all vther foirtis of ferveill and paynefull laubour, without ather meit, drink, or hyre.⁶ AND, to conclude the vter rwyne of the poſſeſſouris of the ſaidis landis and Yles, hes, in the ſaidis yeiris and monethis, att the leift in dynerſe of the fame, impoſed, exacted, and treflonabillie vplifted frome thame, dyuerſe grit and exorbitant taxationes and impositions, quhillkis na man may lauchfullie do, within this our realme, bot We, of our fouerane power allanerlie; vſurpeand thairby, maift treflonabillie, vpone him, our authoritie royall. FINALLIE, the said Erle, in the ſaidis monethis and yeiris, at the leift in ane or vther of thame, hes treflonabillie difcharged the ſaidis Inhabitantis of Orknay or Zeitland, to by or sell meill, malt, meit, drink, fiſche, fleſche, butter, nolt, ſcheip, or ony vther commoditeis, without his Licence, vnder grit penalteis; lykas, he

¹ Brother-in-law.
² Weeks.

³ Rowing with oars.

⁴ Stone quarry.

⁵ Shal-

lops; small vessels. ⁶ This inhumanity of the Earl of Orkney appears, by existing documents, to have been carried to the most frightful excess—and the lives of the unfortunate natives rendered utterly wretched, worse than the condition of galley-slaves, or that of the Christian captives in Barbary—being only paralleled by the ‘ Egyptian bondage and oppression of the children of Israel, under King Pharaoh!’ Reference may be made to the Trials and Documents before quoted.

hes oft and dyuerse tymes, with all rigour, exacted the saidis penalties aganis findrie of the saidis Inhabitantis, for thair lauchfull bying and selling of thair commoditeis and necessaris without his licence. **QUHILKIS** Trefonable crymes aboue writtin, and ilk ane of thame, war done, committed, and perpetrat be the said Patrik Erle of Orknay, be him selff and his complices, and vtheris in his name, of his causeing, command, assistance, and ratihabitounne : And thairby, the said Patrik Erle of Orknay hes committed Trefone aganis Ws, and hes trefoneabillie usurped vpon him the poyntis of oure soueranitie, and inseperable pairtis of our Royal power and authoritie : And he is airt and pairt thairof : And aucht and fould be pwnelched thairfoir, be the paynes of Trefone, with all rigour ; in example of vtheris to attempt the lyke, gif sa be. **OURE WILL IS HEIRFOIR**, and We charge yow fraitlie, and command, that incontinent thir our Letteris sene, ye pas, and in our name and authoritie command and charge the said Patrik Erle of Orknay, committer of trefoneable crymes aboue writtin, in maner foirsaid, vpon fourtie dayis wairning, to find sufficient and responfall cautionn and fouertie, actit in our Buikis of Adiornall, that he fall compeir befoir our Justice or his deputis to vnderly our lawis for the samyn, in our Tolbuth of Edinburgh, the secund day of August nixtocum, in the hour of caus, vnder the paynes contenit in our Actis of Parliament : And that ye charge him personallie, gif he can be apprehendit, and failzeing thairof, at our Castell of Edinburgh, quhairin he hes his remaning for the present, and be oppin proclamation at the mercat croce of our burgh of Edinburgh, to find the said fouertie actit, in maner foirsaid, within sax dayis next aftir he be charget be yow thairto : vnder the pane of rebelloun, and putting of him to our horne. The quhilkis sax dayis being by past, and the said fouertie nocht being fundin, that ye incontinent thaireftir denunce the said Patrik Erle of Orknay our rebell, and put him to our horne, and escheit and inbring all his moveabill guidis to our vse, for his contemptioun ; and caus Register thir our Letteris, with your executiones thairof, within fyftene dayis thaireftir, conforme to our Act of Parliament made thairanent : And gif he find the said fouertie, that ye summond ane Assyse heirto, nocht exceeding the number of fourtie five persones, quhais naimes ye fall refsaue, in Roll, subseryuit be the compliner ; ilk persone vnder the pane of ane hundreth merkis. According to Justice. As ye will answere to ws thairvpoun. The quhilk to do, We commit to yow, coniuinctlie and feuerallie, our full power, be thir our Letteris, delyuering thame be yow, deulie execute and indorsate agane to the beirar. **GEVIN** vnder our Signet at **EDINBURGH**, the fourt day of Junij, and of our regne the aucht and fourtie thre yeiris, 1610.

Ex deliberatione Dominorum Consilij.

*J. BANNATYNE.*¹

¹ Writer to the signet, and nearly related to the now celebrated George Bannatyne.

FOLLOWIS *the tennour of the EXECUTIOUNE¹ of the saidis Letteris.*

VPOUX the tentic day of Junij, the 3eir of God I^{mo}. sax hundreth and ten 3eiris, I JOHNE BLINSELLIS, Yla Herald, pait, at command of thir our souerane lordis Letteris, within writtin, to his Maieiteis CASTELL OF ED^s; and thair, with my displayit coit of armes, and be found of trumpet, foundit be Siluester Ramfay, trumpeter, I commandit and charget PATRIK, ERLE OF ORKNAY, personallie apprehendit, within the said Castell, and delyverit to him ane just and autentik coppie of the saidis within writtin Letteris, subscryuit with my hand, to find sufficient and responfall caution and fouertie to the Justice Clerk and his deputtis, actit in the bulkis of Adioruall, that he fall compeir befor the Justice or his deputis, day and place within specifeit, in þe hour of caus, and vnderly the Law for the tressonabill crymes within reherfit; within sax days nixt eftir this my charge; vnder the pane of rebelloun and puting of him to the horne. This I did, eftir the forme and tennour of thir our souerane lordis Letteris, in all poyntis; befor thir Witneffis, George Kirkwoid, Albanie herauld, Robert Logane, messinger, Siluester Ramfay, trumpeter, and Williame Dalglefche, post in Ed^s, with dyuers^e vtheris. And for the mair verificouun of this my Executioun, subscryuit with my hand, my signet is affixt.

JOHNE BLINSELL, Yla Herald. (L. S.)

Thaireftir, my Lord Aduocat producat ane Warrand of the Lordis of his Maieiteis Secret Counfail, direct to my Lord Justice, ffor continuation of the said dyet, to the nynt day of August instant. Off the quhilk Warrand the tennour followis.

JUSTICE, Justice Clerk and 3our deputtis. florfamekill as the secnd day of August nixtocum, being appointit to PATRIK, ERLE OF ORKNAY, for his compeirance befor 3ou, to vnderly the Lawis, for certane crymes specifeit and contenit in the Letteris raised pairament: Neuertheles, for some speciall consideracones of his Maieiteis seruice, it is oure Will, and we command 3ou to continew the said dyet, to the nynt day of the said moneth of August nixtocum; conforme to the ordour obseruet in the lyk caiffis: Whearanent, thir presentis falbe 3our Warrand. AT EDINBURGH, the xxvij day of July, 1610.

AL. CANCELL^s. DUMBAR.

THE JUSTICE, for obedience of the said Ordinance, continewit the said dyet to the said nynt day of August instant.

My Lord of Orknay takis instrumentis of his compeirance, and declairis quhat

¹ The Legal antiquary will peruse this curious document with much interest. The 'pomp and circumstance' of Yla Herald, arrayed in his tabard, and attended by Albany Herald, and their respective Pursuivants and Witnesses, after a flourish by one of the trumpeters attached to the Herald's College, personally *apprehends*, as it is legally termed, the Earl of Orkney, and formally charges him, by virtue of the Royal Letters. The present unmeaning and empty form employed by Messengers-at-Arms (being still attached to the Lion King-at-Arms College) bears traces of this ancient ceremony; and still, in the event of the party being *denounced rebel*, the instrument bears this to have been done, 'after three several blasts' of a horn or trumpet, at the market-cross of the head burgh where the rebel (*fictione juris*) resides, or where his usual domicile is situated. If 'furth' of Scotland, the ceremony is *supposed*, by a practical fiction, to be denounced at the market-cross of Edinburgh, pier and shore of Leith; but in truth, it is effected by the Messenger sitting snugly in his chamber, perhaps up eight or ten pair of stairs, signing an attestation, which is also subscribed by two witnesses, termed *concurrents*. It is in the recollection of some practitioners of the Law, that a few Messengers, of the old school, actually went to market-cross, pier and shore, and in these 'good old times,' every man was 'his own Trumpeter!' A rigidly conscientious person of this class, actually carried a model of a horn in silver, regularly perforated, and at each of the places requisite gave 'three several blasts,' by breathing through this curious instrument, much to the edification of the bystanders, who naturally inferred the man to be insane! But he sternly performed his duty, 'through good report and through bad report,' in despite of all such taunts; and was, moreover, the best employed Messenger of his day.

evir allegit cryme is fett down in his Dittay, he had sufficient power and authoritie grantit to him to do the fame; nocht granting thame to be crymes: As fall be justifeit be him, in the awin¹ tyme and place.

(Aug. 9.)—MY Lord Aduocat producat ane Warrant of the Lordis of his Maiefties Secreit Counfell, anent the continuatioun of this dyet appointit for my Lord Orknayis tryell, to the faxtene day of August instant.² The Erle of Orknay afkit instrumentis of his entrie; and offerit him selff to the Tryell of the law, for the allegit crymes contenit in the Letteris, nochtwithftanding of the said continuatioun.

(Aug. 16.)—THE JUSTICE Ordanit this dayis dyett, appointit for tryell of my Lord of Orknay, &c. to defert; in respect that my Lord Orknay was nocht presentit upone pannell.

(Nov. 22.)—MY Lord Aduocat producet the fummondis, &c.³ Thaireftir my lord Aduocat producet to the Justice, ane Warrant of the Secreit Counfell. direct to him, anent the continuatioun of this dyet to the nyntene day of December nixtoom.⁴ My Lord of Orknay takis instrumentis, &c.

(Dec. 19.)—ANOTHER Warrant is produced for continuatioun of the trial to Mar. 8, 'nixtoom,' dated Dec. 19, 1610: and is signed 'Al. Cancell'. Jo. Prestoun. Blantyre. R. Cokburne. Killythe.'

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

(1611, Mar. 8.)—A WARRANT, dated March 7, 1611, is again produced, continuing the Trial to 'the fyftene day of May nixtoom,' signed by the Chancellor, 'Jo. Prestoun. A. M. Elphinstoun. R. Cokburne.'—My Lord of Orknay takis instrumentis of his entrie, and nochtwithftanding of the quhilk Warrant of the Counfell, offeris him selff to the Tryell of the Law, for ony crymes that can be laid to his charge; difaffenting, *simpliciter* to all forder continuatioun.

THE JUSTICE Ordanit the said Erle of Orknay to be returnit back agane to his waird.⁵

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

Treason—Declining the Jurisdiction of the King and Privy Council.

Aug. 29.—MR ANDRO CREICHTOUN, brother to the Laird of Innernytie.⁶

Dilaitit of the Declyning of his Maieftie and Lordis of Secreit CounfaJ Judgement; and thairby committing Treafoun, contrair the Actis of Parliament.

¹ In its *own*, or in its proper time and place. ² The Warrant is *verbatim* the same with the former; and is subscribed by the Lord Chancellor and Earl of Dunbar. It is dated Aug. 9, 1610
³ The Letters and Execution are repeated. ⁴ In same terms as the others. Dated Nov. 20, 1610, and signed by 'E. Glencairne. Sanctandrois. Blantyre. Jo. Preitoun. R. Cokburne.'
⁵ An attested copy of the above proceedings, by Sir John Cokburn of Ormestoun, knight, Clerk of Justiciary, is preserved in the General Register House, with various other papers relative to Orkney. ⁶ See Arnot's Crim. Trials, p. 37, 67, and 328. The Case of Ogilvie the Jesuite, 1615, in this Collection, &c.

DITTAY againſt the Pannell.

MR ROBERT CREICHTOUN, broper to the Laird of Innernytie; 3e ar Indytit and accufet: Ifor-famekill as, 3e, being takin, be directioun of the Lordis of his Maieſteis moſt honourabil Previe Coun-fall, and broght befor þame, vpon the faxtene day of Auguſt infant, to be examinat vpon ſum mat-teris concerning his Maieſtie and the eitait of this his Kingdome, and requyred be thair Lordſchips to geve 3our aith to thame, that 3e fould faithfullie and treulie anſwer to thame, and declair the ver-rite of ſuche thingis as fuld be demanded of 3ow, 3e treafoneabillie refuſied to acknowledge his Maieſtie and the ſaidis Lordis of his moſt honourabil Previe Counfall to be 3our Judges, bot maist treafoneabillie declyned þair judgement: And efter þat þai had put 3ow in remembrance of þat deutie and ſubiectioun quhilk 3e aucht¹ be our ſaid ſouerane lord, both in reſpect 3e was his naturall borne ſubject within þis realme, and þat 3e war now actualle reſident within þe ſamyn: And that, be Act of Parliament, maid in þe moneth of May, the 3eir of God 1^o.V^c. four ſcoir four 3eiris, our ſaid ſoue-rane lord was declairit, be him ſelf and his Counfall, to be Judge competent to all perſones his hienes ſubjectis, of quhatſumeur degre, functioun or conditionn thay be of, ſpirituall or temporall, in all matteris quhairin thay or any of thame ſould be ſummond or charged to anſwer to; and that nane fould tak vpon hand to declyne the Judgement of his hienes and his ſuceſſouris, or þair Counfallis, in the premiſſes, vnder þe pane of Treafone. Lyk as, for 3our better information and reſolutioun, þe ſaid Act of Parliament was than ſchawin and red to 3ow: 3e neuerþeles, vnnaturalle, rebelliouslie, and treafonable perſiſting in 3our miſchevous purpois, ſtill refuſed to acknowledge þe Jurisdiction of his Maieſtie and his Secret Counfall. Lyk as, vpon the xxiiij day of Auguſt infant, 3e being of new broght befor þe ſaidis Lordis of Secret Counfall, and admoniſhed and exhorted to acknowlege .and amend 3our treafoneabill offence, and to acknowledge his Maieſtie to be 3our ſuperiour, and his hienes and þe Lordis of Secret Counfall to be 3our lauchfull Judges, and to haif jurisdiction over 3ow, 3e anſwered, as ofbefoir, that 3e was nawayis better reſolued, bot that 3e ſtill abaid be 3our former De-positioun and anſueir, that his Maieſtie and the Lordis of Secret Counfall was nocht 3our ſuperiouris or Judges. And ſua, 3e haif treafonabillie contemned and declyned the authorie of our ſaid ſoue-rane lord and þe Jurisdiction of his hienes and Lordis of his Secret Counfall; and þairby haif incurret and fould ſuffer the paynes of Treafone, to be executed aganis 3ow, in 3our body, lyfe, landis, guidis, fame, and memorie; in example of vtheris: Quhilkis 3e can nocht deny; in reſpect of your Depoſi-tiones, extant, and heir producet in Judgement, ſubſcryuit with your hand, moſt cleirly verifeing all þe premiſſes.

Eftir reiding quhairof, and accuſatioun of the ſaid Mr Andro, be vertew of the ſame, and Confeſſioun maid be the ſaid Mr Andro, in judgement, to the Juſtice, granting the treuth of the ſaid Dittay, and abyding ſtill at his former Depoſitiounes; quhairvpon inſtrumentis was tane be our ſaid ſouerane lordis Aduocat, the Juſtice referrit the ſaid Dittay to the knawlege and tryell of ane Aſſyſe of the perſones following: Thay ar to ſay;

ASSISA.

James Stewart of Gramellaw, Robert Menteith of Eglifchaw, Thomas Lyell of Murchill, Vtreid Medowell of Mondork,² Mr Robert Henderſoun of Holland, Mr Gilbert Gordoun of Chirnes.³

Quhilkis perſones of Aſſyſe being choſin, ſworne, and admittit, eftir accuſa-tioun of new agane of the ſaid Mr Andro Creichtounne, be Dittay, of the ſaid treafonable cryme, quhilk in the ſaid Juſtice and perſonis of Aſſyſe awin pre-

¹ Owed.² Chancellor of the Aſſize.³ The reſt of the Aſſiſe, 'mercheandis,' &c.

fens and audience of new agane was grantit and confest, judicillie, be the said Mr Andro to be of verritie; the said Sir Thomas Hammiltoun, for order fiction of the said Dittay, producet the said Mr Andro Creichtones Depositiones, subferyuit with his hand, in prefens of the Lordis of his Maiefteis most honourabill Previe Counfall, and repeittit thairwith the Act of Parliament, the pannellis Judicill Confessioun, maid in prefens of the Justice and Assye; and thairupoun alkit infrumentis; and protestit for Wilfull Errour aganis thame, gif thai acquit him.

VERDICT. That the said MR ANDRO was Culpable and convict of the treflonable Declyneing of his Maieftie and Lordis of his hienes Seereit Counfall to be his Judges, according to his accusatioun aboue writtin, contenit in his Dittay, sufficientlie verifeit to thame be his Depositiones, producet to thame, subferyuit with his hand; as also, be his Judicill Confessioun, maid in the Justice and thair presence.

SENTENCE. To be tane to the mercait croce of the burgh of Ed', and thair to be hangit and demanit as ane Tratour; and all his landis, heritages, tenementis, annuelrentis, takis, steidingis, &c. to be sforfalt and escheit to our fourerane lordis vsé, as culpable and convict, &c.¹

[*Mr Alexander Colvill, Justice-Depute.*]

(1611, Feb. 27.)—THE quibilk day, Mr Andro Creichtoun being, at command of the Counfall, brocht furth of waired out of the Tolbuth of Ed', and presentit vpon pannell, to heir Dome of new agane pronuncet vpon him, the Justice ordanit the Counfallis Warrant vnderwrittin, delyuerit to him be my Lord Chancellor, to be oppinlie red in judgment, viz.

JUSTICE, Justice clerk, and your deputtis. Forfamekill as althocht Dome and Sentence was pronuncet aganis Mr Andro Creichtoun, proper to be Laird of Innernytie, ordaning him to haif bene tane to the place of his Execution, and pair to be hangit and vperwayis denanit as ane tratour, for his treflonabill declyneing of the Kingis Maieftie and his Counfallis judgement, and for certane vtheris treflonabill crymes specifit and contenit in the Sentence and Dome of Conviction pronounced aganis him: Neuertheles, it hes now pleit the Kingis Maieftie, out of his accustomed gracious dispositioun to clemencie and mercie, to mitigat the rigour of the Sentence pronuncet aganis the said Mr Andro, and to Ordane him to be Banisched his Maiefteis hail dominions; and nevir to returne agane within the same, during his lyve tyme, vnder the pane of deid, to be execute vpon him without forder dome or Sentence to be pronuncet aganis him. THAIRFORE, 3ow fall, vpon pe sicht heirof, appoint and set ane Justice Court, caus be said Mr Andro to be exhibeit befor 3ow, and pronunce new Sentence aganis him, conforme to his Maiefteis gracious favour, clemencie and mercie, Ordaning him to be BANISCHED his Maiefteis hail dominions, and nevir to returne agane within the samyn, during his lyfytyme, vnder the payne to be Hangit quhill he be deid, without ony forder dome or Sentence to be pronuncet aganis him; and that, for contravening of his present Sentence. EFTER the promounceing quhairof, 3ow fall caus returne him bak agane to his waired, thairin to remane, quhill the commoditie

¹ ' Mr. The Dittay, with the pannellis Depositiones, gevin vp to my Lord Advocat the day foirsaid.'

be had of some fehip going out of the cuntrie; quhairby he may be caryed to hir be þe Magiftratis of Ed^r, and fua fend away. And this 5ow fall nocht to do: Whearment þir prefentis fall be 5our Warrant. AT ED^r, the xxvj day of Februar, 1611. JAMES R.

The Justice, for obedience of the command thairin contenit, be the mouthe of Alexander Kennydie, dempfter of Court, decernit,¹ &c. Whilk was pronounced for Dome.

[*Sir William Heart, Justice-Depute.*]

Slaughter — Intercommuning with Rebels — Treasonable Theft and Stouthreif, &c.

Sept. 6.—WILLIAME DOUGLAS of Lyncluden and Grenelaw,² (callit *Williame of Pinzerie*), eldest sone and appeirand air of Williame Douglas of Baitfurd.

Dilaitet of dyuerse crymes of Slaughter; beiring and weiring of pistolettis; and of the tressonabill crymes of thift committit be him, he being ane landit Gentilman; in manner spicifeit in his DITTAY, vnder writtin.

FORSAMEKILL as 5e, haifing confaut ane deidlie feid, rancour, and malice, without ony caus, aganis vmq^{le} Thomas Softlaw, burges of Dumfreis, vpon the fyft day of Apryle, or þairby, the 5eir of God I^m.Vj^r. and fewin 5eiris, and haifing convocat with 5ow Johnne Cunninghame, 5our fernand, and vperis deboifehet men, 5our complices, to þe number of twentie perfones, or þairby, all bodin in feir of weir, with lance-faldis, fuordis, quingiris,³ and with hagbuttis and pistolettis, prohibeit to be borne or worne be dyuerse Actis of Parliament, came to the Brigend of Dumfreis, quhair the said vmq^{le} Thomas was, in quyet and sober maner, vnder Godis peax and the Kingis; and pair, 5e fearcelie fet vpon him, and perfewed him for his slaughter, hurt and woundit him with 5our pistolettis, and vtheris wappones foirfaldis, in þe heid, and dyuerse vperis partis of his body; to the effioun of his bluid in grit quantitie; off the quhilkis fraikis and woundis he fchortlie pairfetur departit this lyfe; and fa, was crewallie and vmerciefullie flane, be 5ou, and 5our faldis complices, of 5our causing, command, assistance, and ratihabitoun; and 5e ar air and pairt pairof. To the taikin,⁴ that 5e, and 5our faldis complices, being charget to find caution to compeir befor þe Justice, and vnderly þe law for þe said Slaughter, 5e past twyfe to the horne for þe said cryme, as the Letteris of Hoiring heirwith product verifeis.—ITEM, 5e ar indytit and accused, as air and pairt of þe crewal and fellone Slaughter of vmq^{le} Eduard Maxwell of Crofoun, committit at þe Brigend of Dumfreis, vpon the day of September, or þairby, the 5eir of God I^m.Vj^r. and acht 5eiris, be 5ow þe said Williame Douglas of Lincluden, Johnne Schilington, 5our fervand, Johnne Greir, fuordlipper at the Brigend of Dumfreis, and Johnne Dempfter in the Colledge of Lincluden, quho of 5our special causing, sending, hounding out, air and pairt-taiking, refiet with the bludie hand, assistance, and ratihabitoun, with þair fuordis, lances, and vperis wappones, *invafive*, invaidit and perfewit þe said vmq^{le} Eduard Maxwell, for his Slaughter, and hurt and woundit him in þe heid, and dyuerse partis of his body, to þe grit effioun of his bluid. Off the quhilkis woundis he never thaireftir convalced; bot lying in extreme and deidlie payne, be þe fpace of fyve or fax dayis, in end, vpon the . . . day of September,

¹ The words of the warrant repeated.

² The family of Douglas of Penzire was descended from George Douglas, the third son of Sir William Douglas of Drumlanrig, who was killed July 22, 1484, near Lochmaben. William of Penzire married Agnes, second daughter of John, sixth Lord Maxwell, (the father of John the seventh Lord Maxwell, whose Treason, escape, &c. form part of this Dittay,) by Lady Elizabeth Douglas, second daughter of David, seventh Earl of Angus. This circumstance explains satisfactorily that part of the Dittay which refers to his resetting, and other transactions with Lord Maxwell, his brother-in-law.

³ A short sword or *hanger*; a

kind of cutlass. ⁴ In *token*, proof, or testimony whereof.

or pairby, the 5eir of God 1608 5eiris foirfaid, he depairtit this lyfe; and fua, was crewallie flane be 5ou and 5our faidis complices, of 5our caufing, command, reflet, aflitance, and ratihabitoun: And 5e ar air and pairt pairof; ffor 5e quhilk, 5e haif lyne at 5e horne thir tuo 5eiris bygane. 5e ar alfo Indytyt, fforflamekill as 5e faid Johnne Greir, being tane with the bludie hand, and immediatlie efter 5e committing of 5e faid crewal Slauchter of 5e faid vmq^{lc} Eduard Maxwell, being committit to Waird for 5e fame, in our fouerane lordis ordiner Prifone and Pledge-chalmer of Dumfreis, and pair keptit prifouner in the irnes, be the fpace of foure dayis, the faid Johnne Schitlingtoun, 5our fervand, at 5our command, and be 5our fpeciall convoy and aflitance, haveing provydit him felf of gavillokis,¹ craw-irnes,² fyles, and vperis work-lowmes,³ furneit and preparit to him be 5ou and 5our means, come vpon the . . . day of 5e faid moneth of September, or pairby, and 5eir of God foirfaid, and in the nyght feafoun brak 5e vout and pend⁴ of 5e faid prifone, and fchure⁵ af 5e irnes, qulairn the faid Johnne Greir was loket, and violentlie and forceablie relevit him furth of our fouerane lordis Prifone foirfaid, and cayreid him to 5our duelling hous in Lyncluden, wher 5e reflet, kepte, and intereneid him dyuerfe dayis, nychtis, and oulkis⁶ pairretir: And fua, 5e ar air and pairt of the contemptuous, infolent, and violent breking of our fouerane lordis prifone, and taking furth pairfof, violentlie and perforce, of the faid Johnne Greir, giltie and captiue for 5e faid crewal Slauchter of 5e faid vmq^{lc} Eduard Maxwell of Corftoun, and of 5e wilfull reflet, fupplie, and intertenement of 5e faid Johnnie Grier, giltie and fugitiue for 5e faid crewal Slauchter; and aucht and fould be pweifched with the lyk and felf fame paynes quhilk 5e law hes preferyved aganis 5e faid principall malefactor, for his crymes foirfaidis. To the taikin,⁷ that 5e faid Johnne Grier and 5e war botlie fugitives, and at 5e horne, for 5e cryme foirfaid.—ITEM, 5e ar indytyt of 5our treafounabill Intercommuning with JOHNNE fuintyme LORD MAXWALL, in the toun of Dumfreis, and in the Caftell-5aird pairfof, and dyuerfe vtheris places within the fcherefdomes of Nyddifdaill, Annandaill, Kircudbrycht, and Galloway; and for Refletting and fuppling him in 5our hous of Lyncluden, and vperis 5our duelling places, in 5e moneth of December, the 5ear of God I^m.Vj^o. and fevin 5eiris, and in 5e monethis of Januar, februar, and remanent monethis of 5e 5eir of God 1608 5eiris, at 5e leiff dyuerfe dayis and nychtis of 5e faid 5eir, eftir that he had committed nottour and manifet Treafone, be his violent and forceable breking Waird furth of 5e Caftell of Edinburgh, vpon the fourt day of December, or pairby, 5e 5eir of God I^m.Vj^o. and fevin 5eiris, and perfewing the Porteris and Keiperis pairfof for pair Slauchter, hurting and wounding dyuerfe of 5ame in findrie partis of pair bodeis, to 5e grit efflouion of pair bluidis, and perrell of pair lyves; and preiffing, fo far as in him lay, treafoneabillie to relief SIR JAMES M^cONEILL, detenit in irnes and ftrait prifoun within 5e faid Caftell, for dyuerfe odious and treafoneabill crymes;⁸ ffor 5e quhilkis manifet Treafones, the faid Johnne Lord Maxwell was nocht only denuncet rebell and tratour, and all our fouerane lordis legis difcharget, be Proclamation, to intercommune with, reflet, or fuplie him, vnder 5e panes of law; bot alfo, he fforfaltit, be Decreet of Parliament, for 5e fanyn. To the taikin, that 5e, being dyuerfe tymes charget to campeir befor 5e Counfell, to anfuer for 5e faidis crymes of Reflet, fupplie, and intercommuning with 5e faid Johnne, fuintyme Lord Maxwell, 5e, knowing 5our awin giltines, difobeyit the charge, and pairt to 5e horne; at the quhilk 5e haif lyne continualie fenfyne vnrelaxit.—ITEM, 5e ar indytyt and accufet, fforflamekill as Johnne Lord Hereis, being directed be 5e Lordis of his Maieftis Secreit Counfall to tak and apprehend 5ow and Eduard Maxwell of Craigtoun, ane nottour rebell and fugitiue, for Thift, Stouth-reif, ffyre-raifing, fuppling and afliting my Lord Maxwell, and dyuerfe vtheris treafonable crymes, quhilk 5e faid Eduard him felf declared vnto 5ow; the faid Lord Hereis, vpon the fyftene day of Auguft laftbypaft, cuming, for executioun

¹ A lever used by quarriers of stone, a *pinch* or *prize*.² Crowbar.³ Tools.⁴ Vault and arch.⁵ Literally *sheared*, as with a reaping-hook.⁶ Weeks.⁷ In testimony or proof whereof.⁸ See May 13 and Jun. 21, 1609, &c. That nobleman was beheaded, at the Cross of Edinburgh, May 21, 1613. See also Appendix.⁹ See his Trial, III. 1, &c. Jun. 24, 1609.

of the said directioun, to the hous of Johnne Couthird, in Reid-Castell, whear 5e, with þe said Eduard, and dyuerfe 5our complices, war then assemblit, and he him self, and his servendis, commanding 5ow and þe said Eduard, in our fouerane lordis name, to be tane with him, and to randir 5our felkis and 5our wappones, 5e trefounnabill difobeyit þe said charge, and with 5our fuordis, pistoletis, and vperis vnlauchfull wapponis, invalidit and perfewed the said Lord Hereis and his servendis for þair Slauchter, hurt and woundit Johnne Geddes, Johnne Couthird, and dynerfe vtheris of thame, in sindrie pairtis of þair boodeis, to the grit effusioun of þair bloudis, violentlie and forceable hinderit thame to tak the said Eduard Maxwell, rebell, releisit him fra þame, and gaif him meanis and occasioun to efcaip furth of the said hous; and sua, violentlie and trefounnabill withstuid the said Lord Hereis, haifing the Counfallis command and directioun to tak 5ow and þe said Eduard Maxwell, standing rebell for Trefone, as said is; and assilitit and tuik pairt with him, in his trefoneable withstanding of the said Lord Hereis, and in his trefoneable profewing of þe said Lord and his companie, for þair Slauchter, and had ane pistolet vpon 5ow at þat tyme: And 5e ar airt and pairt pairrof; as 5our awin Depositionn, subferyit with 5our handis, and þe Depositionn of sum of thais that war present at 5our apprehensioun, cleirly verifeis. ITEM, 5e þe said Williame Douglas of Grenelaw and Lyncluden, eldest sone and appeirand air of James Douglas of Baitfard, 5e ar indytit and accused, flor-famekill as 5e, being ane landit Gentilman, and heritable proprietor of the saidis Landis of Grenelaw and Lyncluden, and dyuerfe vperis landis and heritages, haif committed the trefoneable crymes of Thift and Stouth-reif vnderwritin, be 5our self and 5our complices, and vperis in 5our name, of 5our causing, command, refestt, assistance and ratihabitoun, quhairof 5e war and ar airt and pairt, that is to say, flor 5our coming to David Welches chalmer, in the place of Grenelaw, and trefounnabill breking vp, perforce, of his lettrone¹ þair, and steilling furth þair of xxxv li. money, or þairly, quhairof þair was tuo half ducattis, pertening to the vni^q Proveist of Lyncluden, his maister, quhairof 5e sone þairestir wiffillit² ane half ducat with Alexander Gordoun, violer in Wigtoun, for fyve merkis; quhilik being tryit and maid nottour to all þe Proveistis servendis and haill nychtbouris in the countrie, and cuming at last to the Proveistis awin knowlege, he was so heichlie offendit with 5ow for þe fame, that he boistit³ aper to droun⁴ 5ow, or at leist to put 5ow af þe cuntrey, and nevir to do 5ow any benefeit or guid; quhilik 5e heiring pairrof, be þe counsell of the said David Welche, past in to þe Proveist chalmer in Grenelaw, quhair he was lyand in his bed, and pulling 5our breikis and schankis⁵ af 5our kneis, 5e fat doun befor him vpon 5our bair kneis, cravet God and him pardoun and forgevenes, for þat 5our offence, and swoir and promeissit to him nevir to do þe lyk thairestir. Quhilik trefoneable Thift was committed be 5ow, about nyne 5eir fyne, or þairby; quhilik 5e can nocht deny; lyk as the samyn is cleirly verifeit be þe Depositionnes product. ITEM, 5e ar indytit and accused for þe trefoneable Steilling, conceilling and away-taking frome Thomas Ferguoun, seraitour to þe said vni^q Proveist of Lyncluden of an Angell of gold, and sum siluer, furth of his purse, in the 5eir of God I^m.Vj. and tua 5eiris, or þairby. ITEM, 5e ar indytit and accused for the trefoneable Steilling, conceilling and away-taking, vnder silence and cloud of nycht, of tuentie-aucht pecis of gold fra Johnne, sumtyme Lord Maxwell, committed be 5ow in the place of Langholme, quhair 5e war lyand in the chalmer with the said Lord Maxwell, in the 5eir of God 1605 5eiris, or þairby. To þe taikin, 5e wiffillit ane of þe saidis peces of gold, being ane double-doubill pistolet, in an oiler-hous beyde the Langholme; and 5e was þairestir apprehendit, and challanget wiffelling sum vper of þe saidis peces, in Dumfries: flor þe quhilikis crymes, 5e war indytit and arreiffit to þe Justice Court haldin be my Lord Erle of Dumbar, his Maiesteis Heich Commiffioner, in the Middle sчыres, in July, 1609 5eiris; and was

¹ Literally a reading-desk or pulpit where prayers are read, from O. Fr. *lectrin*, *lectrin*, *lutrin*. It is frequently employed to signify a box, chest, or desk for holding papers, &c.

² Exchanged; ³ changed; sometimes spelt *quhissellit*.

³ Threatened, as Lord of the Regality, and entitled to sit as Criminal Judge on his trial.

⁴ A common punishment, in the inferior Judicatories, for Theft, &c.

⁵ A kind of long hose.

fugitive pairfoir. ITEM, 5e ar indytit and accufet for 3our treafonabill breking of Johnne Grabame, in the Gait, his kilt,¹ vnder clud and filence of nycht, and maifterfull and thiftious Steilling and reveing, furth of þe faid kilt, of flourtie-fourre pundis, being all foure-merk-peeces, perteneing to þe faid Johnne, committed be 3ow in þe 3eir of God 1601 3eiris. ITEM, 5e ar indytit and accufed for 3our treflonabill airt and pairt of þe fleilling, reifing, and away-taking and conceilling of ane kow, perteneing to Meg Miller in Croftis, with þe haill infight of hir hous; committed be 3ow in Julij lafbypaft: To the taikin, 5e brocht ane kilt full of meill to (and?) ane lynning wob of biris,² and fauld (thame?) in Johnne Grabames of the Gait. ITEM, 5e ar indytit and accufet for 3our trefonable Stouth-reif of ane naig, perteneing to Robert Symontoun at þe Mylne of Corfemichell; committed in July 1610, lafbypaft: To þe taikin, 5e wald noch reftoir þe naig eftir he was tryit vpone 3ow, quhill³ 5e gat fyve pundis money frome þe faid Robert for þe famyn. ITEM, 5e ar indytit and accufet for 3our Maifterfull and trefonable Stouth-reiff of ane naig from Johnne Megill in Grenelaw, in Augull, 1610: To þe taikin, 5e was rydand on him, immediatelic befoir 5e was tane. ITEM, 5e ar indytit and accufet for 3our trefonable Stouth-reiff of ane kow, frome Robert Welfche in Dillovodie; committed three 3eir fyne, or pair-by; quhillk was thane inflantlic flane and difponit vpone in 3our hous. ITEM, 5e ar indytit and accufed for 3our trefonabill Stouth-reiff from Johnne Johnnefloun in Lynchuden, of ane kow, tua 3eir fyne, or pairby; and caufit flae and difpone vpone hir, in 3our hous, at 3our plefour. ITEM, 5e ar indytit lykways, for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring hagbuttis and piftolettis vpone 3our perfone, and in 3our companie, oppinlic, outwith bouffis, within þe fcherreflome of Drumfreis and ftewartrie of Kirkculdbric; and pat monethlic and daylic; at the leiff, in ane or vper of þe monethis, in þe 3eiris of God I^m.Vj^r. fevin, 1608, 1609, 1610 3eiris: To the taikin, 5e was tane with ane piftolet vpone 3ow, quhillk 5e prefentit to Johnne Geddes at 3our taiking. ITEM, 5e ar indytit for Cowmone Thift, Cowmone Reflett of thift, outputing and inputing of thift, fra land to land, fra cuntry to cuntry, baith auld and new, notourlic knowin. BE the quhillkis Trefonable crymes aboue writin, and ilk ane of them *refpectiue*, committed be 3ow, and vperis in 3our name, of 3our caulng, command, affilance and ratihabitoun, as faid is, and quhairof 5e war and ar airt and pairt, 5e haue deferet and incurrit the paines of Trefone, quhillkis fould be execute vpone 3our body, lyfe, landis and guidis: And 5e haif florfaltit to the Kingis Maieltie, 3our haill landis, fteidingis, rowmes, poffeffiones, takis, contractis, bandis, reuerfiones, richtis, fecuriteis, hoip and apperance of fuccelfioun, and all vperis landis, rychtis, guidis and geir quhatfumeuir, moveabill or vn-moveabill, quhillk 5e had, or quhillk 5e mycht haif appertenit, or ony ways haif befallin to 3ow, and þe famyn fould be adiudget to haif befallin to our faid fouerane lord, and to appertene to his hienes, and to remane with him, his croun and fuccelfouris, now and in all tyme cuming.

Eftir productionn of the faid Dittay, be our faid fouerane lordis Aduocat, the faid Williame Douglas was put to the tryall of ane Affyfe of the perfones following, viz.

ASSISA.

Williane Creichtoun of Ryhill,	Thomas Hunter in Burne,	George M ^{re} in Lynchuden,
Alexander Maxwell of Logane,	Williane Douglafs of Lache,	Thomas Welfche thair,
Johnne Broun of Mullennis,	James M ^r erik of the Kerne,	Niniane Myller in Ryhill,
James Mairtene in Airdis,	Johnne Greirfoun of Inghiltoun,	Hew Douglas of Bellebocht,
Jo ⁿ Fairies in Carfe of Kynneill,	Johnne Carmichellelder in Spothie,	Rodger Padjeane of Newtowne,

My lord Aduocat afkit instrumentis of the fweiring of the Affyfe. (1.) My lord Aduocat producet the tua Letteris of Hoiring for the Slauchter of vmq^{te} Thomas Softlaw, togidder with ane Dittay aganis the pannell, and publicatioun

¹ Box, chest.² Hers.³ After you was publicly accufed of the theft, until you got L.5, &c.

of his absence, and Declaratioun of his being fugitiue fra the Justice Court, haldin at Drumfres be my Lord Dumbar, for the said Slauchter. (2.) Lykways, my lord Aduocat product tua Hoirningis aganis the pannell, for the Slauchter of Eduard Maxwall of Troftoun. (3.) For verificatioun of the *third* Article of Dittay, respectis the tua Hoirningis product. (4.) ffor verifeing the fyft (*fourth*) Article, my lord Aduocat repeittis the notorietie of my Lord Maxwallis florfall-tour, and product tua Hoirningis aganis the said Lord Maxwall, togidder with Letteris of Publicatioune aganis all our fouerane lordis legis, that nane fould reflet him : As also product Letteris direct aganis the pannell, quhairby he was charget befor the Counfall, and past to the horne for disobedienc. (5.) ffor verificatioune of the *fyft* Article, repeittis the Judiciall Declaratioun maid be my Lord of Dumbar, anent the Warrant gevin to my Lord Hereis, for apprehending of the pannell and Eduard Maxwall of Craigtoun : And ficklyk, product Letteris of Hoirning, beiring the said Eduard Maxwall to be fugitiue. (6.) Repeittis, for verifeing the *fixt* Poynt, the notorietie of the cryme with certane Depositiones. (7.) ffor verificatioun of the 7 Poynt, product his Depositiones, togidder with his Indytement at the Justice Court of Dumfres, and of his being fugitiue thairfra. (8.) ffor verificatioun of the Pistolettis, repeittis his Deposition product. (9.) ffor verificatioune of the quhilk thiftious crymes, tressonable committit be the pannell, and that thairin he hes committit Tressone, my lord Aduocat product the pannellis Infestment of the Landis of Lyncluden, togidder with ane Contract subferyuit betuix him and the Lard of Lochinvar, subferyveing him self to be 'ffear of Lyncluden ;' and repeittis that Act of Parliament, beiring Landit Gentilmen, committing Thift, to incur the cryme of Treafone.

Eftir reiding of the hail poyntis of Dittay, the pannell confessis the samyn to be of veritie, for fleir of his lyfe ; and thairfoir becumis in his Maiesteis Will.— My Lord Aduocat repeittis the writtis product, and the Act of Parliament maid against the committeris of Thift, be(ing) laudit Gentilmen ; and in respect thairof, Proteftis for Wilfull Error against the Assyse, gif they will acquit.— My lord Aduocat declairit to the pannell, that nochtwithstanding of the admitting of the Assyse, he is content, gif it be admittit be the Justice, that the pannell fall be reponit to his defensis, and haif the assistance of his prelocoutouris to that effect ; and lykways, to obiect aganis the perfones of Assyse, gif he hes ony lauchfull exceptioun to propone aganis thame, albeit it be nocht the forme of this Judgement : And thairupoun alkit instrumentis. Nochtwithstanding of the quhilk offer maid be my lord Aduocat, the pannell offeris him self in his Maiesteis Will, for the hail crymes contenit in his Dittay.

VERDICT. The Assyse, be the mouth of Williame Creichtoun of Ryhill, chancellor, stand, pronuncet, and declairit the said Williame Douglas of Lyncluden, to be ffylet, culpable and convict of the Reflet with the bludie hand of Johnne

Greir, principall committer of the Slauchter of vinq^{le} Eduard Maxwall of Trof-toun, immediatlie eftir the committing thair of: And ficyk, to be fylet, culpable and convict of the haill crymes of Treafone, and vtheris crymes at lenth fpecifeit and fett down in his Dittay, aboue mentionet.

SENTENCE. The Juftice, be the mouthe of Alexander Kennydie, dempfter of Court, decernit and ordanit the faid Williame Douglas to be tane to the Mercat-croce of Edinburgh, and firft, his richt hand to be ftrukin frome his body; and thaireftir, the faid Williame to be hangit at the Mercat-croce vpone ane gibet, quhill he be deid: And all his landis, heritages, &c. to be fforfaltit and efcheit to our fonerane lordis vfe, as giltie and culpable of the faidis treffonabil crymes: —Quhilk was pronuncet for dome.

Sorcery — Witchcraft — Murder.

Sep. 7.—GRISSELL GAIRDNER, relict of vinq^{le} Johnne Baird, burges of Newburgh.

Dilaitit of certane crymes of Witchcraft and Sorcerie, committit be hir, in maner and at the tymes fpecifeit in hir DITTAY following.

PERSEWARIS, Mr Robert Foullis, fubftitute to our fonerane lordis Aduoat; Alexander Wentoun in Newburgh, for himfelf, and as Informer.

PRELOCUTOR for the pannell, Mr Johnne Ruffell, (Advocate.)

IN ÞE FIRST, for on-laying, be Witchcraft and Inchantment, of ane grevous difeas and feiknes vpone the faid Alexander Wentoun; quhairin he lay in a feirfull madnes and flurie, þe fpace of ten oulkis¹ togidder; and in end, for af-taking of þe faid difeas and grevous feiknes af him, be certain directiones gevin, and vperis devillifche practizes vset be hir, for his recoverie; committit be hir in the moneth of Febrnare laftbypaft. ITEM, for hir devillifch Sorcerie and Witchcraft, practizet be hir, in laying on the lyk feirfull difeas and vuknawin feiknes vpone Williame Anderfoume, wricht in Newburcht, for certane allegit injurys done be him to Andro Baird, hir fone; in the quhilk grevous feiknes he continewit the fpace of ten dayis togidder, tormentit in maift feirfull maner; and af-taking of þe fame feiknes, be hir, be repeiting thryfe of certain woirdis, quhilk fcho termet prayeris. AND ficyk, for Bewitching of ane kow, pertening to þe faid Williame, quhairthrow þe haill milk that fcho þaireftir gaif was bluid and worfam:² committit be hir devilrie and Inchantment, in the moneth of Maij laftbypaft. ITEM, for þe Bewitching, be hir devillrie and Inchantment, of James Anderfone, fone to Margaret Balfour in Newburcht, in on-laying of ane grevous feiknes and difeas vpone him; quhair of, in ane grit flurie and madnes, within foure dayis eftir on-laying þair of, he deceiffit; and þairthrow, for airt and pairt of his Mur-

¹ Weeks.

² Blood and corrupted or purulent matter.

thour and deid,¹ committed be hir, in þe 3eir of God I^m.Vj^c. and fyve 3eiris. ITEM, for ane cownone and notorious Witche and abusfeare of þe people, by laying on of feiknes vponne men, wemen, bairnes, and bestiall; and be geving of drinkis, and vsing of vber vngodlie practizes, for af-taking of þe saidis feiknesfis and diseases; and be consulting with the Devill, and seiking of responfis fra him, at all tymes this fourtene or fyftene 3eir bygane, for effectuating of hir devillifch intentiones.

It is allegit be Mr Johnne Ruffell, as ordiner prelocutor, as he allegit, for my lord (Archbifhop) of St Androis,² that my Lord Justice can nocht proceed in this matter, aganis the pannell, vnto the tyme a Precognitioun be tane of the cryme of Witchcraft, for the quhilk this pannell is to be accused; conforme to ane Commissioun gevin to my Lord of St Androis, and certane Nobill men, to that effect.—It is anfuereit be my lord Aduocat, that thair is na sic Commissioun grantit, nather is the Commissioun product; and albeit thair war ony sic Commissioun gevin, the famyn is nawayis derogatorie to my lord Justice Jurisdiction; bot that the pannell man be put to ane Affyse, for the crymes lybellit.

It is allegit be the pannell, that the first pairt of the Dittay is nawayis relevant; nather is the samyn relevantlie qualifeit, bot altogidder friuolus and generall; and thairfoir, can nocht be put to ane Affyse. It is anfuereit be the Aduocat, that the allegiance is nawayis relevant, bot man be repellit, in respect of the Dittay and circumstances thairof.

THE JUSTICE remittis the Dittay to ane Affyse, to be cognoset and tryit be thame.

The Aduocat askit instrumētis of the chesing and fwering of the Affyse; And protestis for Wilfull Errorr, in caice thay acquit hir; in respect of the notorieite of the Dittay, and takinnis³ gewin to ilk poynt of the Dittay, and of the fwering of Alexander Wentoune.

It is allegit that *Stevin Philp* can nocht be ressaunt vponne this Affyse, becaus Philpis wyfes guidame⁴ and the persfear Alexander Wentounes mother war fisteris.—The said Stevin Philpis ayth being tane thairupoune, declairit thai war sib,⁵ bot knawis nocht how neir of kyn thai war.—*James Durie* repellit be the Justice, af this Affyse, in respect of his declaratioun and ayth gevin thairupoune, that he buir the pannell at na guid will.—It is allegit aganis *Robert Allane*, that he can nocht be admittit Affysour, becaus Anderfones wyfe, quha is pairtie offendit in the Dittay, and Allane are thridis of kyn,⁶ as was reknit.

THE JUSTICE admittis *Allane* vponne this Affyse, for the hail poyntis con-

¹ Death. ² George Gladstones, who was translated from the See of Caithness, anno 1606; but was not consecrated Archbishop, until 1610. ³ Proofs. ⁴ Grandmother. ⁵ Of kin, consanguinity, or relationship by blood. ⁶ Within the third degree of consanguinity.

tenit in the Dittay, except vpon the article confait in prejudice of Anderfone's wyfe allanerlie.¹

It is allegit that *George Henderfone* can nocht be admittit vpon this Affyfe, becaufe the pannell hes Letteris of Lauborris againt him, quhairvpon scho hes gevin hir ayth of hir bodelie harme.—Anfueris, nocht relevant, becaus the Letteris ar raislit fen² the pannellis apprehensiuon for the fact lybellit, and fen the Counfallis ordinaunce, appointing hir to be tryit.

The pannell, befor the outpassing of the Affyfe, takis instrumentis, that na poynt of the Dittay is fuorne to the Affyfe, bot³ the first Article, anent Alexander Wentoun, allanerlie.

The Aduocat desyres, for forder informatioun to the Affyfe of the pannellis Giltines of the hail crymes lybellit, that the Ministeris⁴ Declaratioun, anent hir lyfe, tred⁵, and conversatioun; as also, David Orme, Bailzie of Newburcht, ayth and declaratioun of that pairt of the Dittay, concerning Anderfones wyfe and bairnis, be ressaunt.—It is anfuerit be Mr Johne Ruffell, that thair Declarationis can nocht be ressaunt, except thair war infert as persewaris in the Summondis.

The pannell protestis that the Declaratioun to be maid be Mr Johne Caudcleuche, Minister, in this matter, quhairvpon scho is dilaitit, be naways respectit or advertit vnto be the Affyfe.—*Mr Johne Caldcleuch, Minijer*,⁶ being fuorne maist solemnelie, be the Justice, Deponis, that a fourtene yeur syne this Griffell Gairdner was than suspect to be ane wicket woman, and ane Sorcerer; and be the Depositiones of the Witches execute for Sorcerie and Witchcraft, at Abernethie, Falkland, and Newburcht, scho was reput to be ane manifest Witch; bot becaus thair was na precedent fact qualifeit aganis hir, the Presbiterie thairfoir delayit hir Tryell and accusatioun. And as concerning hir lyfe and conversatioun fen syne, scho hes bene suspect to be ane verrie evill woman; and for hir privat revenge aganis sic as scho buir ony malice vnto, hes vsft devillische and vngodlie meanis, be Sorcerie and Incantatioun, to lay on dyuerse grevous diseassis on thame; and speciallie, on the perſones set down in hir Indytement; quhairthrow the cuntrie and parochin⁷ quhairin scho duellis hes bene gritie slanderit, in suffering sic ane persone vnpwneist: For the quhill caus, the Presbiterie, efter tryell of the former offences done be hir, alweill to the perſones contenit in hir Dittay as vpone dyuerse vtheris that ar nocht nominat thairin, direct the Deponer, as thair Moderatour, to notifie the treuth of the premisses to the Counfall, that sum ordour might be tane anent hir Tryell and pwnishment.—Quhairvpon my lord Aduocat askit instrumentis.

¹ Only, alone. This remarkable decision of the Justice, however inconsistent with modern practice, was by no means infrequent during the reign of King James VI. ² Since. ³ Excepting.

⁴ Clergyman of the parish of Newburgh. ⁵ Trade; employment; occupation. ⁶ See the King's Letter to this Minister, relative to Gowrie's Conspiracy, in this Collection, II. 317. ⁷ Parish.

VERDICT. The Affyfe, for the maift pairt, be the mouthe of Williame Ramfaye, burges of Newburgh, chancellor, ffand, pronuncet, and declairit the faid Griffell to be ffylet, culpable, and convict of the haill crymes aboue mentionat.

SENTENCE. The Justice Decernit and ordanit hir to be tane to the Caftell hill of Edin', and thair to be wirreit¹ at ane ftak quhill fcho be deid ; and thair-efter hir body to be brunt in afches ; and all hir moveabill guidis and geir to be efcheit and inbrocht to our foueran lordis vfe.

Horse and Cattle-stealing.

Oct. 23.—GEORGE BROUN, foue to James Broun, in Cokpen.

Dilaitit, accuffet, and perfewit be Dittay, at the instance of Robert Erle of Louthiane, and Mr Thomas Henderfone, Aduocat, fubftitute to our fouerane lordis Aduocate, of airt and pairt of the fteilling of ane waith naig² a tua yeir fyne, or thairby. ITEM, of fteilling of ane naig³ furth of the Park of Newbottill, pertening to Mr Alexander Ambroife, Minifter ; and of ane ftai⁴, pertening to Thomas Stewinfoun, fofter⁵ of the faid Park ; committit ane yeir and ane half fyne, or thairby. ITEM, for the fteilling of ane blak meir,⁶ pertening to Johnne Fyndlafone, furth of the croftis of Lellie ; togidder with ane blak ftai⁴, pertening to James Clerk ; and ane little foirdy⁷ ftai⁴ ; committed vpon the xxviij and xxix dayis of September laft. ITEM, for the fteilling of thre oxin, pertening to my Lord of Louthiane, furth of Newtoun-maynes ; committit the xxvij day of September laftbypaft.

VERDICT. The Affyfe, be the mouth of Barnard Borthuik in Caringtoun, chancellor, ffand, pronuncet, and declairit the faid George Broun to be ffylet, culpable, and convict of the haill crymes of Thift, contenit in his Dittay aboue fpecifeit.

SENTENCE. To be tane to the Park of Newbottill,⁸ and thair to be hangit vpon ane gibbet quhill he be deid ; and all his landis, heritages, annuelrentis, heritabill baudis, and vtheris his guidis and geir quhatfumeuir pertening to him, or quhairvuto he is provydit, to be fforfaltit and efcheit to our fouerane lordis ufe, as convict and culpable of the faidis thiftious and treffonabill crymes.

Compeirit Mungo McCall, bailzie of Edinburgh, and eftir conviction of the faid George Broun, and pronunceatiou of his Dome, afkit inftumentis of his entrie vpon pannell ; and that he was delyuerit af the toum of Edinburgis handis, be the Justice, to my Lord of Lothiane, to be execute, conforme to his dome.

¹ Strangled. ² A *strayed* horse ; or perhaps a horse kept for *waith* or hunting. It may be stated, however, that the general acceptation of the term '*waith horfe*,' is a stallion who escapes from pasture, and wanders in quest of mares ; but in this instance, he seems to have been *wayf*, or strayed. ³ Riding horse. ⁴ A young unbroken *horse* ; a stallion. ⁵ Forester. ⁶ Mare. ⁷ Sorrel-coloured ; reddish. ⁸ The practice of executing Criminals near the spot where their crime was committed, did not seem to be much attended to at this period ; but this is one among the few instances of a pannel, tried in Edinburgh, being carried to some distance and executed for the greater example.

Theft, &c.—Following the Gipsies, &c.

NOV. 30.—ELIZABETH WARROK, dochter of . . . Warrok in the Potterrow, [Edinburgh].

Dilaitit of airt and pairt of the thifteous Steilling, conceilling, reffetting and ane-burges-taking of ane siluer mazer,¹ pertening to Quintene Bouftoun, mercheand burges of Edinburgh, a thre yeir fyne or thairby. ITEM, for ane cownone Vagabund and follower of the Gipséis, and taking pairt with thame in all thair thiftis and juglareis this ten yeir bygane, contrair the Actis of Parliament. ITEM, for ane cownone reffetter of Thift.

VERDICT. Fylet, culpable and convict of the saidis crymes.²

(Dec. 8.)—SENTENCE. The Justice Ordanit hir, togidder with GEORGE RAMSAY, sone to Nicoll Ramsay in Lefuaid, (quha become in will, for certane 30wis³ flowin be him furth of the landis of Libertoun, pertening to the tennentis thairrof, quhilkis war restorit bak agane to the awneris, &c.) to be SCURGET throw the Burgh of Edinburgh: And to be BANISCHET the haill liberteis thair-of, and nevir to be fund within floure myles thairto; vnder the pane of deid, viz. The said George Ramsay, vnder the pane of Hanging, but⁴ forder Dome; and the said Elfpeth, vnder the pane of Drowning,⁵ but forder Dome or Law, to be haldin or pronoucet aganis thame.

Piracy, &c.—‘The Englische Pirattis’—Oppression, &c.

[THE transactions of the bold and lawless men, whose trial ensues, and the violence and murders perpetrated by other Pirates, natives of both countries, but chiefly Englishmen, after the accession of King James to the British throne, excited the liveliest interest at the time, both in Scotland and England. Instead, however, of entering into a lengthened detail of the crimes and the punishment of these desperadoes, the Editor will content himself by giving the result of pretty laborious searches, in an Appendix of Original Documents, which sets the matter in the clearest point of view. The sources from which these various and highly interesting Papers have been procured, are, as usual, noted.]

Dec. 8.—PETER LOVE, borne in Lewis,⁶ in Suffex; Johnne Cokis, borne in Walderfweik in Suffolk; Williame Hollane, callit ‘the Batifinan,’ borne in Suffolk; David Howart, Welchman; Nicolas Phillopes, borne in Waillis; Jafperd Staffurd, Irifchman; Anthony Colenis, borne (in Tregwne) in Cornel-feyre,⁷ in Ingland; and Abrahame Mathie, Ingfishman.

Dilaitit of the crymes of PIRRACIE, contenit in thair Dittay, viz.

¹ Mazer, or drinking cup. Mazers were usually, of old, made of the maple-tree. ² The sentence is not recorded. ³ Ewe-sheep. ⁴ Without farther sentence or trial. ⁵ The usual punishment of death inflicted upon women for theft, &c. In cases of Treason they were beheaded—and for Murder, Witchcraft, &c. burning at the stake was adjudged. It seems to have been then considered barbarous, as well as indelicate, to hang females, for any crime. ⁶ Most probably Lowestoffe, Suffolk, which was likely pronounced *Loves* or *Lewes*, by popular corruption. ⁷ Tregony, in the county of Cornwall, navigable by barges from Falmouth.

FORSAMEKILL as from 30wr verrie 3outh, as pernicious and wicket Impes of the Devill, being gevin ower to all foirtis of villaneis, robereis, and oppreffiones, nawayis to be allowed within any Christiane cōwmonewelth, schaiking af all lauchfull tredis and callingis, but¹ feir of God, reuerence to the Kingis Maieftie or his hienes lawis, 3e betuik 3our selfis to þat damnable tred of Pirracie, as rooges, thevis, and sea-robberis, pillieing² and oppressing all maner of people, of quhatfumeur nationn or cuntry, cūming within þe compas of 3our mercieles power: And namelie, be committing of the perticuler Pirraceis, heirfchipsis,³ and barbarus Oppreffiones vnderwrittin, quhairof 3e and ilk ane of 3ow ar airt and pairt, in maner as followis. In þe first, 3e and ilk ane of 3ow, being in companie with Capitane Cowart, Capitane Barret, and dyuerse vtheris 3our complices, notorious Pirattis, Revearis,⁴ and Sea-robberis, in the monethis of Majj and Junij lastbypast, lowfed af Ireland,⁵ in þis schip callit þe Preame,⁶ quhairin 3e was takin and apprehendit, be Neill M^cCloud of Lewis and his clan, &c.; 3e faillit towardis þe French coist, quhair 3e, be way of Pirracie, faucht, assailzeit, buirdit, and be plane force tuik, þe number of sax schipsis and tua boittis; the first þairrof, beingane Inglish schip of þetoun of Baftable;⁷ the nixt, ane French schip; the thrid, ane French schip; the fourt, ane Inglish schip; the fyft, ane pink⁸ of Dunkirk; the fact, ane Dutch schip; and þaireftir, tua fischer boittis: sirth of þe quhilkis schipsis, and spciallie furth of þe French schipsis, 3e pilleit, maisterfullie staw,⁹ reft and robbed fevin hundreth Indiane hydys, with tua hundreth pundis Sterling of gold and money; and sicyk, tuik þe said Dutche schip, quhilk 3e brocht with 3ow as ane pryfe to Ireland, laidnit with ane hundreth kiftis¹⁰ of succour,¹¹ tua kiftis of silverplait, ane kift full of ryellis of aucht;¹² togidder with ane box of Jewallis, the box being of siluer and moþer-of-perle, of tua fute lang, and coverit with reid crammase velvet, in þe quhilk was four baifer-ftanes,¹³ with certane bloode-ftanes and dyuerse dyamontis and precious stanes of grit valew. LYK AS, 3e pilleit and robbed furth of Thomas Snellingis bark, in South-Hampton, tua kiftis of quhyte focour, tua pakis of cannell,¹⁴ ane hundreth littill barrellis of conferves, tua grit barrellis of pepper, fourtene bagis of ginger, ane barrell of cufcheneill¹⁵ of ane hundreth wecht; quhilk box with þe xxix siluer plait, with þe cannell, gynger, pepper, cufcheneill and hydys aboue writtin, 3e turnet out of þe saidis schipsis vnto þe Preame, and cayreit þe samyn to þe Lewis,¹⁶ quhair þe samyn was tane, within this present schip, be þe Hieland men. LYK AS, 3e, in þe monethis

¹ Without. ² Pillaging. ³ Plunderings. ⁴ Persons who live by plunder, who *berave* others by violence of their property. ⁵ Loosed and set sail off the coast of Ireland. ⁶ Priam? ⁷ Barnstable, in Devonshire. ⁸ A small ship built with a round stern, the bends and ribs compassing so as that her sides bulge out very much.—*Bailey*. ⁹ Stole. ¹⁰ Chests, boxes. ¹¹ Sugar. ¹² Rialls, or *Pieces of eight*. ¹³ Bezoar-stones, supposed to be an antidote against poison. ¹⁴ Cinnamon. ¹⁵ Cochineal, a scarlet dye. ¹⁶ The Island of Lewis, one of the Western Islands of Scotland, the property of the Clan M'Leod.

foirfaidis, pilleit and robbed furth of þe faid Dutche ſchip, and Inglis ſchipsis, þair victuallis, faillis and men, quhome ʒe compellit to ferue ʒow, as flaves, in all ferueill and flauifch exercicillis; and brocht the faid Pink to the Blak-rok, in Ireland,¹ quhair þe faidis Capitane Barrett and Capitane Cowart, with nyntene of þair company, paft on ſchoir, and was þair ſuppryfet: þe faid Pink tane and apprehended be certane boittis with men that come af þe ſchoir: And ʒe, for feir of apprehendioun, eftir ane combat fell out betwix ʒow, þe faid Capitane Love, and þe ſkipper of the ſchip callit þe Preamme, loufet out of þat raid,² and come with ane futherlie wynd to the Lewis, quhair ʒe tuik and apprehendit Thomas Flemyng (Richiefone) in Anſtruper, and his ſchip, and ane Flemifche buſche,³ out of þe quhilk buſche ʒe tuik fyve Flemyngis, and pat in hir fyve of ʒour awin companie; quhilk þaireftir, be ſtorme of wedder, was ſeperat frome ʒow and drevin to Schyteland, quhair þai landit, and detenit þe faid Thomas Richiefone and his ſchip with ʒow, to be ʒour gaird in the Lewis; ay and quhill ʒe and thay, with the faidis tua ſchipsis, war tane and apprehendit be the Hieland men. AND ʒe and ilk ane of ʒow ar airt and pairt of the Robereis and Pirraeis aboue writtin: To þe taikin, ʒe and ilk ane of ʒow, at þe leiſt ſum of ʒow, hes Confeffit þe hail premisses to be of veritie, be ʒour Depositiones. ITEM, for cowmone and notorious Pirattis, Sic-Revaris and Robberis, Spuilʒearis⁴ and revearis of leill⁵ meis guidis, allweill on ſie as land, quhairneir ʒe mycht apprehend þe ſamyn.

ASSISA.

James Lokhart of Ley,

Mathow Baillie of Lituilgill,⁶ &c.

The Aduocat askis instrumentis of the ſwering of the Aſſyfe: And for veriſeing of the Dittay, repeittis thair Depositionnes producet.

VERDICT. The Aſſyfe, for the maift pairt,⁷ be the mouth of the faid James Lokhart of Ley, chancellor, ſtand, pronuncet and declairit the faidis aucht perſones on pannell, to be ſfylet, culpable and convict of the hail perticular Pirraeis and Robberies perticulerlie fet down in the faid Dittay.

DOME. To be tane to ane Gibbet vpon the Sandis of Leyth, within the flodes-mark, and thair to be hangit quhill thay be deid: And all thair moveabill guidis and geir pertening to thame, and being in thair poſſeſſioun the tyme of thair taking, allweill ſchip as guidis, geir, jewellis and vtheris being within the ſamyn, to be eſcheit and inbrocht to our ſouerane lordis vsf; as culpable and convict of the faidis crymes.

¹ There are two places bearing this name; one in Sligo bay, the other four miles distant from Dublin.

² Road-stead.

³ A Dutch fishing-vessel, called a *buss*.

⁴ Spoilers.

⁵ Leal,

loyal.

⁶ The remainder of the Assise, merchants.

⁷ By a marking in the Record, it appears that *seven* of the Assise, including the chancellor, voted for Cleansing or Acquitting the prisoners; probably from some remarkable deficiency in the evidence adduced by the public prosecutor, for popular feeling against the Pirates was very strong; and slender evidence in such instances was, in those days, enough to convict such pannels as those who were at the bar.

APPENDIX OF PAPERS ILLUSTRATIVE OF TRIALS FOR PIRACY.

I. LETTER *Neill McCloud of Harris to the Privy Council.*¹

MY LORDIS of Counfell. My dewitie (and) service being rememberit, I ressaunt your l. Lettre frome this behair, Patrik Greve, desiring me to delyner him the Inglish Pirott, whiche wes tane be my men, with all hir equippage and apparrelling. Suirlie, my Lordis, I wes not at the takinge thair-of, for had I bene thair, I fould haif fend the said Pirott, as iho wes tane, to his Ma. and Counfell; for suirlie I delyuerit hir to the said Patrik, with all her mvntioun, as I ressaunt hir my selff, to witt, with all hir faillis, towis, and tua ankeris, with xiiij peeles of grite cairte peeles,² with hir Capitane and nyne of his. As for þe rest, thay war slayne at the taking of þe said Pirott, and foure Dutcheis³ that wer tane be the Capitane, zucht dayis befor the hulk past to the Meane-land; for I wald nocht hold thame as prifounairis, in respect thay war takin perforce be the Capitane, with twa that deceifit; and I did keepe ane Scottis man in my awin company, to⁴ forder aduise. So I rest.

LEWIS, the 16 of October, 1610.

NEILL MCCLLOUD.

II. TRIAL *of Thirty English Pirates, before the Vice-Admiral of Scotland, his Deputes, and certain Lords of the Privy Council.*

[THE following remarkable Trial is taken from an Official Extract preserved in the Charter-room of THE CITY OF EDINBURGH; and is presented in this Appendix, in illustration of the extent to which Piracy had been practised, and of the unrelenting severity with which it was universally punished in this country, as well as in England. The Editor begs to acknowledge the ready and liberal access which has been afforded to him, and the polite attention of the Town-Clerk, in facilitating this and former researches. A very interesting LETTER by the Privy Council to the King, which follows, (No. III.) fully explains many minute circumstances, and the course of the proceedings adopted by them to check Piracy, and prevent, as far as possible, the recurrence of such atrocious and daring crimes.]

CURIA JUSTICIARIE ADMIRALITATIS SCOTIE, tenta in Prectorio burgi de Edinburghe, coram Domino Jacobo Weynis de Bogie milite, Vice Admirallo Scotie, et Magistris Roberto Lermonth et Archibaldo Achesone Advocatis, Admirallis deputatis ac Supremæ Curie dicte Admiralitatis Presidentibus (presentibus ibidem nonnullis ex nobilissimo Ordine Senatorum. Regie Majestati a Secretis Confiliis) vicesimo sexto die mensis Julij, anno Domini millesimo sexcentesimo et decimo. CURIA AFFIRMATA.

THE quhilk day, in presens of the said Judges, sittand in judgment, Compeirit personallie Maister Robert Cockburne, Advocat, Procuratour Fiscall of the said Admiralitie, speciallie constitute, and producet ane Dittay aganes certane Pirates, Sic-thives, and Rivers,⁵ to the number efter mentionat; indytting thame and ilk ane of thame vponne the committing of certane manifest barbarous robereis and maisterfull sleathes vponne the Sie, thir dyvers yeires bygane; togidder with ane Precept of the said Great Admirall of Scotland, fummondng ane number of famous perones to pas vponne the saidis Pirates thair Assyte; and to determine thairin *affirmative* or *negative*, conforme to the said Dittay, as they knew or suld be speirit⁶ at thame, vnder the panes thairin contenit; and desyrit justice to be ministrat

¹ From Orig. in *Denmylne Coll. of MSS.* Adv. Library. This Letter is superscribed 'Jests.'
² 'pieces' mounted on carriages, similar to the heavy ship guns long in use on board of Pirate-vessels.
 Dutchmen. ³ Until. ⁴ *Réciters*; robbers. ⁵ Asked; enquired.

⁶ Perhaps
 Flemings;

in the said mater, conforme to the lawis and practique of this realme, rait and custome of the said Admiraltie, aganes the perones Criminallis vnderwritin; quha, and ilk ane of thame, as they ar efter nominat, enterit and war present vponne pannell. Off the quhilk Dittay and Precept, the tenor followis.

Followis the tennour of THE DITTAY.

INTRANTES.

CAPT. WM. RANDELL,	Rodger Codgen,	Afchtoun Courtney,
Captane Johnne Parkius,	Richard Robiefone,	Robert Croudin,
George Nicolfone,	Alexander Wifche,	William Peirfie,
Jacob Janfone,	Johnne Frieman,	Thomas Peirfie,
Thomas Thomlene,	Edward Brux,	Johnne Grafe,
Robert Em,	William Tailzour,	Robert West,
Andro Rawling,	Johnne Web,	Johnne Schiphird,
Walter Cornifche,	Richard Robifone,	Francis Richtop,
Cornelius Jacobfone,	Benediet Ferres,	Nicolas Dartnoll,
Johnne Williames,	Francis Wallace,	Johnne Dawfone,

gea ar indytit and accufit of 5our lyffes, That 3e and ilk ane of 3ow, in maner, and at 3e tymes *reſpectiue* efter ſpecifeit, haueing ſchlaiken aff all feir of God, and dew obediencie to our ſoverane lord the Kinges Maieſtie, within quhais dominions 3ea and everie ane of 3ow war borne, miſregairding his Maieſteis auctoritie royal, and lovebill lawis of his hienes realmes and kingdomes, and contempnand all humane ſocietie and honeſt forme of traid and living, as becom Critiane men borne within ſua civil kingdome, quhairin the trew feir of God is profellit and 3e Holie Evangill preichit; takand 3our ſelffes to ane maist wyld, barbarous, ſavage, inhumane, and crowell form of lyff, hes amaffit¹ 3our ſelffes in crewis and vnhappie companeis, in maist hoſteill and cruell maner, with all ingyneis of flyre-wark and vapons invaſive, of ſet purpoſe and intentionne to live as commoun roberis, thives, murthereris, and opin Pirates be Sie. LYKAS, 3ea and everie ane of 3ow, in maner and at 3e tymes efter mentionat, hes committit the wyld, filthie, and abhominable Reiffes, Thiftes, Robereis, and Piraceis efter reherſit, als weil in foren Seis as within his Maieſteis awin Seis and watteris, not onlie aganes his Maieſteis freindis, confiderates, and allayas, bot also aganes his Maieſteis frie leiges, being in thair lauchfull traidis of navigatioun, by lying in thair wayes, and thair, maist cruelle and barberoullie, by way of Thift, opin Reiff, Roberie, commoun and avout Piracie, perſewing of thame in all hoſteill maner, as ſaid is, taking of 3air perones captives, puting of thame in feir and dredour of 3air lyves, robing and reiveing of thame of 3air ſchipes and gudis, drowning, flaying, and tortering of 3air perones, maist vnmcerſullie, ranſomyng, and be ſetting of vthers vponne ſchoir in barbarous and vncouth² pairtes, leiſt 3our cruell practeiffis and Piraceis ſould have bene be thame detectit; and be practeiffing of all vther Sie-Thiftis, Robereis and Piraceis, as is particularelie efter deduct. Quhairof 3ea and ilk ane of 3ow ar ſpeciall actoris, doeris, airt, pairt, red, and counfell; quhilk 3ea can not deny. Quhairby, 3ea and ilk ane of 3ow hes demerit and worthilie incurrit the panes of death, to the terror and exempill of vtheris to attempt 3e lyk crymes in tyme cuming; according to the preſcript of his Maieſteis lawis, and the maist loveabill cuſtome of this kingdome. AND NAMELIE, 3ow *Capitane William Randell*, than Captane of 3e Schip callit *THE GRYPHOUND*,³ vponne the firſt day of Julij, or pairby, 1609 3eiris, being at 3e Long Iland, in Ireland, ane plaice of refort of all Pirates and opin Roberis, acompaneit with 3ow the ſaidis *Jacob Janſone, Thomas Thomlene, Roger Codgen, Richard Robifone* alias *Dik Couper, Alexander Wijche, Johnne Friman, George Nicolſoun, Edward Brux, Afchtoun Courtney, and Robert Croudin,*

¹ Joined; gathered; confederated.

² Strange; unfrequented.

³ Griffin; or, as it is here emphatically ſtyled, Grip-hound.

with dyvers vtheris 3our complices, haveing amassit 3our selfes togidder, with all hofteill maner, within the said schip, as said is; AND 3ow the said *Capitane Johne Parkins*, being than Captane of the Schip callit þe IRON PRYSE, being lyand in the same Rod¹ of Long Yland, with 3our fellow Pirates and complices, in the said Schip, bodin and furnischt lykwayes in hofteill maner, as said is, accompanit with *Capitane Harrie*, *Capitane Couvard* and dyvers vther Pirates, Sie-Roberis, and Reiffers, consultand, lurkand, and waittand vponne þe practeisng of all kynd of Roberis and Piraceis, vpon all maner of persones without exceptionne; 3ea first devydit 3our selfis, in maner efter following, viz. 3ea the said *Jacob Jansone*, *Thomas Thomlene*, *Richard Robijone*, *Roger Colgen*, *Alexander Wijche*, *Johne Friman*, *George Nicoljone*, *Edward Brux*, *Afektoune Courtney*, and *Robert Croudis*, the said *Capitane Williame Randill* being than abaird in the said *Capitane Williame Parkins* Schip foirfaid, in the said month of Julij or þairby, at the leist vponne dyvers days of the samyn moneth, haveing consultit and plattit with the said *Capitane Harrie* maist thiftecoullie and piraticalie rest and away-tuik þe said *Capitane Randellis* Schip, and tuk faill and cons toward the West-waird, vnder the conduct of þe said *Capitane Harrie*, quhom 3ea all, of commoune consent, than choyfit for 3our Captane; and cumand fordward, in the latter end of þe said moneth of Julij or August, in the said 3eir 1609, at þe leist vponne sum dayes of 3e samyn monethis, *respectiue*, 3ea onbefet,² perfewit, and burdit,³ at þe leist ane great number of 3ow, at command and be advye of the rest, ane puir fischar-man and his bot,⁴ and robit him of his victuallis and all that he had. AND thairefter, in the said moneth of August, at þe leist vponne sum dayes þairof, 3ea the saidis Pirates affoifaidis onbefet and perfewit, in all hofteill maner, ane French Bark, cumand from þe New-found-land, quhair 3e forceablie enterit abuid of þe fame, robit and rest þe haill victuallis being þairintill. AND thairefter, in the said moneth of August, October, November, December, or vponne sum dayis of þe saidis monethis, *respectiue*, 3ea, haueing returnit bak agane to Ballendree, vponne the West pairt of Ireland, and haueing trymit⁵ 3our said Schip, and talking faill and cours to þe Seis for catchng of 3our prayes,⁶ vponne dyvers dayes of þe saidis monethis immediatlie aboue writtin, or sum of thame, 3ea then forgadderit with *Capitane Peirfie*, ane comoune and deiteifabill Pirat and Sie-river, and joyning 3our self in vnhappie societie with him, vponne þe thrid day of þe said moneth of November or þairby, or sum dayes of þe samyn, being aff and on with the North Cap,⁷ or neir thairby; and thair, all togidder of on mynd and wickit resolutionne, awaiting and lurking for catchng of 3our pray, 3ea the saidis Pirates immediatlie affoifaidis, forgadderit with ane Schip of Midilburgh callit THE SANCT JOHNE, quhairof Daniell Abeg was maister, being than boum to Lighorne⁸ in Italie, and thair 3ea altogidder being actoris and deid-doeris, airt, pairt, red, and counfell with vtheris, in all hofteill and forceabill maner, iovadit and perfewit þe said Schip, buirdit, rest, and variet⁹ hir away to the Coast of Barbarie to Sancticruce, quhair 3ea and everie ane of 3ow forceablie extrudit and pat out þe said *Capitane Harrie*; and haueing electit *Capitane Barrett* to be 3our Captane, enterit into þe said Dutch pryfe, and gave þe said schip callit the Gryppound to þe said *Capitane Peirfie* and his company; and þair violentlie tuik *William Sanderis* and *Michael Paterfone* his boy, with fex mo captives and prifoneris; and sua deteinut thame in the said Schip, quhair the said *Capitane Williame Randell* and *Capitane Johne Parkins* being arryvit at Sophie in Barbaries with 3our haill crew, and vicket companie foirfaid, enterit 3our selfes in societie with þe said *Capitane Barrett*, and thair 3ea all, accompaniet and affisit with the said *Capitane Peirfie*, being tua Schipes togidder, in the monethis of December, Januar, Februar, Marche, Apryll, Maij, Junij, at the leist vponne dyvers and fundrie dayes of the saidis monethis, or sum of thame, pall to the West Yles,¹⁰ quhair 3ea haueing rancounterit at þe Yle Sanct Michaelis with tuo English Schipes, and þair 3ea, with all kynd of hofteill maner, invadit and perfewit the saidis tua Schipes, buirdit thame, and rest and robit thame of þair haill victuallis, and vther furnitur being þairintill. LYKAS, also 3e þe saidis Pirates immediatlie aboue namet, in the saidis monethis of December, Januar, Februar, March, Apryll, Maij,

¹ Road; road-stead. ² Attacked; beset. ³ Boarded. ⁴ Boat. ⁵ Trimmed; refitted. ⁶ Prey; booty. ⁷ The North Cape. ⁸ Bound for Leghorn. ⁹ Wore away; varied her course, &c. ¹⁰ The Azores.

Junij laftbypat, at þe leift vpoune fun or dyveris dayes þairof *refpectiué*, 3ea, being boune altogidder to þe North Cap, and haueing forgadderit and met with ane French Schip, 3ea all and euerie ane of 3ow, actoris, airt and pairt with vtheris, maift cruellie invadit and perfewit an French Schip, callit,¹ quhilk 3e violentlie manit and buirdit, reft and cariet hir away, and maid þe haill cumpanie and trew men being þairintill 3our prifoneris and captives. AND feylyk, vpoune þe nixt day þairefter, being vpoune fun dayes of þe fãidis monethis *refpectiué*, at that fame place, or neir by to þe North Cap, 3ea haueing forgadderit with ane Dutch Prem, 3ea altogidder being actoris, airt and pairt with vtheris, in all hoſteill maner, invadit and perfewit þe fãid Schip, manit and buirdit hir, tuik all her men and companie captives and prifoneris, and broecht þe fãid Schip, with hir haill laidnyng, gudis and geir, to þe Coſt of Ireland, at þe fãid Long Yland; in the quhilk journey, 3ea the fãid *Robert Em* was preſent, and voluntarie enterit in thair companie, and remanit with thame fenſyne, in all þair roberis. At the quhilk Long Yland, in the fãidis monethis of December, Januar, Februar, March, Apryll, Maij, Junij, or fun dayes of þe fãidis monethis *refpectiué*, haueing ſtrukin fail and caſſin anchor, and thair 3ow the fãidis *William Peirſe*, *Thomas Peirſe*, *Johne Williams* and *Nicoll Dartnoll*, being thair preſent, vpoune þe ſchoir, as maifterles men and vagaboundis, cuming of ſet purpoſ from Londonne to Ireland to þe fãid Long Yland, being ane comoune plaice of reſort of all Pirates and Roberis to enter in the wickit fellowſhip of Roberie, 3ea all, of 3our awin volmtar accord, and of devyce and plat foirlaid, com to þe fãid ſchip, quhairin the fãid *Captane Parkins*, *Captane Raudell*, and þair wickit companie wer, and enterit in the fãid ſchip callit þe Dutch Pryſe, as alliſeris with þe foirtãidis vther Pirates; AND haueing, in þe fãidis monethis *refpectiué* aboue writtin, or fun dayes þairof, louſtit and maid fail thairfra, vpoune þe fame Coſt of Ireland, 3ea altogidder forgadderit with tua French ſchipes, and þair, in all hoſteill maner, as fãid is, maift cruellie invadit and perfewit þe fãidis tua French Schipis and þair companie, and violentlie buirdit thame, reft, and robit, and pillied² thame, and away-tuik þe fãidis Schipes, with þe haill gudis and geir being þairintill; and pat þe haill men and companie on ſchoir, in ſindrie vncouth and barberous paites, to þe mercie of þe Seis; AND thairefter, 3ea all, the foirlãidis Pirates and 3our complices, in the fãidis monethis of December, Januar, Februar, March, Apryll, Maij, Junij, and Julij infant, vpoune fun or mae days of þe fãidis monethis *refpectiué*, be ſtorme of wedder being driven to þe fãid Long Yland, and thair haueing caſſin anchor, and haueing met and forgadderit, conſultit, plattit and devyſit with *Captane Eſſon*, *Captane Biſchop*, and vther Pirates and Sic-Roberis: In this mene tyme, 3ow the fãid *Robert Waß*, *Walter Cornijche*, *William Tailzour*, *Francis Wallace*, *Francis Richtop*, *Cornelius Jacobſone*, *Johne Schipherd*, *Richard Robijone*, callit Dik þe Hoyer, *Johne Gryſe*, *Andrew Rawling*, *Johne Web*, *Benedict Ferres*, and *Johne Dauſoune*, enterit in ſocietie and aſſiſtance with þe fãidis *Captane Parkins* and *Captane Raudell*, and þe reſt of þair wicket crew, of 3our awin volmtar accord, 3ea being all maifterles men and vagaboundis, as fãid is. LYKEAS, vpoune fun of þe dayes of þe fãidis monethis *refpectiué* abouewrittin, 3ea louſtit all togidder, and tuk fail fra the fãid Long Yland, and cam in 3our cours to þe Coſt of Norroway; and thair, haueing foirgadderit with ane Flemis ſchip, being laidhit than with cornes, and thair 3ea, in all hoſteill forme and maner, as fãid is, enterit aburd of þe fãid ſchip, tuik hir and hir haill laidnyng, gudis and geir, and robit hir of hir curcebill³ gudis being þairintill, and detenit þe fãid ſchip in 3our companie captive and prifoner be þe ſpace of four dayes or þairby. AND SICLYK, in the fãidis monethis of December, Januar, Februar, March, Apryll, Maij, Junij, and Julij infant, and vpoune fun or vther dayes of þe fãidis monethis *refpectiué*, 3ea all, perſiſting in 3our vngodlie and deteifãill traid of lyft, haueing foirgadderit vpoune þe fame Coſt of Norroway, with ane Dutch Schip, callit,⁴ 3ea, being actoris, doeris, airt, pairt, red and counſell with vtheris, in all hoſteill maner, as fãid is, violentlie perfewit and enterit aburd, manit and tuik þe fãid ſchip and her haill cumpany, as prifoneris and captives, and made ane pryſe of þe famyn. AND ALS, 3ow, þe foirlãidis Pirates, in the monethis

¹ The name is left blank.² Pillaged; plundered.³ Merchantable; staple.⁴ Left blank.

immediatly affoirfaidis, at þe leift vponne fun or findrie dayes of þe famyn, continewallie lurkand and awaiting for ʒour pray, haveing foigadderit vponne þe Coff of Norroway with tua Dutch ſchipes, quhairof þe ane was ane Schip of Dankene, quhilk Schip ʒea all as actoris, doeris, airt, pairt, red and counfell with vtheris, in all hoflell forme invadit and perfewit, as faid is, buirdit þe fame, robit and ftrypit þe hail companie being þairintill off thair gudis and geir, reft and tuk out of þe faid Schip of Dankene tua peice of ordinance. AND LYKWAYES, in the faidis monethis of December, Januar, Februar, Marche, Apryll, Maij, Junij and Julij infant, or vponn fun or vther dayes of þe faidis monethis *respectiue*, ʒea, the foirfaidis Pirates and Sie-Thives and Rivers, being actores, doeris, airt, pairt, red and counfell with vtheris, haveing foigadderit vponne þe Coff of Zetland, within this Kingdome, with ane Carvall of Zermouth, quhairof Mr Muriall was maister, and in all hofteill forme, as faid is, perfewit and invadit þe faid ſchip, as faid is, robit and away-tuk furth þairof, fra the faid Mr Muriall twentie-fyve pund friviling; and from tua Falconeris, being paſſingeris boune to Norroway for bying of halkis,¹ four pund friviling; and thairwithall tuk Johne Colman and Peter Inkiping furth þairof, as captives and prifioneris with ʒow; and cariet thame quhair ʒe pleaſtit. AND ALSO, in the faidis monethis *respectiue* immediatlie above writtin, and vponne fun dayes thairof, lurking and awaiting continewallie for the compaffing and catching of ʒour pray, vponne trew ſubiectes, ʒea haveing ſene and foigadderit with ane Bark of Cathnes, vponne þe Coff of Zetland, quhairof was maister, ʒea the foirfaidis Pirates, at þe leift þe mail pairt of ʒow, and ʒe all as actoris, doeris, airt, pairt, red and counfell with vtheris, vnder cloud and ſilence of nycht, invadit and perfewit þe faid Bark, buirdit þe famyn, ſtrak and brak vp þe kiſtes and vther lokfaſt lumes² being þairintill, robit and tuk furth þairof ane hundreth merk ſterling; and tuk furth ane certane number of ſteikis³ of braid-claith perteneing to þe faid maister, and cariet þe famyn to ʒour ſchipes. AND ʒea and ilk ane of ʒow gat ʒour ſkair⁴ of þe faidis robit gudis, and ſua, at this ſelff ſame tyme. AND vponne þe dayes of þe monethis *respectiue* foirfaidis, haveing ʒour cours direct towards Orkney, thair to have lurkit, landit at þe Caſtell of Kirkwall, and com to þe toune þairof, quhair ʒea and ilk ane of ʒow, as opin and avowit Pirates and Sie-Roberis, behavit ʒour ſelffis mail barberoullie and baſtlie, being eveir and at all tymes drukin, and fechtand amanges ʒour ſelffis, and ſubiecting and giuing of ʒour ſelffis ovir to all kynd of wyce and villanie. LYKAS, ʒe, þe faidis *Robert Croudis*, *Richard Robiſone*, callit þe Hoyſier, and *Andro Rawling*, in ʒour madd and drukin humoris, perſifling than in ʒour accustomit traid of Piracie, violentlie and perforce enterit and buirdit ane bark perteneing to my Lord Erll of Orkney, lyand vponne þe ſchoir, off plane plat and intentionne to have robit, ſpolʒiet, and reft hir; quhair ʒe was, in that attempt, tane and apprehendit. LYKAS, ʒe, þe foirfaidis Pirates preſent on pannell, and ilk ane of ʒow, war thair lykwayes tane and aprehendit with the faid Dutch Schip, being laidin with hydys, leid, canon, arteilʒerie and vther furnitur; and ʒea and ilk ane of ʒow ar actouris, doeris, airt, pairt, red and counfell of þe famyn cryme, and of all and findrie þe premiſſes; As ʒe and ilk ane of ʒow can nocht deny, and at all comoune Roberis, Thives, and Rivers, auld and new.

Followis the tenor of the PRECEPT.

LUDOUIC DUX OF LENNOX, Erll of Darnlie, Lord Torboltonne, Methvene, and Obigney, &c. Great Admirall of Scotland; To our Louittis, &c. [It is unnecessary, in this place, to insert the Precept of Executions at length, which are in common form.]

QUHILK Dittay and Precept affornamet being productit, in preſens of the faidis Judges, and the foirfaidis hail Pirates and Criminalis indyttit, compeirand and enterand vponne pannell, as faid is, the faid Procuratour Fyſcall atkit inſtrumentis and Act of Court thairvponne: And than deſyrit the faidis Criminalis to be put to the knowlege of ane Aſſyſe; and for that effect deſyrit the faid Aſſyſe to be callit, and the foirfaid Dittay red, as is aboue-ceauit,⁵ in preſens of the pannell and perſones of Aſſyſe;

¹ Norway was celebrated for the best breeds of falcons, &c., for the sport of hawking, then so much in vogue.

² Literally, *looms*; implying lockers, chests, &c. in which valuable goods and money were stowed away. ³ Wages; pieces. ⁴ Share, portion. ⁵ Perhaps for 'conceavit.'

quilk defyre the saidis Judges thocht reffonabill, and thairfoir Ordanit the officeris of Court to call the names of the said Assyse, efter the Clerkis publick nomination, conforme to the Precept aboue writtin, direct thairanent ; quhairof the names compeirand followis.

NOMINA ASSISÆ.

John Landis, merchand,	James Borthuik, merchand,	William Duff, skiper,
Robert Halybartoun, merchand,	Johne Mairtene elder, skiper,	William Ridoch, skiper,
Johne Massone, merchand,	Johne Mairtene younger, skiper,	Johne Watfone, skiper,
Johne Mitchelhill, merchand,	William Weir, skiper,	Johne Moir, skiper.
Johne Hutcheffone, merchand,	Johne Wilfoune, skiper,	William Mureheid, merchand.

Quhilkis perones of Assyse being reffaut, be content of the hail Criminallis being vpoune the pannell, quha declairit they had na obiectione nor imputatione agains thauie, nor na caus quhy to repell and set thame or ony of thame : In the quhilk respect, the foirsaidis Judges tuik the saidis perones of Assyse and ilk one of thame deiplic and folemplic fuome, vpon thair greit aithes,¹ that they and ilk one of thame fuld leill faith fay and na fuith conceill, for na thing that be mycht, bot to determine verilie vpoune the said Indytment, be thair pairt of Hevin, and as they fould anfuier to God at the dreadfull day of Judgement : Quha instantlie passit vpoune the said Assyse. And thairefter causit reid the foirsaid Dittay to the pannell, in presence of the said Assyse, in maner and conforme to the particular tenour and contentes aboue mentionat. Quhilk Dittay being judicallie red, with findrie taikins² and informatiounis of everie one of thair giltines ; compeirit the hail perones of the pannell, and heirand the samyn, being acceffit thairvpoune, could schaw na lauchfull nor reffonabill caus of thair innocencie of the saidis crymes layd to thair charge ; ilk one of thame for thair awin pairtes, conforme to the said Dittay, and according to thair awin Depositionis reid to thame, and in prefens of the said Assyse, quhilk they Confellit ; and referit thame to the Tryell of the said Assyse. Quhairvpoune the said Procurator Fiscall akkit instrumentis and Act of Court ; and desyrit the said Assyse mycht be removet out of Judgement, and to be incloisit, to the effect they mycht give thair Verdict and determination thairintill, according to thair aithes alreid folemplic gevin in maner foirsaid.

VERDICT. Quhilkis peronis of Assyse, being removit out of Judgement and incloisit, electit and choyfit all with ane consent, the said James Borthuik, as chancellor of the said Assyse ; and efter lang deliberatione, reiding of the said Dittay, togidder with the said perones Criminallis thair Depositionis, and vther notices and informatiounis, and als with thair Confessioun vpoune pannell, being ryplie and at lenth advyfit, and all aggreand in ane voice, but discrepance or varriance, be the mouth of the said James Borthuik, chancellor, re-enterand agane in Judgment, Decernit and Declairit, and Decernes and Declaires, the foiramet hail perones Criminallis on pannell, and everie one of thame, to be GILTIE, airt and pairt of the foirsaidis Robereis and crymes contenit in the said Dittay, and Fyllit and Fyllis thame and everie one of thame thairof, and (that) of everie heid, point, and circumstance of the said Dittay.—Quhairvpoune the said Procurator Fiscall lykwayes akkit instrumentis ; and Remittit the Dome to the saidis Judges.

Followis THE DOME,

At command of the saidis Judges, be the mouth of Patrick Leverance thair Decyffer of Court.

FORSAMEKILL as the saidis *Captane William Randall*, &c.,³ present on pannell, and everie one of thame, ar ffund, be ane conding Assyse, Giltie, airt and pairt of the committing of certane ryld Robereis, Piraceis, and Reifis, contenit in the said Dittay immediatlie befoir writtin, quhairfoir I adindge thame and ilk one of thame to be tane to the Peir and schoir of Leith, within the Sic-fluid and mark thairof, and thair to be Hangit vpoune ane gibbett till they be deid. And Ordanes the foirsaid greit Dutche

¹ This singular form of oath illustrates in the strongest manner the anomalous office of a Jury-man, in those times ; they being call'd as *witnesses* of the facts charged against the pannel, as well as Assisors, as has formerly been explained. ² Proofs ; evidence. ³ The names of all the prisoners recited here.

Schip callit the Pryfe,¹ haill arteilsirie, ornamentis and apperrelling thairof, hydys, leid, and vther furnitur being thairintill, apprehendit with thame, and all vtheris moveabill gudis and geir, to be efcheat and introbrot to our fouerane lordis use (but preiudeice to my Lord Admerall of the efcheates of Pirates and Sie-Roberis in tyme cuning). And this I give for Dome.

EXTRACTUM per me, Joannem Young, Scribam et Clericum Principalem dicte Admiraltatis Scotie, sub meis signo et subscriptione manulibus. (L. S.²) JOANNES YOUNG.

III. LETTER, *the Privy Council of Scotland to THE KING, 'anent the Ingliſche Pyrats,'³ (Captains Randall and Parkius, &c.)*

MOST GRATIOUS AND SACRED SOUERANE,

VPOUNE advertintment gevin to vs that some Pirott ſchippis had bene ſeene in the mouthle of the Firth,⁴ and the fame ſecundeit by the complaintes of a grite many of your Mat^{ties} ſubiectis, bothe on the Weſt Coaſt and heir on the Eit, of the vnquietnes and haſaird of paſſage, by reaſſoun of the frequencie of Engliſche Pirottis on the ſea; and ſpeciallie, of one of Caithnes, who, in his paſſing home, wes robd of all that he had: And both by him, and the report of otheris who mett ſome of theſe Pirottis on the ſea, being certified, that they wer gone toward the Orknay Ylandis, We, being moved and grevit with the complaintis of your Mat^{ties} poore people, and being loathe to impefche⁵ your Maieſteis vtheris weyghtie affairis, with the aduertiment thairof, whill⁶ we had done ſome thing thairin our ſelfis; and wiſheing that, in a mater of this qualitee, (admitting hardlie ony delay, wherin the omitting of the preſent occaſioun nicht do much harme,) your Mat^{tie} ſould rather find ws cairfull on our dewyitie, then vtherwey remiſſe or negligent, we did heirupoun preſentlie direct thrie of the beſt ſchippis at that tyme within the harbour of Leithe, weill mannit and furneiſſit with all weiryke prouifionn (your Mat^{ties} awne ſchip at that tyme not being arryved heir.) And hauing gevin vnto thame expres directioun and charge to make ſearche, and to follow quhiddirſoeuir they could apprehend thoſe Pirottis; and our Schippis hauing mett with thame vpon the coaſt of the Mayne-land of Orknay, thay hauing tua ſaillis, the one a Schip aboue 200, the vther a Choife-pinnace⁷ of 100 (twn of birth,⁸) efter a bloodie conflict, in whiche tua of our men wer killed and ſindrie hurt; the Pinnace, being excellent in ſailling, maid choife rather by flight to ſaiſe hir ſelf, then, by ony langer ſtay, to abyde the haſard of taking; and albeit ſhe was followed for a ſpace, yitt did ſhe ſtill gayne ground. Whereupoun, the perſuite being left of, the vther gritt Schip in the meane quhyle being boordit, wes broght away be our ſchippis; and in hir wer takin to the number of threttie able men, befydes ſome few priſounaris, whom theſe Pirottis did keepe aboorde. Who, after thay had bene dewlie and ſeueral thymes examined, at laſt all theſe threttie wer putt to thair tryell and found guiltye: Of whiche number xxvij ar execute and putt to death; of whome thair were tua Cap.aines, by name Capitaine Perkynis and Capitaine Randell. The other thrie are repryvit and continewt vntill ſuche tyme as your Maieſteis pleaſure be knowne, in regardis that thair is hoip, by thair forder examinatioun, to learne out ſome thingis tuitcheing the eſtair. We haif alreddy diſcouerit ſome mater of abuſe, hoiping to

¹ There is in the Charter-room of the city of Edinburgh, from which the above remarkable Trial has been taken, a GILT OF THE ESCHEAT of the Dutch Ship noticed in the foregoing 'Dome,' paſſing under the Privy Seal, and dated at Edinburgh, Aug. 7, 1610, in favour of 'Thomas Young, induellar in our burgh of Edinburgh, his heirs and assignays aue or na;' which narrates that these Pirates 'wer justlie and worthelie execute to the dead, vpon the morne thaireſtir.'

² The ancient Seal of the Court of Admiralty is remarkable, having a Vessel of War in full ſail, with the arms of Scotland, England, and Ireland, on three ſhields introduced in the centre of the ſmaller ſails; and on the main-ſail is a large eſcutcheon of pretence, containing the quartered arms of the Duke of Leinton, as Hereditary Lord High Admiral, with the motto, 'KEIP.' The legend is, '* SIGILLVM OFFICII ADMIRALTATIS REGNI SCOTIE.'

³ From the Original, preſerved in the *Dennyſtane MSS.* Adv. Library, A. 2. 10. It is alſo tranſcribed by the Earl of Haddington, in his *MS. Collection*, General Register Houſe, Edinburgh, but probably from an imperfect ſcroll or copy, as there are many minute variations. The moſt important of theſe are noted here.

⁴ Of Forth. ⁵ Fr.; hindrance. ⁶ Until. ⁷ Called a 'Chace-pinnace' in *Had. MS.* ⁸ Added in *Had. MS.*

find more oute, wherby this grite increffe of Piracye hath bene by some, far aganis thair deuyteis to your Ma^{tie}, too muche folerit and mantenit; bot of the particularis of the fame, as vvwilling to commit thame to wryte, your Ma^{tie} falbe certified at lenth by your Maiesties Secretarye of this Kingdome, who is (schortlie to mak his repair thither. In the mean quhyle, the persons of thosé men whose lyses ar spaird falbe faillie kept and maid furthcomeand, ather for forder examinatioun heir, or, vpon knowlege of your Maiesties pleafour, falbe broght thither to be tryed. Thair wer also mony pregnant presumptiounis that howeuir thesé men now spairit wer deprehendit in the societie of the rest, that the fame wes more by enforcement then by consent, which wes¹ affirmed by the most parte of thame who war executed. This company of Pirottis did interteyne one whome they did call thair Personne, for faying of Prayeris to thame twyfe a day, who belyke ather wearyed of his cure, or fearing² the enfening (dainger and³) destruction of his flock, had foirfaikin thame in Orkney, and priudlie conveying him self over land, wes at lenth defryed and deprehendit in the burgh of Dundie; and being broght hither, did fo cleirlic confes and gif evidence aganis the rest; and, being confronted, broght mony of thame to confessioun. Thair being heirwith some likliehoode that his stay with thame had bene by contraint, we haif heirvpoun, in lyke foirt, continewit him frome being putt to tryall vntill your Ma^{ties} pleafour be knowne.

We do vnderstand, by aduertisement from Orkney, that thair be some fyve or sex Pirottis mo deprehendit; bot quhiddir thay be of this company or not, it is vncertane; alwayes, we do expect thame by the first occasion of any schipping that dothe come from thensé. And siuce none of ws ar ignorant, that by reasonne of aduertisements, not onlie frome all the coneris of your Ma^{ties} awiu dominionis, bot alsiua frome foreyne partis, your Ma^{tie} hes newer almost any interuillioun or respitt, (your Maiestie, by Godis Prouidence and to your subiectis vnspcakable happynes, being the great Oceane vnto whiche all revaris and brookis do rinne,) as in dewytie we could not omit to acquent your Maiestie hierwith, fo the feir of troubling your Maiestie with too long a Letter hathé moved ws to refer the particular⁴ relatioun of all the incidentis in this busynes to a more proper occasion. And concerning all suche other directionis as it pleisit your Ma^{tie}, ather by Commissioun sent be the Lord Burley, or by Letteris wryttin vnto any of ws, concerning the Marques of Huntley, the Erl of Errole, or any vther mater worthie of the aduertising, your Maiestie falbe certified⁵ of all thesé oure proceedingis by the Secretarie, at his repair be your Maiestie. And so, praying God to blisse your Maiestie with a long, happy, and prosperous reigname, we rest for ever,

Your Maiesties most humble and obedyent subiectis and feruitouris,

EDINBURGH, 27 July, 1610.

DUNFERMELINE. DUMBAR.

TO THE KING his most sacred and excellent Maiestie, &c.

IV. EXTRACT from *Minutes of Privy Council Proceedings*,⁶ Jul. 4, 1615.

THERE is one CAPTANE MAISONÉ of *Lynce*, with fyve or sex others of his companye, in warde within the Tollbuith of Edinburgh, vpon verie probable suspitiounes of Piracye. The citate of the cause is this. *Captane Majon*, some foure yeeres sence, or therby, having purchased a yeere Tak⁷ of the Aislyte-hering⁸ of the Northe Ylles; and vpon ocaion of his haunting of the Ylles that yeere, having entered in some acquaintance with the Bishope of the Ylles, and having transported him to and from Yreland,⁹ he procoures of the Bishop, in the moneth of Apryll, 1612, a Lease of a lytle Ylle called Rona; but neuer com to tak possession of the Ylle, nor to try the worth thairof, whill¹⁰ this yeere.

¹ The *Had. MS.* reads, 'And the same also.' ² 'Fairsaing,' in the *Had. MS.* ³ These words added in the *Had. MS.* ⁴ 'Phaine,' in *Had. MS.* ⁵ 'Aduertysed,' in *Had. MS.* ⁶ *Donnybne MSS.* *Advocate's Library*, A. 4. 15. ⁷ One year's lease. ⁸ A tax paid to the Crown upon the quantity of herrings caught at the fishery; which, owing to the expense of collection, was usually farmed out annually. ⁹ Andrew Knox, Bishop of the Isles, and Abbot of Icolunkill, had livings in Ireland. He was translated to the see of Raphoe in Ireland, anno 1622. ¹⁰ Untill.

Hes a pretty bark, wherewith this last yeere bygone he made fundrye voyages betweene Amsterdame and Lyne, havinge none in equyppage¹ but sex perfoncs. This yeere, when he refolues to come to our Ylles, he takes in at Yairmouth one CAPTAN WILMAN, who had bene a notable Pirott, and had obtained his Maiefties Remiffion, with two of his brether: And pretending, as he affermes, to come to Rona to have taken poffeffion of the Ylle, and to have tryed the filcheing there, (althought he was nouthr provided with falt, trees, victualles, nor no kynd of outredd for the filcheing,) he comes firft to Orknay, where he takes in other two perfoncs, the one to be a cook and the other to be a pyllot, and makes his adreafs for Rona; but the winds being contrarious, and not daring tak land there, he comes about the Ylles to Mull, where he ftayed foure dayes. In which tyme, there comes to M^cCLEANE a detrection and Commiffion from the Counfall, for the perfute of Coll M^cGillefpik and the others Rebels of Ila.² Captane Maifone being acquainted heerwith, he ingyres him felf in that fervice, geveand M^cClaine to vnderftand that he would hafard his perfon and fhip in perfute of the Rebelles, vpon hope of his Ma^ties confiderationne and rewarde for his fervice. M^cClaine geveand truit to his difcourffis, encourages him to follow that enterpryfe; and furnifhes him with fome victuales, for he had lytle or non of his owne: And fo, leaving M^cClaine his country, he comes bak againe that fame way he went, towards Rona; and havinge ftayed there fome half a day, and getting information that the Rebelles wer in the Lews, he derectis his courfe from that towards Orknay, to tak in mo men, as he pretended, for the better ftrengthening of him againft the Rebelles. In Orknay he takis in fex men, which made his number to be feavtenth perfoncs. And whereas he fhould have gone to the Lews, he directes his courfe for Zetland, and from that to the coaft of Norrway, where, going into a bay under a craig,³ and lying there at ankar coertlie vnder the craig, there comes by a fhip of Copmanhouen.⁴ Vpon the fight wherof, Maifones fhip immediatlie loutes, follows the Copmanhouen fhip, takes her, and bringes her in to the bay, takes the wholl equyppage⁵ oute of her, which wer four or fyve perfoncs, and ftowes thame in Maifones fhip.

Captane Maifone, to excufe him felue of this deide, makes this difcourfe, that when he came to Zetland, Captane Wilman perfaveing ther voyage lyk to proof fruitles, there was no appearance of the Rebelles, he layed to his charge, and earnestlie delt with him to go feek fome adventur by fea; and becaus he refufied to yeeld to fuch a vnhoneft and vnlawfull motion, Captane Wilman ftirred vp the wholl companye of his fhip againeft him, vfurped vpon him the charge and commandement of the fhip, depryved him of all charge, and took him aganest his will to Norrway; and when the pryife was perfewed, ftowed him beneth—and at laft patt him in the pryife, whiche was a ould lek⁶ fhip, with three of his company that would not yeeld to follow Wilman, fpoiled him of his owne fhip, which was a tight and good fhip, and fett him to the fea, to the hafard and perrell of his lyf.

For difconerie and tryeing of the troth of this difcourfes, the Counfall has been verie carefull in the examinatioun of fuch of Captane Maifones companye as ar brought heere, and by there examination it is funden that (there) was neuer any mater of conteftation betweene Maifone and Wilman, that Willman ftirred vp the companye againeft Maifone; and that there was neuer once fuch motion in the fhip, concerning that mater; that Maifone difwaded none of his companye to joyne with Wilman, nor neuer told ony of thame that Wilman had a purpofe for Pirracye; but that thay aggreid verie well in all thingis. And the Maifter of the Copmanhouene fhip fayd plainlie, that Maifone wes aboue,⁷ in his fhip, when he wes perfewed and taken; and when his fhip wes brought in to the bay and fattened to the other fhip, that Maifone enterred in his fhip, and that Wilman and he fuped togidder and made mirrye vpon the prouftion that wes in his fhip, and drank out his wyne and his beir; and that Maifone lay all night in the pryife, and vpon the morn called for the Maifter of the pryife, and told him that he behooved to tak his fhip, feeing Wilman had taken his fhip; and fayes, that vpon the morne,

¹ Crew. ² See Papers appended to the Trial of Sir James Makconell, III. 1, &c. ³ Rock. ⁴ The common name then in use for Copenhagen. ⁵ Crew. ⁶ Leaky. ⁷ On deck.

both shippes loufe and come togidder the space of foure myles, to witt, Maifon in the pryife, and Wilman with the wholl companyee, except three men and a boy, in goodnes ship; and when they finder-ed, there wes gryte mirth amonges thame, with drinking mony good nightis; and the Maister of the pryife fayes forder, that his ship is iij^c dollouris bettar nor¹ Maifones ship.

The two companyees being finder-ed, Captane Maifone come bak againe till Orkney in the Copmanhouen pryife, of purpose, as appeires, to have taken in some ma² men; but being gyltie, in his owne confcience, of Pirracye, he durst not tak land, but took him to the sea, and by storme of wedder wes dryven vpon the coast of Caithnes; and being lyand there, in a harborry, he wes boorded by a fone of the *Lorde of Markles*, and he and his foure men wes taken and fend heere.

Captan Wilman in Maifones ship pass bak againe to that same bay from which they loufed, and the next morning took a ship of Rutlok, loadned with fithes, and set the wholl companyee of the ship, being nyne in number, vpon a rock in the sea, and kept onlie one with thame; and Wilman come with the pryife and Maifones ship till Orkney vpon a Sunday, and he pass to land and wes enterained by the country people, and some come aboarde and wer mirrie with him. Vpon the morn, being Mononday, two of the *Lairde of Grymmiffayes* fones, and one *Robert Elphingfoun*, comes aboarde of the pryife, wherin Wilman and his skippar war both for the tyme; and haueing some conference and speatch with thame, and espying there strenght, they commanded Wilman to rander; and he refuseing, the youngest of *Grymmiffayes* fones immediatlie gave him a deadlie stroak, wherwith he dyed presentlie; and at that same instant killed the skippar by an other stroak. And so, the Captane and skippar being both killed, the rest of the companyee and both shippes randered. In this meantyme there is a Waughtar lyand in Zetland, attending the Flemes Fleitt³ at the fifthing, and being enformed by *Mr Williame Levingfoun* schiref-depute, that a Pirote with a pryife wes gone by towards Orkney, this Waughtar, refaueing a pylote from the Schiref-depute, follows the Pirote to Orkney, and comes directlie to this same harborry where the Pirrot and the pryife lay, takes thame both and brings thame to Leyth, saying, that he had a command and directioun from his Maisteris, the Estates, that what euer Pirrottes he fand in the Scottithe Seas, he should tak thame and present thame with there shippes and goodes to the Kinges Maieties Counfall here. The Orkney men who killed the Pirrot and his skippar followed the Waughtar, and greueoullie complained of the wrong alledged done to thame in takiog of the shippes of there handes, which thay had recouered with the hafard of there lynes; and they alledged that they wanted iudrie of there goodes which they had put in the shippes, they being of purpose to have broght thame aboute to Leyth. The Captane of the Waughtar excused him selue, that he knew nothing that they had recouered the shippes; but believing the shippes wer still in the possession of the Pirrottes, he tooke thame and broght thame heere to the Counfall—and tuitching the goodes which they alleged they wanted, the Captane constantlie affirmed, and so did the Orkney Pylote, that the Shiref-depute deluenered him, that they wanted not a pennie worth of that which he gott in the shippes. The Counfall accepted verie well of the Waughtars doings, hes returned him bak, with thankes, and hes propnyed⁴ him with a coup of lx vnce⁵ weight.

Directioun is geuen for deluerie of the Copmanhouene ship to the owner, he geueand some reasonable satisfacioun to the gentlemen who recouered the same from Captane Maifone.

Bycaus the owners of the ship of Rutlok are not heer to refaue there ship and goodes, and becaus the goodes will not keepe in the ship, therefore directioun is geuen to rounp and sell the wholl goodes beeing within the ship, and to mak pennie of the same; to be furth-chaund to the ownaris, when they shall come heere; they geueand reasonable satisfacioun to the gentlemen who recouered the ship and goodes from the Pirrottes.

¹ More valuable than.² More.³ Flemish Fleet.⁴ Gifted; presented.⁵ Sixty ounces.

Mutilation and Demembrement.

Dec. 19.—JAMES FORRESTER, sone to vni^q^e James Forrefter, ffather-brother to Sir Robert Forrefter of Strahenrie, kny^t.

Dilaitit, accufet, and perfewit be Mr David Anderfoun at Ballingarrie, off airt and part of the Mutilatioun of the said Mr David of his richt airme; committit vpon the tuintie day of October I^m.Vj^c. and nyne yeiris, foiranent¹ the said Mr Davidis duelling-hous dur, at the Kirk of Ballinzerie; vpon fett purpois, prouiffioun, and foirthocht felonie.

The pannell, eftir reiding of the Dittay, acknowlegis the offence; and maist humblie craves God and his Maieftie pardoun, and the pairtie, for the fame: and offeris him self in his Maiefteis Will thairfoir.

VERDICT. The Assyse, in ane voce, be the mouth of Andro Cockburne in Treatoun, chancellor, ffand, pronuncet and declairit the said James, conforme to his awin Judiciall Confeffionn, to be ffylet, culpable, and convict of the said Mutilatioune.

In respect quhairof, the Justice ordanit the said James to be committit to waird within the Tolbuth of Edinburgh, thairin to remane, as ane convict persone, quhill he be advyset with the Lordis of Secretit Counfall, anent his Dome, to be pronuncet aganis him for the said cryme.

[*Mr Alexander Colrill Justice-Depute.*]

Chest—Fire-raising—Slaughter—Intercommuning with the Clan Gregor—Fight of Bintoich, &c.

[THE interest which now attaches to the proscription and subsequent history of the Clan MACGREGOR, induces the Editor to prefix a few explanatory remarks to the present Trial; and especially relative to 'THE FECHT' or 'skirmisch' of 'BINTOICHE,' which is taken notice of in the Dittay. The difficulty of obtaining accurate information regarding such proceedings, and the obscurity in which almost all Highland transactions at this period are involved, render this the more necessary; and it is hoped will plead the Editor's apology with those who deem such enquiries uninteresting.]

This Fight or Skirmish of Bintoich, then, is likewise known as 'the *Chase of Ranefray*,' having been fought, partly, as would seem, at both places; or more probably the Fight took place at Bintoich, and the Chase or pursuit reached as far as Ranefray. '*The Book of Taymouth*'² thus narrates the transaction:—'Attoure, Robert Campbell, second sone to the Laird (of *Glenrquhay*) Sir Duncan, performinge a great number of them (the *Clan Gregor*) through the countrie, in end overtuik them in Ranefray, in the Brae of Glenrquhy; quhair he slew Duncan Abrok Makgregor, with his son Gregor in Ardchylie, Dougall Makgregor M^cCouehier in Glengyle, with his son Duncan, Charles Makgregor (M^c) Came in Bracklie, quha was principallis in that band; and twenty utheris of thair compleifes lain in the chais.' A contemporary historian, Sir Robert Gordon, in his *History of the Earldom of Sutherland*,³ p. 247, says of this affair, that 'here (meaning at Bintoich, which he had previously mentioned) Robert Campbell, the Laird of Glen-Vrquhie his sone, accompanied with some of the Clanchamron,

¹ Directly before or opposite.

² An extremely interesting Family Chronicle, containing valuable notices of Highland History, and illustrating the genealogy of many families in those districts. The Original is in possession of the Noble family of Breadalbane, and, as the Editor has been informed, is likely to be privately printed for the use of the BANSATYNE CLUB.

³ This curious work might with much propriety have been styled a *History of Scotland*.

Clanab (McNabs), and Clanronald, to the number of tuo hundred chosen men, faught against three fere of the Clangregar; in which Conflict tuo of the Clan-Gregar were slain, to wit, Duncan Aberigh, one of the Chieftanes, and his sone Duncan (*Gregor?*) Seven gentlemen of the Campbell's syd wer killed ther, though they seemed to have the victorie.

It appears rather singular that the slaughter of one of the ClanGregor, at the very time when that Clan was the subject of Letters of fire and sword, should, by the Government, be held a *crime*; more especially when the MacGregors were again in the very same predicament.]

Mar. 2, 1611.—Johnne McKewin, in Kilbryde; Archibald McIlvoyll McLowrin, Donald McInowie, in Glencho; Duncane Caird McGregour, Patrik M'ean DowMcGregour, Allaster Bowie McGregour Clerache, Dougall McGregour Clerache McGregour, Duncane Mcneill McGregour, [Donald Mc'eandich McGregour,¹] Johnne M'andro.

Dilaitit, accufet and perfewit be Mr Robert Foulis, substitute to Sir Thomas Hammiltoun of Bynnie, kny^t, Aduocat to our souerane lord, for his hienes intereis, of the crymes *respectiue* following, viz.—THE said *Johnne M'ewin*, flor airt and pairt of the thiftious Steilling of tuelf schein fra the Barrone M'callan, furth of his landis of Innerthonoling; committit in the moneth of August last-bypast 1610 yeiris. ITEM, flor airt and pairt of the thiftious Steilling of tua gait² and ane schein fra Adame Colquhoun in Point, furth of the landis of Banrie, in the moneth of December I^m.Vj^c. and sax yeiris. ITEM, flor airt and pairt of the steilling of ane pair of pleuch-irnes fra Williame Myller in Schenmekillis, furth of the landis of Schenmekillis, in the moneth of Apryle I^m.Vj^c. and aucht yeiris. ITEM, flor cownoun Thift and cownone Reflet of thift, inputing and outputing of thift, &c. AND for daylie Intercowmoning and keiping cumpanie with the M'GREGOURIS, assisting and taking pairt with thame, in all thair thiftious deidis, heirschipis, robesis and oppreffiones, this thre or four yeir bygane.—THE saidis *Archibald McIlvoyll McLowren*, and *Donald McInnowie*, serbandis to Allaster and Allane M'Indowie in Glencho, flor airt and pairt of the tressonabill Raifcing of fyre about Johnne Stewartis hous in the Camrone, in the Lennox, in the moneth of December lastbypast; aflageing of Duncane, James, and vniq^{le} Johnne Stewartis thairintill; AND flor airt and pairt of the slauchter of the said vniq^{le} Johnne Stewart, at the tyme soirsaid.—THE said *Duncane Caird McGregour*, flor cownone Thift and Reflet of thift, outputing and inputing of thift, &c. AND flor daylie Intercowmoning and keiping of tryftis and consultations, with the M'Gregouris, assisting and taking pairt with thame in all and findrie thair thiftis, reiffis, and oppreffiones, committit be thame this thre yeir bygane.—THE said *Patrik M'ean Dowie McGregour*, flor being in company with the M'Gregouris, at the fecht or skirmisch of Bintoiche, in the moneth of Apryle I^m.Vj^c. and four yeiris. AND flor airt and pairt of the tressonable

¹ Tane bak agane to waird, and nocht put to ane Assyse.

² Goats.

Raifeing of fyre, burning of the Castell of Achallader, and of tuentie houffis in Glenlochic; and for the crewall Slauchter of flourfeoir ky¹ at the said fecht. AND sicklyk, ffor airt and pairt of the Slauchter of vniq^{le} Patrik Dow M^cUab, and ane feruand of the Laird of Glenyreheis, namet M^cLayne, baith flane in the said fecht of Bintoich. AND, ffor cowmone Thift, cowmone Reflet of thift, outputing and inputing of thift, &c. AND, ffor Intercowmoning and keiping cumpanie with the *M^cGregouris*, in all thair wiket deidis, &c.—THE said *Allafter Bowie M^cGregour*, ffor Cowmone Thift and cowmone Reflet of thift, outputing and inputing of thift, fra land to land, fra cuntrie to cuntrie: AND ffor Intercowmoning and keiping daylie tryftis and conventiones with *the M^cGregouris*, and taking plaine pairt with thame in all thair violent and thiftious deidis, thir dyuerse yeiris bygane.—THE said *Dougall M^cGregour Clerach M^cGregour*, ffor the crewall Slauchter of vniq^{le} Gregour M^cGregour, foue to vniq^{le} Duncane Abroche M^cGregour, be fcluteing of him with ane arrow behind his bak; committit in Auguft I^m.Vj^c. and four yeiris. ITEM, for Intercowmoning with *the M^cGregouris*, contrair the tenmour of his Maiefties Acts and Proclamationes, at dyuerse tymes, fen the publicatione of the saidis Proclamations.—THE said *Duncane M^cNeill M^cGregour*, ffor cowmone Thift, cowmone Reflet of thift, &c. AND als, ffor Intercowmoning with *the M^cGregouris*, affifting and plane pairt-taking with thame, in all thair thiftious deidis, thir dyuerse yeiris bygane.—THE said *Johne M^cAndro*, ffor airt and pairt of the Burning of Johne Stewartis hous, and Slauchter of the said vniq^{le} Johne Stewart; committit in the said moneth of December, I^m.Vj^c. and ten yeiris; at the leift, for keiping cumpanie with the saidis Archibald M^cilvoil M^cLauren and Duncane M^cInnowie, and the remanent perfones thair complices, quha come furth of Glenco, to the doing of the saidis crymes.

ASSISA.

Johne Buntene of Ardoche,	Johne Buchannane,	Willieme Colquhoun,
Parlane M ^c Walter of Auchin-	Andro Cuninghame,	Mr Malcolme Colquhoun,
vannell,	Johne Logane, fear of Drum-	Malcolme Crawford, feruitour
Mungo Buchannane in Tillie-	chapell,	to the Laird of Blair,
chewin,	James Colquhoun, feruitour to	Robert Blair,
Tho ^s Fallafdaill of Ardoch-beg,	the Laird of Kilbirnie,	David Drummond,
Johne Stewart in Caurne,	Robert Bradie, feruitour to the	Duncane Menzies.
Jo ⁿ Smyth in Auchindownanrie,	said James Colquhoun,	

VERDICT. The Aiflyfe, be the mouth of the said Thomas Fallafdaill, chancellor, fstand, pronuncet and declairet the saidis Johne M^cewin in Kilbyrde, Archibald M^cilvoill, Donald M^cInnowie, Duncane Caird M^cGregour, Patrik M^ceandow M^cGregour, Allafter Bowie M^cGregour, and Duncane M^cNeill M^cGregour, to be fflyet, culpable and convict of the feuerall crymes *refpectiue* aboue writtin, con-

¹ Cattle; *kine*.

tenit in thair Dittayis : AND the said Dougall M^cGregour Clerach, to be flylet, culpable and convict of airt and pairt of the Slauchter of the said vniq^{le} Gregour M^cGregour, committit be the said Dougall, he being within the age of tuelf yeiris for the tyme ; and fielyk, for Intercowmoning with the M^cGregouris, conforme to the Article of his Dittay. AND fielyk, flaud, pronuncet and declairit the said Johne M^cAndro, to be Clene, innocent and acquit of the Burning of the said Johne Stewartis hous in Camrone ; and Slauchter of the said vniq^{le} Johne Stewart ; and remanent poyntis contenit in his Dittay.

SENTENCE. The Justice, be the mouth of Alexander Kenmydie, dempfter of Court, decernit and ordanit the saidis *Johne M^cErwin, Duncane Caird M^cGregour, Patrik M^cIndow M^cGregour, Allaster Bowie M^cGregour, and Duncan M^cNeill M^cGregour*, to be tane to the Burrow-mure of Edinburgh, and thair, in the ordiner place of Executioun, to be hangit quhill thay be deid ; and all thair landis, heritages, guidis, geir, moveable and vnmoveabill. &c., to be sforsfaltit and escheit to our foverane lordis vsf, as convict of the saidis crymes. —AND superecidis the pronunceing of Dome vpon the vther thre, quhill he be advyset with the Lordis of Secret Comfall thairanent : And ordanit thame to be tane bak agane to their priffone, &c.

[*Mr Robert Colburne, Advocate, Justice-Depute.*]

Slaughter — Shooting with Pistolets, &c.

Mar. 8.—JOHNE CARUTHERIS in Netholme, sumtyme feruitour to Robert Lord Sanquhair.

Dilaitit of airt and pairt of the crewall and vmerciefull Slauchter of vniq^{le} Andro Lyndfay of Raskarrell, brother to vniq^{le} James Lyndfay of Fairgirth, and feruitour for the tyme to my Lord Hereis, be schuiting of him throw the body, with ane pistolett ; committit be him and be George Graham, feruitour for the tyme to the said Robert Lord Sanquhair, at the West end of the Brig of Dunfreis, vpon the xvij day of September or thairby, about the down-fetting of the sone, in the yeir of God I^m fyve hundredth fourfcoir fastene yeiris ; off the quhilk schotte, and be dyuersf vtheris crewall and deidlie woundis, gevin to him with fuordis, quhingeris, and vtheris forbiddin wappones, he schortlie thaireftir depairtit this lyfe.

PERSEWARIS, James Lyndfay of Fairgirth, Hew Lyndfay, his brother, as brether fones ; Sir Thomas Hammiltoun of Bynnie.

PRELOCUTORIS for the pannell, Mr Thomas Hoip, Aduocat, Mr Johne Dauling, The Tutor of Bombie (William M^cClellan), The Laird of Enterkyn.

The Aduocat product the Dittay, and takis instrumētis thairupoun.—The pannell product Letteris of Relaxatioun, quhairby he is the Kingis frie lege.—The said Johne Carutheris product ane Remiffioun, for all crymes preceeding

the dait thairof, and takis him thairto ; and in respect thairof, can nocht pas to ane Affyse. Off the quhilk Remiffioun, of the dait at Quhytehall, the xvij day of November. the yeir of God I^m. Vj^c. and fax yeiris, grantit to him and to Alexander Erle of Home, Lord Jedburgh and Dunglas, Sir Johne Home of Huttonehall, kny^t, and dyuerfe vtheris thair complices, the tennour followis.

REMISSION in favor of the pannell, the Earl of Home, &c.

JACOBUS, Dei gratia, Magne Britannie, francie et Hibernie Rex, defensorque fidei, Cancellario nostro salutem. QUA, ex nostris specialibus gratia et fauore, Remissimus Alexandro Comiti de Home, domino Jedburth et Dunglas, et Jacobo Cranffoun in Huntlie-woid, omnem rancorem animi nostri, factam regiam et actionem quem seu quas contra dictas personas habuimus, habemus, seu quouismodo in futurum habere vel clamare poterimus, pro arte et parte Oppugnationis et Interfectionis quondam Leonardi Haulti in Pleuland, intra domum suam de Pleuland, et Incensionis et Combustionis ejusdem domus per ipsos, in mense Octobri, anno domini millesimo quingentesimo octagesimo octauo commissis. AC ECIAM Remissimus dicto Alexandro Comiti de Home, Domino Joanne Home de Huttone hall, militi, Magistro Samueli Home, ejus fratri, Thome Tyrie Tutori de Drumkilbo, Alexandro et Joanni Frenches, fratribus quondam Roberti French de Thordydkis, Joanni Home in Kello, Roberto Home in Huttone, Roberto Auchincraw seruitori dicti Comitis de Home, Joanni Cranffoun filio Joannis Cranffoun de Moreffoun, Niniano Chirucfyde seruitori dicti Comitis, Waltero Trumble de Ramflat, Roberto Home filio Willielmi Home de Aytoun, Willielmo, Niniano et Archibaldo Homes, filiis quondam Willielmi Home de S^t Leonardis, et JOANNI CARUTHERIS, et eorum cuiuslibet, omnem rancorem animi nostri, factam regiam et actionem quam seu quas contra dictas personas aut eorum quouislibet habuimus, habemus, seu quouismodo in futurum habere vel clamare poterimus, pro arte et parte Interfectionis quondam Willielmi Lauder, Balliui burgi nostri de Lauder, vocat. *Williame at the Wyf-Poirt*, intra Pretorium nostrum de Lanark; ac pro arte et parte proditorie Incensionis et Combustionis dicti nostri pretorij per dictas personas, in mense Maio, anno domini millesimo quingentesimo nonagesimo octauo commissis. AC pro omni actione et crimine que desuper sequi aut contra dictum Comitem seu aliquam reliquarum personarum antedicti. inde quouismodo imputari poterit: Et pro omnibus alijs crimiibus, transgressionibus et offensis quibuscunq;e, per dictum Comitem, vel aliquam reliquarum personarum supra specificatarum, vllto tempore preterito, datam presentium preceden. commissis. (Proditione in nostram personam, Raptu mulierum, et fabricatione falsæ et adulterate monete, tantummodo exceptis.) QUA dictus Comes, pro seipso, ac nomine reliquarum personarum antedicti. eius complicitum, partibus pro dictis Interfectionibus, ac etiam Balliuis, consulis et communitati dicti nostri burgi de Lauder, pro reparatione nostri Pretorij antedicti, satisfecit, prout nobis lucide constat. VOBIS Precipimus et mandamus, quatenus Literas nostras Remissionis nostro sub magno sigillo, in forma Capelle nostre debita, supra nominatis personis, super premissis, fieri faciatis. DATUM sub secreto sigillo nostro, Apud Quhytehall, decimo septimo die mensis Novembris, anno domini millesimo sexcentesimo septimo, et regnorum nostrorum annis quarto et quadagesimo.

The Aduocat allegit that the Remiffioun is null ; becaus, be Act of Parliament, it is speciallie provydit, that na Remiffioun sall be grantit for Slauchter without satisfacioun of pairtie, and is null be way of exceptioun ; and this pairtie is nocht satisfecit, *ergo*, &c.—The pannell offeris to find caution to satisfie the pairtie, conforme to the lawis of this realme ; and allegit that his Maiefties Remiffioun anes being grantit, can nevir thaireftir be callit in questioun, conforme to the daylie practick of this realme ; and repeittis the lyk practick of Aber-

crumbie of Pitmedden contrair Gordones, quhair the lyk Remiffioun was futenit, vpon finding of caution.

It is forder allegit, that this Remiffioun nather defignes quhair the pannell duellis, nather is the cryme it felf speciallie expreffit in the Remiffioun; and thairfoir, except the faid fact war speciallie expreffit in the Remiffioun, and the pannellis duelling and refidence speciallie defignet, the faid Remiffioun is null, and can nocht be admittit.—It is anfuerit, that the pannell is remittit be his Maieftie for Burning of the Tolbuth of Lauder, and Slauchter of the Baillie of Lauder, and all vtheris crymes preceeding the dait of the Remiffioun; and was than fervand to my Lord Home, quha hes tene Remiffioun; and the faid Johnne Carutheris name is infert in the Remiffioun with the remanent perfones committeris of the faid Burning and Slauchter, as being in company with him at that fact: Quhilk designation of his name to be Johnne Carutheris, with his ftyle, and that he is the perfone remittit, he offeris to preve be famous witnesfes present at the bar.—My Lord Aduocat defyret that my lord Justice and Justice-Clerk fould notifie this matter to the Counfall, and to defyre thair Lordfchips to wryte to his Maieftie, to vnderftand of his Maieftie, quhither this Johnne Carutheris be the perfone quhome his Maieftie hes remittit or nocht.

THE Justice continewis this mater to this day aucht dayes, the xv *instantis*.

(Mar. 15.)—The Justice, befoir Interloquitour, inquiret of the perfewaris, gif thai wald verifie ony vther perfone to be namet Johnne Carutheris nor (*than*) this perfone on pannell, quha was at the fact at Lauder, and wald instantlie preve the famyn? To quhome the perfewar anfuerit, that he wald verifie that thair is dynerfe vtheris fa namit, but had nocht witnesfes present; and could nocht verifie that thair was ony vther Johnne Carutheris at the Burning of the Tolbuth of Lauder.—And the defender, being inquiryet, Gif he wald verifie him felf to be the perfone fpecifeit in the Remiffioun? Anfuerit, that he wald verifie the famyn be the witnesfes present at the bar. And for verifeing thair of, product Johnne Cranftoune, Nimiane Chirnefide, Patrik Chirnefide, and Alexander Haitlie. It was allegit be the Aduocat, that thai can nocht be reffaut as witnesfes in the faid matter, becaus they ar infert in the Remiffioun as *foeij ejuftem criminis* with the pannell, at the fact of Lauder.—Thaireftir it was anfuerit be the pannell, that thai aucht to be reffaut, feing thay war nocht at the Slauchter of Lyndfay, for the quhilk he is this day perfewit; and fa war nocht *foeij illius criminis*.

THE Justice reffaut Johnne Cranftane, &c.: Quhilkis all being fuorne, Declarit, that this Johnne Carutheris, present vpon pannell, was in feruice and companie with my Lord Home at the Burning of the Tolbuth of Lauder, and is the felf-fame Johnne Carutheris fpecifeit in the Remiffioun: Quhairvpon the pannell askit instrumentis.

THE JUSTICE, be Interloquitour, ADMITTIS the Remiffioun product; and Ordanis the pannell to find caution to satisfie the pairtie perfewar, conforme to the lawis of this realme; according to the modificatioun of the Lordis of Seffion: And als, that the Remiffioun fall be expid throw the Seillis within fourtie dayis, conforme to the Act of Parliament, vnder the pane of tua hundreth pundis: And that being done, the said Johnne Carutheris to be put to libertie.

For obedience quhairof, the said Johnne Carutheris ffind Williame McClellane, Tutour of Bombie, with him self, caution to satisfie the pairtie; conforme to the Lordis modificatioun. Lyk as, Johnne Cranftoun, brother to my Lord of Cranftoun, obleift him to expeid the said Remiffioun throw the Seillis, within fourtie dayis, under the pane of iij^s merkis.

Mr Johnne Hay, in name of the Bailleis of Edinburgh, tuik instrumentis of the said Johnne Carutheris entrie vpon pannell, and of the Justice Interloquitour aboue writtin, and the pannellis finding of cautionne aboue fpecificit; and in respect thairof, and that the Justice had ordanit him to be put to libertie, Protestit that the Bailleis of Edinburgh fould incur na harme nor inconvenient for setting of him to libertie. Qubilk protestatioun the Justice Admittit, provyding the said Johnne Carutheris be nocht arreftit at the instance of ony vther pairtie, for ony vther caufe.

Abiding from the Maid of the Isles.

Mar. 15.—GILBERT M^cADAME of Watterheid; Donald M^cmillane of Knokingarroche; Robert M^cadame of Smeiftoun; George M^cadame, thair; Johnne M^cnacht of Doungucht; Gilbert Achannane of Murdochat; Robert Ferguffone of M^ckillieftoun; Johnne M^ckill, elder; Johnne M^ckill, younger; Williame Makadame of Craignallane; Thomas Gordoun of Crago; Johnne Neilfon of Corfok.

Dilaitit for the allegit contravening of his Maiefteis Proclamatiounes, in nocht accompaneing and paffing forwardis with Andro Lord Stewart of Vchiltrie, his Maiefteis Lientenant, in the profecutioun of his hienes fervice, towards the repreffing of the infolencies of certane the difobedient Inhabitants of the Iles of this kingdome; according to his hienes Proclamations maid to that effect, in the monethis of Maij and Junij, the yeir of God I^m.Vj^s. and acht yeiris.¹

Compeirit judiciallie the saidis Gilbert, &c., and in respect that thai and everie one of thame had furneiftit furth fufficient able men to the said Lientenant in the foirsaid Expeditioun, and thairupoun had purchest the said Lord Leutenentis Testificat, with his Licence to abyde at hame them selffis, and nocht to pas forward with his Lordfchip, in the said Airmie: Qubilk Licence thay product

¹ See Notice prefixed to the Trial of *Sir James Makconill*, May 13, 1609, Vol. III. p. 1, &c.

in Judgment to the Justice, vnder the said Lord Leutenentis subſcriptionn, daitit at Air, the xxvij of Julij, 1^m.Vj^c. and aucht yeiris. And proteſtit, that thai nor nane of thame ſould be ony wayis trubillit, vnlawit, or perſewit for the cauſis aboue mentionet; bot that thai and ilk ane of them ſould be Affoilzeit *ſimpliciter* thairfra, in tyme cuning: Quhilk Proteſtatioun the Justice admittit.

And in reſpect that the ſaid Lord Stewart of Vchiltrie, his Maieſteis Lieutenant foirſaid, being perſonallie preſent, quha affirmet the Licences aboue written, and granting thairof to be of veritie, Ordanit that nane of the perſones foirſaidis ſould be callit or trubillit for abydng fra the ſaid Raid of the Iles, in ony tyme coming. Quhairupoun the ſaidis perſones akkit inſtrumentis.

Slaughter.

Mar. 16.—JOHNE HAMMILTOUN of Hairſhaw; Gawin and Archibald Hammiltoun, ſones to the ſaid Johnne; Symone and Williame Hammiltoun, brether to Hairſhaw; Williame Hammiltoun, brother-ſone to Hairſhaw; James Lyddell, ſone-in-law to Hairſhaw; and Mathow ſoung, in Langlie.

Dilaitit of the Slauchter of vni^{le} Johnne Findlay in Eglifchem; quha was flane at the Kirktoun of Eglifchem, vpone the xvij of februarye, 1611.

PERSEWAR, Archibald ſyndlaw, as brother to vni^{le} Johnne Fyndlaw.

The Justice, of conſent of pairtie, continewis this matter to the thrid day of the next Justice-air of the ſcherefdom quhair the perſone abouewrittin duellis¹ (Lanerck.)

[*Sir Williame Heart, Justice-Depute.*]

Slaughter of Probost of Wigtoun — Shooting Hagbuts, &c.

Maj 22.—JOHNE KENNYDIE of Blairquhan, and Johnne Bairdis, brother germane to the Laird of Kilquhinzie.

Dilaitit of airt and pairt of the felloun and crewall Slauchter of vni^{le} Patrik Ahannay of Kirkdaill, Proveiſt of Wigtoune; committit be thame and thair complices, with ſchottis of hagbuttis and piſtolettis, at the Cruves of the Watter of Crie, in the moneth of December, 1^m.Vj^c. yeiris, vpone ſet purpois, prouifion, and foirthocht felonie: And for beiring, weiring, and ſchoitting of hagbuttis and piſtolettis, contrair the tennour of the Actis of Parliament.

PERSEWARIS, Patrik Ahannay of Kirkdaill, as ſone to vni^{le} Patrik A.; Sir Thomas Hammiltoun of

Byris, kny^e, Aduoct to our ſouerane lord, for his Maieſteis intereis.

PRELOCOUTOURIS for the pannell, My Lord of Caſillis, My Lord Vchiltrie, Gilbert Roifs; Mr Johnne Ruffell, Mr Thomas Hoip, and Mr Laurence McGill, Aduoctis.

The pannell acceptis the ſummondis, and ſpeciallie that pairt thairof quhair

¹ Plegijs, Hugone Montgomerie de Auchinhuid, et Joanne Hammiltoun de Hairſhaw, pro omnibus; et ipſi ad relevand.

the defunct was fehot with peiftis¹ or dropis, with ane charget hagbut. It is allegit, that this matter can nocht pas to ane Affyfe; becaus his Maieftie, of his fpeciall grace, hes gevin to the perfones on pannell ane Remiffioun, quhilk thai product to the Juftice, of the dait at Edinburgh, the xvij day of Maij instant: And offeris Cautiome to fatisfie the pairtie.—It is anfuert that this Remiffioun can nocht flay the matter to pas to ane Affyfe; becaus, be Act of Parliament, in anno 1593, it is provydit, that all Remiffiones ar null that ar purcheft eftir ane pairtie paffis to the horne for the tyme; quhilk allegeance is reffaut be way of exceptioun, the pairtie nocht being fatisfeit.—It is anfuert,² that this Act of Parliament is nocht *in viridi obferuautia*, nor hes nocht tane effect in this Judgement ofbefoir: Quhilk allegeance he offeris to verifie, be my Lord Caffillis, and vtheris heir prefent.

THE Juftice continewis Interloquitour vpon this allegeance to ffryday nixt.

(Maij 24.)—My Lord Aduocat, befor Interlocoutour, paffes fra his lord-fchipis former allegeance: Quhairupoun the pannell takis instrumentis.

THE Juftice, be Interloquitour, Admittis the Remiffioun product be the perfones on pannell and thair prelocoutouris; and Ordanit thame to find fufficient and refponfall Cautioun and fouertie to fatisfie the pairtie grevit; conforme to the lawis and daylie praktik of this realme.

Quhairupoun the faid Johane Kenydie of Blairquhan and Johnne Bairdis alk it instrumentis: And for obedience of the faid Juftice Ordinance, nominat my Lord of Caffillis, my Lord Vchiltrie, Sir Robert McClellane of Bombie, kny^t, Williamne Cunningham of Capringtoun, and Sir James Kenydie of Culzeane, as cautioneris, coniunctlie and fenerallie for thame; lyk as, being all perfonallie prefent, in prefence of the Juftice, Band and obleift thame, coniunctlie and fenerallie, thair airis, executouris and affignais, to fatisfie the pairtie, viz. the kyn and freindis of the faid vmd^h Patrik Ahannay of Kirkdail, for the flauchter about writtin; conforme to the Lawis of this realme.³

¹ Pellets, small shot; but, most probably, what is now termed *slugs*. ² Replied. ³ The arguments are thus expressed in an after part of the Record. As the point started is interesting, and the Council engaged were the most eminent of their day, it has been deemed proper to preserve the arguments at length.—‘It being peremptourlie allegit for the part of the faidis perfones on pannell, be Mr Johnne Ruffell, with concurrence of Mr Thomas Hoip and Mr Laurence McGill, Aduocattis, thair preloquitouris, that the faid funmonds and Dittay could nawayis be put to the knowlege of ane Affyfe, becaus our foverane lord, of his fpeciall grace and mercie, had gevin and grantit to thame ane Remiffioun for the faidis crymes, and product the faid Remiffioun, past the Grit Scill, of the dait at Edinburgh, the xvij day of Maij instant; quhairvnto thai tuik thame feffis, and offerit refponfall cautioneris and fouerteis, at the bar, to fatisfie the pairtie for the crymes content in the faid Remiffioun, according to the modificioun of the Lordis of Seffioun, lawis and praktik of this realme. To the quhilk it was anfuert be our foverane lordis Aduocat, that the foirfaid allegeance aucht to be repellit, and the pannell, nochtwithftanding thairof, fould be put to the knowlege of ane Affyfe; becaus, be Act of Parliament maid in anno 1593, it is flatute and ordanit, that na Refpect nor Remiffioun be grantit at any tyme thaireftir to ony perfone or perfones paffand to the horne for Thift, Reif, Slauchter,

The pannels bound themselves to relieve their cautioners; and the cautioners also obliged themselves to free each other, *pro rata*, &c.

Slaughter—Shooting with Hagbutts and Pistolets, &c.

Jun. 7.—ROGER GORDOUN in Glasfiche, and Johnne Glendoning of Drumrafsche.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} George Stewart, brother to vniq^{le} Mathow Stewart of Dumdaff; committit the xxj¹ of September, 1601 yeiris, vpone sett purpois, prouifioun and foirthocht felonie: And als, for beiring, weiring, and schuitting of hagbuttis and piftolettis, contrair the temour of the Actis of Parliament.

PERSEWARIS, Williame Stewart of Dumdaff, Johnne Stewart, brether fones.

The perfewaris product the Letteris deulie execute and indorfate vpone the said Roger Gordoun and Johnne Glendoning: and als, vpone Alexander Gordoun of Hillis, Williame and Robert Gordones, his tua brether, Robert Gordoun of Bannernie, Alexander Creichtoune in Garrick, and Thomas Creichtoun in Balcassie, quha ar past to the horne for the crymes contenit in the Letteris: And vpone the productione thairof, alkit instrumentis; and proteffit for the cautioneris relief for repoirting thairof.

Continewit to the morne. Plegio, Wilhelmo Mculloche de Mertoun.

PRELOCUTORIS for the pannell, Mr Johnne Ruffell, Aduocat, The Laird of Lochinvar.

(Jun. 8.)—The perfewaris declairit, in respect that this Roger Gordoun is only airt and pairt of the Slauchter, and nocht principall actor of the fact, and thairfore, vnto the tyme the principall maliefactoris be apprehendit, quhairby the pannell his giltines or innocencie of that crewall slauchter may be tryit, defyres that he may be continewit to the thrid day of the air [Wigtoun], or foner, vpone xv dayis warning; and that cautionn be fund be him to that effect, vn-

Burning, or Heirfchip, &c. quhill the pairtie skaithed [viz. until the party shall previously have received pecuniary satisfaction or damages for the loss sustained] be first satisfieid: And gif ony sic Respet or Remission fould happin to be grantit, befor the pairtie grevit be first satisfieit, the samyn fall be null, and of nane availl, be way of exceptioun or reply, without ony forder declaratur. Bot trew it is, that the perfon on pannell, lang befor the purchessing of the said Remission, war denunced rebellis and at the horne, and war declairit fugitiues fra his hienes Lawis for the saidis crymes contenit in thair Dittay; the pairtie nawayis being satisfieit as zit: And thairfor, the said Remission vset and Judgement is null, be way of reply. And for verifeing thairof, product the Extract of the Hoiring aganis the pannell.—To the quhillk it was duplyit be the pannell, that thay offerit thame to preve, be my Lord of Cassilis, and tua Ministeris, at the bar, that satisfacioun was offerit be thame to the pairtie grevit, lang befor thair passing to the horne, or purchessing of Remission; quhillk was refusset: *Secundo*, it was nevir *in viridi obervantia* that the foirlaid Act of Parliament was authorisat in this Judgement; nather yit could evir his Maiefties favour and pardoun, being anes grantit, be callit thair-efuir in questioun. And thairfor, takis thame, as ofbefoir, to his Maiefties Remission; and offerit cautionn to satisfie the pairtie.

¹ In the act of caution the slaughter is stated to have been committed on the 'ellevint.'

der the panes contenit in the Actis of Parliament. [*Plegio, Wilelmo M^cculloche de Mertoun.*]

The Laird of Mertoun americiated 'in the pane of ffyve hundreth merkis, for nocht entrie of the faid Johnne Glendoning' on June 8, and Glendoning ordained to be denounced rebel, and all his 'moveabill guidis to be efcheit,' &c.

Slaughter.

Jun. 28.—PATRIK MAXWALL of Newark.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Robert Montgomerie of Skelmourlie, and vniq^{le} Williame Montgomerie apperand of Skelmourlie; committit in the moneth of I^m.V^c.LXXXij yeiris.

PERSEWAR, George Montgomerie.

The Laird of Newark productet ane Warrant of the Lordis of Secreit Counfell, direct to the Justice, aent the deferting of this dyet, for the reffonis contenit in the Supplicatioun gevin in to thair Lorfchipis thairament; with ane Command on the bak of the faid Supplicatioun and Warrant aboue writtin, commanding the Justice to tak cautionn of ather of the parteis, befor thair cuming out of Judgement, that thai fall remane and keip waird within this burgh, quhill Tyfday nixt; and that thai fall compeir befor his Maiefteis Counfall the faid day, vnder the panes following, viz. of Newwerk, vudir the pane of tua thowfand merkis, and George Montgomerie, vnder the pane of ane thowfand merkis. Quhillk Warrant is daitit at Edinburgh, the xxvij day of Junij 1611 instant.—For obedience of the quhillk Warrant, and ordinance thairin contenit, the Justice Defertit the faid dyet; and Ordanit the faidis tua parteis, *hinc inde*, to find cautionn for thair compeirance befor the Lordis of Secreit Counfell the faid day, viz. the fecund day of Julij, vnder the panes aboue fpecifeit: Lyk as, for obedience of the faid Justice ordinance, compeirit Williame Lord Kilmaweris, and became plege and fouertie for the faid Patrik Maxwell; and fielyk, compeirit James Dunlope of that Ilk, and become fouertie for the faid George, &c.

Slaughter.

[THE Records of the Court of Justiciary do not afford sufficient information regarding the facts connected with the following Case; and, as it relates to individuals of considerable rank, the Editor thought it proper to select even such meagre notices as those which do occur. The Young Laird of Closeburn seems to have been one of the active spirits of these times, and to have been engaged in a laudable share of affairs of honour, and in quarrels *quantum sufficit*, and 'befitting his degree!']

In *Lord Hadington's* MS. Collections, the following remarkable entry occurs, under date Feb. 27, 1610. The Lady Hemptsefeld, having defyred Andro Quhyt, keiper of the Tolbuith, to bring to hir Young Cloitburne, who wes in the Tolbuith wairdit, to fpeak with hir in his houte; he doing it at her defyre, Young Cloitburne schifit him feiff away. ffor the quhillk caus, scho being put in the Tolbuith, and thairafter tranfported to the Castell, focht Licens of the Counfall to be tranfported to the

tonne; quhillk the Lordis refused, vnles scho wald aither enter Young Cloitburne, or find cautione to fatisfe all pairteis be quhome he wes wairdit or arreited.'¹

Closeturn's escape had been effected by his exchanging clothes with the Lady Hemptisfield, a method which has often proved successful in similar emergencies. It may be remarked, that the jailor's house was commonly attached to, or rather consisted of one or more apartments of, the prison.]

JUN. 28.—ALEXANDER KIRKPATRICK, sone to Sir Thomas Kirkpatrick of Cloitburne, kny^t.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James Carmichell, sone to Johnne Carmichell of Spothe.

PERSEWARIS, Johnne and William Carmichell.

THE Justice, of consent of pairtie, continewis this dyet to the xxiiij of Julij nixt. [Plegio, D. Tho. Kirkpatrick de Cloitburne, milite.]

(Jul. 24.)²—THE Justice, of consent of pairtie, continewis this mater to the thrid day of the nixt Justice-air of the scherefome of Dumfreis, or soner vpon fyfene dayis warning: And ordanis cautione to be ffund for that effect. [Plegio, D. Thoma Kirkpatrick de Cloitburne.]

Treason—Murder under Trust.

JUN. 29.—PETER WEIR, sumtyme in Goitnow in Rig.

Dilaitit of airt and pairt of the crewall Slauchter and Murthour of vmq^{le} Johnne Hammiltoun, merchand burges of Edinburgh; committit, vnder trefl, vpon the fevint day of November 1608 yeiris, beyde Monharig burne-fute.

PERSEWARIS, Jonet Small, the relict; Patrik Hammiltoun, as brother; Sir Thomas Hammiltoun of Byres, kny^t, Aduocat to our souerane lord, for his hienes intrus.

PRELOCUTOR for the pannell, Robert Bannatyne, wryter.³

DITTAY *against Peter Weir, the pannell.*

FORSAMEKILL as vmq^{le} Johnne Hammiltoun, merchand burges of Edinburgh, haifing conqueift⁴ and acqyret to him self the richt of certane landis, occupyit and posselt be Johnne Weir in Over Quhytecluch, the said Peter Weir, and Margaret Weir in Bagra; and haifing thairupoun obtenit Decretis of Removing, aganis thame and remanent tementis and occupyeris of the saidis Landis; and for disobediencie of the charges of Hoirning, haifing denuncet the said Peter owr souerane lordis rebell, and put him to the horne, the said Johnne Weir, Mungo Weir, his brother, the said Peter Weir, and Margaret Weir, consultit and deuyset amangis thame selfis, how to bereiff the said Johnne Hammiltoun of his lyfe: And for effectuating thair of, causit certane freindis travell with him, and to cum in tryfing,⁵ and to meit at Monharig, to cowmone⁶ thairupone; and affixt the

¹ Minutes of the Proceedings of the Privy Council, *Had. MSS.* A. 4. 22. Advocates' Library.

² The pursuers marked at this diet, are designed 'Johnne C. of Spothe, Williame C. his sone.'

³ One of the brothers of the celebrated George Bannatyne, in honour of whose valuable compilation of early Scottish Poetry, the Club of that name was formed.

⁴ Purchased, in contra-distinction to having inherited.

⁵ By special agreement or appointment.

⁶ Commune.

fevint day of November 1^m.Vj^e. and aucht yeiris to that effect: Lyk as, the said vniq^{le} Johnne Hammiltoun, for keiping of the said tryft, accompaneit with James Creichtoun in Bar, being cuning rydaud furth the hie way, in sober and quyet maner for the tyme, vpone the said fevint day of November, to the appointit place aboue writtin, the saidis Johnne Weir, Peter Weir, Mungo Weir, and Margaret Weir, accompaneit with dyuerse perfones thair complices, being bodin with fuordis, qubingeris, kent-Italis and otheris wappones *invasiue*, darrit¹ thame felis in the hie way, befyde Monharig, quhair thair lay at await for the said vniq^{le} Johnne Hammiltounes by-cuning; and thair, vnder trest and friendship, maist crewallie invaidet him for his slauchter, drew him af his hors, and with quubingeris, gaif him threfoir² bludie woundis, in dyuerse partis of his body, to the effusioun of his bluid in grit quantitie; and crewallie flew and murdreit him out of hand: And the said Peter was and is airt and pairt of the said Murthour. To the taikin, he and the said Margaret Weir, being in companie with the said Johnne Weir, com to the said James Creichtoun, and drew him doum af his hors, and held him be force down, quhill the said vniq^{le} Johnne was murthourit out of hand; quhairthrow the said James mycht nocht releif him.

James Creichtoun, being suorne, Declairit, that he, being in company with the defunct, the tyme lybellit, vpone the grund of the Land quhair the fact was committit; and thair, this Peter Weir, with Margaret Weir, drew him af the hors and held him doum; quhairthrow he was nocht able to defend the defunct. —Quhairupoun my Lord Aduocat askit instrumens; and Protestis for Wilfull Errour, gif the Assyse acquit.

VERDICT. The Assyse,³ being ryplie and weil advyfet thairwith, togidder with the said Peteris Depositiones, producet be our souerane lordis Aduocat; togidder with the Letteris of Hoirning, quhairby the said Peter was fugitiue fra his hienes lawis, for the said cryme, lykwayis producet, for infructing of the Dittay; thair, be the mouth of Robert Phillope, burges of Sanquhair, stand, pronuncet, and declairit the said Peter Weir to be flylet, (be pluralitie of voitis,) of airt and pairt of the Murthour of the said vniq^{le} Johnne Hammiltoun.

SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair his heid to be strukin from his body: And his hail guidis and geir to be escheit to our souerane lordis vsé, &c.

Crason—Slaughter—Murder under Trust, &c.

[THE TRIAL of the MURES of AUCHINDRAYNE may, without hesitation, be pronounced to be one of the most remarkable, in the whole range of the Criminal annals of this, or perhaps of any other country. In it are unfolded their most hidden transactions, and the secret springs of their most private and craft-

¹ Concealed. ² Three score; sixty.

³ Among their number were George Maxwell of Drumowtrane,

and James M'Morrane younger of Glasgow.

tily contrived plots, all of them leading to the perpetration of crimes so singular in atrocity, and of so deep a die, that one can hardly expect to meet with their parallel, even in the pages of Romantic fiction. By the clew, now afforded, may be traced almost the secret thoughts of two of the most accomplished and finished adepts in crime—individuals who murdered by rule, and who carried forward their deadly schemes of ambition, by means of a regularly connected chain of plots and stratagems, so artfully contrived, as to afford them every reasonable prospect of success—and even in the event of the entire failure of their plans, almost to ensure their escape from suspicion; at the least, in their estimation, to warrant their security against ultimate detection, and consequently exempt them from the penalty of capital punishment.

Ambition and the lust of power appear to have been the immediate procuring causes of all the crimes in which these infatuated men were involved. Theirs was not the sudden burst of uncontrolled passions, which might have hurried them on to the commission of a solitary deed of frightful but unpremeditated violence—nor were their crimes the consequence of ancient Feuds, inherited from their restless and vindictive ancestors—nor yet had they the too common apology that they originated in impetuous assaults made upon them, and that their hasty quarrels sprung from a fiery and unbridled temper, which had unfortunately terminated in fatal results. On the contrary, the whole of their numerous attempts and crimes may be characterised as cool, calculating, and deliberate acts, anxiously studied, and by slow and patient, but sure degrees, matured and prosecuted, for a long series of years, until at length ‘the measure of their iniquities overflowed,’—and the unlooked-for concurrence of an extraordinary train of circumstances, the most unlikely to have happened, eventually led to a triumphant discovery of their enormous crimes.

It is quite unnecessary here to enter into any detailed account of the facts connected with the crimes of these individuals. Their leading features are already familiar to all, ever since the publication of ‘AUCHINDRANE, OR THE AYRSHIRE TRAGEDY,’ from the pen of Sir Walter Scott; in the preface to which dramatic sketch, the origin and progress of these dark transactions are so fully discussed, that the Editor begs simply to refer the reader to a perusal of that work.

In addition to the information contained in the ‘Dittay,’ and in the pleadings in this Trial, the Editor has been anxious to collect and lay before the reader the most remarkable circumstances connected with the history of the elder and younger Mures. For this purpose he has for some years past used all exertions to extend his researches in every direction, where authentic illustrative Documents and Records could be procured—and he has now the satisfaction of appending to this highly interesting Case a variety of Papers, which may almost be said to throw all the light that can now be reasonably expected, on proceedings which occurred now above two hundred and twenty years ago.

For the sake of saving too copious quotations in this work, the Editor has, through the liberal permission of the Curators of the Library of the Faculty of Advocates, Edinburgh, published in a separate volume ‘THE HISTORIE OF THE KENNEDYS,’¹ from the Original MS. in their valuable collection. That History, besides the numerous interesting notices of the Mures of Auchindrayne, Sir Thomas Kennedy of Colzean, who ultimately fell their victim, the Earls of Cassilis, &c., enters most minutely into the Feuds and Conflicts of the Kennedys, Mures, Crawfords, &c., and satisfactorily develops the causes out of which the various crimes of Auchindrayne and his son sprung. The state of society, and the habits and manners of the people of Carrick, are very graphically delineated by the author, who was evidently an eye-witness of the many interesting transactions he has recorded.

For the purposes of the present Introductory Notice, it is enough to state, as in reference to the persons who principally figure in this dark tragedy, that so far as respected birth, the MURES OF AUCHINDRAYNE were of most respectable and ancient extraction, and were connected with many of the most opulent and influential families in Ayrshire. They also for a considerable period held a con-

¹ A limited impression of the ‘HISTORIE OF THE KENNEDYS’ has been printed, uniformly with the works of THE BANNATYNE AND MAILLARD CLUBS, and may be had of the Publishers of this Collection.

spicuous station in all the transactions and feuds of the district of Carrick. There is no reason to doubt that the Mures of MONYHAGEN and Auchindrayne (which last title was only latterly assumed by them) were cadets of the very ancient and honourable Family of Mure of Rowallan, now represented by the present Marchioness of Hastings, as Countess of Loudoun, &c. In confirmation of this fact, Sir William Mure of Rowallan, knight, in his History of that House,¹ states, that *Andrew Mure of Monyhagen*, the first of the family, was either a son or a grandson of Sir Gilchrist Mure, who died *circa* ann. 1280. It does not appear how or when they became possessors of the Lands of Auchindrayne; but it is certain, that previous to the Wars of Bruce and Baliol, Auchindrayne (i. e. *the Field of Thorns*) belonged in property to Robert Brown; and was, upon his forfeiture, granted by King Robert the Bruce to Henry Amman. By a Charter, dated March 16, 1498, *James Mure of Monyhagen* granted certain lands, in Wigtonshire, in favour of James Mure, his son, and Margaret Wallace, his spouse. One of the witnesses to this deed, is *John Mure*, 'grandfon and heir apparent of the said James'; which shews him to have been a very old man at that period, and that he was born *circa* 1430. This *John Mure* must have been the grandfather of the old Laird of Auchindrayne, who figures in the present Trial.

It is pretty evident, as appears from a Charter of *Noradamus* of the Lands of Leffenhill, dated Sept. 29, 1671, by Chalmers of Gadgirth, in favour of *John Mure of Auchindrayne*,² that the elder Mure must have been *nearly eighty years of age* at the period of his execution! The grantee is described as heir of *John Mure of Monyhagen*, 'proavi,' who had in like manner had a Charter of same Lands from Campbell of Loudoun, Sep. 2, 1550.³—This *John Mure*, who obtained the above mentioned Charter 1671, married Bethia Hamilton, daughter of Hamilton of Dalzell, by whom he had at least one son *James*, who probably predeceased him—for he conveyed Auchindrayne to his brother *Hugh Mure*, whose son or grandson sold it early in the last century; and the Family, it is believed, is now extinct in the male line.

To return to *John Mure Elder*, and *James Mure Younger of Auchindrayne*, the subjects of the following Trial, it is worthy of notice, as proving their rank and consequence in the most convincing manner, that *John Mure* the elder married Margaret Kennedy, second daughter of Sir Thomas Kennedy of Bargany, (*obit*, Nov. 7, 1597,) by Lady Agnes Montgomery, sister to Hugh, *third* Earl of Eglinton,—and that *James Mure* the younger married Helen, second daughter of Sir Thomas Kennedy of Colzean, Tutor of Cassilis, by Dame Elizabeth MacGill, daughter of David MacGill of Cranstoun-Riddell, King's Advocate, and relict of the celebrated Robert Logan of Restalrig.

On occasion of John, fifth Earl of Cassilis, going on his travels to France, he conferred THE BAILLIARY OF CARRICK upon the elder Auchindrayne, for all the period of his life, an office of high trust and respectability, having the Civil and Criminal Jurisdiction of the whole of that extensive and populous district. It had previously been enjoyed by Kennedy of Blairquhan, one of the most powerful Chiefs of the name of Kennedy. The Earl had previously given Auchindrayne grants of a five-merk-land and a two-merk-land, in return for his fealty and service; and besides, 'the said Johnne to be one his clargis euer quhan he ves out of Carrik.'⁴ Through the influence, as was asserted, of Sir Thomas Kennedy of Colzean, the Tutor of Cassilis, this office was recalled on the Earl's return, which probably gave rise to the deadly grudge of Auchindrayne, and, after the lapse of many years, eventually terminated in his murder. After the period of this recall, Auchindrayne returned to the allegiance of the Laird of Bargany, and took a most active lead in all the feuds of that disturbed country.

As the most copious materials occur in the Illustrations appended to the present Trial, and in the 'Historie of the Kennedys,' relative to all the transactions of Auchindrayne, the Editor will not en-

¹ Written in or prior to 1657, and printed from the original MS. Crown 8vo, Glasgow, 1825.

² He was

eldest son of *Sir John Mure of Auchindrayne*, who was eldest son of *James Mure younger of Auchindrayne*, executed along with his father for the Murder of Dalrymple.

³ See Particular Register of Sasines for Ayrshire, II., 613, where numerous entries occur; but it would be foreign to the purposes of the present work to enter into lengthened genealogical detail and proofs.

⁴ See *Historie of the Kennedys*, 4to, Edin. 1830, pp. 18, 19.

croach on the prescribed limits of this work, by entering into farther detail. It is hoped that enough is there given to gratify the most anxious enquirer.

Among other curious matters which are mentioned in the present Trial, there occurs the ancient and almost universal superstition, that *the body of a murdered person bleeds at the approach, or at least on the touch, of the Murderer!* This test of guilt, or ordeal, is so remarkable, that the Editor has made every enquiry which his opportunities admit; and lays the result before the reader, in the Appendix.]

Jul. 17.—JOHNNE MURE OF AUCHINDRANE, elder; JAMES MURE, younger of Auchindrane; and JAMES BANNATYNE of Chapeldonall.

Dilaitit of airt and part of the treflonabill Murthour of vniq^{le} SIR THOMAS KENNYDIE of Culzeane, knycht, Tutour of Caffilis, vnder trust, &c.; committit be the faid Johnne Mure of Auchindrane elder, in forme and maner, and at the spECIALl tyme fett down in his Dittay. AND als, for the treflonabill Murthour of vniq^{le} WILLIAME DALRUMPILL, in Air; committit be the faidis Johnne Mure, elder of Auchindrane, (James Mure, younger of Auchindrane,) and James Bannatyne, in forme and maner also contenit in the Dittay, produceit be our fouerane lordis Aduocat aganis thame.

PERSEWARIS, James Kennydie of Culzeane, as sone to vniq^{le} Sir Thomas Kennydie of Culzeane, kny^t, Tutour of Caffilis; Bessie Dalrumpill, as mother to vniq^{le} Willame Dalrumpill; Sir Thomas Hammiltoun of Byres, knycht, Aduocat to our fouerane lord, for his hienes interes.

PRELOCUTORIS for the perfones on pannell.

Mr Johnne Ruffell, Aduocat; Mr Thomas Nicolfone, Aduocat; Jofephe Myller, Aduocat.

My lord Aduocat producet the Dittay aboue (under) writtin.

DITTAY *against* JOHN MURE, *elder of Auchindrane*; JAMES MURE, *younger of Auchindrane*; and JAMES BANNATYNE, *sometime in Chapeldonane*.

JOHNE MURE, elder of Auchindrane, James Mure, younger of Auchindrane, and James Bannatyne, funtyme in Chapeldonane, Ye and everie ane of yow, for your owne pairtes, *respectiue*, ar Indyted and accused of the haynous, crewall, and trefonabill crimes vnderwrittin: FORSAMEKILL AS, be Act of Parlement, maid be oure fouerane lord and Estaittis of this kingdome, in the moneth of July, 1587 yeiris, cap. 51, it is statute and ordaned, that the Mourthour or Slauchter of whatsumever our fouerane lordis liegis, whair the pairtie flayne is vnder the traist, credit, affurance, and power of the flayer, all fik Mourthour and Slauchter to be committit efter the dait of the faid Act, the samin being lauffullie tryed, and the perfoun dilaited, ffound guiltie be ane Assyse thairof, fall be Treafoun; and the perfones ffound culpabill, fall forefault lyfe, landis and guddis. AND TREW IT IS, that ye, the faid *Johnne Mure, elder of Auchindrane*, haiving, without any iuste cause, confpyred the Mourthour of vniq^{le} SIR THOMAS KENNEDIE of *Cullayne, knicht*, in the moneth of Januar, or thairby, 1597 yeiris, accompanied with fevin or aucht of your complices in the faid interpryfe, came

to the Towne of Maybole, and being furelie informed that the said Sir Thomas was than soupping, vpon the day of the said moneth of Januar, in the howfe of Sir Thomas Nisbett in Maybole, and wes to pass, efter supper, from that pairt to his owne howfe; ye and your said complices, bodin in feir of weir,¹ with hagbuttis and pistolettis, and vtheris forbiddin and vulaufull wapinis, dairnit² your self, vnder silence of night, about nyne or ten houres at evin, in ane obscure place, by the whilk³ the said Sir Thomas Kennedies passage laye; and, so fone as ye persaued him, ye fercelie let vpon him, persewed him with all violence and crueltie for his slauchter, schot and delafchit⁴ at him ane great number of schottis of hagbuttis and pistolettis, and still chaiffit and perlewed him; whill,⁵ be the Providence of God, and releif of honest nightbouris, he wes delyuered from your crueltie. For the whilk vyld and barbarous offence, ye being summond to vnderly the law, (wes) forced be your owne notour guiltines to go to the horne. THAT feid and inimie wes schortlie thairefter removed, not onlie be publick and sworne reconciliation maid betuix the said vmq¹⁶ Sir Thomas Kennedie and yow, the said Johnne Mure of Auchindrane, bot also confirmed and strenthened, be allyance and mairiage of your eldest sone vpone the said Sir Thomas his dochter; whairby the said vmq¹⁶ Sir Thomas wes drawin vnder sik traift, assurance and freindschep with yow, that he, lipning⁶ altogidder to the same, vpon the tent day of May, the yeir of God 1602 yeiris, being of intencion to ryde to Ed^r for his lauffull buffines, and having no less cair of your turnis⁷ nor of his owne,⁸ he fend his seruand, Lancelot Kennedie, to wryte aduerteifment to yow, that he wes to tak his journey towardis Ed^r vpon the next day, whilk wes the elleviut day of May, 1602 yeiris, or thairby; to the effect ye might meit him vpon the way, at the Duppil, a littill be-west the burgh of Aire, and informe him of sik buffines as ye wald desyre him to do for yow in Ed^r. Whilk aduerteifment, being writtin at desyre of the said Lancelot Kennedie, be Mr Robert Mure, than schole-maister of Aire, your kinfinan, he sent that his Letter to yow, with ane scollar boy, being in his schole for the tyme, called *William Dalrunpill*; whilk letter cumming to your handis that efternone that it wes writtin, vmq¹⁶ Walter Mure in Cloncaird being than in companie with yow, in your place of Auchindrane, ye dispatchit bak the said William Dalrunpill, in haist, directing him to returne to Maybole with diligence, and to deny that he had met with yow, or delyuered the Letter to yow: And incontinent thairefter, consulted and resolued with the said vmq¹⁶ Walter Mure of Cloncaird, to aduerteis Thomas Kennedie of Drumvquhie, your gude-brother,⁹ of the certaintie of the

¹ Arrayed in warlike manner.² Hid, concealed.³ Past which.⁴ Let off, fired.Fr. *delascher*.⁵ Until.⁶ Trusting, confiding.⁷ Affairs or matters.⁸ Than of his own.⁹ Brother-in-law.

faid vmq^{le} Sir Thomas Kennedie of Cullayne's journey, and of the way whilk he intended to ryde, advyng the faid Thomas Kennedie of Drumvrquhie to vte that occasion to Mourthour the faid Laird of Cullayne, in reuenge of the Slauchter of the vmq^{le} Laird of Barganie; whair of the Laird of Cullayne was altogidder innocent: And conforme to your faid develifh refolution, ye, having aduerteifed, and perfuaded, and infligat the faid Thomas Kennedie of Drumvrquhie to interpryfe the faid treafonabill Murthour, alfwecill be your meffage fend to him be the faid vmq^{le} Walter Mure of Cloncaird, as be ane vther Letter fend be yow to him with Makadam, your eldeft fones feruant for the tyme; the faidis Thomas Kennedie of Drumvrchie and the faid vmq^{le} Walter Mure of Cloncaird, accompanied with fyve or fax of thair complices, vmbefet the faid vmq^{le} Sir Thomas his hie-way, neir the pairt whair he had tryfted to meit yow, and vpon the faid ellevint day of May, 1602 yeiris, be your aduerteifment, counfall, and infligatioun foirfaid, cruellie and treflonablie Mourthoured and flew him, vnder traift, credit, and affurance; of your caufing, command, counfall, and ratihibition;¹ ffor the whilk treafonabill cryme, the faid Thomas Kennedie of Drumvrquhie standis forfeitit be Parlement. Notwithftanding whair of, ye, at all tymes fen the faid treafonabill Murthour, affited and fupported the faid Thomas Kennedie, bothe within this cuntrie and fen his going furth thair of; and hes keiped ordinar intelligence and correffondence with him. AND ye, the faid Johne Mure of Auchindrane, ar airt and pairt of the faid cruell and treafonabill Murthour, and aucht and fould be forfeitit, and vnderly the pvneifment of treafon for the fame. LYKE AS, ye, feiring the difcouerie of your guiltines of the faid Treafonabill Mourthour, be the taking, tryall, and examinatioun of the faid Williame Dalrumpill, for efcheuing thair of, ye caufed quyetlie convoy him to your place of Auchindrane, immediatlie efter the faid Murthour; and caufed your wyfe keip him quyet within the fam, funtymes within the barne and funtymes in the turnepyke-heid;² appoynting James Cuninghame, your feruant, to cairie his meit to him for the maift pairt, and to ly in bed with him; keeping him verie quyet and fecret from all vtheris. And nevertheles, finding that, pairtlie be his weiring to be keiped as ane clofe prifoner, and pairtlie be the difcouerie of fum of your feruandis, who got knowledge of his being in your howfe, that he might be more publictlie difcouered, and ye thairby tryed³ guiltie of the faid Mourthour, ye fend him to Loch-Ranfay, in Arrane, to the Laird of Skelmurlie,⁴ your freind,⁵ convoyed be your feruandis, Johne Mure called *the Barroun*, and James Gordoun, now ftabler in Ed', and at that tyme your houfhald feruant; whare he, being deteaned for

¹ Confirmation. Law Lat. *ratihabere*. ² The top of the *turnpike* or circular staircase, common to the towers and residences of the principal families in Scotland, at this period. In the course of the Trial, it is specified that he was kept 'in þe *chalmer* in þe turnepyke-heid.' ³ Found on trial to be guilty. ⁴ Sir Robert Montgomery. ⁵ Blood-relation; one related by the ties of consanguinity.

your cause, ane lang space, and he lykwayes weiring to remayne in ane barbarous cuntrie, amang rude peopill, who nothing reguardit him, being ane strenger to thame, leivand vnder ane counterfute name of *William Mure*, as ye had directed him ; efter sum discord betuix him and ane of the Laird of Skelmurles seruandis, he came bak to yow to Auchindrane, whair ye caused keip him darned¹ in the barne and turnepyke-heid *respectiue*, till ye learned that your freind James Mure of Fleit was going to the Warres in the Low Cuntries ; and than ye, be your self and your Lady, perswaded the said James to tak the said William to Flanders with him ; whilk he consenting to do, your wyfe gaue to the said James ane naig, to help to mak the said Williames expensis ; and ye recommended to him the carefulfull and faif transport of the said William Dalrumpill, and fend the said James Gordoun, your seruand, to convoy thame and await vpon thame, to the Place of Cauldwell, in thair way to Leith. Lyke as, the said James Mure of Fleit fend the said William to Flanders to the Warris ; whair he serued dyueris yeires, and resfand dyueris woundis, and sustained many vther miseries in the fame : Whairthrow, he, becunning desyrous to returne to his natie cuntrie, ye no foner hard of his hame-cumming, bot incontinent thairefter ye fend for him to the duelling howse of Walter Mure in Glenheid of Auchindrane : and thairefter, vpon the . . . day of September, or thairby, the yeir of God 1607 yeiris, ye directed the said James Cuninghame, your seruand, to convoy him from the said Howse of Glenheid to *James Bannatyne* house of Chapel-Donald ; and casting yow, to forgadder with him be the way,² ye, the said Johne Mure, elder of Auchindrane, and ye the said *James Mure, elder, sone and apperaud aire* of the said Johne Mure, elder of Auchindrane, meitting with the said William Dalrumpill, in the hieway, betuix Auchindrane and Chapel-Donald, ye keiped cumpanie with him be the space of aucht myles, and held dyuers pourpofes, speeches, and conferences with him ; tryed of him the estait of the Low Cuntries, and findrie vther materis ; till ye, cumming altogether to the house of Chapel-Donald, ye, the saidis Lairdis of Auchindrane, desyred the said *James Bannatyne* to keip the said *William Dalrumpill*, whom ye than named 'William Montgomerie,' whill he sould vnderstand farther of your pourpofe : And sending vpon the morne thairefter, being Setterday the . . . day of September, 1607 yeiris, for the said James Bannatyne, ye, the said Johne Mure, elder of Auchindrane, desyred him to bring to yow, to the Sandis of Girvan, the said William, about ten houris at evin ; whairin he³ obeying yow, at his cumming with the said William, he fand yow, the said Johnne Mure of

¹ Secreted, concealed.

² Contriving that you should, as if by accident, meet with him on the road.

³ On the margin there is written, 'he simplie lipning (trusting) to traist and freindschip, can simplie to yow,' but without a mark where it is meant to be taken in. The Dittay in Hadington's MS. Collections seems the original scroll, and bears numerous corrections, in his own hand.

Auchindrane, and James Mure, your eldest laifull fone, attending thame:¹ And at your meitting, ye, the faid James Mure, demanding whair the boy wes? And the faid James Bannatyne, fchawing to yow whair he had lichted fra behind him,² he pait forward to yow, the faid Johne Mure elder of Auchindrane; wha, fchawing to him that boy wes he wha brocht to yow the Letter of aduerteifment of Cullaynes dyet before his Mourthour, and that ye hauing vfed diuers meanes to put him by the way, for efchewing the difconerie of your pairt and guiltines of the faid Mourthour, he ftill returned within the cuntry; whairby ye, feiring that he fould be the meanes of your wraik, ye wes forced to refolue to mak quyte of him: And the faid James Bannatyne, perfuading yow rather to giue him fummwhat and fend him away of new, when, as he had almoft perfuaded yow, and that he and ye wer returning towardis your fone, to move him to allow of the faid refoluitioun, fo fone as ye approached neir vnto him, he cressallie invaded the faid Williame Dalrumpill for his flauncher, rufched him to the ground, and, fetting his kneis vpon his airmes, he pat his handis in the faid Williaimes throt, and thairwith worried and flew him: In the whilk fact, ye, the faid Johne Mure, elder of Auchindrane, helped, with your owne handis, to hald him downe and finore³ him. AND incontinent thairefter, ye, the faidis Johne Mure, elder of Auchindrane, and James Mure, your fone, and ye, the faid James Bannatyne, taking ane fpaid and fchule, reddie prepared be the faid James Mure for the pourpoife, caift⁴ hollis in the fand to have buried him; whilk ftill fchutting and filling with fand and water, fwa that ye wes not abill to get his corps covered, ye, the faidis James Mure, younger of Auchindrane, and James Bannatyne, cairied his deid corps in the Sea, fa far as ye could waid, and left his corps thair, to be cairied to the mayne Sea,⁵ be ane vtterlie wind;⁶ notwithstanding whairof, within fyve or fax dayes thairefter, the wind and tyde brocht bak the dead corps of the faid vmq¹⁶ Williame, neir to the pairt where ye had mourthoured him: WIIK being tryed,⁷ and the authoris of his Mourthour referched, be all laifull meanes, the conftant and vniuerfall bruit⁸ and opinion of the hail peopill of the cuntry, blamed yow and errie ane of you of the fan: Lykeas, in treuth and veritie, ye thrie are the verie and onlie Murthouraris and flayeris of the faid vmq¹⁶ Williame Dalrumpill, vnder your traift, credit, affurance, and power; in refpect that he wes knowne to you, the faid Johne Mure, elder of Auchindrane, at the tymes and in maner before fpecified: and wes not onlie knowne to yow, the faid James Mure, younger of Auchindrane, whan he wes ane feoller in Maybole, and whan he wes keiped in the place of Auchindrane.

¹ Waiting for them. Fr. *attendre*.

² Alighted from horse-back, on which Bannatyne and Dal-

rumpill had rode *double*.

³ Smother, suffocate. This horrid manner of death is in all respects

the same as that lately pursued by the infamous *Burke* and his associates! ⁴ Cast, dug. ⁵ The Ocean.

⁶ An off-shore wind.

⁷ Examined or investigated by the proper legal authorities.

⁸ Report. Fr. *bruit*.

in anno 1602 yeiris, befoir his going to Arrane, and efter his bak-cumming thairfra to Auchindrane; bot also at his going fra Glenheid to Chapel-donald, whan ye, the saidis Johne Mure of Auchindrane, and James Mure, your eldest sone, convoyed him to the howse of Chapel-Donald, recommended him to the said James Bannatyne, and left him in the keiping of the said James Bannatyne; and, thairefter, fend for him to cum to yow to the Sandis of Girvan; whilk meffage he obeyed, and most willinglie and reddelie cam to yow; whan he, being vnder your traift, credit, affurance, and power, ye treafonable flew and murthered him, in maner aboue-writtin: AND yow, and evrie ane of yow, ar airt and pairt thairof, and aucht thairfoir be Decerned to forfeit lyfe, landis, and gudes, and to amit all landis, heretageis, takkis, fteidingis, rowmes, possessiounis, teyudis, cornis, cattel, gudes and geir, titillis, proffitis, commodities, and rightis whatsumever, directlie or indirectlie perteaning to yow, or ather of yow, at the committing of the saidis Murthouris, or senfyne, or to the whilk ye, or any of yow, had richt, clame, or actioun.

IT IS ALLEGET be the pannell, that na proces can be led aganis thame, becaus thai ar nocht summond to this dyett.—My lord Aduocat anfuieris, that thai war summond for thir fame crymes of befoir, and being presentit and enterand, wer wairdit,¹ sum of thame in the Castell of Edinburgh, and vtheris in the Tolbuth of Edinburgh; and being accuset for Treafone, may be brocht furth of thair wairdis, and put to ane Assyfe. And for verification of the premiises, producet the Letteris of Horning, quhair thay being summond, past to the horne, for nocht finding of caution to compeir and vnderly the law.

The pannell desyres xxiiij houris to be advyset with the Dittay, becaus the matter, substance, persones, and subiect of the first Dittay is alterit.—The Aduocat in the contrair, becaus the Dittay and the first Letteris agreis in substance, tuiching the Murthour of Sir Thomas Kennydie and Willyame Dalrumpill.—The pannell anfuieris, thay differ in circumstances.

The Aduocat thairefter producet the first Summondis, and desyret the samin to be red; and the Justice to advyfe, quhidder thay differ fra the Dittay, in substance, or nocht.—THE JUSTICE Ordanis proces, without delay.

The Lairdis of Auchindrane, elder and younger, askit instrumentis, that James Bannatyne is accuset and pannellit with thame, in this proces.—My Lord Aduocat declairis, that he insistis vpon the Summondis, as it is tressonabill.

It is allegit, that this Act of Parliament, quhairvpon the Summondis is foundit, was never *in viridi obseruantia*, in this Judgement, quhill this persute.²

¹ Imprisoned, kept in ward.

² That the act in question was never observed in the practice of this Court; and that this is the first instance of its having been founded on.

—It is anfueric, that this Act of Parliament hes tane effect aganis Thomas Kennedy of Drummorie.

It is allegit, that the affumption of the first pairt of the Dittay, aggreis nocht (with the) woirdis of the Act of Parliament, in thir woirdis, ‘ vnder power, truft, credeit, and affurance;’ becaus the Laird of Auchindrane had na power over the Tutour of Caffilis: And as to the woird of ‘ affurance,’ it is repointit in the Summondis, that the feid was taikin away, and thairfoir, na affurance.—To the quhilk it was anfueric, be the Aduocat, that the allegeances aucht to be Repellit, in refpect of the Dittay. For, it is fufficientlie knawin, that foure perfones may haif ‘ power’ over ane: and the pannell, haifing gevin aduerteifment and direction to fax to flay the Tutour, thair was nair nor fufficient power: And as to the ref of the allegeance, ‘ credeit, truft, and affurance,’ the Dittay flandis relevant, feing thair was na feid flanding, and thairfoir, behouet to be flane under truft.

It is allegit, that the Dittay can nocht be relevant, vules the famyn beir that the pannell was actuall committer of the cryme; becaus the Act of Parliament beiris, quhair the fact is committit and done be ane man, haifing power and authoritie of the perfone flane; bot fa it is, that the pannell was nocht prefent at the committing of the fact; and fa the perfone flane was nocht vnder his power.—It is anfueric, that the Dittay flandis relevant, in refpect that the Pannell was airt and pairt of the fact; and thairfoir the allegeance aucht to be repellit, in refpect of the Dittay.

THE JUSTICE findis the Dittay relevant, and Ordanis the famyn to be put to the knowlege of ane Affyfe, except the pannell fay forder.

It is forder allegit, that the naikit afferioun of power, authoritie, and affurance, except the pannell had bene prefent at the committing of the fact, is nocht relevant. *Item*, thair can na proces be led vpon this Dittay, feing the famyn is foundit vpon ane writ quhilk is nocht product. Anfueric, aucht to be repellit, in refpect of the Dittay.—It is allegit, that the Dittay is nocht relevant to infer Treafoun, becaus it is never fubiuneit in the Dittay, that the Laird of Cullane was vnder the power of Auchindrane. Anfueric, *et fupra*, that the famyn aucht to be repellit, in refpect of the Dittay.—It is allegit, that the wryting of ane Letter be Auchindrane to Thomas Kennedy is nocht relevant to infer, that the pannell was airt and pairt of Cullanes flauchter. Anfueric, aucht to be repellit, in refpect of the Dittay.—It is allegit, that thair is na thing qualifeit in the Dittay, that the cryme was committit be the pannellis caufing, counfall, or command; becaus counfell can nocht infer airt or pairt. Anfueric, aucht to be repellit, in refpect of the Dittay.

THE JUSTICE Repellis the hail former allegeances; and findis proces.

It is allegeit, gif the principal flayeris fallis nocht vnder the danger of the Act of Parliament, the perfones nocht present, and yit accufet of airt and pairt, can nocht fall vnder the danger of the faid Act: Bot fa it is, that the Tutour of Caffillis was nocht vnder the power or affurance of Thomas Kenydie of Drummurchie, principall flayer; and na affurance betuix thame, bot feid ftanding betuix thame. It is anfuert, that thair was na feid ftanding betuix Drummurchie and the Tutour of Caffillis; and thairfoir the faid allegiance aucht to be repellit, in refpect of the Dittay, as it is fett down.

THE JUSTICE Repellis the allegiance, in refpect of the Dittay.

Forder, allegis that the principall actouris is nocht difcuffit. Anfuert, aucht to be repellit, in refpect of the Dittay beiring airt and pairt; and that the principall commiteris ar fugitiue, and thairby hes tane the cryme vpone thame.

It is allegit, concerning *the Slauchter of Dalrumpill*, that the auld Laird reptis the hail allegiances maid aganis the Act of Parliament, vnder tref, credit, power, affurance, &c. And for Young Auchindrane, fays, that Dalrumpill was nawayis vnder his power, credit or affurance; becaus it is nocht qualifeit, that he was vnder the young Lairdis power; and thairfoir, can nocht infer Treafone aganis him. The Aduocat anfuert, aucht to be repellit, in refpect of the Dittay.

THE JUSTICE, be Interloquoutour, Suftenis the Dittay, as it is confanet, alfweill aganis the young Laird as his father.—Quhairvpoun the Aduocat afkit infrumentis.

ASSISA.

Sir James Scrymgeour of Dudope,	Duncane Bayne of Tulliche,	William Sinclair of Blaufe,
kny ^t , elder, Conftable of Dundie,	David Weir of Auchtiefardill,	George Seatone of North-Rig,
Sir George Elphingftoun of	Patrik Stewart of Baithie,	Johnne Corbett of Arboill,
Bliithiwod, kny ^t ,	Vithreid M ^c Dowell of Mondork,	Patrik Carkettill of Markill,
James Scrymgeour, younger of	Robert Merfer of Salene,	Johnne Kneiland of Fokane,
Dudope,	Mathow Bribane of Rallene,	Sir David Woid of Craig, knycht.

My lord Aduocat tuik infrumentis of the fweiring of the Affyfe. My lord Aduocat afkit infrumentis of the fweiring of the Dittay, be Befie Dalrumpill, moder to vmq^e William Dalrumpill, in that article thairof, concerning the Murthouring her fone.

THAIRREFTIR, my lord Aduocat, ffor verificationn of THE DITTAY to the perfones of Affyfe, reptitit to thame the notorietye of the fforfaltour in Parliament of Thomas Kenydie of Drummurchie, for the trefonabill Murthour of the Laird of Culzeane; reptitit the Hoiring vset aganis the faid Thomas, Cloncaird, Thomas M^cAlexander, and remanent thair complices; and the citiatioun of the Laird of Auchindrane elder, for the faid crymes, in anno 1602; producis the Hoiring vset be the Laird of Culzeane aganis Auchindrane, ffor the intendit

Murthour of the said Laird of Culzeane, in anno 1597; and repeitts the Laird of Auchindranes Confessioun thairof, in Judgment. And for verificatioun of the said Laird of Auchindrane elder his giltines of the Laird of Culzeanis Murthour, and of the giltines of his sone and James Bannatyne, of the Murthour of William Dalrumpill, producet the Hoirning execute aganis thame for the said cryme, in februar 1608; quhairby, thay ganging to the horne, and sleing frome the Law, thay haif tane vponne thame the giltines of the saidis crymes.

To prove that *Auchindrane elder ressuitt the Letter* sent to him be Mr Robert Mure, contening aduerteisment of Culzeanis dyet, and broght to him be Williame Dalrump, Walter Mure of Cloneaird being present, producet the Deposition of James Mure of Fleit, markit with the Letter O. *pagina tertia*; the Deposition of James Gordoun, O. p. 5; the Young Laird of Auchindranes awin Declaratioun, O. p. 6. And that McAdame carreit aduerteisment from Auchindrane to Thomas of Barganie thairof, producet James Gordones Deposition, markit with the said Letter O. p. 10.

For Auchindranes *knowledge of Cullanes Murthour*, vtes the Deposition of the Laird of Cawdwell, markit with the Letter G. p. 1, beirand, that Auchindrane schew to them, that he knew of Cullanes Murthour, befor it wes done, and wald nocht stay it. And vtes lykwayis the Deposition of James Mure younger of Auchindrane, his sone, O. p. 6, beirand, that he knew that his father was bevelie suspectit of the Slauchter of the Tutour of Cassillis.

To verifie Auchindrane's *keiping of Williame Dalrump in his hous of Auchindrane*, in the chalmer in the turnepk-heid, and in the barne of Auchindrane, schortlie eftir the Slauchter of the Laird of Cullane; vtes the Deposition of Young Auchindrane, E. p. 6, and D. p. 5; the Deposition of Johnne Mure of Woidland, L. p. 6; the Deposition of Johnne Mure, callit Blak-byres, O. p. 1; and of James Gordoun, O. p. 5 et 10.

To verifie Auchindranes *sendung of Dalrump to Arrane*, quilk Auchindrane denies; vtes the Deposition of Patrik Dalrump, II. p. 5; of Johnne Mure, in Blak-byres, O. p. 1; of James Mure of Fleit, O. p. 4.; off James Gordoun, O. p. 5 et p. 10.

To verifie *Dalrumpills sendung to Flanderis*, be Auchindrane, quhilk Auchindrane denyis; vtes the Deposition of Walter Mure in Glenheid, A. p. 2; off Johnne Mure, in Blakbyres, O. p. 1; of James Mure of Fleit, O. p. 2 et 3; of James Gordoun, O. p. 5.—And that the Lady Auchindrane *caujit Williame Dalrump change his name*, and call him self *Williame Mure*; vtes the Deposition of James Mure of Fleit, O. p. 9; and of James Gordoun, O. p. 10.

To preve Williame Dalrumpellis being in Walter Mure of Glenheidis hous, *after his returning frome Flanderis*, to wit, vponne the Thurisday befor his Mur-

thour, quhilk Auchindrane denyis ; vſes the Depofitioun of James Dalrumpill, G. p. 1 et 2 ; and of Walter Mure, in Glenheid, A. p. 2.

To preve *the bringing of Williame Dalrumpile from Glenheid*, be James Cunynghame, at directioun of the Laird of Auchindrane, quhilk he denyis ; vſes the Depofitioun of Walter Mure, in Glenheid, A. p. 2 ; and of James Gordoun, O. p. 5.

To preve the Lairdis of Auchindrane, elder and younger, thair *meitting with Williame Dalrumpile*, in the way betuix Auchindrane and Chapel-Donane, and keiping companie and conference with him the ſpace of ſevin or aucht myles, quhill thay thre and James Cunynghame come to Chapel-Donane, quhilk Auchindrane preffis to deny ; vſes Auld Auchindrane's Depofitioun, E. p. 2 ; and Young Auchindrane's Depofitioun, E. p. 7 ; the Depofitioun of Andro M^r Alexander, B. ; Johnne Mure of Woidland, C. ; Patrik Bannatynes Depofitioun, D. p. 1 ; Young Auchindrane's Confefſioun, D. p. 5 ; James Dalrumples Depofitioun, G. p. 1 et 2 ; Williame Roife, L. p. 5 ; Johnne Mure in Carvell, L. p. 1 ; James Bannatyne, M. p. 1.

To verifie *the bringing of Williame Dalrumpile*, be James Bannatyne, *to the SANDIS OF GIRVEN*, to the Lairdis of Auchindrane, elder and younger, and *MUR- THERING HIM VNDER nycht*, in that place ; making ane hole for his burrall, and caſting of him in the ſea ; vſes the Depofitioun of Johnne Mure of Woidland, C. ; Patrik Bannatynes, D. p. 1 ; James Dalrumpillis, G. p. 1 et 2 ; David Merferis Depofitioun, L. p. 4 ; Williame Roife, L. p. 5 ; Johnne Mure in Cairve, L. p. 7 ; James Bannatyne, M. p. 1 et 2 ; Johnne Mure in Blak-byres, O. p. 2 et 11 ; James Gordoun, O. p. 5 ; James Pennycuiks Depofitioun, maid 27 of Maij ; the Young Laird of Auchindrane's Depofitioun, F. p. 2, beirand, that he hard be the bruit of the cuntrie, that his father knew of Dalrumples Murthour, becaus he was fugitiue.

To verifie that *Auchindrane's denyall that he knew Williame Dalrumpile*, or that he brocht him M^r Robert Mures Lettir, is vntrew ; and that he knew him, and reſſaut the ſaid Letter from him ; vſes the Depofitioun of James Dalrumpile, G. p. 1 et 2 ; James Mure of Fleit, O. p. 3 ; James Gordoun, O. p. 5 ; the Depofitioun of James Mure, younger of Auchindrane, D. p. 5.

To verifie *James Mure*, younger of Auchindrane, *his knowlege of Williame Dalrumpill*, and of his keiping quyet in Auchindrane ; and of his being at hame, immediatlie befor his Murthour ; and his father and the deponmeris meiting and conference with him in the way betuix Auchindrane and Chapel-Donane, the day befor his Murthour, and thair cuning altogidder to Chapel-Donane that nycht ; producit the Depofitioun of the ſaid James Mure, younger of Auchindrane, D. p. 5. *Item*, the Depofitioun of the ſaid Laird of Auchindrane younger, D. p. 7.

To verifie the dilligence, craft, and subtilitie vset be the Lairdis of Auchindrane, to suppres and efchew the tryell of Williame Dalrumpillis Murthour, and of thair awin giltines thairof; firft, my Lord Advocat vses the verification of thair intention to Murthour Hew Kenydie of Garriehorne, onlie devyset and attemptit be thame, to cullour thair going to the horne, and to efchew the hay-noutines of thair fleing fra the law and tryell of thair giltines, of sic ane horrible and abhominable Murthour as Dalrumpillis; the Depofitioun of James Dalrumpile, K. p. 1 et 2; and the Depofitioun of James Bannatyne.

Defyres lykwayis the Affyse to haif confideratioun of thair continuall refoirt and friendfchip with James Bannatyne, eftir the faid Murthour; and thair being at the horne for the famyn; thair fufuring the reproches and iniuries, be woird and deid, offerit be him to thame, quhilk thay wald nevir haif induret, gif thair had nocht bene affrayit, that, thair difcoirding with him, he fould haif difcoverit thair giltines of the faid Murthour; vses the Depofitioun of Patrik Bannatyne, D. p. 3; the Depofitioun of Auld Auchindrane, M. p. 3; and of James Mure of Fleit, O. p. 3.

The geving be the young Laird of Auchindrane to James Bannatyne, ane Lyfrent Tak of his rowne of Chapel-Donane, all writtin with Young Auchindrane awin hand, contening fourtie penneis be yeir of deutie, denyit and menfuoerne be Young Auchindrane; and thairefter confeffit, quhan the Tak was recoverit and producet, E. p. 8.

The deilling of Young Auchindrane, be him felf and his freindis, with James Bannatyne to go to Ireland, and furneffing of him, to that effect, ane boit, meit and drink, quhilk Young Auchindrane denyit; vses for verificatioun thairof, the Depofitioun of Allane Pyper, L. p. 3; David Marfchellis Depofitioun, N. p. 1. et O. p. 4 et 8; David Mure, in Girven, his Depofitioun, O. p. 4; and James Bannatynes, O. p. 8.

That Young Auchindrane wrait ane Letter with the faid James Bannatyne, and in his fauour, to Thomas Kenydie of Drummurchie, the Kingis forfalt Tratour; vses for verificatioun thairof, the Confessioun of the faid Young Laird of Auchindrane, O. p. 7; and the Depofitioun of Williame Kenydie of Garfar, O. p. 8.

To prove that the fermes (*rents*) of Chapel-Donane, was continuallie payit to James Bannatyne, fen his baniffment; vses the Depofitioun of James Roife, tenent thair, L. p. 5.

To prove the furneffing of pleniffing, money and necessaris be the Auld Lady Auchindrane to James Bannatyne, continuallie, fince his going to Ireland; vses the Depofitioun of Williame Pyper, L. p. 1; David Marfchell, L. p. 4; Williame Roife, L. p. 5; James Roife, L. p. 5; James Gordoun, O. p. 10; and be Auchindrane awin Letter fent to James Bannatyne; Moyfes Lokhartis Letter to James

Bannatyne; Young Auchindranes Letter sent to James Bannatyne; the Lady Auchindranes thre Letteris to James Bannatyne; and hir Letter to James Bannatynes wyfe.

The perfwar defyres the Affyfe to haif confideratioun, as of ane verrie materiall circumftance, that James Cuninghame, being the man imployit be Auchindrane to keip Williame Dalrumpke quyet in the place of Auchindrane, and to convoy him fra Glenheid to Chapel-Donane, the nycht befor his Murthour, quhairby he, being for the tyme, his actuell fervand, and in his hous of Ballachtoule the nycht of Dalrumpillis Murthour, and thairby mair abill to haif difcoverit the circumftances of the Murthour nor (*than*) ony vther; the Laird of Auchindrane hes abfentit him, for efchewing of the faid tryell: And how the faid James Cuninghame, being in the Laird of Caldwellis hous, and the Erle of Abercorne geting knowledge thairof, haifing, as ane Counfalour, commandit Caldwell (*Mure*) to exhibeit Cuninghame befor the Counfell; he, contrair to his promeis, fufferit him to efcaip: He being challangeit for it befor the Counfell, grantit the promeis, and declairit that Cuninghame was sent to his hous be the Lady Auchindrane: and that, contrair to his promeis, he fufferit him to efcaip; ffeiring, gif he had enterit him befor the Counfell, he fould haif done harme to his freind. For the quhilk, he become in the Counfellis will; as his Depofitioun beiris, H. p. 1.

As lykwayis, how Auchindrane elder directit the faid James Cuninghame, by the way to the Laird of Vaynes hous, in Angus, caufing him change his name, and to call him felf *Williame Brown*, and geving him that name, quhan he recommendit him to the Laird of Vayne, albeit the man was the faid James Cuninghame; Quhilk Auchindrane denyis: bot the contrair is provin be James Gordoun, O. p. 5 et 10; be the Laird of Vayne, O. p. 11; Andro Lokhart, O. p. 12, and George Blakis Depofitioun, maid at Lundoun, 28 Maij.

Forder, it is defyrit that the Affyis will confider the grit fubftance contenit in the Letter writtin be Auchindrane to his fone, with his awin hand, impudentlie denyit be him; and nevertheles cleirly verifeit be the Depofitiounis of David Drummond, feruitour in the Caftell, E. p. 15; and be Thomas Home, Conftable, *ibid.*; and be the Declaratioun maid be my Lord of Mar, in Counfell; quhilk the Lordis of Secreit Counfell, prefent in this Judgment, hes verifeit.

They haif to confidder the Lady Auchindranes adverteiffing of James Bannatyne, be Letters, of all the Dyettis of proces led betuix the Laird of Auchindrane and her fone; and hir recommending of him to Thomas Kennydie of Drum-murchie, hir brother; provin be Williame Pyper, L. p. 1; James Gordoun, O. p. 10; and be hir awin Miffaue Letter to James Bannatyne.

The Lady Auchindranes abfenting hir felf, and nocht compeirance befor the Counfall, quhan fcho wes charget thairto, vnder the pane of Hoirning, to compeir and Depone hir knowledge of the crymes quhairof hir hulband and fone ar

accus'd; Thomas Mure, sone to Auchindrane, and Andro Sinclair, half brother to Auchindrane, thair going to the horne, for nocht compeirance to depone in the saidis crymes, quhilk of necessitie ma be presumit to proceed of the stay maid to thame be Auchindrane, elder and younger, for feir that thair Depositiones sould discouer the giltines of the saidis Lairdis. The lyk man be presumet of Thomas Wallace, Johnie M'caig, and dyuers^e vtheris of the Lairdis servandis, going to the horne, for the lyk cause.

Thay haif also to consider verrie cairfullie, the Laird of Auchindrane's hyreing James Pennycook to go to Ireland to Murthour James Bannatyne; denyit be Auchindrane, and verifeit be the Deposition of the said James Pennycook, and George Small his servand. And the lyk direction sent be Auld Auchindrane with George Blak to Ireland, to Williame Carmichell younger of Rowntrie-croce; verifeit be the Depositiones of George Small, O. p. 11, and be the Examinations of the said James Pennycook and George Blak, in Lundoun, in May last.¹

Last, thay haif to consider the Letter sent be Auld Auchindrane to the Laird of Stair,² and the forme of Band send thairwith, to haif bene obtenit, subseruit be the Laird of Stair, and his freindis, of the name of Dalrymple.

IN respect of the quhilkis premisses, verifeing the crymes lybellit, and haill materiall circumstances thair of, with so cleir evidences and manifest probatioun, as na man could haif expected, in so covered and craftie Murthouris; quhairby all dout of obscuritie and scruple is cleirly removet; in caice the said Assyse or ony pairt of thame fall happin so unhappellie to forget thame selfis, as to change³ the saidis Lairdis of Auchindrane, elder and younger, or the said James Bannatyne, quha hes Confessit his awin giltines, in Judgement; my lord Advocate protestis for Wilfull and manifest Errour; and for all payne that of the Law can follow thairpoune.

IT IS ANSWERIT be the pannell to the perticuleris aboue writtin, that the famyn, nather in haill nor in pairt, aucht to be respectit; and speciallic, in sa far as the famyn is foundit vpon Deposition of Witnesses; becaus^e, it is speciallic provydit be the Act of Parliament, maid in the yeir of God I^m. V^c. fourscor sevin,⁴ cap. 90, that in all causes Criminal, the haill proces and probatioun, and vther instructions quhatsoeuer, ather be Writ or Witnessis, fall be alleget, reffonet and deducet in presens of pairtie accusit, in face of judgment, and na vther wayes; quhilk is accordiing to the Cowmoun Law; seing na witnesses can be refflaut *contra non*

¹ It may be stated here, once for all, that unluckily the DEPOSITIONS, LETTERS, and other productions, which are here so regularly quoted by their proper numbers and pages, are lost; at least, if among the Records of the Justiciary Court, are in a room filled with loose and unarranged papers, tied up in bundles in such a manner, as to render any ordinary search entirely hopeless—as it would occupy many months' constant investigation. ² John Dalrymple, chief of that name. ³ *Cleanse*; find innocent, acquit. ⁴ Anno 1587.

citatum; to the effect that the pairtie may be hard to oppone aganis thame. And trew it is, that all thir Depositiones and writtis, vset be my Lord Aduocat, and speciallie the saidis Depositiones of Witnesfes, hes bene ressaunt out of prefens of pairtie; the pairtie nevir being fummonit to object aganis thame, done extrajudiciall, and nocht in Judgement: And thairfoir, quhatsoeuir the Lordis of Counfall, *per medium inquisitionis*, hes done of befoir, out of prefens of pairtie, aucht nawyis now to be respectit be the Assyse; according to the decisioun of the Act of Parliament: ffor, as in Ciuile causses, na fayth will be geuin to ony Witnesfes out of prefens of pairtie, *multo minus in Criminalibus*.

And now, answering perticulerlie, first, as to the Forfaltour of Thomas (Kennedy) of Barganie, (Drummurchie,) thair is na thing product. Nixt, he was nocht forfalt for the factis lybellit, bot only for the burning of the house of Auchinsofle. *Tertio*, it tuiches nocht our cause. As to the Hoiringis, the pannell vses fyve feuerall Relaxatiounes of Auchindrane, elder and younger, *respectiue*; quhilk thay product. And albeit the Lairdis of Auchindrane, elder and younger, war put to the horne, for thair nocht compeirance, the first dyet, yet that importis na taking of the cryme upone thame; becaus, thay being giltie for vther crymes, and speciallie, schuining of pistolettis, ffor the quhilk thing mycht haif bene pwnest be the lawis, thay durst nocht compeir, quhill first thay had obtenuit ane Remissioun of the saidis crymes, quhilk thay mycht lauchfullie do; becaus, thay knew certaulie, that thair going to the horne wald be purget be thair compeirance and offer to Tryell. As lykwayis, Young Auchindrane compeirit at the first Dyet; and also Auchindrane elder wald haif enterit willinglie, and to that effect offerit to comper¹ and tak his Remissioun for the pistolettis, but culd nocht obtene the samyn; as is notour to my Lord Chancellor and Thesaurer.²—As to the repetitioun of the Deposition of *James Mure of Fleit*, and *James Gordoun*, it is answert, *ut supra*. And forder, in caice the pairtie had bene wairnit, as he was nocht, he wald haif repellit the said James Muir, he being ane vagabund, without ony residence, nocht worth the Kingis vnlaw;³ and richt sua, that he was denunceit rebell and put to the horne, for steilling of tua horse and thre oxin fra the Tutour of Nuntoun; and also, for steilling of ane quhyte nag out of the landis of Skeltoun. Lyk as, the Tutour of Bombie, to move him to be enemie to Auchindrane elder and younger, and to depone aganis thame, he aggreit⁴ the Tutour of Nuntoun and the said James Mure, anent the steilling of the said guidis. And forder, the Laird of Blairquhand hes promest him geir and guid deid, to depone aganis thame;⁵ and (Mure) hes now becum his seruant.

¹ Compromise; make a composition, or purchase his Remission from the Crown. ² Both of whom, it will be remembered, were then sitting as Assessors. ³ Not being worth, *i. e.* unable to pay the fine or *amerceiment* to the king, for his own appearance, &c.

⁴ Reconciled them, and made up their quarrel. ⁵ For the reason of Blairquhand's feud with Auchindrane, see Hist. of the Kennedys, p. 19, &c.

And as to Gordoun, can nawayis be respectit, becaus he was nocht aucht zeiris,¹ the tyme of the committing of the factis quhairvpon he was examinat. Lyk as, the pannell defyres that Gordoun may be presentit in prefens of the Assyfe, and confrontit with the pannell.—Forder, it is allegit be the pannell, that the Depositiones for (of?) the said James Mure and James Gordoun, and all vtheris of the lyk nature, aucht nawayis be respectit; becaus, it is of veritie, that the lybell and Dittay consits of tua pairtis; the ane substantiall, to infer the pwneischment lybellit, viz. the committing of the factis lybellit; and the advyfe, consent, persuasioun, instigatioun, causing, command, counfall, and ratihabitoun, quhilkis ar the only substantiall poyntis contenit in the lybell and Dittay: And the rest of the poyntis of the said Dittay are only presumptiones, coniecturis, and liklienes.² And feing, the speciall cause quhy the Justice Sustenit the lybell, and the advyfe, presumption, instigatioun, counfell, command, assistance, and ratihabitoun gevin, be the Auld Laird of Auchindrane, to the saidis Thomas Kemydie. for Murthouring of the said Laird of Culzeau; and that thair is na thing of the said substantiall poyntis provin be nane of the Depositiones; quhatfoeuer Depositiones is maid be the saidis tua perfonas, or ony vther remanent Witnesses, in materis of the lyk nature, anent ony probabilities or presumptiones, albeit thair war maist violent presumptiones, and indoutit, they can produce na sentence condampnatour³ in Criminall causis, bot only ar adminicles to the tortour and questioune. And forder, the Depositiones of the saidis tua perfonas, being only anent the resait of ane Letter, nocht contening the contentis and qualitie thair of, can nawayis induce ony presumption, far less probatioun. *Item*, it is to be rememberit, that thir Depositiones tuiches nocht Young Auchindrane. *Item*, tuiching that pairt of Young Auchindrane, and Caldwellis Deposition, they prove nathing, nather of the fact, nor yit of the knowlege. As also Young Auchindranes Depositiones previs far les; becaus he mycht haif lauchfullie deponit that his father was suspect befor he was pannellit.

And forder, as to the Depositiones of *Young Auchindrane*, and *Johnne Mure of Woidland*, they can work nathing, feing thair preve na pairt of the Dittay, or factis thairin contenit; ffor as to Young Auchindranes Depositiones, anent his knowlege of Dalrumpie to haif bene in his fatheris hous, that previs na pairt of the Dittay. And, quhair it might appeir, be the said Deposition, and vtheris Depositiones conforme thairto, that the said Laird of Auchindrane is improvin, as quha deponit that he never knew the said Dalrumpill,—it is answerit, that the same can impoirt na probation of ony pairt of the Dittay; becaus, gifaud⁴ and

¹ Eight years old.² Probabilities, *likelihoods*.³ Condemnatory.⁴ Giving or allowing for the sake of argument, but not granting; a common form of expression used in ancient legal proceedings, when Counsel was illustrating a point by arguments, &c.

nocht grantand that the pairtie pammellit had maid ane leifing,¹ or vareit and bene inconstant, and fa waverit in his Depofitioun, the fame can impoirt na probatioun: fpeciallie, quhair the faid vntreuth, &c. is nocht in the fubftantiall partis of the Dittay, bot in vther accidentis and externall circumftances. And as to Johnne Mure of Woidlandis Depofitiones, it can nawayis be refpectit, for thir particular cauffis:—ffirft, he is tement removeable² to the Erle of Caffillis, and his houfhold fervand; nixt, he is Chalmerlane and factour to ane grit pairt of his lordfchipis landis; bot in fpeciall, is Bailzie of the Barronie of Dalrumple. *Secundlie*, he was vpon the ground, in companie with the Erle of Caffillis, at the flaughter of Barganie, at quhilk time Auchindrane was deidlie hurt. *Thridlie*, he was alfo in companie with the Erle of Caffillis, at the perfute of Auchindrane, in his awin hous. *Fourtli*, he was in companie with Hew (Kennedy) of Garriehorne. and his convoy throw the laudis of Auchindrane, quhair he come in bragging maner, and focht Auchindrane at his awin hous. *Fyftlie*, befoir he was examinat befoir the Counfell, the Erle of Caffillis caufit him fett down sic woirdis as his lordfchip thocht expedient, and to be fubferyuit with his hand; quhilk he nawayis durft alter, befoir the Counfell; *et sic prodit testimonium*. The quhilk writ was product to him in Counfell, befoir he wald depone; quhairby he nicht keip my lordis injuncciones.

ITEM, as to the Depofitioun of *Johnne Mure of Blakbyres*, it previs na pairt of the Dittay, becaus he deponis nathing of knowledge that he hes of Auchindrane, bot a repoit that he had of vther fervandis. And forder, the faid Johnne could nevir haif bene witnes fra the beginning, ffor thir cauffis:—Becaus, he flew the Laird of Auchindranes feruand callit Williame Geddies, for the quhilk he was banifchet the countrie; nixt, he come in vpon fair promeiffis and conditiones maid to him be the Erle of Caffillis, to purches to him ane Remiffioun for that Slaughter, and for the quhilk caus, he promeiffit to the faid Erle to depone quhat he defyret: And laft, the faid Johnne Mure hes intrufet³ him felf in ane grit pairt of Auchindranes lands, and thereby⁴ thinkis to bruike⁵ the famyn.

As to *Patrik Dalrumples* Depofitiones, na fayth can be gevin thairto, becaus he is uncle to the murtherit man.

It is anfwerit, to the Depofitioun of *Walter Mure*, and to the reft of the Depofitiones befoir the allegit Prefbiterie, that the faidis Depofitiones can mak na faith; becaus thai ar extra-judiciall, na proces depending aganis ony pairtie, na pairtie haifing intres being callit, bot only ane naikit conventioun of tua or thre Minifteris, nocht Prefbiteriallie convenit, quha had na power to tak sic Depofitiones: And as the faidis Depofitiones, gif thai had bene tane to the faidis Mi-

¹ An untruth or falsehood; *leasing*.

² Tenant at will.

³ Intruded; thrust himself into.

⁴ By perjury, or giving false evidence, &c.

⁵ Enjoy; possess as his property.

niferis in ane Ciuile caus, wald haif maid na faith, far les in ane Crimiale. *Secundlic*, the said Walteris Depositione preuis na pairt of the Dittay: And albeit the Depositiones war trew and valid, yit thay ar ineffectuall; becaus, albeit it war grantit that Dalrumples was fend to Flanderis, that impoirtis nocht the probatioun of ony Dittay.

ITEM, it is anfuereit to *James Dalrumples* Depositione, that the same can naways work aganis thir perfones pannellit: Becaus, in the first pairt of the said Depositione, he deponis nothing aganis thame: And as for the last pairt, beirng ane plott to mak ane onfett vpon Garriehorne, the samyn can naways work aganis the perfones pannellit; nather can his Depositione be regairdit, in respect he deponis his awin turpitude, viz. the forgeing and contryveing of the slauchter of Garriehorne devyfit be him self, as is confessit; and quhilk devyfe of his, he counfellit the perfones pannellit to put in executione; and sua, he being devyfer and contryver of the fact, he can never be hard to depone in preiudice of the perfones pannellit. And to purge the onfett maid vpon Garriehorne be Young Auchindrane, the verritie is, that the caus of that onfett was accidentlie, they meitting togidder at the end of the Town of Air, and Young Auchindrane meiting him in the way, had just caus to mak the onfett vpon him: first, becaus he had tane his fatheris bluid, and nixt, he was at the Slauchter of his mother-brother.¹ And forder, the said James Dalrumpillis Depositione can naways be respectit, becaus he is ferdis of kyn² to Williame Dalrumpill, quha is slane, and is secund and thridis to the Laird of Culzeane. And forder, befor he was present in Counsell to depone, he was movet to depone the samyn, vucitet,³ be my Lord of Abercorne, quhair of he maid adverteisment thairefter to the Laird of Auchindrane and desyret him to fett him; becaus he had put all that he had, be submissioun, in Sir Claud Hammiltone's handis.

ITEM, as to the Depositione of *M^r Alexander*, it preves na pairt of the Dittay nor factis lybellit, bot rather purges the samyn; and forder, can mak na faith, becaus it declairis, that the Lairdis of Auchindrane war content to cum and tuich the corps,⁴ sua that⁵ thay mycht do the samyn in Air, my lord of Cassillis nocht being thair. And to verifie the samyn, produces ane Instrument.⁶ And forder, at that tyme Young Auchindrane was deidlie hurt; and sa could nocht cum. And forder, the said Depositione can naways be respectit, becaus it is extra-judiciall, and one in presens of the partie adverst, viz. the Erle of Cassillis.

¹ Uncle; mother's brother. ² Within the fourth degree of relationship. ³ Without having received lawful citation. ⁴ Alluding to the well-known popular test, or ordeal, of calling upon the accused or suspected person to come forward and touch the corpse of the murdered party! The superstitious notion then held was, that THE CORPSE WOULD BLEED, immediately on the approach or touch of the Murderer! Powerful use of this circumstance has been made by Dramatists and writers of Romance. See a variety of interesting notices in the APPENDIX to this Trial, with an enquiry into the origin and practice of our ancestors in such cases. ⁵ On condition; provided that, &c. ⁶ A Notarial attestation.

ITEM, as to *Patrik Bannatyne's* Deposition, it aught nawayis to be respectit, for thir cauffis :—*Firſt*, becaus he is ſecund and thridis of kyn with Culzeane, quha is ane pairtie accufet; as alſo to the Erle of Caſſillis : *Nixt*, becaus he is brother to James Bannatyne, quha is, *focius criminis*, and is callit and accufet for the ſamyn cryme : And *laſt*, his Depoſitioun can mak na fayth, becaus the ſamyn proceedis onlie *ex auditu*, be relation of his brother James Bannatyne; in the quhilk Depoſitioun, he confeſſes the ſaid James Bannatyne to be thryſe contrair¹ in his relation. And ſua, his Depoſitioun, depending vpon ane contrair relation, makis na fayth.—Aganis the hail Depoſitiones depending vpon *James Bannatynes* relation, it is allegit,—gif James Bannatynes fall, all his relationes man fall.

And forder, as to *William Roifes* Depoſitione, it is allegit, that the ſamyn can nocht be respectit, becaus William Roifes wyfe and the Laird of Culzeane ar thrydis and ferdis of kyn. As alſo, his wyfe is father-ſiſter to James Bannatyne, quha is accufet of the ſame crymes.—It is allegit aganis the Depoſitioun of *Johne Mure in Currier*, that the ſamyn can nawayis be respectit : Becaus the ſamyn is only ane relation made be James Bannatyne : *Secundo*, becaus the ſamyn is contrair to the Dittay; in ſa far as the Dittay beiris, that James Bannatyne, haifing brocht Dalrumple to the Sandis of Girven, left him behind him, and raid forwardis to the tua Lairdis of Auchindrane, quhair the Auld Laird conferring with him, the Young Laird paſt to the ſaid Dalrumple; and eftir ane ſpace, Auld Auchindrane and Bannatyne cuming neir thame, he ſlew him : And in this Depoſitioun it is confeſſit, that James Bannatyne fould haif ſaid to the Deponer, that Young Auchindrane drew this Dalrumple after him, and ſlew him; quhairby it is evident, that James Bannatyne is contrair, inſafar as the Depoſitioun beiris, conforme to the Dittay.

As to the Depoſitioun of *James Bannatyne*, it aucht nawayis to be respectit, for thir argumentis.—*Firſt*, becaus he hes tane the cryme vpon him, and for the ſamyn hes maid offeris baith to the Kirk and pairtie : *Secundlie*, he ſtandis yit at the horne vnelaxit : As alſo, is vnder the cenſure of excommunicatioun; and ſo is nather Godis man nor the Kingis : *Thridlie*, he is ſecund and thridis of kyn to the Laird of Cullane and the Erle of Caſſillis : *Ferdlie*, he is cum in vpon promeis and condition of his lyfe, quhilk was ſet down to him be Joſias Stewart, brother to my Lord Vchiltrie, James Stewart, and the Laird of Girvenmaynes; and his Band gevin to that effect, that he ſhall cum baith ſaif to Scotland and returne ſaif to Ireland. Eftir meiting and conference in Ireland, and quhat he had ſett down the conditiones, he come over to Buit to his couſing the Laird of Carnes,² to quhome he ſchew the conditiones, and brocht Carnes brother,

¹ Contradictory.

² From Ireland to the Iſland of Bute, to his couſin, . . . Bannatyne of Carnes.

callit Ramald Bannatyne, with him to the Largis, quhair he mett with James Stewart, quha brocht him to Kilwinning; and than Jofias and James Stewartis mett with him befyde Irwing, to haif fett down the conditiones perfyttlie, for his fure returning to Ireland, quhilk fould haif bene put in Ramald Bannatynes handis; bot, vpon a fair promeffis, he was movet to leve Ramald behind him: And thairefter, he was brocht to my Lord of Abercorne, with quhome he was twentie dayis, or thairby: And thairefter, he was fend to Cliddisdail, to the Laird of Corhous;¹ and fua, be this progres, it is evident, quhat hes bene the indirect deilling of James Bannatyne, fra the beginning. Speciallie, quhan fouer ane pairtie is accuset for ane cryme, and is fugitive for the fame, as in this caife, he can nevir be hard, be his Confessioun and Depofitioun, to work ovy prejudice to ony vther pairtie; nather can his Depofitioun work, fa mekill as the tortour, to the parties, vules he firft be fubiect to the tortour him felf; as is obseruit in the Justice Courtis of all Chrifitiandome: Nather can his Depofitioun be regardit aganis Young Auchindrane, becaus the famyn procedis vpon malice aganis him; infafar as he was informet that Young Auchindrane had offerit to the Thesaurer, for cleiring of his awin innocencie, to fet caution, vnder the pane of Fourtie thowfeand pundis, to exhibeit the faid James Bannatyne befoir the Justice:² And it is nocht to be presumet, that ane man gilty of ane haynous cryme, being at his awin libertie, wald willinglie cum in to his awin deid,³ bot vpon promeffis and conditionis. And forder, this argument is infallable; na gritter fayth can be gevin in this matter to James Bannatyne, nor gif⁴ Dalruple, vpon his deid-bed, had maid his Declaratioun that he was flane be Auchindrane, elder and younger: Bot trew it is, that na fayth wald haif bene gevin thairto, without vther probatioun. This was cleirly decydit, quhan as Robert Ramfay, notter in Stirling, was execute to the death, confeffing that the Instrument of Denunceatioun maid be him felf, quhairto he was notter aganis the Tennentis of Halbarnes and Auddiftonne, was fals, and past constantlie to the deid with it; yit, quhan as the caus of Improbatioun was advyfet be the Lordis of Counsell,⁵ thay respectit nather his firft, fecund, nor thrid Depofitioun, in prejudice of the producer, according to the Cowmoun Law; becaus the Confessioun of ane manufactour may weill prejudice him felf, bot na vther.

It is Anfuertit to the remanent Depofitiones, depending vpon James Bannatyne's relatioun—aucht nocht to be respectit, *et supra*.

As to the Depofitiones of *James Pennycaik*, thay aucht to mak na fayth, be-

¹ Bannatyne of Corhous, in the county of Lanark. ² They omit a material part of the offer, viz. to present him 'dead or alive!' It being their purpose to have him murdered in Ireland, *by authority*, and thus for ever to have suppressed evidence of their nefarious wickedness! ³ Death.

⁴ Than if Dalruple upon his death-bed. ⁵ When the process of Reduction, for the purpose of annulling and setting aside the Instrument, was advised before the Civil Court.

caus he is ane personage infamous and notorioullie knawin to be infame; he is denuncet rebell and put to the horne at the instance of Capitane Williame Rig, for steilling of his cloick and his suord, accompaneit with sevin vtheris, betuix Leyth and Ed^r, vnder clud of nycht: And this Hoirning, standing for ane manifest Ryote and Oppressioun, is sufficient to mak him infame: And produceit the Hoirning for veryfeing thairof: *Secundlie*, the Deposition of James Pennycaik can nocht be regardit, in respect the samyn is improvin, in the speciall poynt thairof, befor the Lordis of Secreit Counsell; in sa far as he, haifing deponit the Obligioun reslaui be him from Auchindrane for the fowme of Fourfoir pund, to haif bene gevin for Murthering of the said James Bannatyne—the contrair thairof was verifeit befor the saidis Lordis, and the said Obligioun (proven) to haif bene gevin for borrowit money: Lyk as, the Witneses quha war examinait thairupoun, deponit, that thair saw the numeratioun¹ of the said money. And sua the said deponer being improvin, in the maist substantiall poynt of his Deposition, thair aucht no credeit to be gevin to the rest. Forder, the said Deposition concernis na pairt of the Dittay, nather substantiall nor circumstances thairin contenit. Last, he is *testis singularis*, deponing vpon his awin turpitude, viz. that he was hyret to the Slauchter of ane man; and thairfor, his Deposition can nocht be regardit; speciallie, haifing consideratioun to the circumstances thairof, viz. that vncocit or compellit, he past furth of Scotland to London, to mak his Deposition to his awin guid-brother,² Sir James Hamiltoun, in the quhilk he confessis him self to be refranit fra his allegit pretences, and to mak the said Deposition for the love and reverence he bure to my Lord of Abercorne, quhome the perones pauuellit acknowleges³ as pairtie. Quhilkis haill circumstances, concurrand with the notorieit of his bypast lyfe, verifeit be the Decreit of Secreit Counsell, his Deposition can mak na fayth.

As for the Depositiones of *George Blak*, the samyn can mak na fayth: becaus he depones that the Laird of Auchindrane fould haif hyret ane Williame Carmichell, being ane discreit Gentilman, *integre fame*, is nevir examinait thairupoun; and sua the said Georges assertioun, being *testis singularis* in that Deposition, can nocht worke.

To the presumptioun obiectit aganis *Young Auchindrane*, beiring, that gif he had nocht bene giltie of the Murthour of Dalruple, he wald nocht haif sufferit the iniurious wordis and langage of James Bannatyne; it is answerit, that gifand the presumptioun war trew, yit it is nawayis pregnant to infer Treafone aganis Young Auchindrane, seing na substanciall fact is provin. And forder, the caus of his forbeiring of him, at that tyme, was, in respect the said James Bannatyne vtterit his iniurious wordis and boisting, in his drukinnes,

¹ Telling, or counting out of the money,

² Brother-in-law.

³ Recognise.

quhairvnto he is always subiect. As lykways, it was na honour¹ to Young Auchindrane to put handis in his awin man, being in that estait : Lykas, he was reconfeillit with him, at the requieit of Williame Kemydie of Garfar, quha was examinat befor the Countsell.—It is anfuert, to the prefumptioun concerning the Tak² maid be Young Auchindrane to James Bannatyne. quhilk Young Auchindrane denyit that he nevir gaif any to the said James, quhill³ the samyn was provin and productet, &c.; that the samyn prefumptioun is naways sufficient to infer the cryme of Treafoun : becaus the fame is nocht ane prefumptioun concerning the committing of the cryme lybellit, bot only ane illatioun⁴ vpon ane vncefflar confèquence : for it naways followis that, albeit ony Gentilman gaif ane Tak, for nocht, to ony of his fervandis or dependeris, that thairfoir he was airt and pairt with him in committing of ane treflonabil act ; vules it war sufficientlie verifeit to haif bene done for that caus ; nor yit dois the production of the Tak mak Young Auchindrane's Depofitioun to be vntrew ; becaus it is nevir provin that the Tak was gevin to James Bannatyne ; bot, be the contrair, the samyn was tane out of Thomas M^cAlexanderis kift, in quhais handis it was confignit, quhill the conditiones betuix thame war endit ; viz. that the said James fould haif maid richt to Young Auchindrane of the fowme of I^m (1000) merkis, quhilk he had vpone Langfchawis land, quhilk he could nocht than presentlie do, in respect the said James had maid his awin wyffe assignay thairto ; quhilk Assignatioun is product in judgement : Nather is it probable that gif the Tak had bene maid to the said James, conforme to the prefumptioun, bot the samyn wald haif bene put in his awin hand, and nocht confignit in ane thrid perfones hand.

[My Lord Advocat takis instrumentis of James Bannatynes Declaratioun maid judicallie be him ; quha being demandit, ' Gif the Tak grantit to him be Young Auchindrane was delynerit to him self ?' Declarit, it was first delyuerit to him, and thairefter, be consent of him self and Young Auchindrane, it was put in the handis of Thomas M^cAlexander, vpone Auchindrane's feir that the deponent had allegit the production of that Tak fould haif done him grit harme.]

As to the Depofitioun of *Allane Pyper*, it aucht nocht to be respectit, becaus he is tennant to my Lord of Cassillis of the foure merk land of Sallachan ; and forder, the said Depofitioun proves nathing, nather of the substance nor circumstances of the Dittay. As to the Depofitioun of *Williame Rojfe*, can mak na fayth ; becaus his wyfe and the Laird of Cullane are thridis and ferdis of kyn : And forder, the payment of the maill and deutie inferris na prefumptioun. As to the Depofitioun of *Williame Pyper*, anent the Lady Auchindrane's furneiffing of James Bannatyne, aucht nocht to be respectit, becaus he is man, tennant, and

¹ It would have been dishonourable.² Lease, or *tack*.³ Until.⁴ Inference. Lat. *illatio*.

fervand to the Erle of Caffillis ; as also, is tennent removeable to the Erle of the foure merk land of Sallachan ; nixt, he fault his maister Ardmillane and Thomas of Bargany to my Lord of Caffillis ; for the quhilk he promiseit him V^c merkis. It is anfuierit to the presumption anent *the Laird of Caudwallis* Deposition, of the suffering James Cunninghame to pas away, contrair to his promes, that the samyn is nawayis pregnant aganis the perones pannellit, feing thair is na fact or deid contenit in the fame, allegit to be done be thame. It is anfuierit, to the presumption resulting vpon the Letter productet—First, the fame wirkis nathing aganis Young Auchindrane, becaus it is ane Lettir allegit writtin fra his father to him, never reffaut be him ; and sa can infer na preiudice aganis him : *Item*, it can work nathing aganis the father, becaus the samyn is nocht subferyuit be him ; lyk as, he denyis the samyn being re-fent ; and thairfoir, he nocht confessing the samyn, nor being subferyuit be him, can work nathing aganis him : And quhair as, it wald appeir the fame to haif bene delyuerit to the Counsell be my Lord of Mar, quha is allegit to haif reffaut the samyn fra the Conftable,¹ quhilk Conftable is allegit to haif reffaut the fame fra Dormond, ane of the ordineris of the Castell ; and the said Dormond is allegit to haif reffaut the samyn fra Auchindrane elder, to haif bene delyuerit to his sone : The samyn can mak na fayth, ffor albeit my Lord of Mar and the Conftable thair Depositions may be trew, as the perones on pannell will nocht impunge the samyn, yit it followis nocht bot that Dormond hes bene subornet be the vnfreindis of the saidis perones to mak the said narratioune to the Conftable : to the effect that thairby he mycht caus ane falsfeit Letter cum in the Counfallis handis :—And to mak the said mater mair cleir, the said Laird of Auchindrane elder offeris to preve and verifie instantlie, be dyuerse famous witneffis subferyveand, and, in speciall, be James Pennycuik, ane of the perones productet aganis him, and vtheris, &c., that Eduard Mekiljolne, sumtyme seruitour to James Prymrois,² come to the Laird of Auchindrane, thay being baith wardit in the Tolbuthe, and said to him, ‘ Sir, I haif fene your writ of befoir ;’ and being demandit, ‘ Quhair ?’ anfuierit, ‘ I was employit to counterfute ane Letter of youris, allegit directit be you to be Castell of Ed’ to your sone,³ the quhilk contenit ane half-throche of paper⁴ on bayth be fydis, and was nocht subferyued ; the quhilk I counterfute as neir your hand writt as I think was possible.’ Being demandit, ‘ How was it be pis writt quhilk I am now wryting ?’ Anfuierit, ‘ It was sumthing smaller.’ Being demandit, ‘ Quhat was be caus be Letter was nocht subferyuit ?’ Anfuierit, ‘ It was to mak the matter mair suspitious !’ ffor, fays he, ‘ it was gevin me vpon

¹ The Constable of Edinburgh Castle, viz. Thomas Hume.

² Clerk to the Privy Council.

³ Directed from Old Auchindrane, then in the Tolbooth of Edinburgh, to his son, then in ward in the Castle. ⁴ A *half through*, or half a sheet of writing-paper, then usually of the size which is now termed ‘foolscap.’

ane grit fecreit in the Tolbuthe, and I nevir reveillit nor opuit be matter quhill now !' James Penyeuik fpeiris at him, ' Quha gaif ʒow this ?' Anfuierit, ' I will keip þat to my ſelf !'

As for the doings of *the Lady Auchindrane*, the ſamin can nawayis preiudge hir husband or hir ſone, ſcho being ane woman ; and hir abſenting of hir ſelf was for ane lauchfull cauſe, viz. ſeiknes, authorizet be ane lauchfull Teſtimoniall.

As for *Thomas Mure* and the reſt going to the horne, for non compeirance, it can be no pregnant preſumptioun to infer Treafone vpon the perſones pannellit.

Eduard Mekill-Johnne, being fend for, and preſenting him ſelf, ſuorne and examinat, deponis. that he reſſauit the Letter direct be Auld Auchindrane to his ſone, being wairdit in the Caſtell of Ed', ſſira my Lord of Mar, in preſens of Archibald Prymrois, writter, to be coppeit be the Deponer. Eſtir the coppieing quhairof, the deponer, ane grit ſpace thaireſtir, cuming to the Tolbuith of Ed', and finding the Laird of Auchindrane wryting at ane buird, he come to him and ſaid as followis : ' Laird of Auchindrane, I think I haif ſene ʒour writ ofbefoir.' Quhairvnto Auchindrane anfuierit, ' Quhair ſaw ʒe it ?' The Deponer replyit, ' I remember I coppeit ane Letter verrie lyk ʒour writ, quhilk I reſſauit to coppie fra ane Noble man !' Bot wald nocht declair to him the Noble man his name that gaif the directioun : And as to the alleget declaratioun than maid be the deponer, that he counterfute the ſaid hand writt, denyis the ſamyn ; bot that the ſamyn was coppeit be him, be directioun, as ſaid is. Quhairvpon my lord Aduocat aſkit infrumentis.

Archibald Prymrois, alſo preſent, being ſworne, Declairis, that he was preſent quhan my Lord of Mar delyuerit the Letter to Eduard Mekil-Johnne to be coppeit ; quhilk my Lord than declarit, was interceptit betuix Auld Auchindrane and his ſone ; and the ſamyn Letter being than preſentit be my lord to the Deponer, he verrie hardlie could get the ſamyn red, being ſa evill writtin and evill ſpellit ; Bot to put Auchindrane in remembrance anent that matter, the ſamyn Letter being product to the Lordis of Secreit Counfell, eſtir intercepting thair-of, and ſchawn to the Laird of Auchindrane, and he than inquyrit, ' Giſ he knew that Letter or the hand writ thairof ?' Auchindrane anfuierit, ' It was nocht his hand-writ, bot was verrie lyk it.' And being deſyret to reid the Letter, he red the ſamyn in thair Lordſchipis preſens, verrie diſtinctlie, without ony ſtope : At quhilk tyme, the Lordis of Secreit Counfell, my Lord of Dunbar being preſent, cauſit Auchindrane wryte with his awin hand ane particuler anſuer of all that was demandit him in that matter, to the end thai mycht the better recognoſce and try quhiddir the ſamin was writtin be him or nocht : And forder, the deponer knawis nocht.—Quhairvpon my Lord Aduocat alle aſkit Infrumentis.

IN fortificatioun of THE VERIFICATIONIS product be the Aduocat, and vſet

to the Assyse, my lord Advocat affirmes, that it is lauchfull and vsuale to the Lordis of his Maiesteis Secret Counsell to examine Witnesses, out of prefens of pairtie, in all crymes tressonable; quhais Depositiones being product to the Assyse, makis full faith, vules thai be impugnet be sum lauchfull particular exception proponit aganis the samyn: and can nocht be impugnet, for want of power in the examinaturis; or the Depositiones was reassait, the pannell nocht being callit thairto.—The Depositiones of *James Pennyenik* and *George Blak*, tane at Court, ar lauchfull, as tane by expres command of the Kingis Maiestie, and in prefens of ane of the Lordis of his Counsell of this Kingdome.—It is absurd to excusè the pannellis going to the horne, for the tressonabill cryme lybellit, for feir, gif he had compeirit, to haif bene challenged for pistolettis; feing, his being fugitiue for this cryme, inferris aganis him presumption of Treasoun: And in caice he had compeirit, his schuitting of pistolettis without ony harme done with thame, wald haif inferrit na forder danger, nor (*thau*) the panes of ane fyne.—The persewar neidis nocht to produce *Thomas Kennydeis*, *fforsfaltour* for this cryme, becaus the samyn being deducet in Parliament, is judget nottour to all the subiectis, and na man can pretend ignorance thairof.—The Relaxationes product, purges nocht the presumption of thair giltines of the crymes contenit in the Hoirningis; becaus, Auchindrane elder was nocht relaxit fra the hoirning, for lying (in wait) for Collayne in Mayboill, quhill efter his reconciliatioun with the pairtie: at the quhill tyme, na man was to persew him: Nather was he relaxt fra the horne for the tressonable crymes lybellit, quhill he was tane and imprisonet in the Tolbuith of Edinburgh, and sa could nocht eschew his tryall.—To the obiection aganis *James Mure of Fleit*, it is vntrew and malicious: And he being confrontit with the Deponer, Auchindrane proponit na objection aganis him, that tuchet ather his fame or welth.—Attour, the persewar takis instrumentis, that *the Erle of Cassillis*, being suorne, in prefens of the Assyse, vpon the obiection offerit to be verifeit be his aith, hes declairit the samyn to be vntrew. And lykways, that *Sir Willame McClellane of Auchlane, kny'*, being suorne vpon the poynt of Thift, and reconciliatioun thairof, offerit to be provin be his aithe, he declairit the samyn to be vntrew: And forder, he declairit, befoir the Assyse, that gif ony imputatioun could be laid to James Mure for the suspitioun of that Thift, the samyn was chieflie to be input to Auld Auchindrane, quha houndit him out to the doing thairof.—To the obiection aganis *James Gordoun*, for his youthe, the tyme of the factis quhairvpon he hes deponit, anfuers that he was past ten yeir auld, befoir the committing of the first of the saidis factis; And being now ane man of perfyte age, may lauchfullie depone of thingis done quhan he was young, the samyn being recent in his memorie.—Attour, the said James, being confrontit with the Laird of Auchindrane, he than deponit

nathing aganis his perfone, age, nor lauchfulnes of his Depofitioune.—To the generall objection, that the Depofitiones in Criminall cauffis makis na probatioun, bot ar prefumptionis and cauffis of tortour, it is manifefstie vntrew, and contrair to the Law and practiques of this cuntrie.—To the objection, that the Depofitiones concerning *Mr Robert Mures* Letter ar generall, and preves nathing, it is vntrew; becaus the Depofitiones contenis, that the Letter buir aduerteifment to Auchindrane of the Laird of Culaynes dyet to Edinburgh.—For the Depofitiones maid be *Caldwell* and *Young Auchindrane*, referris the confideratioun of thame to the Affyfe, it being out of dout, that nather Young Auchindrane wald hurt his father, nor Caldwell his freind, be thair Depofitioun.—The objections aganis *Woodland* ar proponit in jeaft; becaus at all tymes quhan he cumis to the toun, he vilifit is the Defenderis, his freindis,¹ in ane freindlie maner.—For *Johnne Mure*, callit of *Blakbyres*, he was Auld Auchindraes houfhold fervand, fa lang as he had ane hous, and fenfyne hes duelt in Blakbyres, vpon Auchindraes land, familiar with his Lady and him felf, frie of all perfute, convictioun, hoirning, or fufpitioun of cryme. And the perfewar takis instrumentis of the *Erle of Caffillis* Declairatioun to the Affyfe, that his lordfchip nevir maid promeis to Blakbyres, to purches² to him Refpett, Remiffioun, or vther fauour, for his compeirance.—The *Depofitionis* maid to the *Prefbiterie*, ar verrie lauchfull and fornell; haifing the force of ane Inquifitioun, for tryell of ane murthourit man and the authoris thairof.³—*Walter Mure* was tenent and fervand to the pannell, and convoyit by the way⁴ by his meanis, becaus he mycht haif controllit his denyall of his fendng James Cuninghame to the faid Walter Mures hous for Williame Dalrump.—*James Dalrump* his Depofitioun is lauchfull, albeit thair allege it to be maid to his awin turpitude, and that, be his awin confeffion, he is *focius criminis*; becaus in abhominable and extraordinar crymes, fic as Murthour vpon fet purpois, complices ar lauchfull Witneffis, and thair Depofitionis makis full faith; becaus it is confiderit be the Law-makeris, that fic fecret and denyable crymes, can nocht poffible be provin, bot be complices. James Dalrumpillis kyureid with Cullayne and the Erle of Caffillis, can nocht mak him fufpect, becaus he is fifter-fone⁵ to the Lady Auchindrane, and fifter-bairnis⁶ with Young Auchindrane, and fa prefumet of the Law to beir gritter affectioun to thame.

The perfewar defyres the Affyfe to remember Auld Auchindraes Declariatioun, in thair prefens, that James Dalrumpill maid him adverteifment to fet

¹ In this instance, and indeed generally throughout this Trial, the term '*freind*' fignifies relative or blood-relation, as in the preceding reference to Caldwell, &c. ² Procure. ³ An inquest or precognition held for the purpose of discovering the perpetrators of a murder; and for bringing them to justice for their crimes, if guilty.

⁴ Put out of the way. ⁵ Nephew. ⁶ Cousin-german.

him,¹ quhilk detectis his fauour to the defenderis, and his vvwillingnes to depone to thair prejudice.

Patrik Bannatynes Deposition man mak fayth, becaus it was maid quhan he was the Kingis lauchful subiect, frie of all cryme; and his kindreid with the Erle of Cassillis, can nocht mak him suspect; becaus, sen the feid,² he hes bene in speciall freindschip and familiaritie with the Defenderis; quhilk thair can nocht deny: Nather can the said Patrikes Deposition, nor the Deposition of ony of the remanent Witneffis, be impungeit, as foundit only *super auditu*, and be relationn of James Bannatyne; becaus that relationn was maid be James, quhan he was in verrie grit freindschip with the Lairdis of Auchindrane, elder and younger, and ressaueit many fauoris and suppoirtis fra thame.—The Defenderis impungis *Johne Mure in Carveris* Deposition anent the pulleing of Williame Dalrumpill of James Bannatynes hors; bot never anferis to the materiall poyntis thair of, anent thair sending of Cuninghame for Dalrumpill to Glenheid; convoying of him to Chapeldonan; sending for him to Girven Sandis; and Murthouring of him thair.—*James Bannatynes* Deposition man mak full fayth, albeit he be at the horne, and excommunicat for this cryme; but hoirning and excommunicatioun can nocht work famekill aganis him as his awin Confessioun; quhilk Confessioun can nocht stay him to be Witnes, feing he is fo necessar a Witnes, as without him na probatioun can be had in this caus, bot be his Deposition; except, be the Confessioun of the remanent defenderis, quhair of thair is no hoip, in respect of thair effronterie, obstinacie, and induratioun. His kinreid with the Erle of Cassillis and Cullzeane is proponit in sorne; becaus the Lairdis of Auchindrane can nocht deny, bot that the said James was professit pairt-taker with thame, in all feidis and querrellis aganis the Erle of Cassillis, and assistit thame in the Invasioun of Garriehorne for his Slauchter. Thair allegiance, that he comes in vpon promeis and condition of his lyfe, is absurdlie qualifeit, as grantit be thame quhois protectioun and saif conduct can (nocht) saif ane hair of his heid. Thair allegiance of his malice aganis Young Auchindrane is impertinent, in respect of Young Auchindrane furneissing and sending of him out of the countrie, and recommending of him, be his Lettres, to his uncle; and of the fauour and help maid to the said James Bannatyne senlyne, be the Lady and the pannellis remanent freindis. Quhair thay propone, that he wald nocht haif willinglie cum in to his awin deid; it is saiffir for him to cum in and depend vpon Godis fauour and the Kingis mercie, or sailzeing thair of to die, weill preparit in ane Christiane resolutioun, vpon the scaffold, nor³ to haif bene in hourlie danger to haif bene murthourit, be procurement of the Defenderis, as he mycht haif bene in danger—nocht haifing lafour to haif callit for Godis mercie.

¹ To cite him as a witness.

² Feud.

³ Rather than.

Robert Ramsfay's practise is impertinentlie citet in this caice; becaus he deit for his manifest periurie, and falsé and contrair Depositiones, justlie working aganis him self; quhilk maid nocht the euident¹ to fall, and sa verifeit na punisheable fallét aganis ony vther. Bot heir, thair is ane actuall Murthour, quhair of the Lairdis of Auchindrane ar provin als giltie as James Bannatyne.—The perfewar takis instrumentis that *James Pennycook*, being solempnelie surne befor the Assyse, hes ratifeit, in thair presens, his hail Depositiones maid in Ingland. His Hoirning makis him nocht infamous, becaus it proceedis vpon ane Decreet of Secreit Counsell, quhilk can nocht be gevin in ane mater impoirting infamie; besyde, that sen² the said Hoirning, he remanit prissoner dyuerse oulki in the Tolbouth of Edinburgh, quhair ony man that lyket to haif accusét him mycht haif drawin him to pannell, in despyte of his heart.—The Deposition of *Mr Johnne Edmeffoun* aganis him can nocht be respectit; becaus Mr Johnne is infamous, being deprehendit and tryit athour of ane infamous lybill aganis the Lordis of Secreit Counsell, Sessiou, Prelattis of this Kingdome, and Magistrates of this Burgh.—Quhair thay allege that *James Pennycook's* Deposition concernis nocht this Dittay, the perfewar declairis, that he vses his Deposition as ane probatioun of ane consequent fact, quhilk cleiris exceidinglie the preceiding Murthour of Dalrump: for Auld Auchindrane wald nevir haif hyret ane man to haif murthoret James Bannatyne, gif James Bannatyne had nocht bene able to haif verifeit aganis Auchindrane ane mair dangerous cryme. He is nocht merlie *testis singularis*, becaus his Deposition is strenthened by the Deposition of his seruant *George Small*; and his Deposition vpon his allegit turpitude can nocht repell him in this caice; becaus he is, in effect, ane complice with thame aganis quhome he deponis, and hes purget his giltines thair of, be his tymous repentance, and desisting frome the prosecution of the said purposis. His Deposition can nocht be elydit³ be ony thing writtin to him be Sir James Hammiltoun; becaus that Deposition is maid judiciall, alsweill be his Declaratioun, befor the Lordis of his hienes Secreit Counsell, in Ingland, and be his approbatioun of his hail Depositiones, this nycht, in presens of the Assyse. *George Blukis* Deposition is verrie famous,⁴ and can nocht be drawin in suspicioun, vpon the allegeance of ony malice confaet for want of fourtie merkis of fie.—*Young Auchindrane's* suffering of the iniureis offerit to him be James Bannatyne, standis cleirly verifeit be the reiterat Depositiones of *William Kennedy of Garfar*, he being confrontit with Young Auchindrane.—*Auld Auchindrane's* denyall of his Letter to his sone, can nocht be respectit, seing it is so cleirly verifeit to the Counsell, be David Dormond, and Thomas Home, Constable of the

¹ The writing or Title-deed referred to in his case.

² Since.

³ Evaded; got quit of. Lat. *eludere*.

⁴ Worthy of credit.

Castle, and the Erle of Mar, quho ar Witneffes aboue all exceptioun, that the famyn was fend be Auld Auchindrane to his sone.—The perfewar repeitis the Depositiones maid be *Archibald Prymrois* and *Eduard Mekill-Johnne*, in judgement; and nanelie, that pairt, quhairby Archibald Prymrois callis my Lordis of Counsell treulie to memorie, that Auld Auchindrane, at the verrie first sicht of his Letter, red the famyn so ryplie and perfytlie, as gif he had it perquier,¹ quhilk no vther man, nor² the wryter of the Letter, was able to haif done. Repeitis lykwayis the said Eduard Mekill-Johnnes Deposition, quhairby the treuth of his copyping of Auchindrane's Letter to his sone, at the desyre of ane most honourabill and famous Noble-man, detectis the kuaverie and compleote of ane focieatie of malefactoris and dyverse.³

Finalle, the perfewar repeitis the just suspiitioun confaet vpon the pannellis abfenting of his wyfe, sone, and brother.

THE DEFENDERIS allegis, that the Young Laird of Auchindrane is frie of the presumption of the Hoiruing, becaus he compeirit at the day.—Auld Auchindrane is nocht pannelhit for lying at wait aganis the Tutour of Cassillis, at Maybole; and sua, na presumption can arryse vpon that Hoiruing. As for the rest, thay ar purget be compeirance.—As for that pairt anent *James Gordoun*, he being confrontit with Auchindrane, he opponit nothing at that tyme, ather concerning his youthe or vtherways; anfuieris, that was nocht the place convenient; bot now, *debito tempore*, in this Judgment, he proponis the famyn, conforme to the Act of Parliament; and all vtheris of the lyk nature.—It is anfuierit to that article, 'that Depositiones ar manifest probationes,' that the Depositiones vpon conjectouris and presumptionis of na Law nor practique, ar manifest probatione, bot only sufficient to induce tortour: And trew it is, that all the Depositiones lybellit ar vpon conjectouris.—*Walter Mure*, eftir that Auchindrane younger was twyfe enterit, and Auld Auchindrane lang in the Tolbuthe, was duelling actualle in his awin hous, tane and apprehendit be the Erle of Cassillis, and demittit be his lordship; and sa, his abfenting him self can nocht be presumet for this cause.—The malice of *James Bannatyne* towardis Young Auchindrane is cleir, becaus he will preve, be James Gordoun, ane of the witneffes producet aganis him, that James avowit to haif Young Auchindrane's lyfe, becaus he offerit to the Counsell to inbring him vnder the pane of Fourtie thousand pundis.—The Depositione of *Mr Johne Edmeffoun* is nocht vlet as ane sufficient probatioun; but his Deposition, with the vther Deponer with him, aganis quhome thair is na suspiitioun, is mair pregnant to tak away James Pennycuikis Deposition, than James Pennycuikis Depositione is to infer Treafone:

¹ By heart; by rote. Fr. *par cœur*. ² Excepting; but. ³ Detects the knavery and plot (conspiracy) of a society, or association, of malefactors and bankrupts (*dycouris*)

As *James Pennyuk* is at the horne, sa *George Small*, his seruand, is at the horne, for the same fact; and *George Small* deponis naething in speciall.—Last, the perſones on pannell deſyres your honouris of the Aſſyſe to haif conſideratioun of the lybell and Dittay; as the ſamyn was admittit be my Lord Juſtice, viz. that the ſpeciall poynt making the ſamyn relevant, was, that *Thomas Kenmydie* of *Culſeane* was flane be the advyſe, inſtigatioun, cauſeing, command, counſell, and ratihabitoun of *Auchindrane elder*, quhilik is the firſt pairt of the Dittay; quhairin, thair is naething provin aganes *Auchindrane elder*, of thoſe ſubſtanciall poyntis; nather can the ſamyn be ony wayes imputtit to *Auchindrane younger*. And as for the ſecond pairt, quhilik is lybellit conjunctlie aganis *Auchindrane elder* and younger, and *James Bannatyne*; the ſubſtanciall pairt quhairof is the allegit committing of the Slaughtere of *vinq^{le}* (*William*) *Dalrumpill*: And the reit of the haill lybell, ar only accidentis, conjectouris, and preſumptiounes; and ſeing na pairt of the ſubſtanciall poyntis is provin, albeit the haill actiones, preſumptiounes, and conjectouris war provin, quhilik is nocht grantit; off all law and equitie, obſeruit in all cuntreys, the maift that can be inferrit thairupoune, is the tortour of the perſones aganis quhome the preſumptiounes ar militant; quhilik ſpeciallie man haif place in the perſone of *Young Auchindrane*, aganis quhome few or name of the preſumptiounes ather contenit in the Dittay, or proponit by¹ the ſamyn, dois militat.

VERDICT OF THE ASSISE. Quhilikis perſones of Aſſyſe, eftir accuſatioun of the ſaidis perſones on pannell, be Dittay, of the Treſſonabill and crewall Slaughtere and Murthouris *reſpectiue*, abone ſpecificit, and ſuering that article thairof, anent the Murthour of the ſaid *William Dalrump*, be the ſaid *Bessie Dalrump*, his mother; and eftir production of the haill Depoſitiounes aboue writtin, and vther writtis and probatioun for cleiring of the Pannellis giltines of the ſaidis crymes, be our ſaid ſouerane lordis Aduocat; the ſaidis perſones of Aſſyſe remouet atogidder furth of Courte, to the Counſal-hous of the ſaid *Tolbuthe*; quhair thair, be pluralitie of voitis, electit and choiſet the ſaid *Sir James Scryngeour of Dudope*, kny^t, chancellor; Reſſonet and voitit vpon the crymes contenit in the ſaid Dittay, and haill circumſtances thairof; and being ryplie and at lenth advyſet thairwith, togidder with the haill writtis and probatioun vſet and producet be our ſouerane lordis Aduocat, for infructing thairof; togidder with the Pannellis objectiones proponit be thame, and thair preloquitours aganis the ſamyn, with my Lord Aduocattis anſueris maid thairto; thay recenterit agane in Court, quhair the ſaidis perſones of Aſſyſe, be the mouth of the ſaid *Sir James Scryngeour of Dudope*, kny^t, thair chancellor, Pronuncet and gaif furth thair determination vnder writtin, ſubſeryuit be the ſaid chancelloris hand, quhairof the temour followis.

¹ Independent of; besides; *forby*.

“ The Affyfe, for the maift pairt, efter reffoning and voiting vpon the firft article of the faid Dittay, find JOHNE MURE ELDER OF AUCHINDRANE to be Giltie, culpable, and convict of airt and pairt of the treflonable and crewal Murthour of vmq^{le} Sir Thomas Kemydie of Culzeane, kny^t, committit in forme and maner contenit in the firft pairt of the Dittay. AND ficyk, the faidis perfones of Affyfe, for the maift pairt, findis and declairis the faid Johne Mure elder of Auchindrane, and JAMES MURE OF AUCHINDRANE YOUNGER, and ather of thame, to be Giltie, culpable and convict of airt and pairt of the treflonable and crewal Murthour of vmq^{le} Williame Dalrump, in maner fpecifeit in the Dittay. —AND laft, thai all, in ane voce, findis and declairis the faid JAMES BANNATYNE, callit of Chapel-Donane, to be Giltie, culpable, and convict of airt and pairt of the faid treflonabill Murthour of the faid vmq^{le} Williame Dalrump, committit be the faidis perfones, in maner contenit in the Dittay.”

SENTENCE. Efter the pronouncing and declairing of the quhilk determination and delyuerance of the faidis perfones of Affyfe, “ THE JUSTICE, in refpect thair of, be the mouth of Alexander Kennydie, dempfter of Court, decernit and adiudget the faidis Johne Mure of Auchindrane elder, James Mure of Auchindrane younger, his eldeft fone and appeirand air, and James Bannatyne, callit of Chapel-Donane, and ilk ane of thame, to be tane to the mercat croce of the burcht of Edinburgh, and thair, vpon ane fcafold, thair heidis to be ftrukin frome thair bodeyis: And all thair landis, heritages, takis, fteidingis, rowmes, poffeffiones, teyndis, coirmes, cattell, inficht pleniffing, guidis, geir, tytillis, proffeitis, commoditeis, and richtis quhatfumeuir, directlie or indirectlie pertening to thame or ony of thame, at the committing of the faidis treflonabill Murthouris, or fenfyne: or to the quhilkis thay, or ony of thame, had richt, claim, or actioun, to be forfalt, efcheit, and inbrocht to our fouerane lordis vs; as culpable and convict of the faidis treflonabill crymes.”

Quhilk was pronuncet for DOME.

APPENDIX OF PAPERS AND DOCUMENTS ILLUSTRATIVE OF THE TRIAL
OF THE MURES OF AUCHINDRAYNE.

I. LETTER *by Sir Thomas Hamilton of Byres, knight, to a Nobleman at Court, relative to the Trial of the Laird of Auchindrayne and his Son, &c.*¹

[THE following LETTER is a rough draught of a Letter transmitted by Sir Thomas Hamilton to some Nobleman high in power and favour at Court, (probably the corrupt Earl of Somerset); and is evidently intended for the King's perusal. This successful Lawyer and Statesman knew well how to

¹ Dec. 11, 1601.—Now, on the tent of December, ane variance being betuix the Erl of Cassillis and the Laird of Bargany, thay mett in Carrik, quhair the Laird of Bargany and sindrie wetheris war slayne, and diuerse Gentlemen hurtt. This was on 11 day of December, 1601. And on the 12 day of Maij, 1602, Thomas Kennedy, brother to the Laird of Bargany, slew Schir Thomas Kennedy of Colzeane, kny^t, quha had bene Tutor of Caisillis, in the revenge of the slaughter of his brother. The quhilk Fead continewis as yitt onreconscellit.—*Awon. MS. Hist. of Scotland*, Adv. Library, A. 4. 35.

please his Majesty's taste for flattery—but, if this is to be taken as a specimen, King James must have been much more of a glutton than an epicure! In the same Collection from which this is taken (*Hudington's MSS.*, Adv. Library, Edinburgh), there is preserved another draught, which is evidently the original, and is extremely corrected and altered—but it is so characteristic, that it shall also be preserved here in the original state, though merely a fragment.

• HONORABIL AND VERTUOUS LORD,

• BEING informit be ane wourthie freind, that your lordschip wes very defytous to have ane trew and ample relation of the proces deduced aganis the Lairdis of Auchindrane elder and younger, for the Mourthour of Sir Thomas Kennedie of Cullayne, knight, and of Williame Dalrymple, I wes exceeding glaid to have rencountred that occasion to offer to your lordschip this discours, as an earnest of my faithful dispositioun to expres my thankfulness in matters of greater moment, when ever God fould grant me the abillitie to performe any seruice worthe of your honour, and correspondent to that great obligation whairin your singular fauour and courtesie haue excidinglie engaged to your lo. Bot when I had written at lenth, all that did concerne that poupos, and had it reddie to be sent to your lo., report cumming to this cuntrie of his Maiesteis gracious pardoun granted to James Bannatyne, whairas I did confaue that all men wald acknowledge it as ane commendabill effort of his Maiesteis most iuste, gracious, and iudicious clemencie; yet, finding that some daubill peopill als venomoullie inclined to find mater of calumnie in his Maiesteis most vertuous actionis, as the wes to suck poyson out of the sweitest and most holsome floures, I have delayed my first proiect, to send to your lo. the simpill discours of the proceeding aganis thofe malefactoris, quhill (*untill*) efter Tryell of all that has bene murmured aganis his Maiesteie in any circumstance of this action, I might mak the more full and perfyte report, allweill of the materiall circumstances of the proces, as of these incidentis, whairin his Maiesteie, having exprest his rare and wounderfull iugement, his vnalterabill constancie and']

[HONORABIL AND VERTUOUS LORD.]

KNAWING, by information of ane wourthie freind, that efter your lordschip hard the vulgar report of the conuictioun and pnceiment of THE LAIRDIS OF AUCHINDRANE, ELDER AND YOUNGER, for the Mourthour of Sir Thomas Kennedie of Cullayne, knight, and of Williame Dalrymple, yow did desyre to have a full and verie particular relation of the whole proceedingis of that mater, becums my being ey witnes from the beginning to the last act of that proces, makis me abill to giue ane true account of euerie circumstance thairof; and the great fauoris and courtesie reffaned of your lo. have engaged me in stronger bandis of dewtie nor¹ want of abillitie will permit my seruice to discharge; I haue presumed to send to your lo. this discours, rude, informall, and voyde of all ornaments except treuth, as an earnest of my desyre to proue thankfull to your lo. and obedient to your commandementis; whilk fould haue soner cum to your lo. handis, had not this tyme of vaicance² impeded me to find, so spicidellie as I did wish, the helpis of sum ferollis of the lawers and clerkis, to whom the deduction of that proces was speciallie committed; I did coniecture that your lo. cheif respect in this desyre wes to have the justice of his Maiesteis directionis, in that action, maid als manifest to the world as thay ar in the sight of God, and persuation of his owne conscience (albeit his prouidence, wisdome, justice, and mercie haue fund peopill als abill to suck venome owt of these Royall vertenes as the wes to extract poyson furth of the most beautifull and healthfull floures, whilk in thay owne place,³ I haue remarked, naikedlie, as does best beseme treuth,) acknowledging how vnhuill I am to giue the dew luster to these eminent and abundant vertues; and thairfore, if your lo. fall ever think that proces wourthie of the sight of the world, I know your wourth and bontie has gevin your lo. power and ane great many rare and excellent spirits, who will be glad to bestow the best floures of thair ingyne and learning, to giue the right foyle to that whilk may concerne his Maiesteie, in fame, or your lo.

¹ Than.

² Time of Vacation, when the Courts of Justice do not sit, and when the Lawyers are frequently in the country.

³ The *own* or proper place.

in contentment. And, to the effect the proces may the more easlie to vnderstand, before I cum to the Report thairof, I will permit (*promise*) ane trew Narration of the first motiues which inuolued the Laird of Auchindranes euill nature in the labirinth of these mischevous interpryffes; which, be the iustice of God, and his Maiesteis admirabil prouidence and inflexibill conformance, being brocht to light, have overthrowne his life and fortunes.

ANE TREW NARRATION of the first Motiues which inuolued the Laird of
Auchindrane's euill Nature, &c.

YOUR lo. hes heir the particular Discours of ane Proces, whilk, vpon dyueris respectis, many wyfe men have judged to be verie memorabil. Sum, remarking the bad nature of malicious men, who, measuring be their owne merciles disposition, the affection of vther menis hairtis, can never hope to ressaue frie pardon of those whom they have nightelie offendeit; and thairfore, forgetting the courtlie ressaue of those who have remitted to thame great iniuries, faillies nocht to requit their gude with euill; and at their first aduantage, to bereaue those of their lyfe from whom they ressaue their owne, as *Auld Auchindrane* did to *Sir Thomas Kennedie of Cullogyne*.

Vtheris, did consider, with horrour, the craft and diligence of the Devill vfeis keip in his bondage those who he anis fetteris in his snares; offering to thame allurements to facilitat to thame the Interpryffes, whilk, in their worldlie considerations they judge most liklie to procur the withed endis of their proiectis; as *Auld Auchindrane's* resolution to cut of all meanis of discouerie of his guiltines of their proiectis; as *Auld Auchindrane's* resolution to cut of all meanis of discouerie of his guiltines of *Cullogyne's Murthour* be the *Mourthouring of Dalrumpill*; whairin his sin apperis to haue bene so odious in the sight of God, as, for his puenishment, God permittit his sone to be inuolued in the guiltines of that sum haynous cryme, as ane preparatiue of the vtter ruyne of that house: Whilk faeciding altogidder contrare to thair expectationne, and the verie elementis concurring to the discouerie of thair secret sin, that did not oppin thair eyes and hairtis to sie that manis wit is fillie before God, and that thair strenght is bot dust; bot thay fall be blinded with the presumptionne of thair owne judgement; and thairby thinking, that if *Bannatyne*, who wes ey witnesse and actour with thame of *Dalrumpilis Murthour*, wer killed, that thair rested no vther meanes to proue thame guiltie thairof; whilk being constantlie denyed be thame, wald lykwyse cleir *Auld Auchindrane* of *Cullogyne's Murthour*. Thay intended to vie *Peniecke* in the *Murthour of Bannatyne*; and seiring left *Peniecke* might efterwardis discouer that he had bene moved be *Auld Auchindrane* to kill *Bannatyne*, being fugitiue, as partaker with *Auchindrane* and his sone in *Dalrumpilis Murthour*, it auct (to) put all men in iustie suspicioun that it wes done, for cutting away the meane of the discouerie of *Dalrumpilis Murthour*; thairfore it wes thought expedient that *Quintene Mure of Auchneill* should kill *Peniecke*, in reuenge of his *Mourthouring Bannatyne*; and swa, *Auchneill*, knowing no thing of *Dalrumpilis Murthour*, and being not onlie innocent of *Bannatyne's Murthour*, bot the avenger thairof, he should be frie of all suspicioun of the fyrst *Murthouris*, and thay secured of all probatioun that could haue bene led aganis thame thairanent; whilk being disappoynted, be *Penieckis* remorde, and *James Bannatyne's* resolution to end his dangers and miseries, ather be his Maiesteis mercie, or, be ane settled resolution, to accept his death, as the iust puenishment of his great sinis, in patience. It is evidentlie remarqued that the courtes, grounded vpon the presumption of ane manis owne wit, at the verie instrumentis whilk God vses to confound thame in the folie of their owne imaginatiounis.

Nather could wyfe men neglect to admire, how loath the Devill is to quyte his possessioun of ane finneris soule; having bot contended to mentean *Auld Auchindrane* in his denyall and impenitence, that efter his convictioun, when his conformance could nothing avail him, thair wes no appearance that he should aither confes or publictie repent the crymes for which he wes condemned; whill (*untill*) efter ane notabil conflict betuix his sone (*Young Auchindrane*) and the Devill, who still persuaed him, that thair wes no hope of mercie to ane finner, who had wilfullie and oft periured him self, with horribill execratiounis; sum godlie Bischoppis and Ministeris, be lang conference, and many comfortabil af-

furanceis gevin to him of the reddlines of Godis frie grace and mercie to all inneris, who, with vufeyned repentance, ar difpleas'd for their finnes; and can difpofe their foules to hope for pardon, and beg it at aue handis:—he wes moved to mak plane and particular declaratioun of the vnhappie *Marthour of Dotrinpill*, committit be his father and him self, according to *Bannatyne's* Confessionne and thair conviction. Qubarby, finding his conscience wonderfullie dilburdened, and his foule fullie repleineifed with assured hope of Goddis abundant mercie; did cheirfullie difpofe him self to death, as the only way to aue better and ever permanent lyfe; and vsing his best persuasions to his father, that as they wer joyned by bloude, and lykwayes conioyned in the equall guiltines of so hynous aue sin, so he wald consent that they might joyne in repentance and trew conuerfion; he did so muche peruale with him, that being afflitte be the godlie travels of the Bifchopis and Miniteris, the father wes brought to fo frie and sensibill contritioun, as, in the last houres of thair lyfe, and at the tyme of thair death, thair godlie resolutioun to mak haill to resiaue the eternall joyes, whilk they expected assuredlie at Goddis merci-full handis, gave als great comfort to the behalders of thair Execution, as thair wicked lyves had bene offensiue, to those who knew the actionis thair of.

THE dependance of this Proces kept menis myndis in great suspens, dyuerflic distracted, in the expectatioun of the incertane event thair of; the vulgar multitude, alwayes piteing fuche as ar miserabil, without respect of the dangerous consequence of the imprivitie of fuche crimes, wilhing faistie and releif of the prifoneris: wyfe and godlie men, longing for the plaine discouerie and exemplar pveinement of the haynous transgressouris, whair of, in thair conscience, thay judged the defendaris culpabill; and vthers, disallowing the preparative of the long imprifonement and rigorous Tryall, ever glaid to fie the appearences of thair escaip; till God, in his owne appoynted tyme, be fuche meanes as ar before reherfed, did justlie determine this long dowtsum cause.

And albeith I have many tymes earnittie considered, both the groundis of this cause, and meruelous incidentis and accidentis in the progres thair of, yet no thing hes ever appeere fo strange and extraordinary to me, as the blindnes or rather malice of aue great number of oure peopill of all fortis; who, forgetfull of oure happines in the wyfe, equitabill, clement, and moderat regime of oure most excellent King, became dowtfull of the justice of his directionis, in this cause, [For when I call to memorie, the whole course of his lyfe, from his first concepioun to this hour, and do compare the same with the regnes and lyves of vther Kingis, I think we have more reason, with thankfulness to God, to acknowledge his regne, to be the renouatioun of aue golden aige, nor be¹ malicious pryeing in his holie intentionis and juste doings, to resemble those, who, vewing most pure and precious jewellis, dois not so mutche delyte thair eyes with the presence thair of, as exercise thair curiositie to espy taches² in thame.] For God, having, as it dois weill appeir, decreed in his eternall wifdome, to appoynt oure King to be the instrument of more happines to this Ile, nor³ in oure wilhes we durst haue requyred: knowing, that the wonders of his preseruatioun, and of the happines of his most rare, most excellent, and most difficill actionis, fould mak his Maiestie more augnt and venerabil, it fall be easie to any man, who fall with aue honest mynd and vnpartial ey, consider the course of his yeiris, manifestlie to remark, that it hes bene aue continueall exercise of perfyte virtue, beautified with the ouercommung of all fuche difficultis as the wifdome and courage of man could forcait; and when the dangeris did exceed that measour, than did God visiblie interpone the strenth of his owne hand, as the pledge of his loue, and prouf of his caire, not to suffer a King, so necessar for the Christian worlde, to be ouer faddenlie translated thairfra, to those bliffingis, whilk in end he hes prepared for him, among his most deir Elect. Bot to deduce the abrage of his lyfe to the owne right ordour, we must acknowledge, that it pleesed God, in his eternall wifdome, to assigne the meanis of his convoy vnto this worlde, to be the happie conjunction of two of the most nobill, beautiful, and hopefull Princes, who at that tyme wer to be fund vpon earth; ⁴ the faces⁵ whair of, being forefene be the Devill, in his vyperous wifdome, to

¹ Than by.² Flaws, blemishes. Old Fr. *tasché*.³ Than.⁴ Henry Darnley and Mary Stewart.

Queen of Scots.

⁵ Success.

be the ouerthrow of his kingdome, in this He,¹ he did stir vp vnfaithfull subiectis to be instrumentis of fo terrible tempestis and deidlie stormes, that his Maiesties lyfe wes, in his motheris wombe, reduced fo neir to the durris of the death, as the tender and most delicat stay of that faire excellent lady, be the accursed poyntis of the crevall dagners of hir faithles treatonabill fulgectis, Murthouring in hir owne prefence ane of hir seruandis;² bot as hir courage, surpassing the imbecillitie of hir sexe, and ouercomming her dangeris, did offer this ritche present to the worlde, in the year of God 1566: whairbye, his Royall parentis, hauing confaued fo extraordinarie joy, as thay did acceptit it to be the perfection of their earthlie felicitie. God, who will not suffer those who he hes destinat³ to ane more happie habitatioun, to abuse thame selfis with the delytys of the vayne schaddowes of this lyfe, suffered the hellish complottis of damned subiectis, fo far to preuaile aganis thame, as the vertuous actionis of the King his father, being interrupted be that most execrabil Tragedie, practifed and performed be that infamous and never-aneuch abhorred traitour, *Bothwell*, aganis his lyffe. The coutageous exampill of that vnaturall Treafoun, did fo infect the mynd of ane great number of hir Maiesties powerfull subiectis, that thay wer not afrayd to ryfe in oppin rebellious aganis hir, lay violent handis vpon hir sacred persoun, confyned hir libertie within the miserabil boundis of the wyld and vnwholfome *Craig of Lochlevin*, force hir to the abdication of hir Royaltie; and whan, as the dexteritie of hir courageous devyfe, faithfullie assisted be sum of hir vncorrupted subiectis, had fred hir furth of that miserabil bondage, hir rebellis did suddanlie assembl thair forceis, and in oppin Battell, ouerthrowing that number of dewtfull subiectis who did assist hir, did fo maliciouslie pursue that victorie, as scho could nocht find in the whole boundis of that lairge Kingdome, which was hir natie inheritance, ane place of saif retrait; wharby hir hard destinie, drying hir to feik refuge in England, scho found be effectis, that '*incidit in Scyllam cupiens vitare Caribdim*,' not enioying in it hir libertie one houre, during the whole space of eighteen yeiris of hir lyfe spent in that Kingdom. Bot these afflictionis of hir lyfe, did fa strengthen hir mynd aganis the terrouris of death, and prepare hir fo happelie for the entrance to ane better lyfe, that whan the catastrophe of hir miseries brocht hir to ressaue death, efter ane manner fo rare and vnaccustomabil to ane Princeffe of hir birth and estait, as the hardell harted beholders, touched with the strangenes of that rigorous exampill, were driven to extreme grief and compassion; hir godlie resolution and invincibil courage wes fo constant, that scho appeired nocht onlie content bot joyfull, that God, haveing vsed hir troubles in this lyfe for ane expiation of hir sinnes, had gevin hir fo full assurance of his mercie and fauour, whairof scho promised to hir self, be the beginning of that dayes passage, ane most blissed and endles fruitioun.—Be thir meanes, his Maiestie being destitute of these helpes of Royall education, whilk the caire and knoulege of fo excellent parentis wald have procured to him, and standing subject to the danger of the cruell plottis of those who, having treasonable overthrowne his parentis, could never think thame self frie of impunity for vo vpardonabil Treafoun, so long as he, who, besyde the common interest of Princes in the pnceifment of vsurpeing Traitoures, wes bund, be dewtie of bloude and nature, to pynes those who had vsed fo butcherlie violence aganis the lyves, libertie, and estate of his parentis. Yit God, in his Providence, did fo cairefullie wache over him, as haveing dispersed that tracheourous combination, and with progres of tyme turned thair wittis and vapines⁴ of these rebellis to wourk aganis vtheris; his Maiesties lyfe wes not onlie thairby preserved, bot his quarrell wes be thame reuenged. During this tyme and thir dangerous passages, his Maiestie, growing in graces and yeiris, and finding his realme fo miserable disordered, as be the ciuill factionis and warris, not onlie the accustomed barbaritie of the Bordouraris and Hielandmen wes increased, bot, be infection, had fo polluted the whole cuntrie with crueltie and dissensions, that publict factionis, and privat deidlie feidis, did fo disquyet everie manis estait, as thair jakkis, knapfcaes, plait-dreves, and pistoles, wer als ordinar apparrell, to the most pairt, as thair doublettis and breachis; becaus, whatever wes the cause of thair conventionis or

¹ In allusion to the overthrow of the Papal power in Scotland, and the blessings to follow from the Reformation of Religion.

² Alluding to the murder of David Rizzio.

³ Predestinated.

⁴ *Weppinis*; weapous.

meetings, fights or frayes was the occasion of their departing, not onlie at Parleментis, conventions, trytts, and mercats, bot lykways at Church-yardis and Churches, and places appointed for exercises of Religioun. The purgatioun of so extraordinary and vniuersall corruption, being the task of his Maiesties¹

Bot that which I haue ever thought most strange and vnaturall, in all this action, is, that after so many, so lairge and sensibill praifes of his Maiesties pietie, iustice, clemencie, extended to all the cornaris, and almost to all the particular² persones of his Kingdome, so many subiectis fould haue bene fund, who, in fauour of two men of so wicked lyfe, fould so lightly haue regarded, and so maliciously detracted his Maiesties directionis, gevin for tortouring of *Young Auchindrane*, and refusing libertie to him self and his father, efter so many yeiris imprisonement: Never considering how his Maiestie, being evrie way iuste and equitabill, had, in thir menis particular, so small cause to vse thame with rigour, that if the aspired opinion of his cleir conscience had not certanlie persuaded him of thair guiltines, he wald never haue either vexed thair persones, or restrained thair liberties, aganis the courfes of ordinar iustice of his kingdome.

It is fouldish presumption in subiectis to think, that the Kingis whom God hes chosen as his lieutenantis, to regne ouer so great Nationis, fould haue hairtis of no greater excellence than the vulgar fort! If God had not prepared the hairt of Solomon, in his youth, to command the houris child³ to be deuyded betuix hir and hir neighbour who claimed the leving bairne, what Judge in the world could certanlie haue determined to which of the two the living child did belong? Whilk nevertheless, Salomon, be ane sentence, sening at first most cruell and vniuit, did in end most admirable determine,⁴ to the manifestation of the singular wisdome, whilk God had put in the Kingis hairt.

When oure King, the trew Salomon of oure aige, and the most Godlie, wyfe, and learned King that ever bure ane Regall crowne in any Christian kingdome, twelvie representing, having fra his owne infancie gevin fo extraordinary promissis of his iugement⁵

THE iust determination of the Proces which did long depend aganis *THE LAIRD OF AUCHINDRANE* and his eldest sone, having greatlie contented the myndes of manie faithfull subiectis; not that thay did reioice in the calamitie of Gentilmen of that fort,⁶ bot becaus thairby, the iustice of God, in the discourie and pvnishment of most subtil and dark crimes, was maid manifest to hard hearted and vnbelaiving peopill; hes also busied many menis pens to send the report thairof to thair freindis abroad; whairin, albeit at first I did intend to keip silence, and remit the publication of that memorabill action to those who wer more curious and skilful nor myself; yet, calling to my remembrance sum notabill circumstances, which, during the incertane event of that procedure, did giue bauldenes to pernerfed peopill, to calumniat the true iustice of his Maiesties directiones; which now, to his deserved commendation, is approued to the whole world; I haue since thought it my duetie, truelie to informe your lordship (whom I know to be so curious and carefull of no thing as of his Maiesties honour) of the whole substance of that perfute, craving your Lo. pardoun, if omitting sum parcellis, scarce necessarie to be recorded, I fall tak bauldenes, in place thairof, to remark, that in the course and progres of the most notabill actionis of his Maiesties lyfe and regne, whairfo, no Prince's aige and fortune hathe ever bene more fertile, his holiest, happiest, and most iuste intentionis haue never bene frie of the bitter sting of calumnious detractaris.

In this Discours, I will not follow his methode, *qui in medias res non fecit ac notus auditorem rapit*, bot studie to mak the mater so plane to your Lo. as possibill I can, be deductioun of the occasionis whilk involued Auchindrane's evil nature, in the laberinth of these misthevous interpryses, which,

¹ This is left unfinished; a page is left blank to fill up the rest. ² Individual. ³ The well-known story of 'the Judgment of Solomon.' Sir Thomas had, in the course of the long digression which he made regarding the King's 'rise and progress,' touched on very dangerous ground, and travelled very far out of his way, for the purpose of lavishing the most fulsome praise; being certain that the Letter would be subjected to his Majesty's perusal. ⁴ Terminate; result. ⁵ Here the scroll again breaks off, and three blank pages are left, for farther digression and flattery. ⁶ Rank; condition in society.

be the justice of God and his Maiefties inflexibill constancie, being broght to light, have ouertrowne his life and fortunes.

BE birth, he (JOHN MURE OF AUCHINDRANE) was a Gentilman of wourfchipfull difcent, fucceeding to that inheritance, which his prediceffours in bloude and name had poffeffed almost foure hundreth yeeres. By marriage of the dochter of Sir Thomas Kennedie of Barganie, one of the mightiest subiectis in the cuntry whair he dwelt,¹ having increffed the strenght of his freindfchip and presumption of his haire; and thinking, that no thing could impeid the absolute power of *Barganies* freindfchip, in Carrick, bot *the Erle of Caffillis howfe*, whilk, be ane long difcent of vertuous Nobilmen, for wourthie seruices done to thair Princes and cuntry, had differued and refused to lairge recompens in landis, honouris, and iurisdictionis, as extending thair branches in all the cornaris of that cuntry, and keeping faithfull dewtie and obedience to thair Prince, they had, be lawful meanes, obtaned aduantage of honour and commendement ouer all thair nightbouris; till of lait, the father of this Erle deceasid, and leiving his sones infantes, thair did not rest of that cheif howfe, any man, abill to meaneane the dignitie and rightes thairof, bot for *Sir Thomas Kennedie of Cullayne*, brother to the deceasid Erle, and vncl and *Tutor* to this Erle of Caffilis; whom, vpon emulation and inuie, before mentioned, Auchindrane intended to Murthour: ffor which pourpose, having affociat to him self nyne or ten weil chosen complices, thay, vpon the day of (January), or thairby, in the yeir of God 1597, come to the towne of Maybole, whair *the Laird of Cullayne* maid than his ordinar residence, and tryeing² that he wes at supper in the house of (*Sir*) *Thomas Nisbet*, and wes thairfra to go to bed to his owne ludgeing; Auchindrane and his complices darned³ thame fells in (*Sir*) *Thomas Nisbetis* gardine, throw which the Laird of Cullaynes way lay to his owne howfe, and, in his passage, having delatheid⁴ at him aucht or ten schot of hagbuttis and pistolettis, in the boundis of ane trait allay, yit he being saif of any hurt thairwith, and persaving thame with thair snourdis, most cruellie to perlew his life, he being alone, (becaus his seruands, not thinking that any man had reason to offer him harme, did not attend him,) he was forced for his saiftie to flie; in which chauce thay did approche him so neir, as he had vndoutedlie bene ouertane and killed, if he had not aduentured to rin ayde and couer him self with the ruines of ane decayed house, whilk, in respect of the darknes of the night, they did not persave; bot still followed to his ludgeing, and searched all the corneris thairof, till the confluence of the peopill of the towne⁵ resorting, whair thay hard sache a fray, forced thame to retire. For which schamefull and barbarous attempt, the said *Sir Thomas Kennedie of Cullayne*, having socht redress be law, did thairby dryve Auchindrane in sache danger of ruyne, as necessarlie did contrayne him to couer his malice with schew of repentance: And for satisfioun of his bypass offence, and gadge⁶ of his future dewtie, to offer his eldest sone in marriage to *Sir Thomas Kennedie's* dochter: Whilk, be intercession of freindis, being accepted, and thairefter the marriage accomplieid, the Laird of Cullayne did so affect the gude of the Laird of Auchindrane and his howfe, as it was no less dere to him nor⁷ his owne; considering, that in thair hopes and wilhes, it wes to be poffessid be the posteritie of thair conioyned difcentis.

In which termes, materis continued, vpon Cullayne's pairt, faithfullie and in haire, and vpon Auchindrane, in trefonabill professionis; whilk,⁸ be the deces of *Sir Thomas Kennedie of Barganie*, his sone, *Gilbert Kennedie of Barganie*, ane young Gentilman of great courage, fucceeding to him, his inexperienced youth wes seduced be Auchindrane to beleve, that the tyme wes prop^r to raise his house, from the second place in the cuntry to the first, be the ouertrow of the *Erle of Caffilis* house; whilk he proponed not to be difficill, for many probabill reasonis: Which, finding approbation, in the ambitious mynd of the young Gentilman, all occasionis of haitreat wer fo fostered be seditious intrumentis on ather syde, that in sehort tyme the parties wer broght to sache profession of inimitie, as *the Laird of Barganie*, intending, in contempt of the Erle, to go by his 3et,⁹ in his passage from Aire to

¹ In the Balliary of Carrick and shire of Ayr. ² Ascertainng after enquiry; discovering. ³ Concealed; hid; secreted. ⁴ Let off; fired. Old Fr. *delaucher*. ⁵ Maybole. ⁶ Pledge. Fr. *gaje*. ⁷ Than. ⁸ Until.

⁹ Contemptuously to go past the Earl's gate, without so much as enquiring after his health, he being his Chief, &c.

., and the Erle, resolving rather to die nor¹ digest that publick indignitie; having bothe threatened thame selfs with such forceis, as vpon so suddane occasion they could assenbill;² they rencountred vpon the fieldis, neir the Erles howfe of, when sioure or fyve hundred men entring in flight, it was verie liklie that the eagernets of the Cheifis fould have broght thair peopill to great butcherie, if *Barguicis* courage had not carried him fo headlong to the rasche invasion of *the Erles* peopill, lying at cover, vnder the advantage of ditches, as him selfe ratlavinge ane deidlie musket schot, and *Auchindrane*, being also maid vnabill to brak his horse, be ane verie dangerous schot in the theigh, thair troupe, wanting leaderis, fled, and left the feld to the Erles better fortune.

Which, no thing abating *Auchindrane's* malice, he did not cease to stir vp *Thomas Kennedie*, brother to the lait flayne *Barguic*, to be assitand to him, in daylie ambushes, for *the Erles death*; whairin, not prevailling, in respect of the Erles power and circumspectionn; at last, *Auchindrane*, determining rather to overthrow honour, promes, conscience, and all bandis of dewtie, nor³ to mis' sum fort of reuenge; he concludit to Murthour the before named *Sir Thomas of Cullayne*, ane mater most easie to be atcheved; becaus the Gentilman wes, in his owne confait, fullie secured of all parrell fra thair factioun, for that he had abstained from assisting his nevew *the Erle* in his querrell aganis *Barguic*, alswell becaus he wes godfather to *Gilbert Kennedie of Barguic*, as that his mother and the Erles grandmother be his father, wes ane dochter of the howfe of *Barguic*; Which respectis, making him exceidinglie to regrait thair vnaturall inimitie, he thought it more agreabill to his dewtie to referre him selfe neutrall, in thir vnappie dissentions of his kinsmen; thairby, to watche occasionis and referre equal credit and trust of bothe pairties, to be ane instrument of thair reconciliatioun, nor be his kyndnes to one of his kinsmen, be vnaturall and vndewtiful to the vther.

In this estait, being onlie intentive to his owne adois,⁴ whilk in the moneth of, in the yeir of God,⁵ did requyre his resort to Edinburghe, thair to consult with his lawers in his wechliche busines; he send his seruand to Maybole, to seek *Auchindrane*, and aduertise him of his purpose; with direction, if he missed him thair, that he fould certifie him, be Letter, of his intended journey; to the effect *Auchindrane* might, vpon the next day, meet him vpon the way, at, and informe him of any thing he wald with him to do for him in Edinburghe, seing it wes bot ane travell for him to do his freindis busines and his owne. This seruand of *Cullaynes*, missing *Auchindrane* in Maybole, defyred *Mr Robert Mure scholenaister at Maybole*, to wryte ane Letter of that substance to *Auchindrane*; who did so, and sent it be ane boy of his schole, called *Williame Dalcumhill*, who finding *Auchindrane* at his house of *Auchindrane*, with his cusing, *Walter Mure of Cloncaird*, ane deidlie ennemie to *the Erle of Cressilis*; so fone as he fand him selfe certified of *Cullaynes* pourpose and dyet, he dismissed the boy, commanding him to returne bak in hait, cairing the Letter with him; directing him farther to sehaw to his maister and *Cullayne's* man, that he had not fund him at his howfe; And immediatlie thairefter, resolved with his cusing *Cloncaird*, that this occasion of reuenge of *Barguic's* Slaucher, be *Cullaynes* Murthour, wes nocht to be omelipped; And, efter sum deliberatioun, concluded vpon the choise of the actours, and manner of the execution; making aduertement thairof, alswell by Letter sent to *Thomas Kennedie of Drumergukie*, be *Mohadam*, futeman to *Young Auchindrane*, as by message to *Cloncaird*; who, finding *Thomas* most redlie to embrace that opportunitie, the said *Thomas Kennedie*, *Walter Mure of Cloncaird*, and foure or fyve seruandis with thame, weill armed and horsed, conveying thame selfis neir the way appoynted be *Cullaynes* Letter, for his meeting with *Auchindrane*, did lye at await, till *Cullaynes* by-cumming; who, being in full securitie of his dangerles estait, ryding vponne ane palling naig,⁶ and having with him ane seruand onlie, thay suddennlie surpyred him, and with thair pistoles and snourdis gaue him ane number of deedlie woundis:

¹ Than. ² See a full account of these proceedings in 'THE HISTORIE OF THE KENNEDYS' before referred to— and also ORIGINAL PAPERS in this Appendix. ³ Rather than be deprived of some sort of revenge against the name of Kennedy. ⁴ Affairs; concerns. ⁵ 11th May, 1602. ⁶ A palling, a muling nag; a hackney, for his journey; not a swift and powerful horse, by which he might possibly have escaped. See 'The Historie of the Kennedys,'

And, nocht content to haue fo barbaroullie and traitroullie bereft him of his lyfe, fpoyled him of ane thowfand merk of gold, being in his purfe, ane number of golden buttonis vpon his coat, and fum ringis and vther jonallis: For the which villanous act, the actual *Mourthouraris* being firft outlawed and thairefter forfalted, and *Auchindrane*, vpoun vehement prefumptions of his deuyfe and caufing execute fo execrabil ane cryme, being fummond to vnderly the law, did bouldlie compeir: And feing that the perfewaris, for want of fufficient evidences, wer not than to adventure his Tryell, fearing that he might be cleugd,¹ and fo, perpetuallie fred of that cryme; when he faw them adiourne thair perfute, he feemed greived thairat, as bragging exceidinglie of his innocencie, whairof he had gevin prouf, be offering him felf to tryell of law, if thair wer within the kingdome any man of *Collaynes* kindred or freindfchip, who wald advow² him any wayes participant of the deuyfe or execution of that Murthour, he wald reddelie offer him felf in that querrell to the tryell of *COMBAT* to the death: And fo, wanting ane pairtie,³ wes difmiffed; more frie, in the perfuafion of the molt pairt of fuche as wer present, nor in his owne confcience, whilk geiving him many alarmes, that fo long as *Dalrumpill*, who wes carrier of the Letter, wes within the cuntry, the mater might be difcovered be him. Heiring that *Young Collayne*, fone to Sir Thomas Kennedie, had begun to try him verie rudelie, *Auchindrane* drew *Dalrumpill* to his houfe, and kepted him cloife, be the fpace of nyne or ten onlkis;⁴ whairwith the boy weiring exceidinglie, he fent him thairefter to the *Ile of Arrane*, to the *Laird of Skelmurlic*,⁵ his great freind, willing him to keip him as ane boy of *Thomas Kennedie of Drumryghies*: Whair he being refaued and reteaned ane long fpace, the boy, finding him felf neglected and vnprouyded of many needfaris, returned to *Manctown*, to the houfe of ane vncl of his owne;⁶ which came no foner to *Auchindrane*s knowledge, bot incontinent he fent for him to his houfe of *Auchindrane*, whair he of new kept him cloife, whill, be paction with ane of his coufingis, called *James Mure of Flect*, he fent him to *Leith*, to be tranfported to the *Low-cuntries*, to ferue as ane fodgeour in the *Lord Balcleuchis Regiment*;⁷ hoping that he might either thair end his life, be fuche accidentis as daylie befallis to fouldiouris, or at leaft be fecure from difcouerie or perfute of fuche as he did itand in feare off. But when the fenfeles blindnes of his confcience had gevin fentence of perpetual fecuritie to him from all difcouerie of his abominabil tranfgreffion, in refpect of *Dalrumpillis* abfence, be the fpace of fyve or fax yeiris; the ey of Goddis iuflice, whilk never fleipis, convoyed him back to *Aire*, the place of his natuetic, whar, hauing onlie itayed with his mother and fifter ane night or two, he did adrefs himfelf to *Auchindrane*, who, aduerted of his returning, and thairby flinged with fearfull tormentis of confcience, he tuke ordour for *Dalrumpillis* ftay in the howfe of his feruand, *Walter Mure of Glenheid*: And the next day, in the afternoone, being the . . . day of September, in the yeir of God . . .⁸ he fent his houfhald feruand, *James Cuninghame*, to bring him to him; and reconcounting with thame, in his way from his houfe of *Auchindrane* to ane vther howfe of his, called *Ballachtowle*,⁹ him felf and his fone, *Young Auchindrane*, had conference with *Dalrumpill* ane great pairt of the way, till they came near the Houfe of *Chapeltonan*,¹⁰ pertaining, by inheritance, to *Auchindrane*, and poffeffed be his tennent and allye,¹¹ *James Bannatyne*, with whom they left that night *Williane Dalrumpill*, calling him be ane changed name, *Williane Montgomerie*: Whair he itayed all the next day, whill, be directioun of *Auld Auchindrane*, *James Bannatyne* did bring *Dalrumpill*, about ten a clok in the night, to the *Sands of Girvan*, whair *Johne Mure*, elder of *Auchindrane*, and *James Mure*, younger of *Auchindrane*, wer attending¹² thair cuming: At meeting, *Auld Auchindrane* began to declare to his man *Bannatyne* that he

¹ Literally cleansed; acquitted. ² Avow; openly challenge. ³ Pursuer or prosecutor. ⁴ Weeks. ⁵ Sir Robert Montgomery.

⁶ He married Margaret, eldest daughter of the Laird of Drumlanrig, Sir William Douglas, and served in the Wars of Maurice, Prince of Orange, against the Spaniards. For his singular merit and services, he was, Mar. 16, 1606, created Lord Scott of Buccleuch, being the first person of that celebrated Family who had been ennobled. His son, Walter, second Lord Scott of Buccleuch, also commanded a Regiment in the service of the States of Holland, and was created Earl of Buccleuch, Lord Whitebester, and Eskdale, Mar. 16, 1619.

⁷ Sir Walter Scott, who raised a regiment of his name, and served in the Wars of Maurice, Prince of Orange, against the Spaniards. For his singular merit and services, he was, Mar. 16, 1606, created Lord Scott of Buccleuch, being the first person of that celebrated Family who had been ennobled. His son, Walter, second Lord Scott of Buccleuch, also commanded a Regiment in the service of the States of Holland, and was created Earl of Buccleuch, Lord Whitebester, and Eskdale, Mar. 16, 1619.

⁸ Situated near Girvan. ⁹ Situated about a mile and a half from Girvan, on the sea-shore. ¹⁰ 1607.

¹¹ Kiniansman to his wyfe' is deleted, and 'allye' interlined. ¹² Waiting. Fr. attendre.

had bene in perpetuall feare, since *Cullaynes Slaughter*, to be difcouered as guiltie thair of;—that for efchewing that danger, he had fet furth of the cuntry this *Dalrumpill*, who brocht to him the Letter of aduertisement of Cullaynes dyet; and whan as he had materis at that poynt, as be his traucils,¹ *Young Cullayne* and *Thomas Kennedie* wer maid to allow of the conditionis whilk he had fet downe for reconciliatioun of thair querrell, for the Murthour of Cullaynes father, this man wes vnhapplie returned, be whom his whole deuyfe wald be difapoynted, and his danger renewed. That he saw no remed bot to red *Dalrumpill* furth of this lyfe, since he could not vtherways be kept out of his way. Whairvnto *Bannatyne* making anfuer, that it wes ane cruel pourpofe to Murthour the poure innocent youth, speciallie feing thay might fend him to *Ireland*, to be faillie keiped thair, till the agriance wes perfytted betuix *Cullayne* and *Dramrryquhie*: Auld Auchindrane fened to inelyne sumwhat to that expedient; and in the uncertainty of his resolution, turning towards the pairt whar his sone fluid, of pourpofe, as appeired, to have consulted with him, *Young Auchindrane* perfaued thame no sone (draw) neir, bot, thairby assuring himself of thair affilance, in execution of that whilk his father and he had formerlie concluded, he did violentie inuade *Dalrumpill*, rushed him to the ground, and never left him till, helped by his father, with his handis and kneis he had strangled him. And then, thinking to have buried him in *the Sandis*, whirby no mark fould remayne² whilk might raise any suspition of his Murthour, in that place, thay preaded to mak vse of ane spead and schoule whilk *Young Auchindrane* had brocht with him for the pourpofe; bot finding that no hole wes sone caffin be thame in the Sand, bot wes alfone filled agane with the water and sand that schot in it, thay wer forced, efter lang travell, to draw him in the sea, alsfar as they durst wade, hoping that ane vtterlie wind³ fould carie his deid corps to *the Coast of Ireland*: Whilk not succeeding according to thair expectatioun, the corps staving all the nixt day in the verie place whar they left it, they passed that day in meruelous anxietie, for feir of difcouerie; till the nixt night, searcheing the corps to have buried it, they could not, be any searche, find it, becaus the wynd had carried it to the Sea, whair it wes tolld continuoullie be the space of fyve nychtis, till the Fryday following, that God, deinceing (*deigning*) to vse that meane, for manifestation of thair hid iniquities, brocht *Dalrumpills* corps bak to the verie place whair, sex or seven dayis before, he had been Murthoured: Whilk being perfaued be sum cuntry peopill, the corps wes cairied be thame to the nixt Church yeird, and thair buried.

Bot the report of so strange ane accident, having raised suspition in *the Erle of Cassilis* and sum of his freindis, who had heard of *Dalrumpills* returning in the cuntry, that it might be he had part in that turne, it wes thocht fit be the Erle and dyneris of the Ministrie⁴ of that bonndis, that intimation fould publictie be maid in Aire, being the heid burgh of the schyre, and at the Paroche-Kirkis to landward, that siche ane corps, being fund deid vpon the coast, wes to be sene at *the Church of Givran*. Whilk being accordinglie publictied, the corps wes raised, and amongs vtheris, fighted be *Dalrumpills* mother and his *ffister*, who efter diligent consideration of the propotion and markis of his bodie, assured thame selfis and vtheris, that he wes the murthered man! The opinion of *Auchindrane*s guiltines of that Murthour becam so vnuerfall, as it began to be talked of amongs his owne seruandis and in his owne houe, and thairby himself, his sone, and thair man *Bannatyne*, so confused, as thay knew not how to cleir thame self of that vyldie imputation; till going to Aire, and meitting with *James Dalrumpill*,⁵ cusing germane to *Young Auchindrane*, by his mother, he did informe thame of the schamefull opinion wes had of thair guiltines of that foule Murthour; advyng thame, that feing it wes not faif for thame, to offer thame selfis to the Tryell of Law, for ane Murthour, whair of all men thocht thame to guiltie; and if thay, being challenged be *the Erle of Cassilis*, fould be fugitive for so haynous a cryme, thair freindis could not with credit do for thame.⁶ It was ffiter, that they fould kill *Hew Kennedie* of *Garrickhorn*, seruant to the Erle of Cassilis, for dyneris proba-

¹ Pains; trouble.² By burying him within the flood-mark; so that, on the reflux of the tide, all marks of the struggle and foot-marks, &c. might be effaced.³ An off-shore or outward wind.⁴ Clergy; Ministers.⁵ 'Sisteris sone to the Lady Auchindrane, and so cusing,' deleted.⁶ Support or maintain them, while fugitive.

bill querrellis whilk they had against him : Whairof the ocaſion did preſentlie offer, in reſpect of his being ſingill¹ *in Aire* ; whilk being done, they might ever pretend, that the danger of that crime, and feir of the rigour of the Erle, wes the onlie cauſ for the whilk they wer fugitiue ! In whilk caſe, nevertheles, thair freinds might, without reproche, do for thame ; becauſ, albeit the fact wes vnlauffull, it wes not diſhoneſt, ſince it proceeded vpon profeſſed querrelis, and might be done publictie ; and ſo, they be fugitiue, without infamie ! They preſentlie imbraſed the expedient, and providing thame ſelfis of piſtoles and vther armour, they invaded Gariehorne,² ſchott thair piſtoles, and ved all vther meanes to have killed him. Bot finding, that it wes ane mater more diſcillic, to ouirthrow ane gentilmann, armed with gude courage, in ane lauffull deſenſe, nor³ to Murthour innocent men, voyde of apprehenſion of danger and meanes of defence, all that they reported of that inuaſion, wes ane hurt of Young Auchindrane in his right hand, whairby he became almoſt lame of it.

Be this new iniurie, THE ERLE OF CASSILLIS perſeuing that thair lyves wald end, before thair mallice aganis him ſould diminith, he reſolued to ſtrengthen him ſelf be all ſuche advantage as Law ſould giue him ; and hauing chalenged thame bothe for the *Murthour of Dalrympill*, and for the Inuaſion of his ſeruand with prohibitt vapinis,⁴ they go to the horne⁵ profeſſing alwayes, that if thair vſing piſtoles aganis *Gariehorne* might be remitted to thame, they wald ever be reddie to enter and abyde Tryell of *Dalrumpillis Murthour*. Bot his Maieſtie, being trewlie informed of thir proceedingis, efter ſerious conſideratioun of the circumſtances, than conſeued fo conſtant ane opinion of Auchindrane and his ſones guiltines of Dalrumpillis Murthour, that he aſſured him ſelf, that if they wer tane and dewlie examined, they wald vndoutedlie be brocht to confeſs it. And thairby, inſpyred with his accuſtomed zeale to iuſtice, gave ſecret Commiſſioun to the Erle of Abercorne, that he wald not omit ony ocaſion to apprehend thoſe ſuſpected perſonis ; whairin the Erles diligence had ſo gud ſucces, that within ſchort ſpace, he did reuonquer and tak *Auld Auchindrane*, and enter him priſoner in the Towbuth of Edinburgh ; whairof, heſ ſone had no ſoner knowledge, bot imagining with him ſelf, that it wer eaſie for his father and him ſelf to conceal thair crymes, be obſtinat ſecrecie, if *Dannatye* ſould not be brocht, by examination and confrontation, to reueale the treuth and diſcredit thair denyall ; he inſtantly raid to *Bollintree*, whair *Dannatye* wes for the tyme, perſuaded him, for all thair ſaifties, to retire to *Ireland* ; and proyded and furneiſſed him with victuallis and neceſſariz, ane bot⁶ for his tranſport, recommended him, by his Letteris, to his vncl *Thomas Kennedie of Drumergulie*,⁷ gave him aſſurance that be his abſence, he ſould not tak any proſeitt of the land quhilk he had of thame, nor no vther help, whilk they wer abill to mak to him. And be *Dannatyes* remove, becoming confident, did ſuſpend his Horningis, be cautious for his comperance to vuderly law ; deſyring no thing ſo muche as that he might be precipitatlie put to ane Aſſyſe ; vpon hope, that the lak of verification, in ane mater ſo claudeſtine and obſcure, and the aſſiſtance of his great and gude freinds, ſould procure to him vndouted abſolutioun⁸ and thairby, being frie of all dangeris of law, wald be more abill to procure his flatheris libertie and declaratioun of his innocencie. Bot, being anis entered, examined, and vpon great caution⁹ lett to libertie, and thairefter his cautioner chairged to re-enter him, he, remitting no jote of his former confidence, compeired the day appoynted, and being than re-examinat, and be the commendabill induſtrie of my *Lord Chancellor*, and vtheris of the Counſall, appoynted for his Tryall, drawne in ſtun materiall contrarietie ; vpon ſignification thairof to his Maieſtie, directioun wes returned, that not oulie he ſould be reteaned, bot if he wer obſtinat, ſould be coerced, *be Tortour*, to diſcouer the trewth ! Whilk being accordingly performed, be thoſe of his Maieſties Counſall, to whois ſecrecie and faith that chairge wes committed ; the *Young Auchindrane*, pairthie confirmed be the ſtreuth of his great courage, vnhappelie beſtowed in

¹ Single ; unaccompanied.

² Hew Kennedie of Gariehorne, called in the Act of Secret Council, Feb. 5, 1602, *The Guſtman of the Bullat*, probably from being Leſsee or *tackſman* of that farm.

³ Than.

⁴ *Hoppinuis*, weapons, which were by Act of Parliament prohibited from being uſed by private gentlemen, excepting in his Maieſty's ſervice.

⁵ Permit themſelves to be denounced rebels and put to the horn, by virtue of Letters of Horning paſſing under the Signet, rather than preſent themſelves for trial, as was preuſly arranged.

⁶ Boat.

⁷ One of the forfeited murderers of Sir Thomas Kennedy.

⁸ Acquittal. Lat. *absolere*.

⁹ Bail ; ſecurity.

pruiffis of that kynd, and pairtie be the craftie adryfes and aduerteiments of his ffather, convoyed to him be the counfile of fum thair welwillaris, who take the advantage of the cairelefines of thair keiparis; he did endure the extremitie of that inferfabill torment, with fuche confurance, that whairas, it was hoped that the veritie of the accusation and extremitie of payne fould have forced him to ane trew Confeflion, the event proved fo far contrarie, as he refolving, with filence, and fouffrance of ane fchort payne, to redeme his libertie, and to adde the hope of many yeiris to his lyfe.

The moft pairt of thofe who hard of the event of that Tryall, the forme whairof was muche miflyked, did confaue fo confiant opinion of his innocencie, as not onlie the vulgar fort did publeis the fame, and regrait the extraordinary rigour vfed aganis him, bot fum Nobilmen and Counfallouris did affitt his Supplicationis for his libertie, alledgeing many reafonis, why, with reafon, it could not be refused him: That ane man of his birth and qualitie had refused hard anench meafour, being *put to Tortour* for ane cryme whilk nather did concerne his Maiefties perfone nor efcit, albeit, efter fo gude pruf of his innocencie, be his fingular confurance in fuftering that tryell; whilk no thing could have refuted, bot the integritie of ane vnfotted confcience; he fould not be ouercharged with ane fecund oppreffion, in denying to him his natue and lafull libertie; fince he did offer either to vndergo prefent tryell, or, if his enemies did rather chufe, to prorogat it to ane tyme more fit for thame, he was content to find caution, not vnder the pane of ane thoufand merkis prefcryved be Act of Parleme to ane man of his efcit, bot, for removing of all fcruple of his not compeirance, he fould bind his freindis vnder the payne of *Twentie Thoufand poundis* for his re-entrie, whanfoever he fould be charged to that effect: Which was fo oft requyred and vehememently preafled, that my Lord Chancellor, ouerum with the continuall importunitie of *Young Auchindranes* favouraris, did yeild, that aduerteifment fould go from the Counfall to *HIS MAIESTIE*, of *Auchindranes* fate, and of the inclination of ane great pairt of the Counfall to yeild to the fam. Whairwith, his Maieftie, no whit diverted from his former refolution, fignified his pleafour to be, that in no caice, nor vpon no condicoun, he fould have any libertie; being refolved in his confcience, that he was moft guiltie of that Mourthour; and that God, in his iuftice and appoynted tyme, wald manifet the fam: Whairby, my Lord Chancellor, ftrengthened be the expref Warrant of his Maiefties directioun, proceeding of his Royall motiue and certain knowledge, did fo dewlie obey his Maiefties command, that many tymes thairefter, whan the moft pairt of the Counfall, abufed with vntrew probabilities, and inclining to muche prepofterous pitie, did preafs that *Young Auchindranes* Supplication might be red and refaue anfeuir from the Counfall, be the voices of the moft pairt of thofe who wer prefent, according to the inftitution thairof and cuttume inviolabile obferued.

My Lord Chancellor, perfaving, be thair vttering of thais preconfaued opinions, that he pluralitie of voces it wald be ordaned that libertie fould be granted to *Auchindrane*, vpon caution, vnder great fowmes for his re-entrie whan he fould be charged; did oppone to thair opinioun, grounded vpon the viual forme of that iudicatour, his Maiefties expres commandement, proceeding from his abfolute Royall power, whilk he wald never bring in queftioun, fince no man could deny that his Maieftie, vpon cautes knowne to him felf, might commit and reteane in waerde any of his fubiectis, who in his confcience he knew to differre the fam; and that it was prefumption to his fubiectis, fpeciallie Counfallouris, any wayes to conteft in that poynt, efter his Maiefties laufull pleafour fo oft and fo expreflie declared.

My nobill Lord, it wer heir verie eafie for me to iuftife the courfe of *HIS MAIESTIES* proceeding in this particular, and not onlie refute the poplar error of the prefumptuous multitude, bot alfo, with infallibill reafonis, to condemn the vntymous pitie of fum of better fort, nather remembering the obligatioun of thair place, nor the pruiffis of fo many bypall accidents, whairin his Maieftie, voyde of all paffioun and particular,¹ and onlie moved by confcience, and loue of iuftice, had fumwhat diuerted from

¹ Partiality; bias, or leaning to the *quarrel* or caufe of either of the parties.

the common path of ordinar Justice, without respect to popular murmour; so let the world to see, in end, be his most notabill conclusionis, how his purposes, tending to vpartiaill Justice, wer assisted by the fauour of God, and be heauenlie inspirationis, conducted to endis, confortabill, and almost miraculous! Bot, becaus I falbe more abill perfitile to performe that pairt, whan in the end of this actioun I falbe strenghtened by the credit of ane faithfull and conscionabill Affyse, and muche more by the Confessioun of the parties, extorted by the power and Prouidence of God, I will referue it that place; and following furth the course of this Narratiue, subioyne thairto the Judicial Procedure and Sentence, whilk was never thought to be in the way of any probabill expectatioun, till *the Erle of Abercorne*, by secret and instant dealling with sum of his freindis in *Ireland*, fand meanis to tak *James Bannatyne*, and bring him to Scotland, to his howse of Paislay; whair *Bannatyne*, efter the reherfall of all that Tragedie of *Dalrumpills Murthour*, having subioyned the maner of his owne taking, whairin he seimed to acclame sum promeis, maid for the saistie of his lyfe: The Erle did forthwith judge that dealling, so contrare to his honour and his Maiesties intention, as he instantlie assured *Bannatyne*, that he never did intend to have him vpon any futche conditionis. Bot being vnwilling that when he should be presented to justice, he should reproche to him the brek of condicion maid by any whom he had employed for his apprehensioun, whairby the heararis might tak libertie, either to beleve or not beleve *Bannatyne's* affirmatioun, and thairby bring his honour in questiou; he gaue to him libertie to go frie out of his howse, with assurance, that for the space of ten dayes he should be vnperfewed by him or any of his, geving him space to provyde for his saistie, either within this realme, or by removing furth thairfor; aduerteing him thairwithall, that that terme being expyred, he wald below his owne travels and the assistance of all the friendis he had in the world to apprehend him, whairever he might be had, either quick or dead! So *Bannatyne*, being left to ane bodelie libertie, whilk neuer fred him of terrour of conscience, and fear of death, allwell in respect of the fuorde of his Maiesties Justice hanging about his head, as that endles peruse, whilk he knew *the Erle of Abercorne* did intend against him; bot most of all, in respect of his knowledge, that *Auchindrane* had, of lait, devyded and practeifed many meanes to cause *Murthour* him in *Ireland*, thairby to prevent the danger quhill *Bannatynes* Confessioun might bring vpon him, if, be falling in *the Erle of Abercornes* handis, he should have bene brought to Ed; examined and confronted with him and his sone: Being also informed, that whan *Young Auchindrane* caused deale with *the Erle of Dumbar* for his libertie, he had offered that his cautioneris should bring *Bannatyne* in, *either quick or deid!* The Erle had verie judiciouslie answered, that he did well believe that *Young Auchindrane*, being frie, wald vnfaynedlie do his best to bring in *Bannatynes* head, whairof for his part he wald be sorie, as losing one of the best meanis of the discouerie of thair guiltines, whairof he in his conscience was resolued! Thir consideratiounis did force *Bannatyne* to prostrat him self at the Countalls feet, offering him self, without any condition, to reveill the whole treuth of that *Murthour*, and to verifie all that he should say in *Auchindrane* and his sonis face; hoping, by the assistance of Gods guile Spirit, to bring thame to ane Confessioun of that vdenyabill treuth; onlie craiving, that if the Counfall fand him trew in all his speachis, and to be ane meanes to discouer the wickednes of these men, who, having drawn him vnappellie in the participation of thair mischief, had so ingratelie and wickedlie devyded to *Murthour* him self, thar Lordschips wald be pleased to recommend him to the Kingis mercie, whois pleafour he should joyfullie fulfill, wer it in his lyfe or in his death!

He was commanded to mak ane trew Narration of *the maner of Dalrumpills death*; whilk being writt be the Clerk of Counfall, and *Auld Auchindrane* brought in and examined and confronted with him, and being contrare to him in all the poyntis of his Deposition; afferming impudentlie, that *Bannatyne* was seduced and conduced be his vnfreindis (*enemies*), for desyre of his lyfe and landis, to avow these vntreuthis vpon him. Thay wer so directlie opposite to vtheris, as *Auchindrane* appeared more craftie and *Bannatyne* more simple and trew in his Deposition; bot bothe of thame so confident, that not

oullie evrie ane of thame mentaned their owne Declaratione; bot whare as Bannatyne had profrat him self vpon his kneis, and directing his eyes and handis to Heaven, had, with tearis, exhorted Auchindrane 'to have remorse of his great wickednes, and to confes that Murthour, whilk God wald not suffer him any longer to conceale! Assuring him, that if he had bene innocout of that cryme, all the land of the Kindome, se¹ the faittie of his owne lyfe, fould never have persuaded them (him) to preiudge his mailter, who he had fo deirlic loved and followed in many dangeris, whairin he had adventured his lyfe and estait, without feir or respect of the bell subiectis in the contrie.'—AUCHINDRANE answered, that he hoped God wald nocht fo reiect him, as to permit him to confes fo infamous vntrewth of him self, and douted not bot God wald move Bannatyne to beir wintes to his innocencie, and how, be what perones and meanes, he had been seduced falltie to accuse him!

Whairby, the Countfall, being broglt in admiration² of fo great obstinacie, and hoping that the sone, being confronted with *Bannatyne*, might be fund perhappis let's confident: When they wer broglt in thair prefence, and examined, confronted, re-examined, and tryed, he all the best meanes that the experience or judgement of wyfe and well affected Countfalousis could affurd; nothing wes hard bot direct contrarities, confidentlie confirmed be execrabil oathes! So dyceris whole dayes being spent in Examination of these pairties, and many Witnellis who wer thought any wayes abill to furceis light to this obscure caise.

At last, whan no hope of any farther discouerie wes expected, THE LORDIS OF SECREIT COUNSALL concluded, that vpon the . . . day of July instant, these perones fould be put to thair TRYALL: And for that pouropose caused Summond ane sufficient number of Gentilmen of gud report, to pas vpon thair ASSYSE; and did lykwayes appoynt my Lords President,³ Secretar,⁴ Justice Clark,⁵ Meidhop,⁶ Killyth,⁷ and Wrightilland,⁸ to be ASSESSOURIS to the Justice in this singular cause, whairin the inclination of the proppell wes fo faourabill to *Auchindrane* and *his sone*, that verie many did allege, that it wes requirit that *Bannatyne* fould be first put to ane Assyse; and being convict, as of needlicke he behoued to be, in respect of his owne Confessioun, and Exeute to the death, as he had well desferred; his constant ratification vpon the scaffald of his former Depositionis, and seilling the fame with his blonde, at his death, might than put thame in sum opinion of *Auchindrane's* guiltines, whairfo vtherwayes they had never sene any appeirance. Bot the Lordis of Countfall, thinking it more agreabill to reason, that⁹ [thofe?] who wer thought all guiltie of ane fact, fould go to ane com [mon Assise?] and that the gentilmen of Assyse, whois confidences [might?] susteane the charge of the Judgement to be gerin in fo we [ightie?] a cause, fould have all the thrie Defendaris at ones in thair prefence, that fo thairby they might be resolued of whatsoever they fould think fit to demand of thame. Thair Lordschipis followed thair first ordonnance, and vpon the said [17th] day of Julie, efter ellivin a clok, cumming to the ordinar place of Judgement, did cause bring the Defendaris from thair feneral prisonis to the bar, whair Sir Thomas Hamilton of Byres, Knight, his Maiefties Aduocat, compeiring as persewar, did exhibit ane DITTAY aganis the saidis Defendaris, desyring my LORD JUSTICE to put thame to the Tryall of ane Assyse; who, intending no wayes to preiudge the Defendaris of the benefite of Law, gave to thame libertie to name thofe whom they desyred to be forefpeakeris¹⁰ for thame in thair defence; who naming¹¹ [Mr Johne Russell, Aduocat, Mr Thomas Nicolfone, Aduocat, and Joseph Myller, Aduocat,] they wer presentlie called be thair names; and having accepted vpon thame the Defense of the *Lairdis of Auchindrane*, elder and younger, the Dittay wes oppinlie red in judgement: Aganis which *James Bannatyne* did not oppone any thing; bot declared, that as he wald not vie any defence why this mater fould nocht pas to the knowledge of ane Assyse; fo when the

¹ Yea. ² Astonishment. ³ Sir John Preston of Fenton-barns, President of the Court of Session. ⁴ Sir Alexander Hay.

⁵ Sir John Cockburn of Ormiston. ⁶ Sir Alexander Drummond, an Extraordinary Lord of Session.

⁷ Sir William Levingston, an Extraordinary Lord of Session. ⁸ Sir Lewis Craig.

⁹ The MS. torn at this and the following places, which the Editor has supplied from conjecture, within brackets.

¹⁰ Counsel, or *Prelocutors*. ¹¹ Left blank. The names within brackets are taken from the Record.

Affyre could be chosen, he fuld mak thair burding light, granting in thair preference so muche of the Dittay as concerned him, albeit he tuke God to witnes, that he wes the maist innocent of the thrie.

Thairefter M^rs Johne Ruffell and Thomas Nicolffoun, having expoued to my Lord Justice the groundis of the cause, the qualitie of the Defenderis meriting favour and respect, the rigour vsed aganis thame in thair lang captivitie, and extraordinar Tortour of the young man, did craive, that thay might have the benefite of law, whilk allowed to the Defenderis citation vpon fiftene dayes warning; whairby, rellaving the Copie of the Summondis, containing the Inditement to the whilk thay wer to anfer, thay might, be that space, be advysit of thair wyfe freindis and learned Counfall, to prepare thair juste Defenss. Whairvnto it wes answered, be his Maiesties Aduocat, that thair desyre could not be granted in this cause, be reason, the crymes whairof thay wer to be accused wer treasonabill; in which caise, ane prisoner, being broglt from his Maiesteis prison to the bar, wes, be the ordour of this Judgement,¹ put to present Tryall, without any delay or continuation; whilk, with no reasons, could be granted to thame at this tyme; becaus, thrie yeiris ago, thay had bene fummoned for the same crymes, vpon xv dayes warning; at whilk tyme, they going to the horne, for thair contumacie, the Auld Laird wes takin be his Maiesties Commission, the Young Laird relaxing his [Summondis and entering] had bene deteaned be his Maiesties direction; so that they had not onlie fyvetene dayes, bot full thrie yeires to prepare thair defenis.

The Defenderis than alledged, that the fummonds, produced be the Lord Aduocat, could not justlie feclude thame of thair desyre of delay, becaus the Dittay this day produced be him, wes fo different from the tenour of the ould Letteris, in many subtantiall heidis, and did fo aggravat the cryme, be many circumstances, nowayes mentioned in the former Letteris, that it wes easie to my Lord Justice and the Lord Assessoris to discerne, that no thing conteaned in the former Letteris, could have gotin thame information to prepare thair Defenss aganis the tenour of the Dittay now layd to thair charge, Which, being considered be the Lord Justice and Assessoris, and the auld Letteris and present Dittay exactlie conferred;² be Interlocoutour, thay ordained present proces, refusing to give the Defenderis any vther copie of the Dittay, or delay of proces, till the next day.³

II. PROCEEDINGS BEFORE THE PRIVY COUNCIL OF SCOTLAND, *in reference to the Feuds and Conflicts recorded in the preceding Trial, &c.*

(i.) WARRANT of Privy Council, (*Apud Edinburgh, Decimo tercio Decembris, 1601.*) commanding the Earl of Cassillis to set Mure of Auchindrane and others at liberty.

FORSAMEKILL as it is vnderstand to the Lordis of Secrete Counfall, that at the lait CONFLICT and Combat, quhilk hapnit and fell out betuix JOHNNE ERLE OF CASSILLIS, and certane his freindis, on the ane pairt; and GILBERT KENNEDY OF BARGANY, and certane his freindis, on the vther pairt, vpon the ellevint day of December instant; the said Erle tuik and apprehendit MURE OF AUCHINDRANE, DAVID KENNEDY of *Mauchfoun*, and certane vthers of the said Laird of Auchindrane and Barganyis fernandis; and presentlie hes thame in his custodie and keeping: And in respect of the Slanchter and bluid quhilk hapnit and fell out at the said Conflict, it is verie suspitious that the said personis sould be sufferit to remane in the powar and handis of the said Erle. THAIRFOIR, the saidis Lordis Ordanis Letteris to be direct, charginge the said *Erle of Cassillis* to desist and ceis fra all proceeding aganis the personis foirsaidis, tane and apprehendit be him at the said Conflict, be vertew of his office of Bailzerie, or of any powar or commissioun grantit to him for that effect; discharginge him

¹ The practice of this Tribunal. ² Collated; compared with each other. ³ Here the Narrative ends abruptly. As the Report of the Trial is so full, it is likely that the writer had abandoned his original intention of giving a report of the proceedings which took place at the Trial—but merely to resume his Narrative, and continue it down to the period of their execution. This, however, if ever completed, has unfortunately been kept out of the scrolls. An account of the subsequent conduct of these atrocious criminals between the period of their condemnation and execution, must have possessed great interest.

thair of and his office in that part : As alſua, chaîrging the ſaid Erle to cauſe ſett the ſaid *Laird of Auchinrane* and *David Kennedy of Maxwelltown*, and all vtheris perſonis tane be him at the ſaid Conflict, at frie libertie, within the town of Air, without ony violence or harme to be maid to thame be the way, within twentie four houris nixt efter the chaîrg; vnder the pane of rebellious, &c. And, gif he failz'e, &c., to denounce him rebell, &c.

(ii.) WARRANT of *Privy Council*, (*Apud Halyrudhouſ, quarto Februarij, 1607.*) to denounce JOHN MURE of *Auchinrane* and others.

SEDERUNT.

Lennox,	Fyvie,	Lowdown,	Kinlofs,	Previe feill,	Kilfyth,
Chancellor,	Vchiltrie,	Maifter of El-	Halyrudhouſ,	Admocat,	Tracqnair,
Angus,	Newbottle,	plingtoun,	Theſaurar,	Collectour,	Brunt-Iland,
Mar,	Spynie,	Rofs,	Comptrollar,	Clericus Regitri,	Sir Patrik Murray,
Wyntoun,	Roxburgh,	Dunkeld,	Juſtice-Clerk,	Elimolinar,	

ANENT oure ſouerane lordis Letteris, raîſed at the inſtance of Sir George Home of Spott, knyecht, his Maieſteis Theſaurer, and Mr Thomas Hammitoune of Dramcarne, his Maieſteis Aduocat, for his hienes enterfe : makand mentioun : That quhair, vpon the ellevint day of December iſtant, JOHN MURE of *Auchinrane*, Thomas Kennedy of Drummurech, Hew Kennedy of Beman, Walter Mure of Cloncard, Hector Kennedy in Bargany, John M'alexander in Auchingregane, Thomas M'alexander his broder, James Bamatyne in Chapeldouane, Johne Cathcart of Carlton, Johne Cathcart ſomger of Carlton, Johne Eccleis of Kildonane, Williame Irwing, Thomas Wallace ſeruitour to the Laird of Bargany, Johne M'alexander of Dalrooch, Thomas Dalrumpill brother to the Laird of Stair, Gilbert Kennedy in Pynnachir, Gilbert Ramfay ſeruitour to the Laird of Bargany, Moſes Lokhart brother to the Laird of Bar, David Kennedy in Maxvellome, Alexander Kennedy ſone to Hew Kennedy in Craigneill. Robert Kennedy ſeruitour to Walter Mure of Cloncard, Mairtene Willoun in Newwark, Robert Campbell in Carnychell, Williame Cauldwell of Lochirmoſs, Williame Kennedy in Garfer, Johne Mure of Craigkeane, Johne Mure in Quhytleys, Robert Wallace of Holmitoun, George Angus notar in Air, Symone Gilmour thair, Peter Hammitoun thair, Andro Kennedy thair, Henry Dalrumpill thair, Hew Kennedy thair, James Blair thair, Johne Blair thair, George Dunbar thair, George M'almont thair, James Dunbar thair, and . . . Kennedy cowpar thair, with convocatioun of his hienes leigis, to the nommer of . . . perſonis ; all bodin in feir of weir, with jakis, corlettis, ferrettis, lancis, and vtheris waponis, *inuiſiue*, and with muſcattis, haquebuttis, and piſtolettis, prohibitt to be worne be the lawis of this realme. Actis of Parliament and Secrete Counfall, come furth of the burgh of Air, towardis the town of Mayboill, reſolut and diſpoſitt to haue attemptit ſome heich interpryſe aganis JOHN ERLE OF CASSELLIS, in cais thay had found him vpon the feildis : LYKES AS, thay perſaving the ſaid Erle and ſome of his frendis and ſervandis to be vpon the feildis, beſyd the town of Mayboill, thay immediatlie ſet vpon thame, ſchoth and diſchaigitt a nommer of muſcattis, haquebuttis and piſtolettis amang thame, quhairwith thay flew vniq' . . . Spence, maifter of houſhold to the ſaid Erle, and hurt and woundit ſindrie vtheris of his ſervandis : Quhairthrow, as thay haue convocat his hienes leigis in armes, without powar or commiſſioun, ſua haue thay violat his hienes lawis and Actis of Parliament, maid aganis the beiring and weiring of haquebuttis and piſtolettis ; and with that, thay haue brokin his hienes peace, to the diſturbance and ſchaikin loſſe of the hail eſtait of that cuntrey, without remeid be prouydit. AND anent the chaîrg gevin to the ſaidis JOHN MURE OF AUCHINDRANE, &c. to haue compeirit perſonallie, beſoir the Kingis Maieſtie and Lordis of Secrete Counfall, at ane certane day bigane, to haue anſwerit to the premiſſe, and to haue vnderlyne ſic ordour as ſould haue bene tane thairant ; as alſua, tuicheing the obſervatioun of his hienes peace and keeping of gaid reull and quyetnes in the cuntrey, vnder the paine of rebellious and putting of thame to the horne : With certificatioun to thame, and (*if*) thay failzeit, Letteris ſould be direct *ſimpliter* to put

thame thairto : Lyke as at mair lenth is contenit in the said Letteris, executionis and indorfationis thair-
of. Qalilkis being callit, and the saidis Perfewaris compeirand perfonallie, and the saidis Johne Mure
of Auchindrane, &c. being of tymes callit and not compeirand, The Lordis of Secrete Counfall thair-
foir Ordains Letteris to be direct, to denunce thame rebellis, and put thame to the horne, and to
efcheit.

(iii.) DECRET OF ABSOLVITOR, (*Apud Haliruidhous, quinto Februarij, 1602.*) by the Privy
Council, in favor of JOHN EARL OF CASSILLIS and others, 'for convocatioun of his lieues
lieges, and beiring and weiring of haquebuttis and piftolettis, breking of his lieues peace.'

SEDERUNT.

Chancellor,	Fyvie,	Blantyre,	Secretar,	Prevey feill,	Kilfyth,
Ergyll,	Lowdown,	Haliruidhous,	Comptrollar,	Aduocat,	Sir Patrik Murray,
Angus,	Roxburgh,	Thefaurar,	Collectour,	Traequair,	Elimofinar.

ANENT ourre fouerane lordis Letteris, raifed at the instance of Sir George Home of Spot knycht,
hie lieues the faurer, and Mr Thomas Hammiltoun of Drumcaine, his Maiefties Aduocat, for his lie-
ues interell; makand mentioun : That quhair, vpon the ellevint day of December instant, JOHNE
ERLE OF CASSILLIS, Johne Corrie of Kelwod, Hew Kennedy of Penquhirry, Johne Daidfoun of
Barfalloch, Oliver Baird of Culleinzie, Patrik M'Ilveane elder of Gremmat, Johne M'Ilveane 3ounger
of Gremmat, Hew Kennedy of Garryhorne, vtherways callit *the Guidman of the Ballot*, George
Fergufoun of Thraif, Alexander Schaw tutour of Gremmat, Johne Mure of Wodland, Johne Mure of
Kingmarloch, Johne Dik of Barbeilbarie,¹ Hew Kennedy of Dangar, Anthonie Kennedy 3ounger of
Barfalloch, Johne Mure merchant in Mynyboill (Maybole), Quintene Crawford 3ounger of Silhill,
Johne Kennedy of Smetoun, Williame Kennedy of Turneberry, Johne Campbell in Barnefurd, Johne
Smyth 3ounger in Caffillis, Johne Calderwode in Girmeritoun, Johne Fultoune in Giltryhill, Johne
Fultoune in Mofend, Alexander Baxter porter, Williame Harlaw hagbutter, Robert Fultoune in Gil-
tryhill, Johne Fultoune in Barge-nnoch, Daid Fultoune his brother, Thomas Fultoune in Giltrie, Tho-
mas Wade in Caffillis, Quintene Tod in Caffillis, James Daidfoun in Burnemoith, Johne Daidfoun
his fone, Johne M'colme in M'colmeitoun, Johne Malcome in Blairbouy, Johne Bell in M'colmeitoun,
Thomas Mortoune in Caffillis, Johne Mortoun his broder thair, Johne M'cary thair, Johne Smyth in
Dalrumple-holme, Williame Huntar thair, James Corry in Bray of Dalrumple, Daid M'quhorta in
Batleward, William Campbell in Bra thair, Robert Cunynglame in Bateifoun, Johne Smyth in Drum-
goblis, &c.² all men, tennentis, fervandis, and proper dependaris vpon the said Erle, with convoca-
tioun of his Maiefties leigeis, to the nowmer of hundred perfonis, all bodin in feir of weir,
with jakis, steil-bonnetis, collettis, lancis, and vtheris waponis invafine, and with haquebuttis and
piftolettis, prohibite to be worne be the lawis of this realme and Actis of Parliamt; come in hoftile
and weirlyk maner furth of the toun of Mayboill, and lay at await for vni^q GILBERT KENNEDY of
Bargany, his freindis and fervandis, as thay wer comeing the hie way fra the burgh of Air towards
the said Lairdis awne duelling hous, and invadit and perfwit thame of thair lyffis, fecht and difchair-
git a nowmer of haquebuttis and piftolettis at thame, quhairwith findrie of the said Laird of Barga-
nyis company wer hurt and woundit; and at that fame tyme, thay fchamefullie, cruellie, and vmer-
cifulle *flew the said vni^q Gilbert Kennedy of Bargany* : QUHAIRTHROW, as thay haue convocat his
lieues liegeis in armes, without any lauchfull Warrant or authoritie, fua haue they violat his lieues
lawis and Actis of Parliamt maid aganis the beiring and weiring of haquebuttis and piftolettis, and
with that, thay haue brokin and difsoluit his lieues peace in that cuntrey; quhairby mony inconvi-
entis are lyke to fall out, to the trouble and difquyeting of the hail cuntrey, without remeid be pro-
vydit. AND anent the charge gevin to the saidis Johne Erle of Caffillis, *Capitane Johne Forrefter*,

¹ Barbestoune. ² A List of one hundred and thirty nowmer names follows. They are unnecessary to be inserted here, though they might no doubt be of some local interest. None of them are persons of rank.

Mr Cristopher Cokburne, Quintene Craufurd, Patrik Reidpeth, Williame Maitland, Williame Fleming, Alexander Forbes, houilhold-men to the said Erle, Anthone Kennedy younger of Balfcherloch, Arthour Kennedy his brother, Mr Williame Boyd, Andro Cuninghame, David Girvan, Thomas Kennedy, David Catcairt, Alexander Baxter, Williame Harlaw, David Craufurd, David Gray, John Blair, alms his houtholdmen and seruantis, John Corrie of Kelwode, Hew Kennedy of Penquiherry,¹ &c. to haue compeirit personallie : As alms aunt the chairege gevin to the said Erle of Castillis, to haue enterit and presentit the personis particularlie abone writtin befor the Kingis Maiestie and Lordis of Secreit Counfall at ane certane day bigane, to haue anferit to the premisses, and to haue vnderlyne sic ordour as fould haue bene taue thairanent ; as alms, tuicheing the obseruatioun of his hienes peace and keeping of guid ruell and quoyetes in the cuntrey, heirefter, vnder the paine of rebellious and putting of thame to the horne, with certificatioun to thame and² thay failzeit, Letteris fould be direct *simpliciter* to put thame thairto ; lyk as at mair lenth is contenit in the saidis Letteris, executionis, and indorfationis thairof. **QUHILKIS** being callit, and the saidis persewis compeirand personallie, and the said *John Erle of Castillis* being lykways personallie present, for him self, and in name of the remanent defendaris foirsaidis ; quha producit tua Commissiounis, subserynit be his Maiestie, and past his hienes Regitler and Signet : The ane aganis *Blouquhane younger*,³ Girvenmanis, Hew Kennedy of Bennan, Thomas his brother, and Walter Mure of Cloncard, quhais names ar inferit in the said Commissioun with his Maiestis awne hand, knawing thair misdeidis, geving powar to the said Erle of Castillis to convocat his hienes liegeis, and to searche, seik, tak, apprehend and persew, *with fyre and sword*, the personis abone writtin, and to weir haquebutis and piolettis to that effect ; as the said Commissioun, of the dait the nynt day of Julij, the zeir of God 1^m.Vj^e. and ane zeiris, at lenth beiris : And the vther Commissioun, direct to the said Erle, for the persute, taking, and apprehending of *Robert Gordoun of Barnerino*, Alexander Gordoun of the Hillis, Williame Mcneilie, Alexander M^rkie of Balfair, and Thomas Kennedy of Drummurely, as suspect gilty of Murthour, Oppressioun, and Reflett of Thift ; as in the said Commissioun, geving powar to the said Erle to convocat his hienes liegeis, assiege houffis, raise fyre, and persew the saidis personis with all extremite, and being dait the tuentie-ane day of July 1^m.Vj^e. and ane, at lenth is contenit : Be vertew of the quhilkis Commissiounis, the said Erle allegit, that he had lauchfullie proceedit in the hail action abone writtin, quhairvpon he wes accuset, seing the said *Thomas Kennedy of Drummurely* and the said *Walter Mure of Cloncard*, and dyuerie vtheris his Maiestis rebellis, vpon quhome the said Erle presentlie producit Horning deulie execute and regitrat, and quha standis zit at the horne vntrelaxt, wer present and vpon the grund with the said vmq^{re} *Gilbert Kennedy of Burgany*, the tyme foirtaid ; and the said Erle, being in executioun of his Maiestis Commissiounis, in searching and seiking of the said Thomas, and of the remanent personis thairin contenit, all that fell out in that mater wer lauchfull. **QUHAIUNTO** it wes anferit be the said Mr Thomas Hammiltoun, that the said s^{ti} Commissioun can be na Warrant nor authoritie to the said Erle ; becaus that lang befor the committing of the crymes abone writtin, quhairvpon he is now accusit, the same Commissioun wes dischaigrit be his Maiestie, for the hail personis thairin contenit, except Young Blairquhane ; and lauchfull intimatioun and publication wes maid to the said Erle of the said dischairage, lang befor the said tyme, viz. in the moneth of August lastbypast ; quhilk the said Aduocat referit to the said Erles aith : And sua, in respect of that dischairage, and that the said Laird of Blairquhane Younger wes not in company with the said Laird of Burgany the tyme foirsaid, the same Commissioun can be na Warrant to the said Erle : And as to the last Commissioun, it was anferit be the said Aduocat, that the same can be na sufficient Warrant to the said Erle ; becaus the same Commissioun wes not deulie regitrat aganis the said Thomas Kennedy of Drummurely, bot his name inferit thairin, lang efter the same wes past the Regitler

¹ Here the remainder of the names are repeated.² If.³ Blairquhan.

and Signet: And thair was na powar nor licence contentit in the said laft Commiffioun for beiring and weiring of hacquebuttis and piftolettis; and feing his Maiefties Register is the reull be the quihilk the said Commiffioun fould have bene directit, the fame can be na Warrant to the said Erle: Vnto the quihilk it wes replyit be the said Erle, that, albeit the first Commiffioun wes difchargeit aganis the hail perfonis contentit thairin, except *Young Blaquhane*, zit it ftude in full force and effect aganis him; and he being his Maiefties rebell, and contineuing difobedient to his Maieftie, and being a ordinary hantar and keipar of company with the said Laird of Bargany, oftymes ofbefoir and fenfyne, and fufpectit to haue bene with him that day, he had gude Warrant and powar to fearche him quabairener he mycht get knowlege of his being: And as to the said laft Commiffioun, it wes replyit be the said Erle that he had a fpecial Warrant and directioun fra his Maieftie, to the Keipar of the Register, to regifter the said Commiffioun, as it wes productit to the Register; quihilk Warrant he productit befor the saidis Lordis; fua that it was lauchfull to him to infert ony names thairin, quaba wer rebellis, or giltie of fic crymes, in his plefour: And albeit thair wes na mentioun maid in the laft Commiffioun of hacquebuttis and piftolettis, zit, in refpect of the first Commiffioun ftanding vntilfcharget, as said is, and that the laft Commiffioun gaif him powar to vse all weiryk ingyne quihilk he could denyfe for apprehenfioun of the perfonis thairin contentit, the execution of the fame, in forme and maner as it fell out, wes lauchfull: And forder, it wes replyit be the said Erle, that he being the ordinar Judge and Magiftrat of the cuntrey, and not a privat perfone, thair fould na fic difcharge haue bene purcheft quhill¹ first he had bene wairrit to the geving thairof, and that the perfonis, in quabis fauour the fame wes grantit, had gevin thair obedience to his Maieftie, and purgit thame felth of the Hornings quihilkis thay vnderlay. WITH the quihilkis Anfuers and Replyis, and dyuerfe vtheris the reffonis and allegatiouis of baith the saidis part-is, the Lordis of Secrete Counfell being weil and ryplie advyfet,—THE LORDIS of Secrete Counfall FINDIS and DECLAIRIS the tua Commiffiouis aboue written, productit be the said Erle, to be guid, valid, and fufficient; and that thairby he had gude powar and authoritie to fearche and feik the saidis perfonis, and vse the fame Commiffiouis. AND thairfor the saidis Lordis Affoilzeis² *fimpliciter* the saidis Defenderis fra that pairt of the saidis Letteris, tuicheing the convocatioun of his lieues liegeis, and beireing and weiring of hacquebuttis and piftolettis, and breking of his lieues peace: And Decernis thame quyte thairfra in all tyme comeing, and of all offence (that) may be impute to him in the vsing of the saidis Commiffiouis.

(iv.) ACT of Privy Council, *The Laird of Cullane againft Williame M^cPhadrik*.³

ANENT our foverane lordis Letteris, readit at the iustance of JAMES KENNEDY of Culzeane, making mention: That quhair, albeit his Maieftie, be the fpace of aucht yeiris fyne, maid and fet furth diuerfe edictis and Proclamatounis, prohibiting and difchargeing all his heynes leigeis, that name of thame fould reflet, fupple, nor intercommoun with *Thomas Kennedy*, *Thomas M^cAlexander*, *Thomas Wallace*, and *William Irving*, during the tyme of thair rebelloun and remaneing at the horne, for the odious, cruell, and deteftable Murthour of vmq⁴ Sir Thomas Kennedy of Culzeane, father to the said complepnair, committit be thame, in maner fpecificit in the said Proclamatoun, vnder certane panes mentionat thairintill. Nochtwithftanding, it is of treuth, that *William M^cPhedric*, fervitour to the Laird of Girvanmanis, hes continevallie, and almait ilk day fen the dait of the said Proclamatoun, aganis the tenour of the fame, reflett, fuppleit, and intercommounit with the said *Thomas M^cAlexander*, and remanent rebellis abouenamait, within his awin duelling houfe in Air; hes keptit mony tryttis and meetings with him, as namelie, vpon the xxvj Junij, 1^m.Vj. and aucht yeiris, the said *Thomas M^cAlexander* being in his dwelling hous in Air; and informatioun thairof being maid to JOHNNE ERLI of CASSILLIS and the said Complepnair, and thay haueing warrand, power, and commiffioun for the perfute of the said *Thomas M^cAlexander*, and being than vpon the feildis agaitward⁴ towards him, it is

¹ Until.

² Absolves; acquits.

³ *Regist. Secr. Conc. (Acta)*, Aug. 3, 1609.

⁴ On the road or *gait* to

apprehend him.

of treuth that the said William M^rPhedrice, being vpon the knowlege and counfall of the said Erll and the said Complenaryis said purpois aganis the said Thomas, he lap on horfe and convoyit him self fecritelic away to the said hors, quhair the said Thomas wes for the tyme, and thair intercommvnt with him, reveillit, and discloist vnto him the said purpois and plat layd down for his perfute: And that he mycht the more faultie eschew, the said William M^rphedrice horfit him on his awin horfe, and pat him away; in heich and proud contempt of his Maiesteis auctoritie and lawis. For the quhilk the said Williame aucht to be persewit and pynit in his persone and guidis, to the terrour of vtheris to commit the lyke heirafter. And anent the charge gevin to the said William M^rphedrice to haue compeirit personalie before the Lordis of Secrite Counfall this present thrid day of August instant, to haue anfuert to this complaint, and to haue hard and sene sic ordour tane thairanent, as appertent; vndir the pane of rebellion and puting of him to the horne: with certificatioun to him and¹ he failzet, Letteris fould be direct *simpliciter* to put him thairto; lyke as at mair lenth is contenit in the saidis Letteris, executionis, and indorfationis thairof; quhilkis being callit, and the said persewar compeirand personalie, and the said Defender being oftymes callit, and not compeirand, The Lordis of Secrite Counfall thairfor Ordanis Letteris to be direct to Officearis of armes, scribeis in that pairt, charginge thame to pas and denunce the said Williame M^rPhedrice his Maiesteis rebell, and to put him to the horne; and to eschete, &c.

(v.) ACT of Privy Council, *The Kingis Advocat against Johne Mure.*²

ANENT our fouerane lordis letteris, readit at the instance of Sir Thomas Hammiltoun of Bynnie, knycht, advocat to our fouerane lord, for his hienes interesse, makand mentioun: That quhair the cruell, unworthie, and detestabill Murthour of vng^l SIR THOMAS KENNEDY of *Cudzeane, knycht*, and of vng^l WILLIAME DALRUMPLE, sone to Williame Dalrumple in Aire, haueing thair mony zeiris bigane lyne obscure and hid, and no perfyte disconerie nor knowlege being had of these who er the cheiff and principall divisaris, practizaris, and conspiratoris in the same Murthour, the said Advocat is now informed that the persons following, thay ar to say, JOHNE MURE, cook in Auchindrane, *Thomas Wallace*, fermitour to Auchindrane, *Andro M^rAlexander*, sometyme fermitour to *James Bellindane*³ in Chapildonane, *James M^rcaig*, sone to Adam M^rcaig, in Girvaane, and *George Small*, in Plefance, doeth know something in that mater, and can gif some licht, evidence, and probable presumption and circumstanceis, for cleiring of the same: Quhairfore, necessar it is, that thay be examinat heiryvone, in presence of the Lordis of his heynes Preney Counfall. AND anent the charge gevin to the saidis Johne Mure, cook, Thomas Wallace, Andro M^rAlexander, James M^rcaig, and George Small, in Plefance, to haue compeirit personalie, befor the Lordis of Secrite Counfall, this present xx day of Junij instant, to haue anfuert to suche thingis as fould have bene speirit at thame tuteching the Murthour of the persons foirsaidis, vnder the pane of rebellion and puting of thame to the horne; with certificatioun, &c. The Lordis ordanis Letteris to be direct, &c., charginge to pas and denunce the said persons, who compeirit not, his Maiesteis rebellis, and put thame to the horne; and to eschete, &c.⁴

(vi.) SUSPENSIOUS, *James Bannatyne, in Chapeldonall.*⁵

ANENT our fouerane lordis Letteris, readit at the instance of *James Bannatyne in Chapeldonall*, makand mentioun, That quhair as, he is informed he is denuncit rebell and put to the horne, be vertue of Letteris, readit at the instance of *Johne Erll of Cassillis* and Sir Thomas Hammiltoun of Bynnie, kny^t, his Maiesteis Advocat for his heynes interesse, flor the complenair his alleiget not compeiring personalie before the Lordis of Secrite Counfall, at ane certain day bygane, to haue anfuert to ane complaint maid be the said Erll and Lord Advocat vpon him, tuteching his allegit beiring and weiring of

¹ An. if. ² *Reg. Secr. Conc. (Acta)*, Jun. 20, 1611. ³ Bannatyne. At this period the name Bannatyne was indifferently spelt, Ballendyne, Bellenden, Bannatyne, and Ballantyne. ⁴ A similar entry occurs, of the same date, to denounce THOMAS MURE, sone to (Johne) Mure of Auchindrayne, and ANDRO SINCLAR, halff-brother to the Laird of Auchindrane, for not appearing to answer at ane certain day bygane. ⁵ *Regist. Secr. Conc. (Acta)*, Sep. 27, 1611.

hagbuttis and pistolettis, and invading and perfewing of *Hew Kennedy of Garrithorne* and *Thomas M^equhary*, both feruitouris to the said Erl, and schooting and discharging of pistolettis at thame, &c. The Lords supended the said Letters, *simpliciter*, on the ground of Baunatyne's not having been cited to appear, &c.

III. PROCEEDINGS IN PARLIAMENT, *as to the Forfeiture of Thomas Kennedy of Drummurchie, for the Burning of Auchinsoall,—Murder of Sir Thomas Kennedy, &c.*

(i.) *The Forfallrie of Thomas Kennedie.*

Apr. 26, 1604.—STR THOMAS HAMILTONE, King's Advocate, took instruments of the Production of the Summons of Treason and executions, &c. in Parliament.¹

Jul. 11, 1604.—The Summons and other documents were again produced in Parliament,² which were of new verified in presence of the Lord Commissioner, (John Earl of Montrose,) and haill Eitaittis: And siclyk, the said Aduocat producit Lettres of Relaxatioun, relaxand the said *Thomas Kennedie* from all proces of Horning led and deduct aganis him, for quhatfumeuir cause. And thairefter, the said *Thomas Kennedie* being thryfte callit at the tolbuith windo, to haue answert to the said Summondis of Treafoun, he comperit nocht to anfer thairto, and thairfoir the said Aduocat (estir that the foirfaid caus of the said Summondis of Treafoun wes fundin relevant be the saidis haill Eitaittis aganis the said Thomas Kennedie of Drummurchie) flor preving of the pointis of the said Summondis of Treafoun aganis the said Thomas Kennedie, and of the reffoun and caus contenit thairin, repetit the Depositionnes of the Witnesfes refflauit, admittit, fworne, and examinat in prefens of the saidis haill Eitaittis vpon the foirfaid reffone and cause; and als repetit the notorieite of the fact of the Burning, and the said Thomas Kennedie acknowlegeing his awin guiltines, and taking of the saidis crymes vpon him, throw being fugitive and denuncit Rebelle for nocht comperance befor our said fonerane lordis Justice and Lordis of his hienes Privie Counfall *respectiue*, in maner contenit in the Lettres of Horning raist thairvpon: And lykways, the said Aduocat producit diuerse vtheris wryttis and probatiounes, for preving of the said Summondis of Treafoun, and desyrit the saidis Eitaittis of Parliament to advyfe the foirfaidis probatiounes, and to gif furth thair Dome and Sentence thairintill, according to justice. And thairefter, the foirfaidis haill probatiounis and Summondis of Treafoun being red, hard, sene and considerit be the saidis Eitaittis, and they thairwith being rpylle advyfit, the saidis haill Eitaittis of Parliament FINDIS, Decernis, and Declaris that the said Thomas Kennedie of Drummurchie hes committit TREASSOUN, in Raifing of the said Fyre, and Burning of the said Place of AUCHINSOULL, in maner speceifeit in the foirfaid Summondis: AND thairfoir, Decernis and Ordanis THE DOME vnderwrittin to be pronuncit and gevin furth aganis him, be the mouth of David Lyndefay, demppler: Off the quhilk Dome, the tennour followis.

DOME. This Courte of Parliament schawes for Law, that the said THOMAS KENNEDIE of Drummurchie hes committit Treafoun in Raifing of Fyre and Burning of the said Place of Auchinsoull, pertenying to the said Duncane Craufurde, the tyme and in maner speceifeit in the said Summondis of Treafoun, perfewit be his hienes said Aduocat, for his grace entres, aganis him: And thairfoir Findis and Declaris, That the said THOMAS KENNEDIE hes amittit, and tynt, and Foirfaltit for cuir, all his landis, heretages, rowmes, possessionis, gudis, and geir quhatfumeuir, belonging to him ony maner of way, and quhilkis he hes, had, nicht haue, or clame, within this Realme of Scotland: And Decernis the famin to haue appertenit and to appertene to our said fonerane lord, to be confiscat, and to remane with his hienes, as his propirtie, in all tyme cumming. And als Findis and Declaris, that the said THOMAS KENNEDIE hes amittit and tynt his fame, honouris, and dignitie: And he to be pvnit as ane Traitor, conforme to the Lawes of this realme. And this I gif for Dome.

¹ *Acta Parl.* iv. 260.

² *Acta Parl.* iv. 267.

(ii.) THE SUMMONDIS OF TRESSOUR *of em^{le}* WALTER MURE OF CLONCARDE, *past fru simpliciter*
*be our fouerane Lordis Aduocat.*¹

Jul. 11, 1604.—THE quihlk day Maister Thomas Rollok, depute for Sir Thomas Hammyltoun of Monkland, knycht, Aduocat to our fouerane Lord, and in his hienes name reproduct, in prefens of ane nobill and potent lord, Johne Erle of Montrose, Lord Grabame and Mukdok, Great Commissionar of this present Parliament, and in prefens of the haill Estaittis thairof, the Summondis of Treaffoun vnderwritin; quihlkis wer product be the said Aduocat, ofbefoir, at Edinburgh, in prefens of the Lordis of Articlis, vpon the tennor aucht day of Aprile lait bipast: Off the quihlk Summondis of Treaffoun the tennor followes.²

[SUMMONS OF TREASON *against Thomas Kennedy of Drummurchie and Walter Mure of Cloncarde.*³]

JACOBUS, Dei Gracia Rex Anglorum, Scotorum, Gallorum et Hibernorum, &c. Fideiique defensor: Dilectis nostris Leoni Regi Armorum, Albanie, Snawdown, Merchemont, Rothefay, Hay, Rofs, Bute, Carrik, Ormond, Vuicorne, signiferis; Daud Bryfoun, Robert Stewart, Alexandro Dowglas et Jacobo Chalmeris clauigeris nostris; necnon Joanni Fergusfoun et Joanni Wilkefoun nuncijs, et eorum cuilibet, coniunctim et diuim. Vobis precipimus et mandamus quatenus legitime summoneatis THOMAM KENNEDIE *de Drummurchie*, fratrem germanum quondam Gilberti Kennedie de Barganie, personaliter, si ejus personalem presentiam habere poteritis, seu aliter apud locum sui domicilij et habitacionis; ac etiam apud cruces forales burgorum nostrorum de Air, Irving, Mayboll ac apud portus nostros de Air et Leith, et alia loca necessaria, super premonitione sexaginta dierum, eo quod dictus Thomas de prefenti extra regnum nostrum Scotie morari dicitur. Necnon summoneatis legitime ROBERTUM MURE, fratrem germanum et heredem apparentem quondam *Walteri Mure de Cloncarde*, JOANETAM MURE eius sororem germanam, personaliter, si eorum personalem presentiam habere poteritis, vel secus apud locum suorum domiciliorum et habitacionis; ac etiam dictos Robertum et Jonetam alioque agnatos et cognatos dictj quondam Walterj Mure de Cloncard, omneque alios interesse habentes vel habere pretendentes, necnon Tutores et Curatores dictorum Robertj et Jonete Mures, si quos habent, apud dictos cruces forales dictorum burgorum nostrorum de Air, Irving, Mayboll, et alia loca necessaria, quod compareant coram nobis et nostris Commissionarijs et Locum tenentibus, necnon coram Regni nostri Scotie Ordinibus, Edinburgi, vicefimo die mensis Aprilis proxime futuri, in Parlamento nostro incipiendo decimo die dicti mensis, hora causarum, cum continuatione dierum; ad respondendum nobis, necnon ad instantiam dilecti et fidelis nostri consiliarij Domini Thome Hammyltoun de Monkland, militis, nostri Aduocati, pro nostro interesse, dictum viz. THOMAM KENNEDIE *de Drummurchie*, pro sua nefaria, sceleita, facinorosa, et proditoria Occisione et Interemptione quondam Thome Kennedie de Coiff militis⁴ per se suos complices et confortes secum conspiratores in dicto Homicidio, per summum nefas vt fequitur, perpetrato, vndecimo die mensis Maij, anno domini 1602: NECNON pro suo sceleito, nefario, et manifesto Furto, cum violenta rapina coniuncto, vulgariter vocat. *Stuth-reiff*, marsupij seu crumene dicti quondam Thome Kennedie de Coiff militis, cum magna pecunie summa auro et argento signato, summam duorum millium mercarum extenden. quam dictus quondam Thomas cum eo portabat; cum varijs annulis aureis, gemmatis et alijs, ac multis fibulis aureis diploidi tunice et femoralibus dicti quondam Thome confutis, ad valorem mille librarum extenden. in ipso actu Homicidij perpetrat.: NECNON pro sua proditoria et nefaria Obsidione, per se et suos complices, ad numerum quinquaginta virorum armatorum, Mansionis et Maneriej terrarum de AUCHINSOULL, jacen. infra vicecomitatum nostrum de Air; ad quod, per occasionem subscriptam, dilecta consanguinea nostra JEANNA COMITISSA DE CASSELLIS, comitata septem vel octo feruis ac comitibus confugerat, salutis sue causa, cum dicta Domina Jeanna et eius ferui iter

¹ *Acta Parl.* IV. 271.

² Here the Summons which has already been given is inserted.

³ To prevent

repetition, this Summons (which is a transcript of the other against Drummurchie, with the additions relating to Cloncard) has been preferred.

⁴ A mistake for Cassilis. However, Sir Thomas was often so designed.

faceret a domicilio suo de INCHE in Gallouidia, versus aliud suum domicilium in Villa de MAYBOLL, in balliatu de Carrik et infra vicecomitatum nostrum de Air, decimo octavo die mensis Maij ultimo elapsi, 1603. ET PRO maleolo, crudeli, nefario, abhominabili, et fœcèlto Incendio Maneriej, in quod, causa evitandi periculi mortis, dicta Domina Jeanna Comitissa de Cassellis et ferui sui confugerunt; e qua manitione et manerie de Auchinfull, cum idem maneriem combustam essent vndique et confligaret, metu mortis vehementia flammarum et fumi egressi coacti sunt, vbi post egressum dicte Domine Joanne Comitissæ de Cassellis quondam HUGO KENNEDIE, frater germanus et heres apparens dilecti nostri confanguinej Joannis Comitissæ de Cassellis, Domini Kennedie, Joannes M'ilevane junior de Grwmnet, Joannes Dik de Barbastom, Andreas Cunynghame in Knokdone, Quintinus Craufurde, Robertus Hay, Willielmus Kennedie, ferui et comites dicte Comitissæ pro tempore, per dictum Thomam Kennedie de Drummurchie et suos complices captivi facti sunt, et vt infra dicitur abducti, et in privatis carceribus detenti. ET PROPTEREA, dictum Thomam ad videndum et audiendum se crimen Lese-Maieftatis per decretum et censuram nostri Parlamenti et regni Scotie Statuum incurrisse; et ideo, tanquam reum, Lese-Maieftatis puniri debere, capitali et ultimo supplicio; necnon amissione omnium bonorum suorum, mobilium et immobilium, terrarum et tenementorum, que dictus Thomas in regno nostro Scotie habet, habere, vel clamare poterit, in futurum. NECNON, dictos ROBERTUM MURE, fratrem germanum et heredem apparentem dicti quondam Walterij Mure de Cloncarde, et JONETAM MURE eius fororem germanam, omnesque alios cognatos et confanguineos dicti quondam Walteri, ac tutores et curatores dicti Roberti et Jonete, si quos habent, omnesque alios interesse habentes vel habere pretendentes, ad videndum et audiendum, per regni nostri Ordines in Parlamento nostro suprascripto decerni et declarari, quod dictus quondam Walterus Mure de Cloncarde fuit et est reus Lese-Maieftatis, vt qui fuit actor, factor, et perpetrator dicti criminum cum dicto Thoma Kennedie de Drummurchie modo et forma quibus infra dicitur. PRO QUIBUS eiusdam quondam Walteri memoria et fama damnari et aboleri debet, ac eius omnia bona mobilia et immobilia, terre, tenementa, et omnia alia que habuit in regno nostro Scotie, vel habere potuit, ad nos pertinere decerni debeat; et quod ab eisdem dictis Robertus frater et Joneta eius foror, omnesque alij ab eo defœcidentes, debent excludi imperpetuum, propter rationes et causas subsequentes. PROPTEREA quod in Parlamento nostro tento apud burgum nostrum de Edinburgh, in Scotia, vicefimo nono die mensis Julij, anno domini 1587, per nos et tres dicti nostri regni Ordines statutum est, quod si contigerit aliquem subditorum nostrorum dicti regni Scotie, qui habet terras sibi hereditarie pertinentes, viz. vt vulgare in dicto statuto dicitur *ony laudit man*, fore legitime et secundum juris ordinem, aliquo tempore post dictum statutum futuro, de manifesto furto et vi rapine admisso, id est *Stouth-reiff* esse convictos, incurrent propterea crimen et penam Lese-Maieftatis, hoc est omiffionem et forisfacturam vite, terrarum, et bonorum; prout in dicto statuto apertissime continetur. SED sic est in rei veritate, quod dictus THOMAS KENNEDIE de Drummurchie, et prefatus quondam WALTERUS MURE de Cloncarde, cum suis complicibus et confortibus, numero septem, armis, machinis bellicis, et scelopis, prohibitis et lege vetitis, instructi, et equis infidentes, dicto duodecimo die mensis Maij 1602, existentes Rebelles et ad cornu nostrum positi, prout per Literas nostras et denunciationem rebellionis clare constare poterit; et ex precogitata feloniam dictum Thomam Kennedie de Coiff militem, imparatum et non-opinaentem, ac iter facientem, vno seruo comitatum, a domicilio suo de Coiff versus dictum burgum nostrum de Air, ac inde profecturum Edinburgum negotiorum suorum gerendorum causa, apud Capellam Sanctj Leonardi nuncupat. dimidio miliaris a dicta Vrbe de Air distans, aggressi sunt, ac eundem invaserunt machinis bellicis ac lanceis transfixerunt et crudeliter occiderunt, et furto, rapina, et vi furtum comitante, id est le *Stouth-reif*, ex marsupio et crumena dicti quondam Thome Kennedie de Coiff predictam summam bis mille marcarum in auro signato, lie *Roj-nobillis*, et *Fyre-pund-peices*, *Angell-nobillis*, et *Portingall-doucattis*, violenter furati sunt et abstulerunt, cum varijs annulis, gemmatis, ac alijs, et multis fibulis anreis diploidi tunice et femoralibus dicti quondam Thome confutis, ad valorem mille librarum extenden. Pro quoquidem crimine, coram Iusticiario nostro vocati,

vt lege lubirent, contumaces facti Rebelles declarati sunt, et ad cornu nostrum positi, prout per Literas nostras et denunciationem rebellionis satis clare constare poterit. AC ETIAM statutum est, per aliud actum Parlamenti illustrissime memorie quondam Jacobi V. Scotorum Regis, avi nostri, tenti et inchoati, apud Edinburgh, vicefimo secundo Januarij, anno 1538, quod si quis combulerit aliquos in domibus suis, reus Lese-Majestatis erit: Ac etiam, quod omnes Combustiones domorum vel granarum, et omnia Incendia voluntaria seu malitiosa, fiant crimina Lese-Majestatis; idque in odium Incendiariorum, quos leges propter criminis atrocitatem feuerius plecti jubent; sicut in eodem statuto plenius continetur: Quodquidem statutum in Parlamento nostro tento apud Edinburgh, quinto die mensis Decembris, anno domini 1567, repetitum et renovatum est, idque merito crescente in regno nostro Incendiariorum numero et audacia; prout in dicto statuto posteriori latius continetur: SED sic est, quod dictus THOMAS KENNEDIE de *Drumurchie* et dictus quondam WALTERUS MURE de *Cloucarde*, comitati circiter quinquaginta armatis equitibus, per insidias obsiderunt iter dicte dilecte consanguinee nostre JEANNE COMITISSE DE CASSELLIS, proficiscentis e domicilio de Inche in Gallovidia, in vicecomitatu nostro de Wigton, versus aliud domicilium suum in Villa de Mayboll et ballatu nostro de Carrik et vicecomitatu de Air, die xvij' mensis Maij, anno domini 1603, et equis citatis in dictam dilectam nostram consanguineam, et eius seruos ac comites, impetum facientes, iter et viam publicam deferere, metu vite sue, compulerunt: Illa autem cum refugii causa versus Mansionem quandam de AUCHINSOWLL, quam tum inhabitabat *Duncanus Craufurde de Auchinsoell*, cum comitibus et seruis suis citatis equis accurreret; qui locus, cum ad esugium commodus videretur, et viderunt ex eo loco dilectam consanguineam nostram seruos et comites eius nisi domo incensa extrahi non posse, illico illato igni domum et eius ambitum vndique incenderunt, e qua crescente fumo et irrepentibus flammis, ad extremum periculum omnes redacti, in manus dictorum Latronum Incendiariorumque dilecta nostra consanguinea cum suis seruis et comitibus, deditione facta, captiui denerunt; ex quibus vnus, nomine Joannes M'grane, flammis superatus predictam domum combustam egressus praequam respirare potuerit, crudeliter et nefarie gladijs et machinis bellicis, a dictis Thoma et quondam Waltero et complicibus predictis crudeliter interfectus est: Ac reliqui comites dicte nostre consanguinee, viz. HUGO KENNEDY, frater germanus et heres apparens dicti dilecti nostri consanguinei et consiliarij Joannis domini de Cassellis, Joannes M'Ilveyane junior de Grvmett, Joannes Dik de Barbestoun, Andreas Cunyngghame de Knokdone, Quintinus Craufurde, Robertus Hay, Willelmus Kennedy, per dictos Latrones, Predones, et Incendiarios captiui facti sunt, et eorum arbitrio abductj, et per eos in domibus, fortalicijs, et Castris de Ardlinchell, et lie Coiff de Craignett, infra dictum vicecomitatum nostrum de Air, proditorie custoditi et detenti sunt, per dies quindecim, aut eo circiter: Nec ab illa captiuitate liberati et redempti fuerunt, donec per se et fidejussores suos obligarentur, quod dictum dilectum consanguineum nostrum Joannem Comitem de Cassellis, cui vt domino et hero suo ferrire tenebantur, omnino desererent, et si fecus facerent, magnam pecuniam futurum se promitterent, compulsi etiam diris seipso deonere, si contra fecissent: IN QVO, non solum Latrocinij, *Stuthreij*, Insidiationis viarum, ac proditorij Incendij crimine irritati sunt; sed etiam, proditorie Vnspationis auctoritatis nostre reus sese facerent. Ac vt hec omnia notoria fiant, idem Thomas Kennedie de Drumurchie ac dictus quondam Walterus Mure de Cloucarde vocati coram Dominis Secreti Consilij nostri respondendi predicto proditorio crimini Incendij et Captiouis dictarum liberarum personarum et liegiarum nostrorum et alijs supramentionatis, contumaces effecti sunt; Ac propterea etiam Rebelles nobis declarati et denunciati sunt; prout in Literis nostris, ea de re executioni mandatis, latius continetur. QUARE, dictus THOMAS KENNEDIE de *Drumurchie*, per Decretum et censuram Parlamenti nostri et regni nostri Ordium crimen Lese-Majestatis incurrisse decerni; et ideo, tanquam reus Lese-Majestatis puniri debet capitali et vltimo supplicio, necnon amissione omnium bonorum suorum, mobilium et immobilium, terrarum, et tenementorum, que dictus Thomas in regno nostro Scotie habet, vel clamare et habere poterit in futurum; ac etiam per dictum nostrum Parlamentum et regni nostri Ordines decerni et

declarari debet, quod dictus quondam WALTERUS MURE de *Cloncarde* fuit et est reus dicti criminis, Lese-Majestatis, vt qui fuerit actor, factor, et perpetrator dicti criminum respectiue supramentionat. cum dicto THOMA KENNEDY de Drummurclie, modo et forma antedicti. ; pro quibus, etiam eiusdem quondam Walteri memoria et fama aboleri et damnari debent ; ac etiam eius omnia bona, mobilia et immobilia, terre et tenementa, et omnia alia que habuit in regno nostro Scotie, vel habere vel clamare potuit, vel prefatus Robertvs et Joneta agnati, cognati, consanguinei, et omnes ab eo difcendentes, habere vel clamare poterunt, in futurum, ad nos pertinere decerni debent, et ab eisdem dictis Robertus nunc frater germanus et dicta Joneta foror germana dicti quondam Walteri, et omnes alii ab eo difcendentes, ascendentes, collaterales, et alii quicunque, excludi debent imperpetuum, propter rationes et causas suprascriptas ; intimando supradictis personis, et eorum cuilibet, respectiue, quod siue dictis die et loco cum continuatione dierum comparuerint, siue non, nos, dictusque noſter Iusticiarius in premissis, iusticia mediante, procedemus et procedet. INSUPER, citetis peremptorie, coram testibus, Alanum Cathcart de Drumjowan, Petrum Algeo feruum Magistri Jacobi Donaldſoun Aduocati, Danidem Craufurde, Alexandrum Craufurde seruos Domini de Kerfe, Duncanum Craufurde, Joannem Mure de Tarquyne,¹ Jacobum Martour in Knokdone, Gilbertum Mure de Auchinſoull, Gilbertum Kennedy de Monnifoun, Arthurum Kennedie filium Davidis Kennedie de Ballcherocbe, Joannem Wilſoun in Dalrumpill, Archibaldum Gellis eorum, Hugonem Kennedie de Garryhorne, Allanum Martir in Layne, Jacobum Gowdie in Lauderdall, Jacobum Martour in Traboyak, ad comparendum coram nobis dictone nostro Iusticiario, dictis die et loco, cum continuatione dierum, ad perhibendum fidele testimonium in causa predicta, sub pena legis. ET prefentes Literas debite executas et indorfatas eorumdem lateri reddatis. ET vos qui prefentes executi fueritis, sitis ibidem dictis die et loco, coram vobis seu dicto nostro Iusticiario, portantes vobiscum summationis vestre testimonia inscript. pro premissis vel ipsos testes. AD quod faciend. vobis et vestrum cuilibet, coniunctim et diuisum vicecomitibus nostris in hac parte, nostram committimus potestatem. DATUM sub testimonio nostri magni sigilli, apud Edinburgb, xiiij die Februarij 1604, et regni nostri Scotie tricesimo septimo, anno Anglie, Gallie et Hibernie primo.

THE quihlk Summondis, with the executionones and Indorfationes thairfor, wer producit be the said Sir Thomas Hammyltoun of Monkland knycht, Aduocat to oure souerane lord, in presens of the said Erle of Montrose, Great Commissionar of this present Parliament, and haill Estaittis of the said Parliament, first vpon the tuentie sext day of Aprile last bypast ; and thairefter the said wes producit in thair presens, and presens of the Lordis of Articlis, vpon the tuentie aucht day of the said moneth of Aprile last bypast : Vpon the quihlk tuentie aucht day of Aprile, the said Sir Thomas Hammyltoun, Aduocat to oure souerane lord, in his hienes name, past *simpliciter* fra the persute of the said ROBERT MURE, brother germane and apperant air to the said vmq^o Walter Mure of Cloncarde, and Jonet Mure his siller, and thair Tutouris and Curatouris, for thair interessis ; as also, past *simpliciter* frome the haill resones, haill pointis and articlis contenit in the said Summondis of Treaffoun, beiraud and contenand as is abowewrittin, sua far as the said extendis or may be extendit to the saidis Robert and Jonet Mures. Lyk as, also this instant day, in presens of my Lord Great Commissionar and haill Estaittis of Parliament, the said Sir Thomas Rollok, Aduocat depute, in absens of the said Sir Thomas Hammyltoun, principall Aduocate, lykwayes past *simpliciter* frome the persute of the saidis Robert and Jonet Mures, and thair saidis Tutouris and Curatouris for thair interessis ; and also past *simpliciter* frome the haill resones, haill pointis and articlis contenit in the said Summondis of Treaffoun, sua far as the said extendis or may be extendit to the saidis Robert and Jonet Mures, and thair saidis Tutouris and Curatouris : Lykas, the said Sir Thomas Hammyltoun, principall Aduocat foirsaid, vpon the said xxviij day of Aprile last bypast, had past *simpliciter* frome the saidin, of befoir, in presens of the saidis Lordis of Articles. Vpon the quihlkis haill premissis, the said Robert Mure, for himself and his said siller, askit Instruments.

¹ In *Act. Parl.* IV., 269, he is described Johne Mure de Carquhene.

IV. LORD FOUNTAINHALL'S *Abstract of the Case of Mure of Auchindrane*.¹

THE story of the fact is remarkable. AUCHINDRANE, having conceived a deadly feud against THE TUTOR OF CASSILLIS, comes one day to Maybole, with intention to kill him, assaulted him under night, thought to have killed him, had he not been rescued by some of his neighbours. For which fact, Auchindrane and his complices pass to the horne. (The Horning was produced by the Advocat.) At length, this enmity was taken away, not only by publick and sworn reconciliation, but also by marriage of the said *Auchindrane's* eldest sone on the *Tutor's* daughter. After which, the *Tutor* lived with *Auchindrane* in all friendship, truth, and assurance imaginable. And going in to Edinburgh, and willing to do *Auchindrane's* busines there, as well as his owne, he caused his man leve at the *School-maister of Air* his house, a Letter for *Auchindrane*, signifying that he was going for Edinburgh to-morrow, and would gladly meet with him at the West end of Air, at the Duppils, or² he went. This advertisement was sent with a schoolboy called WILLIAM DALRIMPLE, who delivered it to old Auchindrane, sitting with *Walter Mure of Cloncaid*; who, immediately upon his reading of it, sent back the boy, and entreated him to say, that he had neither got him, nor delivered him the Letter. Then, resolved with the said *Walter*, to advertise THOMAS KENNEDY of *Drumurchy* of the certainty of *Culzain's* journey, and the way he intended to ride; advising him to use that occasione to revenge himselfe on him. The advertisement, with this advice, (he) sends with on³ *Maccadam*, as is clearly proven by the Deposition of Witnesses. *Drumurchy*, by the advertisement, counsell, and instigation forsaide, waies the gentleman, in the place he had tryed⁴ *Auchindrane*; and most treasonably murders him. Wherefor,⁵ *Drumurchy* stands forfaitured by Act of Parliament.

He, having turned fugitive, was much assisted and supported by *Auchindrane*; who, fearing that discovery of his accession to the said treasonable Murder might be made by the said *William Dalruple*; to eschew it, caused him first to be secretly conveyed to his house, where he kept him long quiet; at last, sent him to Arran, to the *Laird of Skelmorly*. After some tyme, returning from thence, he sent him away with one that was going to the wars in Flanders, hoping he should never see him againe. Where, having stayed some tyme, the boy longed to returne. Being returned, and *Auchindrane* getting notice thereof, he was troubled—immediately fetched him to his house, and put him with one JAMES BANNATYNE, in *Chapeldonald*, his tenment; whom he caused fetch him with him to THE SANDS OF GIRVAN, at 10 a'clock of even; where they murdered him, and throw him in the Sea, so far as they could waid.

This treasonable Murder, with all its circumstances, is most clearly made out, by the Depositions of Witnesses, who also deposed of a special friendship after that, pretended to the said *James Bannatyne*; so that they gave him a life-rent Take⁶ of *Chapeldonald*. Then they persuaded him to go out of the way to Ireland, giving him a Letter of recommendation to *Drumurchy*: And after he was there, he lacked for nothing. Frequent correspondence betwixt him and *Auchindrane* and his wyfe: Then, caused *James Cunningham*, his servant ther, who knew of their concealing of *William Dalruple*, absent himself, for eschewing of tryall. Also, the *Lady Auchindrane*, for the same reason, absented herself.—Proven by Witnesses, that *Auld Auchindrane* would have hyred *James Pennycaick* to go to Ireland, and ther to murder *Bannatyne*.—Then he wrote to *Stairs*, that because he was bruted for the slaughter of *William Dalruple*, he was willing to transact with him therfor.⁷

¹ From *Fount. Abstract of Books of Adjournal*, MS. Adv. Library. It was thought proper to preserve the account given by this eminent Lawyer;—but at same time, it appears unnecessary to point out to the reader in how many particulars his *traditional* Account differs from the Record; which renders it probable that his lordship wrote from memory, or noted down the facts from reports then prevalent. ² Before; ere. ³ One. ⁴ Appointed to meet. ⁵ For which fact. ⁶ Tack; lease. ⁷ That is, he was willing to enter into terms of compromise with the relations of the deceased. As they were not wealthy, he considered he could, through the mediation of their Chief, the Laird of Stairs or Dalruple, easily bribe them to silence; or so as either to procure from them

'Letters of Slais'; or at all events, get them to abstain from prosecuting him and his son for the Murder.

All which are so clear evidences and manifest probations, as could hardly be expected, in so covered and crafty Murthiers.

V. ILLUSTRATIONS *relative to the POPULAR SUPERSTITION of touching the Corpse of a Murdered person, as an ORDEAL or TEST for the discovery of the Innocence or Guilt of suspected Murderers.*

(1.) OPINIONS *entertained by the Ancients on the subject of the Blood.*

FROM the earliest periods of History, sacred and profane, it appears to have been the general opinion of mankind, in all Nations, that the soul, as well as the vital principle, *had their existence in the blood.* This idea was greatly strengthened by the strong and repeated testimonies afforded in the Sacred Scriptures, under the Mosaic dispensation; where it is expressly laid down, as an undeniable principle, that THE BLOOD, with the spirits therein contained, is *the seat and support of life*¹ Without multiplying quotations from the Pentateuch, which are extremely numerous, it is enough for the purpose of this enquiry, to instance the frequent injunctions of Moses to the Children of Israel, *to abstain from blood.* One of the most remarkable of these passages is, ‘*Blood with THE LIFE thereof, which is THE BLOOD thereof, shall ye not eat;*’²—and the same injunction was repeated throughout the Law of Moses, in almost every various form, which the wisdom and sagacity of the Legislator could devise. It is not unworthy of remark, that the early Christians strictly observed this command, which had been repeated by the Apostles, to abstain from ‘*things strangled, and from blood.*’ This Divine command having been given to the Jews, in the subordinate instance of abstaining from the blood of the lower animals, in making use of their flesh for the ordinary purpose of food, it was by no means unnatural that they should have thence concluded, that THE LIFE or vital principle resided in the blood *after Death*, even after its particles were apparently dissolved, and after the whole mass had returned into its native dust.

A similar opinion is to be found in *Lucretius*³ and other profane writers, as *Empedocles*, *Critias*, &c. who held that THE SOUL *was a suffusion of blood about the heart*—and consequently, that *it is the blood itself.*⁴ According to this opinion, *Homer* gives death the epithet, *purple*: *πορφύρεος θάνατος*.—*Iliad*, v. 5, 83;—*Virgil* likewise alludes to it: ‘*Purpuream vomit ille animam.*’—*Æneid* ix., v. 349. ‘*Undantoque animam diffundit in arma cruore.*’—*Æneid* x., v. ult. Nor are we without frequent instances of this in our English poets. *Milton* says of Abel,

‘He fell, and deadly pale,

Groan’d out his soul with gushing blood diffus’d.’

Sir Robert Blackmore also has the following passage:

‘Gasping he lay, and from the grisly wound
The crimson life ebb’d out upon the ground.’

Lee, in the tragedy of *Nero*:

‘With many a wound she made her bosom gay;
Her wounds, like floodgates, did themselves display,
Through which life ran in purple streams away.’

And *Cowley*, *David* 4:

‘His life for ever spilt, stain’d all the grass around.’

It was likewise a very early popular opinion, among profane Greek and Latin authors, that the blood

¹ *Gen.* ix. 4. See also *Levit.* &c. *passim.*

² In modern times, that highly distinguished physician, HARVEY, the discoverer of the circulation of the blood, maintained the hypothesis, that *the blood was actually possessed of a living principle*, and that the life of the whole body is derived from it; in which opinion he was supported by the celebrated Mr *John Hunter*, and other anatomists and physicians of eminence. It would be foreign to the subject of this Notice to enter minutely into the opinions of modern writers, who are extremely divided upon the point. ³ ‘That they know well, the soul consists in blood.’ *Creech’s Lucret.* B. iii. p. 43. ⁴ *Aristotle de Anima*, lib. I. c. 2; *Cicero*, *Tuscul.* I; *Macrobius* on the dream of *Scipio*, lib. I. c. 14; *Tertullian* of the Soul, cap. 4.

springs naturally towards that part whence a blow is received¹—and they also affirmed that the soul pursued with enmity a Murderer of the body.² In conformity with this latter idea, we find that *the blood*, according to the ancients, and especially the Jews, was figuratively, but most emphatically, represented as *criying to Heaven for vengeance!*—and that that cry could only be appeased by the shedding of the blood of the Murderer. In the powerful language of Holy Writ, the Almighty, when denouncing Cain, the first murderer, is represented as exclaiming to him, ‘*The voice of thy brother’s BLOOD crieth unto me from the ground!*’

Accordingly, in pursuance of this sentiment, the Jews had an *Avenger of blood*, who was the next of kin to the murdered person—and whose awful, but imperious, duty it was, relentlessly to pursue the Murderer to the death.

There is no doubt that this ancient opinion of *the life being in the blood*, continued to be entertained by THE EARLY CHRISTIANS of the Western Churches of Europe, so late as the tenth century. An able writer³ asserts, that ‘the Holy Church throughout the world did, in its first and purest, and even in the darker ages of the tenth century, or later, observe and keep the precept to abstain from eating blood—and that the Churches of the East and of the South, to this day, reproach the Western Church with the violation of this Apostolical constitution.’ On this point it may likewise be remarked, that *Tertullian* is said to have written in defence of the doctrine, that the soul was *indissolubly* connected with the blood.

From these few scattered hints, the application of the doctrine to the instance in question appears to be natural and easy. The *soul* of a murdered man was considered to linger about the *body* until the Murderer could be convicted, and his blood shed to appease the *manes* of the deceased. According to the remains of this superstitious principle, which are still to be traced in modern times, in various countries, but especially in Great Britain and Ireland, and in Germany, &c., the prevailing idea was, that (even after the blood was dried up and the corpse decayed and mouldered into a mere skeleton, nay, though disjointed into separate bones and fragments) the TOUCH or PRESENCE of the MURDERER would act upon these decayed relics, and that *the life* or blood would, upon Appeal being made, return to manifest the Murderer.

A very curious instance of this branch of the superstition has been preserved by Sir WALTER SCOTT,⁴ who, in an early work, relates the circumstances in his usual felicitous manner:—‘Two young men, going a-fishing in the river Yarrow, fell out; and so high ran the quarrel, that the one, in a fit of passion, stabbed the other to the heart with a fish-spear. Astonished at the rash act, he hesitated whether to fly, give himself up to justice, or conceal the crime; and, in the end, fixed on the latter expedient, burying the body of his friend very deep in the Sands. As the meeting had been accidental, he was never suspected, although a visible change was observed in his behaviour, from quiety to a settled melancholy. Time passed on, for the space of *fifty years*; when a smith, fishing near the same place, discovered an uncommon and curious *bone*, which he put in his pocket, and afterwards showed to some people in his smithy. The Murderer being present, now an old white-headed man, leaning on his staff, desired a sight of the little bone. But how horrible was the issue! *No sooner had he touched it, than it streamed with purple blood!* Being told where it was found, he confessed the crime, was condemned, but was prevented, by death, from suffering the punishment due to his offence.’

(2.) INSTITUTION of the BAHR-RECHT or LAW OF THE BIER, and FORM of the CEREMONIAL.

THERE cannot be a doubt that, from very early times, TESTS or ORDEALS were instituted by the common consent of almost all Nations, for the detection of hidden and atrocious cases of Murder, which had baffled all the ordinary methods of judicial scrutiny. The mysterious doctrines taught by the Metaphysicians of the dark ages, on the subject of an *universal sympathy* and *antipathy* existing in nature, would lead those who believed in their theories to approve of such an obvious Test as that

¹ See quotation from *Lucretius*, ‘*Idque petit corpus,*’ &c. in *Del Rio’s* and *De L’Ancre’s* notices.

² *Plato*, &c.

³ Dr Deacon.

⁴ *Minstrelsy of the Scottish Border*, II. 423.

of compelling suspected persons to come forward and *touch the murdered corpse*—and accordingly, the *BAHR-RECHT*, or *LAW OF THE BIER*, was early recognized, even by Judicial authority, throughout all civilized Europe. It is extremely probable, that such a striking ceremonial as that just referred to, would first be seized upon by the Clergy; for it would tend, in a great measure, to strengthen their own hands, while it would also promote the interests of ‘Holy Mother Church;’ and, at the same time, the almost miraculous discovery of secret crimes would directly lead a superstitious and ignorant people to give God the glory, and to ascribe to His immediate presence and intervention, the detection and subsequent punishment of the Murderer.

Perhaps it may be premised, that, properly speaking, the recognized ORDEALS or Appeals to the immediate interposition of God, being what was termed the *Vulgaris Purgatio*, or *Judicium Dei*, were the *Judicium Ferri calidi*, *Aque*, et *Ignis*, i. e. Trials by RED-HOT IRON, FIRE, and WATER. In process of time, the JUDICIAL COMBAT, the ORDEAL OF THE CROSS,¹ and the CROSSED,² or consecrated bread and cheese, were added to the other Appeals. In the East, no less than *nine* Ordeals are still in use, viz. the Balance, the Fire-ordeal, the Water-ordeal, the Poison-ordeal, Trial by the Cosha or three draughts of consecrated water, the Rice-ordeal, the Ordeal by hot oil, the Ordeal by a red-hot Iron ball or lance-head, the Ordeal by Dharmach, or drawing forth from a jar of certain Images, cloth, &c. Amongst all these various forms, the touching of a Murdered corpse is not reckoned as a proper Ordeal; but, as will be immediately shown, it was adopted and recognized as a Test, or popular Ordeal, both on the authority of the Church and of the Criminal Tribunals of civilized Europe.

In regard to THE FORM OF THE CEREMONIAL, it must have been extremely imposing; and especially, when regulated by the Church, who increased the otherwise solemn spectacle by Processions, the exhibition of their holy relics, lighted tapers, and all the usual machinery of the Romish Church, was admirably calculated to have inspired the guilty mind of the already conscience-struck Criminal with awe and terror, and eventually compel him to confess his enormous crimes, in the face of the assembly.

The mangled body of the murdered person was stretched upon a bier, covered with a fair linen cloth, and placed before the High-Altar; when, after a procession of Priests hymning an anthem, the suspected person was conducted forward to the High-Altar, where, after performing his devotions, the face of the deceased was uncovered before him. He was then called upon to place one hand upon the mortal wound, and often the other upon the mouth of the deceased—and, in that posture, to invoke Heaven to attest his innocence—at the same time calling down its curses and instant vengeance on his head, should he, after such asseverations, be guilty. If, on his approaching the body, or during the above ceremo-

¹ Two pieces of wood were prepared exactly like each other; but on one of them was the form of the Cross. Both being wrapped up in fine wool, were laid on the altar, and after prayers, &c., a Priest approached the Altar, and took up one piece, which if it proved to be that on which the Cross was cut, the accused was found innocent. Other solemnities, unnecessary to be noted, also took place. ² This primitive Ordeal was thus performed. A piece of barley bread and a piece of cheese were laid upon the Altar; and, after various Prayers, at length the Priest fervently petitioned, that ‘if the party accused was guilty, God would send his angel *Gabriel* to stop his throat, that he might not be able to swallow that food.’ This ended, the accused advanced to the Altar, took up the bread and cheese, and commenced eating. If he swallowed deliberately and freely, he was declared innocent—but if he could not swallow them, he was pronounced guilty! This coincides with the Eastern Ordeal of the Rice, &c., and originates in this well-known circumstance, that persons labouring under violent mental excitement, such as accusation of a crime of which they are *conscious of guilt*, are, in a great measure, deprived of the natural supply of *saliva* necessary for the process of mastication and deglutition; and, consequently, it would generally happen, that the strong mental struggle under which the accused was suffering, would be the means of preventing his fulfilling, what, at first sight, appears so foolish and simple a Test. It is hardly necessary to remind the reader, that barley bread which has been baked for several hours, requires a considerable quantity of liquid to enable one to swallow it. The pungency of the cheese would act as a sufficient stimulant to assist an innocent person who was required to undergo this Ordeal; but would merely increase the confusion and hasten the discomfiture of one whose mouth was already parched with conscious fear and remorse. It was almost universally noticed, that *the guilty* greedily snatched large mouthfuls, under the mistaken idea of getting sooner over with it!—and that usually a second or a third attempt to swallow produced cough and constant choking, so as to force them to desist, and either to confess their crime, or permit sentence to be passed against them in silence. On the other hand, *innocent* persons leisurely ate the portion given them, with little or no inconvenience. It will be found, upon examination, that many similar Ordeals and rites proceeded on the like minute knowledge of natural causes.

nial, the blood should gush from the mouth, nostrils, or wound—this was held sufficient evidence of his guilt.

The reader may here be reminded, that the Ceremony, thus shortly and imperfectly described, was only reserved for *extreme cases*, where all legal proof had failed; and where there was strong circumstantial evidence to implicate the party accused, either as ‘guilty actor, art, or part’ of the Murder. It is impossible to state precisely what Nation first practised this Ordeal,—but it was obviously founded on a deep knowledge of human nature. Few even of the most hardened and practised villains could have undergone such a Test unmoved; and when it is considered that the act was performed in the presence of the Judges, Clergy, and the accusers, it would generally be easy to distinguish between the confusion of an innocent person accused of the crime, and the terror and conscience-struck countenance and demeanour of the Murderer; and even should he have nerve enough to brave the worst part of this severe Ordeal, his very confidence and studied boldness would prove the means of his detection. The accidental bleeding of the corpse, also, might overthrow the assumed courage of the Murderer,—and, in fact, was often the means of producing the most abject Confession of the crime; and compelled the recreant felon to utter cries for mercy, which even *the torture* had failed to extort.

Nothing can so well illustrate this remarkable Ceremonial, as the following powerful passage from the pen of the greatest living writer of this age, who has bestowed much attention on such subjects; and has done more towards the elucidation of the manners, customs, and superstitions of this country than any preceding author. ‘The eastern window, richly and variously painted, streamed down a torrent of chequered light upon the high altar. On the bier placed before it were stretched the mortal remains of the murdered man; his arms folded on his breast, and his palms joined together, with the fingers pointed upwards, as if the senseless clay was itself appealing to Heaven for vengeance against those who had violently divorced the immortal spirit from its mangled tenement. The face was bare, as were the breast and arms. The rest of the corpse was shrouded in a winding-sheet of the finest linen, so that, if the blood should flow from any place which was covered, it could not fail to be instantly manifest. He paused before the Bier, and his voice faltered, as he swore by all that was created in six days and six nights, by Heaven, by Hell, by his part of Paradise, and by the God and author of all, that he was free and sackless of the bloody deed done upon the Corpse before which he stood, and on whose breast he made the sign of the Cross, in evidence of the Appeal. No consequences ensued. The body remained stiff, as before. The curdled wounds gave no sign of blood.’¹

Another writer, to whom the Antiquities and History of England has been vastly indebted for the large stores of information rescued by him from sources which may be termed as generally inaccessible, even to the great bulk of antiquaries, has, in a posthumous work, professedly undertaken for the purpose of illustrating the Superstitious observance now under consideration, embodied the result of his enquiries in the following striking passage.²

‘BARON. At thy request th’ Ordeal is prepared:
I grant thee this appeal! What, though it claims
With me no faith? By custom authorized,
Let it be made. At least, this good results,
We better satisfy the common mind.

BENEDICT. Experience, good my Lord, has often proved

¹ Sir Walter Scott’s *Fair Maid of Perth*, vol. ii. p. 306.

² Strutt’s *Test of Guilt, or Traits of Ancient Superstition*; Quarto, Lond. 1808, p. 79;—a posthumous work of the celebrated English Antiquary, Joseph Strutt, published by his son. Unfortunately Mr Strutt did not live to compose the notes which he had intended to prepare illustrative of this remarkable subject, which would have put the Public in possession of all that was worthy of knowing about it. As it is, the Editor has done his best to pave the way, by providing materials for some abler and more successful Antiquary doing justice to such an enquiry, in a regular treatise.

That Providence, in such Appeals as these,
 Has manifested suddenly its power,
 And struck the guilty mind with sharp remorse—
 Enforced confession—or abash'd the heart,
 That, coward-like, th' offender has shrunk back
 Confused, and manifested signs of guilt
 Too plain to be mistaken.

BAR. I, indeed,
 Have heard such tales.—Well, Father, then proceed.

BEN. Before the holy Altar lies the corpse—
 Here let th' accused come—and come with him
 All his accusers—no exception made:
 They all must touch the body. 'Tis with us
 To scrutinize with care each countenance—
 For then 'twill be an index of the heart,
 Unless the heart be callous to all good,
 Devoid of feeling, nay, be changed to stone.

BAR. Proceed—and may success clear up my doubt!
 But miracles, I ween, are out of date.

BEN. Let young Fitzhugh approach—and bring with him
 All his accusers.—Now begin the rites.

[A procession of priests, singing a dirge—and when ranged on both sides of the altar, conclude with a chorus.]

BEN. HENRY FITZHUGH, come forward!—Touch the corpse—
 May Holy Saints protect the innocent!

HENRY. Thy mangled body, Dorothy, I touch—
 And make, with all my soul, Appeal to Heaven!
 Ah! could those ghastly wounds bot speak, they would
 Proclaim mine innocence!—But I submit.

BEN. Pass on, my son.—You see, no change appears—
[Aside to the BARON.]
 Come forward, his accusers—and first, thou,

[To GRIM.]
 Most loud against him—touch, and make Appeal!
 GRIM. Why should I touch her? No! I will not yield
 To such fond Superstition!—I stand not
 Within the pale of accusation!—No!

BEN. What then can hinder thee to make Appeal?
 If thou be guiltless, Heaven is thy friend!

GRIM. Or friend or foe, I will not make Appeal!
 BEN. Thou art afraid.—Thy conscience is not clear!

GRIM. 'Tis false!—I'm innocent!—Well, if I must
 Join in the folly—What is to be done?

BEN. Look up to Heav'n, and touch the breathless corpse.
[GRIM strikes his hand down suddenly—and then starts from the body.]
 RALPH. See! Where Grim touch'd, the blood has gush'd afresh!—

(3.) OPINIONS relative to the abstract question, whether the CORPSE of a Murdered person BLEEDS on the touch of THE MURDERER? And the causes and consequences of such an exhibition.

IT is the Editor's conviction, that the most satisfactory, as well as the most faithful, manner of treating matters of an abstruse and forgotten description, such as the Superstition under examination, is, to afford to the reader miscellaneous extracts from writers of various ages and countries, who have commented on the subject. Besides being the plan laid down at the outset of this work, this mode enabled the reader to examine their theories and conclusions in the very language of the respective authors themselves, many of whose works are now of rare occurrence, and are very seldom consulted, excepting for the explanation of similar facts.

In the preceding remarks it has been shown that the ancient opinion was, that the Soul of a Murdered person lingered about the body, until appeased by the discovery of the foul deed, and by the subsequent shedding of the Murderer's blood. It is obvious, therefore, that on the original institution of this Test or Ordeal, during the earlier and in the dark ages, the purpose of requiring the accused to prove his innocence before the Corpse, originated in the idea and belief, that by the Murderer's approach, and especially by his polluted touch, the Soul was excited to an instant manifestation of its indignation, by appearing in the form in which it was supposed to subsist, viz. in that of blood.

(i.) To commence, then, with the examples alluded to, *Delrio*,¹ who is the great authority on such subjects, remarks, ' Cadaver coram occidore, propter præcedentem contactum, sanguinem folet fundere. Resp. Varias reddi causas, quidam miraculo tribuunt; quidam casui, quo factum fit aliquando, ut cadaver tum cruore mitteret, cum præfens erat reus Homicidii. Recensui alio loco multas hæc de re sententias et auctores laudavi: Neque adhuc dum video, quid solidius adferatur illa antipathia, ex vehementi odio occisi in occidorem; quod qualitatem latentem et arcanam inprefferit corpori, cum cadavere permanentem: Et hæc referendum illud *Lucretii*:

Idque petit corpus mens unde est faucia amore.
Namque homines plerumque cadunt in vulnus, et illam
Emicat in partem fanguis, unde icimur ictu.
Etii cominus est, hostem ruber occupat horror!

Ut fit vivi amantis et mortui hostis comparatio.²—In treating of ORDEAL BY WATER he thus expresses himself:—' Octavum argumentum, teste *Binsfeldio*, Indicium homicidii ex cadavere fanguinante coram occidore petitur, videtur soli Divino miraculo adferibendum: Ergo sentiendum similiter de fagis supernatantibus? Respondeo, quid de antecedente sentiam, hoc opere non femel me indicasse; sed esto, sit adferibendum miraculo: An eadem ratio huius probæ? Dicis non probas. Ego qui nego discrimen dabo. Nulla in fanguis illa missione causa fubeit suspicionis de pacto cum Diemone: nihil illic miscetur superstitioni: non queritur illic a Deo signum; et proinde nec Deus tentatur,' &c.³

(ii.) He also mentions in another place:—' Ex communi opinione Doctorum et Judicum, si cadaver positum coram reo fanguinem emittere inciperet vel ex vulnere, vel ex ore, vel ex naribus, hoc indicium quidam magni faciunt, et de ejus cum alias a me disputatum hoc eodem opere. Ego istud indicium nunquam existimarem sufficere ad torturam, quicquid graves doctores quidam in contrarium dixerint.⁴ Moveor, quia verè est indicium remotum, et quasi prodigiosum, de ejus cum non constat, et incertissimum, quod nullo jure vel causâ juridicè probatâ nobis constat, et tortura maximi est prejudicii. Quare nisi accedat fama, minæ, inimicitia, vel simile admodicum, nunquam ad torturam est

¹ Disquisitionum Magicarum libri sex, &c. *Martini Delrio*, Edit., *Færtius*, 1606. Lib. i. cap. 3, q. 40. ² Comment. in Octavianum Senecæ, ver. 127. ³ Sic Lemnius, lib. 2; De occultis naturæ miraculis, cap. 7; Langius, epist. 4b. Pictorius, Dialog. 9; Gemma, lib. 1; De characterism, cap. 6. ⁴ *Delrio*, Lib. iv. cap. iv. quæst. v. de proba aque frigida, &c. ⁵ *Delrio*, lib. v. p. 25. ⁶ Post *Aug.* et *Parid. Doctus* decis. 166; *Blanchus* de ind. ad l. fin. de quæst. n. 408; *Carrer.* tract. de indie; *Indi.* 27, n. 2; *Novel. regu.* 184; *Menoc.* de arb. cas. 270, n. 16; et de præsu. l. 1, q. 89, n. 128; et alii.

hoc indicio Deum timentis iudici procedendum, affirmavit *Farina*. nu. 156 post Ant. Gomez, lii. fufé et prudenter hoc difcutientem d tom. 3 cap. 13 a num. 15, et *Mafsil*, in pract. et diligenter num. 181. *Mafcard* et alios.

(iii.) ANOTHER author, who was Counsellor of State to King Louis XIII of France, makes the following interesting observations, under the Title,—‘DES ATTOUHEMENS DES HOMMES : *Sçavoir, si vn Meurtrier s’approchant, ou touchant le corps d’un homme qu’il a meurtry, en peut faire reiaillir du fang.*—‘ JE commenceray par ce traict commun, que le Corps d’un homme meurtry, eftant touché ou approché de Meurtrier, fait reiaillir du fang, teftimoignant qu’il entre auffi-toft en accusation, et crie vengeance contre luy, voulant comme tirer à compaffion tous ceux qui le voyent, et comme les efmuouoir à luy en faire auoir raifon. *Theodorie* vit dans vne efcaille ou tect de poiffon, qui luy fut feruy à table, la tefte de *Synnachus*, qu’il auoit tué, laquelle le menaçoit, verfant du fang en quantité, dequoy il eut fi grande frayeur, qu’il en mourut bien-toft apres. Et ne fçay fi ce qu’on dit y eft néceffaire qu’il faut que ce foit vn corps fraifchement aflaffiné. Veu qu’un homme d’honneur, faifant le procez à vn Meurtrier, m’a afeuré, que, l’ayant approché du corps qu’il noit auoir tué, ietta du fang par le nez affez abondamment, apres le feiziéme iour de l’homicide commis. Sur quoy *Del-Rio* dit, qu’il ne voit aucune raifon plus folide que celle de l’antipathie qui eft entre le Meurtrier et le Meurtrey, et leur haine, la quelle aggraué certaine qualité latente et cachée, et la tient imprimée dans le corps demeurant encore avec le cadauer; employant là-deffus ces vers de *Luercce*: “*Idque petit,*” &c.¹ Comme f’il auoit quelque conuenance et raport, entre vn amy viuant, et vn ennemy mort!

‘ Mais la verité eft, qu’on ne fçauroit colliger de là nulle forte de charme, caufé par la veuë ou par l’atouchement, vn corps mort eftant bien d’autre nature, que celui d’un homme viuant. Et de dire que c’est quelque diffenfion cachée, qui teftimoigne l’inimitié qui eft entre eux, laquelle ce corps ainfi outré, fait encore paroître apres la mort, le declarant par cefte emiffion de fang. On ne fçauroit rendre nulle raifon valable de cefte diffenfion. Et fe peut dire, qu’aucuns ont auancé et tenu cefte experience pour veritable, pour l’auoir parauanture eflayée ou veuë vne feule fois et par cas fortuit. Car il fe peut faire que le corps d’un homme mort, qui a demeuré feize iours gifant en repos en quelque lieu, eftant remuë pour fouffrir quelque vifite de Chirurgiens, efmuouera par ce mouuement le fang qui s’eft retiré és veines, et le fera fortir en abondance. Mais cela n’arriuera pas pluftoft en la prefence du Meurtrier, que du Juge qui luy fait le procez, ou deuant quelqu’autre que ce foit.²

(iv.) THROUGH the kindness of DR SAMUEL HIBBERT, late Secretary to the Society of Antiquaries of Scotland, F.R.S.E., &c. whose philosophical, geological, and antiquarian researches have justly entitled him to a very conspicuous rank in the literature of his country, the Editor has an opportunity of giving the following interesting extract from a rare volume in his Collection, entitled,—‘*Physiologia Epiuro-Gallicando-Charltoniana*: or a Fabrick of Science Natural, upon the Hypothesis of Atoms, &c. &c. By Dr Walter Charleton, Physician to the late Charles, Monarch of Great Britain.’ London, 1654. In this singular treatise, the author, in discussing ‘the cause of the fresh cruentation of the Carcass of a Murdered man, at the presence and touch of the Homicide,’ thus expresses his opinion:—‘THE cruentation (and, according to some reports, the opening of the eyes³) of the Carcass of a Murdered man at the presence and touch of the Homicide, is, in truth, the noblest of antipathies: And scarce any writer of the secrets or miracles of nature, hath omitted the consideration thereof. This Life in Death, Revenge of the Grave, or loud language of silent Corruption, many venerable and Christian Philosophers have accounted wholly miraculous or supernatural, as ordained and effected by the just judgement of God for the detection and punishment of the inhumane Assassine!

¹ The same verses as in Delrio’s quotation are here repeated. ² DE L’ANCRE, Conseiller du Roy, Lnd. XIII. en son Conseil d’Etat, sur l’Incredulité et Mescreance de Sortilege. Quarto, Paris, 1622, fol. 153. The curious reader is likewise referred to the following old authorities,—*Fair*, l. 2, c. 10, De Fascino. *Del Rio*, de Contactu. *Lenius*, de Occultis naturæ miraculis, cap. 7, &c.

³ See the Case of *Jane Norkott*, afterwards quoted, p. 192.

And, lest we should seem too forward to expunge from the mind of any man the belief of that opinion, which to some may be a more powerful argument than the express command of God, to deter them from committing so horrible and execrable a crime as Murder, we shall so far concur with them as to conceive this effect to be Divine only in the *infatuation*, but merely natural in the *production* or *immediate causes*. Because the appearance seems not to transcend the capacity of natural means, and the whole syndrome and series of its causes may be thus explained. It is an opinion highly consistent, that in every vehement passion there is formed a certain idea, as well of the object whereupon the imagination is most intent, as of the good or evil connected unto, and expected from, that object; and that this idea is, as it were, impressed, by a kind of inexplicable figillation upon the spirits, at the same instant the mind determineth will the present prosecution or avoidance of the object; so that, by the mediation of the spirits (those angels of the mind), the same idea is transmitted to the *blood*, and, through the arteries, diffused into all parts of the body, as well into the nerves and muscles, which are inferior to such voluntary motions as are requisite to the execution of the decrees and mandates of the will concerning the prosecution or avoidance of the object. This being so, we may conceive that the phanasy of the person assaulted by an assassin, having formed an idea of hatred, opposition, and revenge; and the same being characterized upon the spirits, and by them diffused through the blood; though the blood become much less fluid in the veins after death, by reason the vital influence and pulsifick faculty of the heart, which animated and circulated it, is extinct, yet, because at the presence of the Murderer, there issue from the pores of his body such subtle emanations as are consimular to those which were emitted from him at the time he strove with, overcame, and killed the patient; and those emanations entering the dead body, doe cause a fresh commotion in the blood, remaining yet somewhat fluid in its veins, and, as it were, renew the former collocation or duell betwixt the yet wholly uncondensed spirits of the slain and those of the Homicide; therefore is it that the Blood, suffering an æstuation, flows up and down in the veins to seek some vent or sallyport, and finding none so open as in *that part wherein the wound was made*, it issues forth from thence! And where the Murthiered person is destroyed by strangulation, suffocation, or the like unbloody death, so that there is no manifest solution of continuity in the skin or other exterior parts of the body, in that case it hath been observed that the carcass bleeds at *the mouth or nose*, or both; and this only because in all vehement stirrings, and especially in collocation for life, the spirits and blood flow most plentifully into the arteries and veins of the head, as is visible by the great redness of the eyes and face of every man that fights; and where the blood fixeth in most plenty, there will be the greatest tumult, æstuation, and commotion when it is ferment, agitated, and again set afloat, by the Discordant Effluvia emitted from the body of the near approaching or touching Murthierer—and, consequently, there must the vessels suffer the greatest stress, distention, and disruption, or apertion of their orifices.

This passage fully explains the extraordinary opinions which were formerly entertained by the most eminent physicians, in England, during the reign of King Charles II.

(v.) DR HIBBERT likewise transmitted the following extract from the well-known work, entitled, 'Ludovici Lavateri Theologiæ eximii de Spectris, Lemuribus, variisque præflagitationibus Tractatus vere aureus.'—'Aliquis à latronibus interceptus fuit; aecedentibus latronibus ad cadaver, statim cepit recutere sanguinem, stillare, aut aliis signis præsentiam latronis significari. Plato, 1, Legum 1, tradit eorum qui occisi sunt animas, sæpe interfectorum animas hostiliter insequitur. Marcellus Ficinus fortè congerere putat, ut occisi hominis vulnus etiam jacente cadavere in eum qui vulneraverat, si modò ille cominus inisset, vulnus ipsum inspiciens, sanguinem rursus ejiciat, quod quidem evenire Lueretius affirmavit, et Judices observarint. Dido apud Virg. minetur Æneæ: Et cum frigida mors anima se duxerit artus, omnibus umbra locis adero; dabis, improbe, pænas.—Similis locus est apud Horat. et alios

¹ Lugduni Batav. Apud Henricum Verbiest. Anno 1659.

² Lib. xvi. cap. 5, De Animorum Immort.

Poetas. Latro affēdit menſe, everſo poculo, vinum per ſolidum lignum menſe manavit omnium magna admiratione.’

To conclude theſe Notices, the Editor, without offering farther obſervations on this branch of the ſubject, preſents a variety of other extracts, all bearing on the ſame point, and tending to ſhow the univerſal concurrence of Lawyers, Divines, Hiſtorians, Phyſicians, and Philoſophers, in the ancient opinions already related as obtaining ſo general a belief over the civilized world, and eſpecially in Europe.

(vi.) ‘ In a ſecret Murther, if the dead carcaſſe be at any time thereafter handled by the Murtherer, it will guth out of blood ; as if the blood were crying to Heaven for revenge of the Murtherer.’—*King James VI, Dæmonologie*, p. 136.

(vii.) ‘ I HAVE heard, by credible report, that the wound of a man murthered, renewing bleeding at the preſence of a dear friend or of a mortal enemy. Divers alſo write, that if one paſs by a murthered body (though unknown), he ſhall be ſtricken with fear, and feel in himſelf ſome alteration, by nature.’—*Scot's Discovery of Witchcraft*, p. 170.

(viii.) ‘ WHO can allege any certaine and firme reaſon, why the blood runnes out of the wounds of a man murdered, long after the Murder committed, if the Murderer be brought before the dead bodie ? Galeotus Martius, Jeronymus Maggius, Marſilius Ficinus, Valleriola, Joubert, and others, have offered to ſay ſomething thereof.—Who (I pray you) can ſhew why, if a deſperat bodie hang himſelfe, ſuddenlie there ariſe tempeſts and whirlewinds in the aire ?’—*Living Librarie*, fol. Lond. 1621, p. 283.

(ix.) ‘ Why dead bodies bleed in the preſence of their Murtherers ? Becauſe nothing is ſo hidden from Juſtice as Murder, they uſe not only torments of the body, but alſo the torture of the ſoule, to which its paſſions doe deliver it over, of which *Feare* diſcovering itſelfe more than the reſt, the Judges have forgotten nothing that may make the ſuſpected perſon fearefull. For, beſides their interrogatories, confronting him with witneſſes, ſterne lookes, and bringing before him the Inſtruments of Torture, as if they were ready to make him feele them, they perſuade him that a *carcaſſe* BLEEDS in the preſence of his Murtherers, becauſe dead bodies being removed doe often bleed ; and then, he whoſe conſcience is tainted with the *ſigntereſis* of the fact, is troubled in ſuch ſort, that by his mouth or geſture he often bewrayes his own guiltineſſe, as not having his firſt motions in his owne power.’—*Five Philoſ. queſt. answered*, 4to, Lond. 1653.

(x.) IN the *Athenian Oracle*, I. 106, there is inſerted a particular relation of a corpeſe falling a-bleeding at the approach of perſons ſuſpoſed to have in any way occasioned its death. The phenomenon is thus endeavoured to be accounted for. ‘ The blood is congealed in the body for two or three days, and then becomes liquid again, in its tendency to corruption. The air being heated by many perſons coming about the body, is the ſame thing to it as motion is. ’Tis obſerved that dead bodies will bleed in a concourſe of people, when Murderers are abſent as well as preſent ; yet legiſlators have thought fit to authorize it, and nſe this trial, as an argument at leaſt, to frighten, though ’tis no conclusive one to condemn them.’ *Vid.* alſo p. 193.

(xi.) ‘ IT is a thing known, yea, by many undeniable inſtances witneſſed, that marvellous diſcovery of concealed Murder, by the bleeding of the body, upon the touch of the Murderer !¹ I confeſs, it

¹ ‘ What is it that ſhould make men’s guilt ſo legible oft in their countenance, even when they ſtudy moſt to conceal it ; and thus cauſe them give their tongue the lie, yea, bewray to byſtanders whether they will or not ſome

should be hard to assert the lawful and warrantable practice of such an Appeal to so extraordinary and stupendous a sign from the Lord, where Scripture goeth not clearly before us. But, on the other hand, such a thing so surely tried for such an end, and in the case where all ordinary means of discovery have been wanting, I think, calleth us to a serious remark thereof, while it so visibly seemeth to witness his hand who doth make inquisition for blood!

(xii.) SIR KENELM DIGBY takes it for granted that a Corpse often bleeds on such occasions—and thus accounts for the phenomenon. ‘And to this cause, peradventure, may be reduced the strange effect which is frequently seen in England, when, *at the approach of the Murderer, the slain body suddenly bleedeth afresh*. For certainly the Souls of them that are treacherously Murdered by surprize, use to leave their bodies with extreme unwillingness, and with vehement indignation against them that force them to so unprovided and abhorred a passage! That Soul, then, to wreak its evil talent against the hated Murderer, and to draw a just and desired revenge upon his head, would do all it can to manifest the author of the fact! To *speake* it cannot—for in itself it wanteth the organs of voice; and thofe it is parted from are now grown too heavy, and are too benumbed, for to give motion unto: Yet some charge it desireth to make in the body, which it hath so vehement inclination to; and therefore is the aptest for it to work upon. It must then endeavour to cause a motion in the subtillest and most fluid parts (and consequently the most moveable ones) of it. This can be nothing but THE BLOOD, which then being violently moved, *must needs gush out at those places where it findeth issue!*’

(xiii.) EXTRACT from a Letter, the Rev. H. Cross, Caithness, Jun. 11, 1712, to the Rev. Robert Wodrow.² ‘Some Murders in this cuntry have been discovered, *by causing suspected persons touch the deil corps*; which upon their touching have immediately bled; whereupon some have confessed guilt, and have been executed. I cannot tak up time in telling the particular circumstances thereof.’

(xiv.) MR BURNETT,³ in treating of presumptive evidence, remarks, that ‘in various Trials for Murder, we find the notion of *the corpse bleeding, if touched by the Murderer*, a circumstance founded on. In *Stewart Abercrombie’s* Case,⁴ we see it stated, in the Information for the prisoner, as a circumstance in his favour, that he had, without fear or dread, gone and touched the body of the person murdered. And in the Case of *Howatson*,⁵ before Lord Justice-Clerk Cockburn, we find it stated and insisted on as a strong circumstance of suspicion against him, *that he had refused to go to the lifting of the corpse*. This even is stated as one of the circumstances in the Interlocutor of relevancy; and perhaps rightly so, on the supposition of *the popular belief of THE MURDERER’S TOUCHING THE CORPSE.*’

(4.) PARTICULAR INSTANCES *where the CORPSES of Murdered Persons have been TOUCHED, as a TEST OF GUILT—REMARKABLE CRIMINAL TRIALS, in which this circumstance was founded on—THE OPINIONS of LAWYERS, &c.*

(i.) THE earliest recorded notice which the Editor has been able to find, in British History, of this superstitious custom, is in Buchanan’s History of Scotland;⁶ who relates, that, in A.D. 972, after the atrocious Murder of KING DUFFUS⁷ by the assassins hired by Donald, Governor of the Castle of Forres, they ‘carried him out so cunningly a back way, that not so much as a drop of blood appeared,’

secret trouble and sore they have within? Doth it not clearly show the power of Conscience, which hath such authority on men, that without violence or constraint from others, doth even force them to confess the truth, and supply the room of witnesses.—*Fleming’s Fulfilling of the Scripture*, 3d edit. Glasg. 1681.

¹ *Ibid.* ² WODROW MSS. Orig. Letters, Quarto, NIX. ³ Remarkable Providences, Adv. Library, Edinburgh. No traces can be had of the particular instances to which the Rev. Gentleman alludes. They would doubtless prove of much interest, could they be still discovered. ⁴ *Burnett on Crimes*, p. 529. (Note.) ⁵ Jan. and Feb. 1718. ⁶ James Howatson, tried for Murder, at Dumfries, May 1727. ⁷ *Buchanan’s History of Scotland*, Ed. 1762, i. 247. ⁸ Son of King Malcolm I. He was murdered A. D. 972.

&c.—‘ The executioners of that bloody fact were sent out of the way by Donald ; because there is an opinion, received from our ancestors, which as yet obtains amongst the vulgar, *That BLOOD will issue from a dead body, many days after the party's being murdered, IF THE MURDERER BE PRESENT ; just as if the fact had been newly committed.*’ This takes it for granted, that the understanding was, that the TOUCHING of the corpse must have been infinitely more available, towards the discovery of the Murderer.

(ii.) RAPIN¹ records a circumstance, as having occurred at the interment of KING HENRY II. of England, A.D. 1189. That monarch having fallen sick at *Chinon*, caused himself to be carried into the Church, before the Altar ; where, after confessing himself, and expressing repentance, he expired. His corpse was removed to Font-Evrard, in Anjou, where he was buried, according to his own order. An extraordinary accident rendered the funeral of his body very remarkable. His son RICHARD (*Cœur de Lion*) coming to meet the funeral pomp, in order to attend his father to his grave, upon his approach THE BLOOD in great abundance gushed out of the mouth and nostrils of the corpse ! RICHARD, though naturally very hard hearted, was so moved at this sight, that he burst out into tears, and openly accused himself of being the occasion of his father's death. Hume² adds, that ‘ he exclaimed, agreeably to a vulgar SUPERSTITION, that he was his father's MURDERER !’

(iii.) BUT, without attempting too laborious an investigation of our early Historians and Chroniclers on so insulated a point, it is enough for our purposes to preserve the memory of such Cases as have been peculiarly striking, and which have occurred nearer to our own times. Accordingly, one of the most remarkable instances of *Touching* as a Test of Murder,³ is the Case of the Murder of JOHAN NORKOTT, wife of Arthur Norkott, the incidents of which were fortunately preserved amongst the papers of *Sir John Maynard*, Sergeant at Law,⁴ and afterwards one of the Lord Commissioners of the Great Seal of England, &c. who noted the particulars at the Trial, at the bar of the King's Bench, 4th Car. I. (1628.) This eminent Lawyer's Notes are followed here, as closely as possible, in his own words.

‘ *Johan Norkott* having been murdered, the question was, How she had come by her death ? The Coroner's Inquest, on view of the body, and Depositions of *Mary Norkott*, *John Okeman*, and *Agnes* his wife, inclined to find JOHAN NORKOTT *Felo de se* ;—for the evidence persuaded the Coroner and Jury that she was found dead in her bed, the knife sticking in the floor, and her throat cut—that the night before, she went to bed with her child, her husband being absent—and that no other person, after she had gone to bed, came into the house—the Examinants lying in the outer room, and they must needs have seen or known if any stranger had come in. Whereupon the Jury gave up to the Coroner their Verdict, that she was *Felo de se*.

‘ But afterwards, upon rumour among the neighbourhood, and their own observation of a variety of circumstances, which manifested, that she did not, nor, according to those circumstances, could possibly murder herself—the Jury, whose Verdict was not yet drawn into form by the Coroner, desired that the Body, which had been buried, might be taken up out of the grave. The Coroner assented to their desire ; and THIRTY DAYS after her death, she was taken up, in presence of the Jury and a great concourse of people ; and, in consequence of what transpired, the Jury altered their former Verdict.

‘ The persons accused were tried at *Hertford Assizes*, and Acquitted ; but so much against the Evidence, that *Judge Ilarvey* expressed his opinion, that it were better an Appeal were brought, than to foul a murder should escape unpunished.

¹ *Rapin*, Fol. Lond. 1784, l. 221.

² *Hume's Hist. of England*, Soc. Edin. 1805, i. 484. See also *Bened.*

Abb., p. 547. *Brompton*, p. 1151. *Mat. Paris*, p. 107.

³ See also *Gent. Mag.* (Sep. 1731,) i. 395. *Ellis's*

Brand's Popular Antiquities, ii. 543.

⁴ See *Howell's State Trials*, xiv. 1324. But especially *History of the Works*

of the Learned, for the year 1739, Art. 12, to which curious publication *Sir John Maynard's Papers* were originally communicated by *Dr Rawlinson*.

Accordingly, at the ensuing Easter term (*Pajida, A. Cor.*), they were tried on the Appeal, which was brought by the Young Child against his father, grandmother, and aunt, and her husband *Okeman*.¹ *The Minister of the Parish*² where the Murder was committed, deposed, "That the Body being taken up out of the grave, *thirty days after the party's death*; and lying on the grass, and the four defendants being present, *were required each of them to TOUCH THE DEAD BODY. Okeman's wife* fell upon her knees, and prayed to God to shew a Token of her Innocency, or to shew such purpose—her very words I have forgot. The Appellées *did touch the dead body*;—whereupon *the brow of the dead*, which before was of a livid and carrion colour,³ begun to have a *dew or gentle sweat* arise on it, which increased by degrees, *till the sweat ran down in drops on the face. The brow turned to a lively and fresh colour, and the deceased opened one of her eyes and shut it again*: And this opening the eye was done *three several times. She likewise thrust out the ring or marriage finger three times, and pulled it in again; and the finger dropped blood from it on the grass.*"

SIR NICHOLAS HYDE, *Lord Chief Justice*, seeming to doubt the Evidence, asked the Witnesses, "Who saw this besides you?" *Witnesses*. "I cannot swear what others saw—but my Lord, (said he,) I do believe the whole company saw it; and if it had been thought a doubt, Proof would have been made of it, and many would have attested with me." The Witnesses observing some admiration⁴ in the auditors, he spake further. "My Lord, I am Minister of the Parish, and have long known all the parties; but never had any occasion of displeasure against any of them, nor had to do with them or they with me, but as I was Minister.—The thing was wonderful to me, but I have no interest in the matter; but as called upon to testify the truth, that I have done."—Whereupon, applying himself to the *Chief Justice*, he said, "My Lord, my brother, here present, is *Minister of the next Parish adjacent*—and I am assured saw all done that I have affirmed."

Therefore that person was also sworn to give Evidence, and did depose, in every point, viz. *the sweating of the brow—the change of the colour—opening of the eye—and the thrice motion of the finger*, and drawing it in again. Only, the first Witness added, *that he himself dipped his finger in the blood which came from the dead body, to examine it—and he swore he believed it was blood!*⁵

Sir John Maynard adds, "I conferred (my Notes) afterwards with *Sir Edward Powell*, Barrister at Law, and others, who all concurred in the observation—and for myself, if I were upon oath, can depose, that these Depositions (especially of the first Witness) are truly reported, in substance."

The other Evidence was given against the Prisoners, viz. the Grandmother of the Plaintiff, and against *Okeman* and his Wife—that they confessed they lay in the next room to the dead person that night, and that none came into the house till they found her dead the next morning: therefore, if she did not Murder herself, they must be the Murderers. To that end further proof was made.

First, That the lay in a composed manner in her bed, the clothes nothing at all disturbed, and her child by her in bed.—*Secondly*, Her throat cut from ear to ear, and her neck broken; and if the first cut her throat, the could not break her neck in bed, nor *contra*.—*Thirdly*, There was no blood in the bed, saving there was a tincture of blood on the bolster whereon her head lay—but no substance of blood at all.—*Fourthly*, From the bed's head there was a stream of blood on the floor, which run along till it ponded in the hollows of the floor, to a very great quantity; and there was another stream of blood on the floor at the bed's foot, which ponded also on the floor, to another great quantity,—but no continuance or communication of blood of either of these two places from one to the other, neither upon the bed—so that the blood in two places severally: And it was deposed, (that on) turning up the mat of the bed, there were clots of congealed blood in the fraw of the mat underneath.—*Fifthly*, The

¹ The individuals on whose Depositions the original Verdict had been pronounced. ² A very reverend person, as I guessed, of about seventy years of age. His testimony was delivered gravely and temperately—but to the great admiration (*wonder, astonishment*) of the auditory. ³ That was the verbal expression, *in terminis*, of the Witness.

⁴ Wonder, astonishment, amazement.

bloody knife was found in the morning sticking in the floor, a good distance from the bed; but the point of the knife, as it stuck, was *towards the bed*, and the *haft* or handle *from the bed*.—*Sixthly*, There was a print of the thumb and four fingers of a left hand. *Sir Nich. Hyde*, Chief Justice, said to the Witnesses, “How can you know the print of a left-hand from the print of a right-hand, in such a case?” *Witnesses*, “My Lord, it is hard to describe—but if it please that honourable *Judge* to put his left-hand upon your left-hand, you cannot possibly place your right-hand in the same posture.” Which being done, appeared so.

• The Defendants had time to make their Defence—but gave no evidence, to any purpose.

• THE JURY departed from the bar—and returning, ACQUITTED *Okeman*, and found the other three GUILTY; who, being severally demanded, “What they could say, why Judgement should not be pronounced?” said nothing—but (having that) each of them said, “I did not do it! I did not do it!”

• JUDGEMENT was given accordingly, and the Grandmother and the Husband executed; but the Aunt had the privilege to be spared execution, being with child.

• I inquired if they confessed any thing at their Execution; but did not, as I was told.

(iv.) THE next case which shall be mentioned, is that of MARIION PEEBLES,¹ *alias* Pardone, spouse to SWENE, in Hildiswick, who was, on March 22, 1644, sentenced to be strangled at a stake, and burnt to ashes, at *the Hill of Berrie*, for WITCHCRAFT and MURDER. Marion and her husband having ‘ane deadlie and venefical malice in her heart’ against Edward Halero in Overure, and being determined ‘to destroy and put him down,’ being ‘transformed in the lyknes of ane pellaack-quhail, (the Devill changing her spirit, quhilk fled in the fame quhail,)’ and the said Edward and other four individuals being in a fishing-boat, coming from the Sea, at the North-banks of Hildiswick, ‘on ane fair morning, did cum under the said boat, and overturnit her with ease, and drowned and devoired thame in the fey, right at the thore, when there wis na danger wtherways.’ The bodies of Halero and another of these hapless fishermen having been found, Marion and Swene ‘wir sent for, and brought to see thame, and to lay thair hands on thame, days after said death and away-caiting, qubare thair bluid was evanished and defolved, from every natural cours or caus, thine, and run; the said unquhill Edward *bled at the collir-bain or craig-bane*, and the said² *in the hand and fingers, gushing out bluid thairat*, to the great admiration of the beholders—and revelation of the judgement of the Almytie! And by which lyk occasions and miraculous works of God, made manifest in Murders and the Murderers; whereby, be many frequent occasions brought to light, and the Murderers, be the said proof brought to judgment, convict and condemned, not only in this Kingdom, also this countrie, but lykways in maill forrin Christiane Kingdomis; and be so manie frequent precedents and practising of and tutching Murderis and Murdereris, notourlie known: So, the foirfaid Murder and Witchcraft of the saidis persons, with the rest of their companions, through your said Husband’s deed, art, part, rad,³ and counfall, is manifest and cleir to all, not onlie through and by the foirfaid precedents of your malice, wicked and malitues⁴ practifes, by Witchcraft, Confessionis, and Declarationis of the said unquill Janet Frazer, Witch, revealed to her, as said is, and quha wis desyrit by him to concur and assit with you to the doing thereof; but lykways be *the declaration and revelation of the justice and judgements of God, through the said issuing of bluid from the bodies!* &c.

(v.) A SIMILAR and very remarkable instance is related in the following Trial: In the Dittay of CHRISTIAN WILSON, *alias the Lanthorne*,⁵ accused of Murder, Witchcraft, &c., (which is founded

¹ See *Dr Hibbert’s* Hist. of Orkney, &c. to which this remarkable Trial is appended. ² The name left blank. ³ *Reid*: advise. ⁴ Malicious. ⁵ The name given her at her baptism by the Devil. From *Collection of Original Documents*, belonging to the Society of Antiquaries of Scotland, MS. As a specimen of the other charges, take the following: “*William Richardstone*, in Dalkeith, having felled ane hen of the said Cristianes with ane stone, and wyone her sight thereof did immediatly threatne him, and with ane frowning countenance told him, that he ‘should never cast ane vther stone!’ And immediatly the said *William* fell into ane franticke and madnes, and

upon the examinations of James Wilson, Abraham Macmillan, William Crichton, and Fyfe and George Eskine, &c. led before Sir William Murray of Newtown, and other Commissioners, at Dalkeith, Jun. 14, 1661.) it is stated, that ‘ Ther being enimitie betwixt the said Christiane and Alexander Willome her brother, and thoe having often tymes threatned him, at leuth, about 7 or 8 monthes since, altho’ the said Alexander was fene that day of his death, at three houres afternone, in good health, walking about his huffie and office; yitt, at fyve houres in that same night, he was found dead, lying in his owne howfe, naked as he was borne, with his face torne and rent, without any appearance of a spot of blood either wpon his bodie or neigh to it. And altho’ many of the neiboures in the toune (Dalkeith) come into his howfe to see the dead corpe, yitt thoe newar offered to come, howbeit her dwelling was next adjacent thairto; nor had thoe fo much as any feiming greiff for his death. Bot the Minister and Bailliffes of the towne, taking great suspitione of her, in respect of her cariage, comandt that thoe shoud be brought in; bot when thoe come, thoe come trembling all the way to the howfe—bot *thoe refused to come nigh THE CORPS or to TUITCH it*, saying, that thoe “ nevir tuitche a dead corpe in her lyfe!” Bot being earnestly defyred by the Minister, Bailliffes, and hir brother’s friends who was killed, that thoe wold “ bot *tuitche the corpses fustlie*,” thoe granted to doe it—but before thoe did it, the Sone being flyuing in at the howfe, thoe expreit her felfe thus, humbly defyring, that “ as the Lord made the Sone to thyne and give light into that howfe, that also *he wold give light to discovering of that Murder!*” And with these words, thoe *TUITCHEING the wound of the dead man, errie fustlie*, it being whyte and cleane, without any spot of blod or the lyke!—yit *IMEDIATLY, whill her fingers was wpon it*. THE BLOOD RUSHED OWT OF IT, to the great admiratioune¹ of all the behoulders, who tooke it for *discoverye of the Murder*, according to her owne prayers.—For ther was a great lump of flesh taken out of his cheik, fo snowthlike, as no rasor in the world cowld have made fo ticht ane incisionne, wpon flesh, or cheis—and ther wes no blood at all in the wound—nor did it at all bleed, altho’ that many perfoes before had tuitche it, whill² thoe did tuitche it! And the howfe being searched all over, for the shirt of the dead man, yitt it cowld not be found; and altho’ the howfe was full of people all that night, ever vatching the corpses;³ neither did any of them tuitche him that night—which is probable⁴—yitt, in the morning, his shirt was found tyed fast about his neck, as a brechane,⁵ non knowing how this come to pass! And this Cristian did immediatlie transport all her owne goods owt of her own howfe into her dowghter’s, purposing to flie away—but was therwpon apprehendit and imprisoned.⁶

(vi.) THE next instance which shall be cited, refers immediatly to the Case of THE MERES OF ACCHINDRANE; being an extract from a ‘ RELATIONE of quhat pass betwixt the Committe⁶ and MR JAMES MITCHELL,’ &c.⁷ January 18, 22, and 24, 1676. In the course of the pleadings as to the lawfulness of inflicting Torture, the following interesting passage occurs. “ Bot in this preparative, the practise is unparallelled, to put a perion to it be such a *Tortour*, to turne (contrarie the cowrse of nature and expresse law of God) to be his own accuter; no, not in *Peiter Aray*, the Highland Rober

tooke his bed, and newer rose agane, but died within a few dayes: And in the tyne of his sicknes, he always cryed owt, that the said Cristiane was present befor him, in the liknes of ane gray catt! And some tyne effir his death, James Richardsons, nephew to the said Williame, being a boy playing in the said Cristiane her yaird, and be calling her *Lanthera*, she threatned, that ‘ if he held not his peace, she wold cawse him to die the death his nephew (uncle) died of!’ Whairby it wold appear that she tooke wpon hir his nepheas (uncle’s) death.”

¹ Wonder; amazement. ² Until. That is, many previous trials had been made of other persons suspected, or of those who were near neighbours, perhaps living at enmity with the deceased, who had voluntarily offered themselves to this solemn ordeal, or had been called upon thus publicly to attest their innocence of his blood. ³ Holding the *lyke-wake*. ⁴ Can be proved, by testimony or probation. ⁵ The large collar which goes about a draught-horse’s neck. ⁶ Of the Estates of Parliament. ⁷ *Wodrow’s MSS.* as to ‘ *the Suffrings*.’ Adv. Lib. xxvii. Quarto, No. 2. This Document relates to the Tortures used to *Mitchell*, who had been accused of an attempt to Murder, by shooting a pistol at *Archbishop Sharpe*, and the *Bishop of Orkney*, Jul. 9, 1668, &c. 29 Car. II, Jan. 7, 1677. See for the particulars of her Trial, *Salm. State Trials*, p. 334, &c.

and Murderer ! Bot he, being legallie convicted himself, was put to the *Tortour*, to caufe him declare who was his confederats and afficiats in committing of such horrid crymes. Bot if any man shall object that about the LAIRD OF AUCHINDRANE, I answer : 1st, 'Thair is no partie in the cawfe ; be-cawfe he was accused of an horrid and privat Murder, quhair thair was altogether penurie of Witnell'es, and not of a dentie contraverted be Apoflats : 2dly, GOD, in a foveraine and fingular way, *witnesed it from Heaven, by his own immediate hand, and proved the Deed agaynft him !* viz. the Corpes of the man Murdered, being buried in *Girvane Kirk-yard*, as a man cast away at sea, and cast owt thaire, *the Laird of Colcaine*, whose servant he had beine befor, driming¹ of him in his fleipe, and that he had a mufo-marke wuder his left pape ;² and when he awook owt of his fleipe, wpon searcho, found it to be true—came to the place, and taking wpe the Corpes owt of the place quhair they were buried, found him to be Murdered. Wpon which, he *fanoned in all the men in that pairt, to touch the Corpes. as the custome was in such cafes ;* and all compeiring, except the faids *Laird and his son*, who were the Murderers ; and his dwelling house and familie being neire to the place, *one young chyld of his, MARIE MURE be name*, feing the people, went to the place ; and *when she drew neire to the Corpes* (to the admiration of all the people,) *did spring owt wpon her in abundance of blood !* Wpon which they were apprehended and put to tryell."

(vii.) A VERY singular incident is related by *Law*, in his 'Memorials.'³ Two men having been executed at Glasgow, Jun. 14, 1683, for the Murder of a gentleman (David Monroe) at Inchbelly-bridge ; in consequence of the enormity of the offence, their bodies were appointed to be hung up in irons. For this purpose, the bodies of the Criminals were conveyed to the spot, where, according o the terms of the Sentence, they were to be gibbeted. *Law* relates, that " Though their entrails were taken out, and their bodies cleafened from all blood, yet when it (the body of one of the culprits) came to the place where the Murder was committed, *did gush out in blood, in the arm which was cut ;* testified to be a truth by the beholders ; which was a testimony of their guilt !"

(viii.) OF a like nature with the last instance, a strange story is told in the *Biographia Scoticana*, which has likewise been elsewhere repeated. That a few days after Mr James Guthrie was executed, and his head placed upon the Netherbow Port of Edinburgh, *Middleton's* coach coming down that way and passing through the Port, *several drops of blood fell from the head upon the top of the coach ;*—which, as the legend goes, ' *all their art and diligence could not wipe off !*' Physicians were called, and desired to enquire if any natural cause could be given for this event—but they could give none ! " This odd incident being noised abroad, and all means tried, *at length the leather was removed, and a new cover put on ! ! !* But this was much fooner done, than the wiping off the guilt of this great and good man's blood upon the thudders of it, and the disgrace from this poor Nation !"

(ix.) Few instances of this description are entitled to the consideration which the following Case possesses, as well in a legal as in a philosophical point of view. In the very remarkable Scottish Trial of PHILIP STANFIELD,⁴ for *Parricide*, (executed Feb. 15, 1688,) the circumstance of the body of Sir James Stanfield of Newmills, who was Murdered near Haddington, in Dec. 1687, *having bled on the touch of his son Philip, the Parricide*, was urged and argued with the utmost earnestness, in Court. *James Muirhead*, Surgeon, one of the Witnesses, swore, that " upon the prisoner's alitting to lift the body of his deceased father, Sir James Stanfield, after it had been sewed up,⁵ and clean linen

¹ Dreaming.

² A mouse mark under his left breast.

³ *Law's Memorials*, p. 252.

⁴ See *Howell's*

State Trials, XI. 1371.—*Salmon's* State Trials, p. 610.—*Fountainhall's* Decisions, I. 484.—See also *Fountainhall's* Diary.—*Arnold's* Criminal Trials, p. 33, Note.

⁵ The body had been opened and examined, by *Judicial* authority, for the purpose of determining the precise cause of the deceased's death. The surgeons to whom this remit had been granted, reported, that Sir James had died from *strangulation*, not from drowning—and that the idea of *felo de se*, which had been attempted to be proved by the son, was utterly impossible.

put on, it DARTED OUT BLOOD *through the linen, from the left side of the neck, which the pannel TOUCHED*—but, that when he (the Witness) and the other Surgeon, *James Crawford*, put on the linen, and stirred and moved the head and neck, before, *he saw no blood at all!*¹

This fact was corroborated by other Witnesses—and it is, perhaps, worthy of notice, as the most striking peculiarity of that Case, that Sir James had not been stabbed, shot, or assassinated by the cutting of his throat—but was *strangled*, and then thrown into a water; so that there was *no external wound on the neck.*

A singular feature in this Case of Stanfield, is the rank and eminence of the Public prosecutors, *Sir John Dalrymple*, younger of Stair, *Sir George Mackenzie*, and the gravity with which these superstitious circumstances are argued. The Dittay states, “When his father’s dead body was lifted and inspected by Chirurgions, and the clear and evident signs of the Murder had appeared, the body was fessed up, and most carefully cleaned; and his nearest relations and friends were desired to *lift* up his body to the coffin: And accordingly, *James Row*, merchant (who was in Edinburgh at the time of the Murder), having lifted the left side of Sir James, his head and shoulder, and the said *Philip* the right side; his father’s body, though carefully cleaned, as said is, so as the least blood was not on it, did (ACCORDING TO GOD’S USUAL METHOD OF DISCOVERING MURDERERS) *blood afresh upon him, and defiled all his hands*; which struck him with such a terror, that he immediately let his father’s head and body fall with violence—and fled from the body!—And, in consternation and confusion, cried, *Lord, have mercy upon me!*—and bowed himself down over a seat in the Church, (where the Corps was inspected,) wiping his father’s innocent blood off his own murdering hands, upon his cloaths!” But as the arguments are fortunately preserved, and as they shew many of the peculiarities of these superstitions, and give the reasonings of the most eminent Lawyers of that time, it may be proper, and can hardly fail to be interesting, even to the general reader, to enter a little into details.

Sir Patrick Hume,² Counsel for Philip Stanfield, urged, that this is but a superstitious observation, without any ground, either in Law or reason. And *Corpusorius* relates, *Part 3, quest. 122, no. 31*, that several persons had been unjustly challenged, and that he, in his own experience, had *seen a dead body bleed*, in presence of the person who was *not guilty!* And *Matheus de Criminibus* is of the same opinion, *Tit. 16, de questionibus*, num. 12, “de sanguine porro de *Calavere* profluente, quod dicitur id de plurimis experimentis comprobetur, tamen cum experimenta falsa sint—ratio vero idonea nulla reddi possit, non putaverim iudicium ad Torturam sufficiens esse, non enim fapientis Judicis est incerto experimento credere, quod certa ratione dirimendum est.” And the truth is, *the occasion* of the dead body’s bleeding was, that the Chirurgeon that came out to visit the body did make an incision about the neck, which might be the occasion of the bleeding;—and also the very moving of the dead body, when it was taken out of the grave and out of the coffin, might occasion the bleeding; especially, seeing the body did not bleed for some time after, which certainly was made by the motion and by the incision: As also, a further evidence that it could not be the defender’s *touching* the body, the Chirurgions did lykewais touch the body, as well as he, and several others present; so that the bleeding could no more be ascribed to *his touching*, than the touching of the other persons present.

Sir James Dalrymple, Lord Advocate, answered, that “although the deceased’s servants had made a *mutiny ament the Burial, till the Corps were lifted*, yet the pannel caused bury the Corps that same

¹ This may, no doubt, have been resorted to, for the purpose of proving Philip’s participation in the Murder—but, of itself, this ceremony is still universally observed in the middle and lower ranks of life; and is a most affecting spectacle to those who are so deeply interested. It is called “the chesting” or “collaring” of the corpse—a duty almost never (in Scotland) intrusted to hirelings—but is most solemnly performed by the nearest relations, as the last endearing act of respectful and affectionate regard, which they can offer, to the breathless remains of those who had been nearest and dearest to them. ² Along with this gentleman were Sir David Thoirs, Mr William Mommiepeny, and Mr William Dundas, as counsel for the prisoner.

night¹ without shewing them!" After Warrant for raising the body had been obtained, the inspection by Surgeons, and the touching, as before detailed, took place; when the pannel let his father's head fall to the ground, and cried out, O God!—and ran away and went to a desk in the Church, where he lay groaning and in confusion, and durit never return to touch the Corpse. And that as there could no *natural* reason be given, but an ordinar and *wonderful Providence of God in this kind of discovery of Murder*, so the fact was never more evident and sure. Though half a dozen of persons were bearing the Corpse, *no man's hands were bloody but the pannels!* That the Corpse being two entire days in the grave, in that weather and season, the blood, by the course of nature, was become stagnant and congealed—so that the former toffing and lifting of the Corpse, and even the incision itself, had occasioned no such effusion, but only some water or gore—but upon *the firsi touch* of the pannel, *the Murderer*, there appeared *abundance of liquid florid blood!*

Sir David Thoirs, in reply, argued, that the falling of blood from the wound could neither be a ground nor presumption for guilt—and though the pannel was *surprised* to see his father's blood, yet the fame did only proceed from *natural duty and affection*, and not from any apprehension of guilt! *Sir Patrick Hume* added, that he offered to prove, that *the pannel had touched his father's body before the incision, AND IT DID NOT BLEED.*

Sir George Mackenzie, in his address to the Jury, asserts that 'GOD ALMIGHTY himself was pleased to bear a share in the testimonies which we produce; that Divine power which makes the blood circulate during life, has oft-times, in all Nations, opened a passage to it, after death upon such occasions,—but most in this case!'

The sentence of the Court was, that he should be 'hanged on a gibbet till he be dead—and his tongue to be cut out and burnt upon a scaffold—and his right hand to be cut off and affixt on the East Port of Haddingtoun—and his body to be carried to the Gallowlee, betwixt Leith and Edinburgh, and there to be hanged up in chains.' &c.

(x.) BESIDES the class of notices which has already been afforded, it is natural to expect that vestiges of so prevalent a superstition should appear in the ancient Popular Poetry of all Nations. The Editor's present leisure and opportunities do not admit of his entering upon so wide a field as that just alluded to, for the illustration of such an enquiry. It is sufficient to mention, generally, that such traces do appear in the Ballads of Scotland, England, Germany, and other European Nations. The ancient Romance also, and the Drama of all these countries, abound with allusions to this superstition; and some of them make use of the ceremonial of touching the Corpse, as a powerful aid in exciting the feelings, and in heightening the interest of the reader, or auditory.

As a specimen of one of the Scottish Ballads illustrative of this superstition, the Editor may cite the conclusion of the Romantic Ballad of *Young Huntin, or Earl Richard*,² as it is too long for insertion at length:—

“PUT na the wite³ on me,” she said,
 “It was my may⁴ Catherine!”
 Thau they hae cut baith fern and thorn,
 To burn that maiden in.—

‘It wadna tak upon her cheik,
 Nor yet upon her chin,
 Nor yet upon her yellow hair,
 To cleanse the deidly sin!

¹ The same night the body had been found in the water, having been incrustrated with frozen ice, owing to the inclemency of the season; the Murder having been perpetrated in the month of December, during a storm.
² See *Ministry of the Scottish Border*, II., 420.—*Herd's Ballads—Chambers's Ballads*, &c.
³ Blame.
⁴ Maiden.

‘ *The Maiden touch’d the clay-cauld Corpse,*

A DRAP IT NEVER BLED;

The Lady laid *her* hand on him,

And soon the ground was red!

‘ Out they hae ta’en her, may Catherine,

And put her mistress in.

The flame tuik fast upon her cheik,

Tuik fast upon her chin,

Tuik fast upon her fair bodye—

She burn’d like hollin green!’¹

(xi.) BEFORE concluding these notices, it may be remarked, for the benefit of the curious inquirer into the superstitions of his native country, that absurdities greater by far than this Test or Ordeal have been gravely stated and maintained, even before the Supreme Criminal Tribunal of Scotland. Perhaps the most extraordinary instance of this description occurred in the *Trial of THE MARQUIS OF ARGYLL*,² before Parliament, 1661, where the Indictment, after setting forth a variety of alleged Murders and cruelties, proceeds, ‘ That THE LORD from Heaven did declare his wrath and displeasure against the aforefaid inhumane crueltie, by striking the tree whereon they³ were hanged in the said month of June, being a lively fresh growing ash-tree, at the Kirk-yard of *Dunnoone*,⁴ among many other fresh trees with leaves. THE LORD struck the said tree immediately thereafter, so that the whole leaves fell from it, and the tree withered, never bearing leaf thereafter, remaining so for the space of two years; after which, being cut down, there sprang out of the very heart of the root thereof a *spring like unto BLOOD, popping up, running into several streams all over the root; and that for several years thereafter*,⁵ till the said Murderers or their favourers, perceiving that it was remarked by persons of all ranks resorting there to see this *Miracle*,⁶ they caused hewk out the root,⁶ covering the whole with earth, which was full of the said matter like blood!’

There cannot be a doubt that the foregoing Case, monstrous and shocking in the extreme as it is, is merely an *improvement* upon the popular Superstition we have been considering; and the inference they wished to deduce from the whole matter is,—that ‘ *blood will have blood*,’—that God will not suffer Murder to pass over unavenged, even in this world;—and farther, that if man fails to discover guilt, the Almighty will, by *extraordinary* and even *miraculous* means, disclose the Murderer’s horrid secret.

¹ Green holly. ² *State Trials*, (old Edit.) III. 422, and VII. 379.—*Howell*, XI. 1380. ³ The persons thus mercilessly murdered by the commands of Argyll, and massacred by his followers, were thirty-six in number; who were hanged on this single-tree, being ‘ special gentlemen of the name of *Lamond*, and vassals to *Sir James Lamond* of Inverin,’ (that Ik.) And on the same day, they ‘ Murdered with durks, and cut down with swords and pistols,’ a number of other unhappy creatures, among whom *John Lamond* in Auchinshallach, ‘ who being about the age of fourscore years, &c. they most cruelly and barbarously stabbed with durks and skanes at the ladder-foot.’ *The Provost of Rothsay* was shot through the body thrice, yet finding some life in him, they thrust at him with durks and skanes, and at last cut his throat with a long durk; others they cast into holes, their victims ‘ spurring and wrestling, whilst they were suffocated with earth; having denied to them any time to recommend themselves to God!’ These are part of the atrocities of the Marquis’s followers, detailed in the remarkable *Dittay* above alluded to; and besides this, they murdered and massacred a number of innocent women, and inhumanly left their bodies as a prey to ravenous beasts and fowls, and ‘ young and old, yea suckling children, some of them not one month old!’ The reader is referred to the *State Trials* for other particulars, which are too circumstantial to be enumerated here. ⁴ An ancient Castle on the Clyde, of which the Family of Argyll are still the nominal heritable Keepers. It has long since been razed with the ground. The *Dun*, on which it was situated, has a very peculiar and commanding form, and is a beautiful and picturesque object from the opposite coast, and from the river. The ‘ Kirk-yard’ is still surrounded by lofty trees. ⁵ *Ovid’s Metamorphoses* are a trifle to this; but still such execrable and almost blasphemous ravings were not only tolerated, but gravely discussed before Parliament! It ought, however, to be kept in mind that the fanaticism which then prevailed had a large share in producing this gross and shocking exhibition, which can only be viewed as solemn mockery of all judicial proceedings, and indeed of every thing sacred. ⁶ Dig up; extirpate.

Slaughter — Shooting of Pistolets, &c.

Jul. 24.—ALEXANDER DUMBAR, Younger of Kilbowak;¹ Robert Dumbar, his brother; Niniane Dumbar, sone to William Dumbar of Hemprigis; James Dumbar, sone to Gawin Dumbar, Archedeane of Murray; Thomas Falconer, feruitour to the said Alexander.

Dilaitit of airt and pairt of the Slaughter of vniq^{le} Alexander Dumbar of Waftfield (Scheref of Murray); committit the first day of Junij last: And contraveining of the Actis of Parliament, in beiring and schuiting of pistolettis, &c.

PERSEWARIS.

Johnne Dumbar of Waftfield, as brother to the defunct; Sir Thomas Hammiltoun.

PRELOCUTORIS for the Pannell.

Mr Johnne Russell, Mr Thomas Hoip, Mr Thomas Nicolson, Advocatis; the Constable of Dundie, elder, the Laird of Monymusk, the Laird of Halkertoun.

The Justice, of consent of ather parteis, continewis this dyet to fryday nixt. The Assyse wairnit *apud acta*, ilk persone, vnder the pane of twa hundredth merkis.

(Jul. 26.)—The Justice continewis this dyet, as of befoir, with consent of ather pairtie, to Wednesday nixt, &c.

(Jul. 31.)—The persewar passis *simpliciter* fra the persute of the persones on pannell; and is content that thai be put to libertie. Quhairupoune the pannell askit instrumentis.—Compeirit Patrik Dumbar of Blarie, and productet the Counsallis Warrant to the Justice, quhairof the temour followis.

WARRANT for the Dumbaris libertie.

JUSTICE, Justice Clerk, and your deputs: Quhear as, Alexander Dumbar of Kilboyak,² (&c.) are to be presentit befoir you this present day, to vnderly the lawis for þe slaughter of vniq^{le} the Scheref of Murray: And We, vnderstanding that þe pairtie persewar will nocht insid in the persute of þir persones, bot ar content and will consent that þai be put to libertie and fredome: Thairfoir you fall tak guid caution of thame, that þai fall compeir befoir his Maicsties Justice, the third day of þe nixt Justice-air of the scherefdom quhair þai duell,³ or soner vpon a fyftene dayis warning, and vnderly þe law for the Slaughter foirlaid; vnder þe panes contentit in the Actis of Parliament: And this caution being fund, you fall put them to libertie and fredome, and suffer þame pas quhair þai pleis: Quhairanent þir presentis fall be your Warrant. AT EDINBURGH, the last day of Julij, 1611.

AL. CANCELL^s. JO. PRESTON.

Patrik Dumbar of Blarie and Robert Falconer of Ballandro became cautione for thame, cominctlie and fenerallie, to the effect aboue writtin.

THE Justice, according to the directioun of the former Warrant, ordanit the saidis persones on pannell to pas frie, and nocht to returne to the said Tolbuthe furth of the quhilk thai war brocht. Quhairupoune Alexander Clerk, one of the Bailles of Edinburgh, askit instrumentis.

¹ See Jul. 31, 1616.

² The rest of the names are recited.

³ Elgin.

Egyptians remaining within the Kingdom after Proclamation.

Jul. 31.—MOYSES FA, DAVID FA, ROBERT FA, and Johnne *alias* Willie FA, Egipitianis.

Dilaitit for Abyding and remaining within this Kingdome, they being Egip-tianis; contrair the tenour of the Actis of Parliament.

THE EGIPTIANIS DITTAY.

MOYSES FA, DAVID FA, and JOHNNE FA, 5e ar indytit and accuset; That quhair, be Act of Parli-ament baldin at Ediuburgh the xxiiij day of Junij, the 5eir of God I^m.Vj^e. and nyne 5eiris, it was sta-tute and ordanit that all the vagabundis, foirneris² and cowmone thevis, cowmonlie callit EGIPTIANES, fould haif past furth pairof, and never returnet within þe samyn, eftir þe first day of August, the foirsaid 5eir of God I^m.Vj^e. and nyne 5eiris, vnder the pane of deathe: And that it fould be leifum to all his Maieftis guid subiectis, or any of thame, to caus tak, apprehend, impriffone, and execute to death, all maner of Egipitianis, alwelle men as wemen, as cowmone, notorious, and coudenpnet Thevis, only to be tryit be ane Assyse, that þai ar callit, knawin, repute, and baldin in³ Egipitianis: NOCHTÞELES, 5e and ilk ane of 5ow being vagabundis, foirneris, cowmone thevis, repute, callit, and baldin Egipitianis, in contempt of his Maieftie and his Lawis, hes presumet to remane in this Kingdome, and hes nocht departit and abiddin furth pairof, seu þe said first day of August, þe 5eir of God I^m.Vj^e. and nyne 5eiris foirsaid; bot be the contrair, 5e and ilk ane of 5ow hes remanet within this Kingdome, in contempt of þe said Act of Parliament, and ar notorioullie knawin to be Egipitianis, and sua repute and baldin: And pairfoir 5e and ilk ane of 5ow aucht to be demanit to þe death, and suffer þe panes pairof; con-forme to the said Act of Parliament.

PERSEWAR, Mr Robert Foulis, substitute to our sowerane lordis Aduocat.

The Pannell, viz. Moyfes Fa, productet ane Licence, grantit to him be the Counsell; quhilk the Aduocat acceptis, *in quantum*.—It is allegit be the Aduo-cat, that the conditiones specifeit in the Licence grantit to Moyfes Fa is nawayis keipit be the pannell, viz. that he fould find cautionn for fulfilling the particular injuncciones specifeit in his Licence: Quhilk cautionn,⁴ for his nocht entrie afoir⁵ the Counsell, is vnlawit in the pane and penaltie of ane Thowfeand pundis; and the cautioner being charget for payment to the Thesaurer of the said penaltie, hes past to the horne: And thairfoir, in respect of the wordis of the Act of Parli-ament, and of the nocht payment of the penaltie, as also in respect that the condi-tionnes specifeit in the Licence is nocht keipit, the said Moyfes Faw hes fallin vnder the danger of the said Act of Parliament, and the pane of daith inflictit vpon him; and the remanet perfonnes, his complices, aucht and fould be pv-neist to the daith, conforme to the said Act: And protestis for Wilfull Error aganis the Assyse, gif thai acquit, according to the said Act: And produces the Counsellis Act contrair the cautioner, quhair he wes vnlawit in the fowme;⁶ to-gidder with the Letteris of Hoirning vsæt aganis him: And repeittis the Depo-sitioun of James Ballache, testifeing the said Moyfes being in companie and fo-cieing with the Egipitianis, and of his geving Band to the said James, for redress-ing of dyuerse Thiftis: And repeittis the Act of Parliament to the Assyse.

¹ See Jul. 19, 1616.
² Before.

³ Who forcibly take free quarters, &c.

⁵ As.

⁴ Cautioner;

⁶ The sum or amount.

THE Justice, nochtwithstanding of the allegiance proponit be the said Moyfes Fa, vpon the pretendit Licence product be him ; and in respect of the anfuers maid thairto be the Aduocat, referrit the samyn Dittay to the knowlege and tryell of ane Assyse.

VERDICT. The Assyse all in ane voce, be the mouth of Williame Murehead, mercheand burges of Edinburgh, chancellor, stand, pronuncet, and declairit the saidis Moyfes Fa, David Fa, Robert Fa, and Johnne *alias Willie* Fa, notoriouflic knawin to be Egiptianis, at the leift sua repute and haldin, to be flylit, culpable, and convict of contravening the tennour of the said Act of Parliament, in thair contemptuous remaining and abyding within this kingdome, continuallie, sen the said first day of August, in the foirsaid yeir of God I^m. fax hundreth and nyne yeiris, expres contrair the tennour of the said Act.

SENTENCE. To be tane to the Burrow-mure of Edinburgh, and thair to be hangit quhill thai be deid : And all thair moveabill guidis and geir pertening to thame, to be efcheit and inbrocht to our fouerane lordis use, as culpable and convict, &c.

Abiding from the Raid of the Isles.

Sept. 17.—JOHNE M^cMILLANE in Merkelloch, Johnne M^cMillane in Bank, and Cuthbert M^cmillane in Drumreifeche.

Dilaitit for contravening of his Maiesteis Proclamatioun, maid in the yeir of God I^m.Vj^c. and aucht yeiris, in nocht passing forward with his Maiesteis Lieutenant to the Raid of the Iles.

For releif of thair Cautioneris, and in respect that thai thame felfis ar na frie-halderis nor landit gentilmen, haifing nather landis nor rentis, bot ar removeable Tenementis, and sa nocht comprehendit vnder the saidis Proclamatioun, thay thairfoir compeirit this day and place, in the hour of caus, and offerit thame felfis to the Tryell of the Law, and to vnderly the rigour thairof, gif it war fund that thai war ony wayis comprehendit vnder the said Proclamatioun : And forder, offerit to mak the Kingis Maieftie affignay to thair hail landis and heritages within this realme, gif thai ony had, at that tyme. In respect of the quhilk premiffes, and of thair compeirance this day and place, in the hour of caus, and offer maid be thame in maner aboue specifeit, thay Protestit for thair cautioneris releif ; and that thai fould onawayis be callit, charget, or trubillit for the said allegit cryme in ony tyme cuming.

Resset and Intercommuning with Mr Alexander Ruthven, &c.— Gawrie Conspiracy.

Nov. 7.—DAVID SPALDING of Effintullie.

Dilaitit of the tressonable Resset and Intercowmoning with Mr Alexander

Ruthven, sone to vni^{de} Alexander Ruthven of Freland, and suppoirting of him with money and vther intertenement, he being his Maieftis declairit Tratour, sforfalt in Parliament, and fugitive, for airt and pairt of the trefaonable afflitting and pairt-taking with JOHNS, sumtyme ERLE OF GOWRIE, Alexander Ruthven his brother, in the trefaonable Conspiracie devyset aganis his Maieftie, at Perth, vpon the fyft day of August, 1600 yeiris.

THE Justice continewis this dyet to the fourt day of Marche, quhilk is the first Wednisday thairof : And ordanit the defender to find caution for his compeirance that day. *Plegio, Johanne Spalding de Innerydray.*

PRELOCOUTOURIS for the pannell, Mr Thomas Nicolfoun, Mr Andro Aytoun.

(Mar. 4, 1612.)—My Lord Advocat desyres that this mater may be continewit to the tuentie day of Maij nixtocum, in respect that, be his Maieftis Letter, directioun was gevin that probatioun sould be ministrat to the Assyse, of the pannellis giltines of the fact lybellit : And that, in the meane tyme, his Maieftie may be acquentit with the informeris flaknes in the persute.

THE Justice continewis this matter to the tuentie day of Maij nixtocum. *Plegio, ut supra.*

PRELOCOUTOURIS in defence.

Mr John Russell, Mr Andro Aytoun, Mr Thomas Nicolfoun, Mr James Oliphant.

(Maii 20, 1612.)—Coupeirit Sir Thomas Hammiltoun of Byres, kny', Aduocat to our souerane lord, and declairit, that informatioun was gevin to him be his Maieftie, to follow furth this persute aganis the pannell, his Informeris furneissing probatioun in that matter, vtherways to desit : And in respect na diligence is vsit be the Informeris in this eirand, for fortherance of this persute : he thairfoir declairit, that he wald nocht insit in persute of the pannell, at this tyme, bot desyret that the dyet sould desert.—Quhairuponn the pannell and his prelocoutouris alkit instrumentis, and protestit, that he be nocht callit, chargit, or perswit for the crymes aboue specifit, in ony tyme cuming. And nochtwithstanding of the premisses, in respect of his innocence of the saidis allegit crymes, as he affirmet, offerit him self instantlie to the tryell of the Law, disassenting to all maner of continuatioun ; protestit also, that na Letteris be direct aganis him for the said Cryme in tyme cuming ; becaus this is the fourt dyet keipit be him in this matter.

Slughter.

Nov. 8.—JOHNS FARQUHARSOUN of Innerchald, Allaister Farquharfoun, his brother, Donald Farquharfoun younger, Allaister Farquharfoun, his brother, James Farquharfoun in Achalater, Johnne Robertfoun of Straloch, *alias Barrow Reid*, Johnne Gairdin in Balliemoch, Findla Farquharfoun in Glenyly.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} James Clerk in Auldranie ; committit in anno 1610 yeiris.

Compeirit Thomas Sinclair indueller in Edinburgh, and Robert Auchinlek, wryter, as procuratoris, speciallie constitute be Elspeth Kow the relict, and be Andro Howie, now hir spous, for his entreis ; and be vertew of the Letter of Procuratorie grantit to thame, of the dait at Aberdene the third day of November instant, subcryuit be James Daidfonne and Mr Andro Clerk commoteris,¹ in name, and at command, of the said Elspeth and hir spous, past simpliciter fra the perfute of the hail perfonen on pannell, &c.

The pannell protestis that thai nor name of thame be callit or perfewit for the said allegit slaughter in ony tyme cuning.

Slaughter—Stouth-reif—Shooting of Culverings, &c.

Nov. 27.—WILLIAME FORBES of Monymusk.

Dilaitit, accufet, and perfewit off the crymes following, viz.

FORSAMEKILL as vpon the nynt day of Majj, the 3eir of God I^m. V^c. fourfoir 3eiris, vmq^{le} Alexander Menzeis, sone to vmq^{le} Gilbert Menzeis of Culrie, Proveit of Aberdene, being directt be the said vmq^{le} Gilbert Menzeis of Culrie, his father, to viffie² ane Halk-nest appointt be him to haif bene keipit and preferret to our fonerane lordis vfe and plefoure,³ within the Craig⁴ of Findoun, pertening heritabilie to the said Gilbert Menzeis, oy⁵ to the said vmq^{le} Gilbert Menzeis of Culrie, lyand within the Scherredome of Kiucardin ; the said vmq^{le} Alexander Menzeis, etir visitatioun of the samyn, and that he had ordanit the tenentis of the saidis landis of Findoun to geve earneit attendace to the keiping of the said halk-nest⁶ for his Maiesteis vfe, as said is ; he being in fober and quyet maner returne-and thairfra, cumand agaitwardis to the burghes of Aberdene, trufing in the meane tyme na inquietatioun, trouble, harme, nor iniurie to haif bene done to him, be ony perfonen ; but to haif frelie past furth the hie way, as his hienes frie subiect, in respect that he had offendit na man, nather be word nor deid : Neurtherles it is of veritie, that the said Williame Forbes of Monymusk, accompaneit with Alexander Robertfoun, Thomas Dik, and Mylne, then his fervandis, and vtheris thair complices, with convocatioun of our fonerane lordis legis, to the number of aucht perfonen, or thairby ; bodin in weirlyk maner, with feceritis,⁷ steil-bonetis, gantileis, fuordis, culverings, and pittoletis, exprellie prohibeit to be borne, worne, vset vpon thair perfonen or in thair companeis, privatlie or oppinlie, outwith houffis, or schote with, be the Actis of Parliament, vnder the panes thairin contenit ; vpon the said nynt day of May, the yeir of God foirsaid, the said Williame Forbes, with his complices, came tymoullie in the moorning, befoir the sone-ryfeing, to the Cairne⁸ of Lorietoun, lyand within the scherredome foirsaid, quhair thay darnet⁹ thamefelffis, mait obfcuridie, behind the said Cairne, with thair

¹ Co-Notaries.

² Insect.

³ King James VI., like many others of his ancestors of the Royal House of Stuart, was passionately fond of the sport of Hawking, and appears to have spared no expense in procuring the finest breeds, from various parts of Scotland (chiefly from the North of Scotland and from the Western Islands and Orkney.) The choicest kinds seem to have been brought from Denmark and Norway ; and, in many instances, the Falconers, who had trained them in those countries, were taken under the King's immediate protection and patronage.

⁴ Craig, a precipitous rock or crag.

⁵ Grandson ; *oe*.

⁶ The books of the Lord High Treasurer abound with entries of payments to men⁴ for watching a halkis-nest⁴ at such a place, so as to secure the brood, and give timely notice when they were fledged and ready to take wing.

⁷ A shirt of chain-mail, secretly worn under the ordinary dress.

⁸ A heap or pile of stones, commonly erected on an eminence, which marks the place of sepulture of some remarkable persons. Cairns were often reared to preserve the memory of a remarkable Murder, &c.

⁹ Concealed ; hid.

chargert culveringis, placet vpono restis,¹ awaiting the said vmq^{le} Alexanderis bycuming, for his slauchter: Lyk as, thay lay at await for his slauchter behind the said Cairne, continuallie, fra befor the fone-ryfing, quhill about acht houris in the moorning; till at last, haifing perfauct the said vmq^{le} Alexander soliter, him self allane, in fober and quiet maner, cumand by the said cairne, thay, af thair restis, dischargert thair culveringis at him, or eur he was circumspiect of thame; and thairwith schote him throw the heart and body with tua bullettis; and thairby, maift schamefullie, crewallie, and vnmercifullie slew him, vpono fet purpos, prouifoun, be way of Brigancie,² in vmbefetting the lie way, and foirthocht fellonie: AND nocht being fatisfeit thairwith, thay feing him fall down deid with the said schote, thay incontinent thairefur ruschet forwaris to him, and with thair fuordis and quhingeris maift schamefullie, crewallie, and tirannoillie gaif the said Alexander nyne bludie woundis about his heart, nochtwithstanding that thay had pernaet him lyand deid and flane be thame of befor: AS ALSO, at the samyn tyme, be way of ftoothreif, flaw,³ rest, and away tuik with thame his fuord, quhinger, cloik, and uther graith being vpono him; had and couvoyit the samyn with thame, and dispoit thairupoun at thair plefor: And the said Williame Forbes of Monymuk is airt and pairt of the said crewall Slauchter of the said vmq^{le} Alexander, and of the Maisterfull ftooth-reif of his fuord, quhinger, cloik, and vtheris aboue writtin. For the quhillkis, and for contravening the tennour of the said Act of Parliament, in beiring, weiring, and schewing of the saidis Culveringis, dagis, and pistolettis, he aucht and could be punceit, conforme to the Lawis of this realme.

PERSEWARIS, Gilbert Menzies of Pitfoddellis, as eldest brother-son; Sir Thomas Hammiltoun of Byres, kny^t, Aduocat, &c.; David Menzeis of Tilliepowreis, as brother.

PRELOCOUTOURIS in defence, My Lord of Mar, My Lord of Moirtoun, Mr Thomas Henderfoun, Mr Alexander Peiblis, Mr James Oliphant, Aduocattis.

Efter the reiding of the said Dittay and accufatioun of the said Williame Forbes of the saidis crymes, the Aduocat, with the pairteis perfewaris aboue writtin, his informeris, befor all forder proces, past fra that article of the Summondis anent the ‘Stouth-reif,’ *pro loco et tempore*: As also declairit, that he wald nocht instt vpono that woird of the Dittay beiring ‘foirthocht fellonie.’ And adherit allanerlie⁴ to the Slauchter and committing thairof, in maner contentit in the Dittay, be schottis of hagbttis and pistolettis; and in beiring and weiring of the saidis hagbttis, contrair the Actis of Parliament: Quhairvpono instrumētis was tane be the said Williame Forbes of Monymuk and his prelocoutouris; quha, nochtwithstanding thairof, offerit thame selfis reddie to defend for the saidis crymes past fra. And as concerning the Slauchter aboue writtin and remanent crymes lybellit, allegit that the Justice could not put the samyn to the Tryell of ane Ailysse, becaus nocht only had the said Williame obtenit tua fuercall Letteris of Slanes fra tua of the brether to the defunct, in respect of thair fatisfactioun contenit thairin; bot also, the Kingis Maicstie, of his special grace and mercie, hes, be his Letteris of Remiffioun, pardonit and remittit the said Williame Forbes of Monymuk for the saidis crymes: And for verificatioun

¹ When the culvering or musket was first introduced, the barrel was so heavy as to require a separate staff, called a *rest*, from which a deliberate aim could be taken. The circumstance of the culverings being placed upon their rests, is noted as an aggravation of the crime, and a strong proof of the malice of the parties. Specimens may be seen in *Grose*, or in the more recent publication of *Meyrick* on Ancient Armour, &c. ² Fr. *brigand, brigancie*. ³ Stole. ⁴ Alone; only.

thairof, producet tua feuerall Remiffiones, baith vnder the Grit Seill ; the ane, for the Slauchter aboue writtin, daitit vpon the xxvij day of Junij laft, and the vther, daitit vpon the firft day of Auguft laftbypaft, for beiring and weiring of the hagbuttis and piftolettis ; and vpon the productionun thairof akkit instrumentis. To the quhilkis Remiffiones, and his Maiefteis pardoun fet down thairin, the faid Williame Forbes tuik him felf, and offerit cautionn to fatisfie fa mony of the kyn and freindis of the faid vmq^{le} Alexander as ar nocht fatisfeit alreddie, according to the modificatioun of the Lordis of Seffioun, and thair Declaratour to be gevin thairintill.

Quhilkis tua Remiffiones, the Juftice admittit ; and ordanit the faid Williame Forbes of Monymusk to find the faid Cautioun for the parteis fatisfactionn, in maner aboue fpecifeit : Quhairupoun the faid Williame Forbes akkit instrumentis.

And for obedience of the faid Juftice Ordinance, fand Williame Forbes of Port-Lethem cautionn with him felf, coniunctlie and feuerallie, to fatisfie fa mony of the kyn and freindis of the faid vmq^{le} Alexander, as ar nocht fatisfeit alreddie, for the Slauchter aboue fpecifeit ; conforme to the modificatioun of the faidis Lordis of Seffioun, and thair declaratour to be gevin thairintill, as law will : Quhairupoun the faid Gilbert Menzeis of Pitfoddellis, as eldest brother-foone, and the faid David Menzeis, as brother to the defunct, akkit actis and instrumentis.

Murder under colour of Law—Drowning for a petty Crime, &c.

[THE Case which follows seems to have taken its origin from feelings of vindictive malevolence, on the part of a Notary in Lanark, a dependent of the Laird of Lee ; who, to gratify his base and revengeful temper, adopted the plan of conspiring against his patron's life and fortune, by accusing him of Murdering a poor man, under colour of Law ! This tale was so well got up, that the Lord Advocate entertained his complaint, and raised Criminal Letters against Lockhart. A more effectual channel was likewise made use of by Weir the Notary, who directly complained, through the Marquis of Hamilton, to the King, who was at all times accessible to such accusations of oppression ; from the double motive of desire to redress the wrongs of his injured subjects, and from his overmastering ' greed of filthy lucre : ' for many were the schemes resorted to by the British Solomon to enrich his coffers with the proceeds of the heaviest fines and pecuniary compositions which could be exacted, as peace-offerings, to appease his Majesty's inflexible justice ! A doubt having arisen in the mind of the Editor as to the truth of the accusation contained in the Criminal Record, he made a pretty extensive search, and has fortunately been enabled to trace the matter to its origin. Without proper vouchers having been produced, the reader would naturally have inferred, from a close inspection of the Record, that the Lord Advocate had been tampered with by some powerful friends of this influential Baron of Lee—and that Lockhart had been really guilty of the atrocious crime imputed to him by his accusers. The Letter from the Privy Council to the King, and the Deposition of Weir, which are appended, satisfactorily explain the matter, and clear the character of the Laird of Lee from the slightest suspicion on this score.]

Dec. 3.—JAMES LOKHART of Lie.

Dilaitit for Drowneing and puting violentlie to death of vmq^{le} James Watfone, in Auchcat-burne, and vtheris crymes fpecifeit in his Dittay.

In respect of the Advocate's absence, he protested for relief of Johnne Lokhart of Bar his cautioner : And he farther protested for relief of George Auchinleck of Balmanno, cautioner for ' his compeirance befoir my Lord Justice and his deputis, in the Tolbuth of E', vpon the xx day of December instant, and that he be nocht haldin to compeir the said day ; &c.

Dec. 20.—Compeirit James Lokhart of Lie, quha proponit and declairit, fforfamekill as he being charget, &c., in the moneth of October lastbypast, to find caution to haif compeirit befoir the Justice or his deputis, vpon the fact day of November thairefter, now lastbypast, in the hour of caus, to haif vnderlyne the Law for the allegit Murthour and putting to death of vniq^{re} James Watfoune, vnder cullour of Law ; as he that was couvict of sic meane crymes, as, be the Lawes of this realme, the dome of death could nocht be inflicted vpon ; and for certane vtheris allegit crymes, at leuth spacificit in the Letteris direct thair-ament. The said James Lokhart of Lie, the tyme of the geving of the said charge, being furth of this realme, in the pairtis of Ingland, yit nevertheles, be the advyſe of his freindis, in his absence, efter knawlege gevin to thame of the said charge, and for eschewing of the danger of Hoirning contenit in the saidis Letteris, in caice of disobedience, George Afflek of Balmanno became cautioner for his entrie, the said fact day of November, to vnderly the Law for the saidis crymes ; at the quhilk day, the said George Afflek haifing, in respect of the said Laird of Leyis nocht returning, obtenit of the Lordis of Seffion thair Lordschippis Warrant, direct to the Justice, for continuatioun of the dyet that day, to this present day : The Justice, for obedience of the said Warrant, of consent of my lord Aduocat, personallie present that day, as persewar, continewit the said dyet to this day. Lykas, the said George Afflek than become cautionn, &c.

In respect that my lord Aduocat nor na vther partie compeirit this day and place, as persewaris, to infist in his persute, being oft tymes callit to that effect, thairfoir Protestit for releif of the said George, &c. Quhilk Protestatioun the Justice admittit : Quhairvpon the said Laird of Lie askit instrumentis.

I. LETTER, *the Privy Council of Scotland to the KING.*

MOST GRACIOUS AND SACRED SOUERANE,

ACCORDING vnto your Maiesteis directioun, send vnto me, for trying of those contradictorie informationis maid to your Maiestie be the MARQUES OF HAMILTON¹ and THE LAIRD OF LEE, anent the execution of *vnquhile James Watfoune*, and setting to libertie of *Jannet Forreſt*, his spous, I cauit warne the Marques and the Laird of Lie to compeir this day, for iustifeeing of thair informationis. The

¹ James, *second* Marquis of Hamilton, a nobleman high in favour with the King, who granted him the Abbey of Aberbrothock, which was erected into a temporal Lordship, appointed him a Privy Councillor, one of the Gentlemen of the Bed-Chamber, Lord Steward of the Household—and subsequently, created him an English Peer, with the titles of Baron Ennerdale, and Earl of Cambridge, Jun. 16, 1619. Besides other great appointments, he was High Commissioner to the Parliament at Edinburgh, August 4, 1621, and was installed Knight of the Garter, Jul. 7, 1623. He died at Whitehall, Mar. 2, 1624-5, aet. 36. He married Lady Anne Cuninghame, fourth daughter of James, *seventh* Earl of Glencairn.

Marques comperit be Sir Johne Hammiltoun, his brother, who affermed, that Jedeone Weir, notair in Lanerk, and Clerk of the proces led againis the said vmqth James Watfoun, declairit and flew vnto the Marques, that this Watfoun and his spous wer onlie callit and convict, and Watfoun execute, for steilling of ane lamb, and that the wyffe, after her convictioun, wes sett at libertie. And for verificatioun of this his affermatioun, he exhibite the said Jedeone Weir; who, vpon examinatioun, confesseit that he had gevin this informatioun to the Marques, as alwa to your Maiesteis Aduocat, the tyme of the raising of the Crimnall Letteris aganis Lie; as your Maieitie, be his Deposition, heirwith fend vp, will perleue. The Laird of Lie compeirand, affermed constantlie, that this Watfoun wes callit and convict, vpon his awin iudiciall Confessioun; and accordnglie execute, for the steilling of nyne scheepe. And for verificatioun heirof, he producet the proces, writtin euery worde with Jedeone Weiris awne hand; whilk, being thowne vnto him, he could not deny the same.

This is all that hes bene tryit in this mater; whairby it appeiris, that the Marques hes bene abusid¹ be the said Jedeone Weir, who, vpon some priuat passioun and miscontentment aganis the Laird of Lie, maid this informatioun. And as for the wyffe, thair wes no thing verifeit aganis hir, bot the stealing of ane lamb, confesseit be hir self. Whairupoun the wes dimittit,² in respect that the Assise could gif no verdict aganis hir. At this examinatioun, I wes assistid be the Archiebischop of Glasgw,³ the Erll of Glencairne,⁴ the Lord of Scone,⁵ the President,⁶ Prenie Seill,⁷ Secretair,⁸ Justice Clerk,⁹ Aduocat,¹⁰ and Sir Robert Meluill;¹¹ who all thocht meete that Warrant and directioun shold be gevin for deserting of the dyet appointit for the Laird of Lies tryale; whilk accordnglie wes done, whill the forder knowledge of your Ma^{tie}s gracious will and pleafour heiranent, whairvnto I fall conforme my self. And so, with my humble and hartie prayeris vnto God, recommending your sacred Ma^{tie} and all your royall progenye to his faderlie and devyne protectioun, I rest for ever,

Your Maiesteis most humble and obeydent subiect and seruitour,

(EDINBURGH), 28 Nouember, 1611.

DUNFERMELINE.

TO THE KING his most sacred Majestie,

II. ' JEDEAN WEIR, his DEPOSITION, 27 Nouemb. 1611, *awent Laird Lie Lockhard,*
referred to in the foregoing Letter.

JEDEONE WEIR, notair in Lanerk, sworne, and demandit vpon the forme and maner of the Dittay and accusatioun of vmqth James Watfoun in Lie Mure, and Jonnet Forrest, his spous, and of the convictioun and executioun following thairupoun: Deponis, that the said vmqth James and his spous wer only callit and perfewit for the stealing of ane lamb; and that thay wer convict thairof: And that the said James Watfoun wes drownit for the stealing of the lamb; and that the said Jonnet Forrest, his spous, wes sett at libertie: And that this Deponner wes Clerk of the proces; and that the proces is writtin with his awne hand: And this he deponis, so fer as his memorie feruis him. And deponis, that he gaif this informatioun to the Marques of Hammiltoun, as alwa to Sir Thomas Hammiltoun of Byris, knight, his Maiesteis Aduocat.

TENET *cum principali*, J. PRYMOIRS.

Thett—Falsct (Forgery)—Imposture—Perjury, &c.

Dec. 12.—DAVID DONALDSOUN, chopman in the Cannogait.

Duped; imposed upon. ² Dismissed *simpliciter* from the bar. ⁵ John Spotswood, the Church Historian, &c.

⁴ James, *seventh* Earl of Glencairn. ⁶ David, *first* Lord Scone, who, while he was Sir David Murray of Gospertie, was successively Cup-bearer, Master of the Horse, Captain of the King's Guard, and Comptroller. For the share he had in rendering the King so essential service, on occasion of Gowrie's Conspiracy, he got the Barony of Ruthven, with the Abbacy of Scone, which last was erected into a temporal Lordship; and he was afterwards created Viscount of Stormont.

⁷ Sir Richard Cokburn of Clerkington.

⁸ Sir Thomas Hamilton, afterwards Earl of Hadington.

⁹ Sir John Cokburn of Ormistoun.

¹⁰ Sir Thomas Hamilton.

¹¹ Of Bruntisland, one of the Extraordinary Lords of Session.

Dilaitit of the flaliefeing, fforgeing, and counterfuting of ane fals Assignatioun, &c. fpecificit in his Dittay following.

PERSEVARIS.

Sir Thomas Hammitoun of Byres, kny', Johnne Alfhunder,¹ indueller in the Cannogait.

DAVID DONALDSOUN, chopman in the Cannogait, 5e ar indytit and accufet, florfamekill as 3e, haifing ingyret² 5ourfelf in the acquaintance of Johnne Alfchander, indueller in the Cannogait, ane puir, aged, fimple³ man, wanting childrene and freindis :⁴ of fet purpois to mak 5our advantage, vnlachfullie, of him, and to defraud him of that finall portioun of geir quhilk refted⁵ to him for his intertenement,⁶ in his decriped and decayed age ; and be 5our flatteris and fubtelteis, promeffing to him 5our affiftance in his actiones and effairis, with his intertenement in 5our houfe ; haifing pairby obtenit of him eredit to handill and pervyfe his writtis and evidentis ; 3e, in the moneth of September, or pairby, in the 3eir of God I^m.Vj^c. and ellevin 3eiris, thiftiouflie ftaw and conceillit frome him, and retaynit in 5our handis, tua Obligationis maid to him ; the ane pairof, of the dait the xxj day of Januar, I^m.V^c.lxxxvij 3eiris, quhairby Johnne 5oung in Dudingftoun was obleift to pay to him the fowme of ane hundreth pundis, and fail3eing pairof to infest him (in) ane annuel-rent ; and the vper, of the dait the fyft day of Februare, I^m.Vj^c. and ten 3eiris, quhairby Johnne and Thomas Carllis was bund to the faid Johnne Alfchunder to pay to him þe fowme of ane hundreth and tuelf pundis : And redelynering to him þe reft of his writtis, 3e affirmet to him, that 3e had delyuerit to him his hail writtis and evidentis. AND eftir that 3e had thiftiouflie ftowin fra him his faidis Obligationis, in maner and at þe tyme aboue fpecificit, and had confiderit with 5our felf that þe faidis Obligationes wald be vnprofitable to 5ow vnes 3e war maid assignay pairto, and knawing alfo that þe puir man was nocht altogidder fo fenles as to denude him felf of his hail guidis, geir, obligationes, and dettis in 5our fauour. being ane franger, to quhome he was nawayis obleift, and quhome he had no reffone to trust with his hail moyane and eftait ; 3e, falltie, wicketlie, and effrontellie refoluet to fforge, counterfute, and flaliefie to 5our felf and 5our awin behuife ane Assignatioun to the faid Johnne Alfchunderis foirfaidis Obligationes and hail remanent guidis and geir : flor performance quhairof, knawing that 3e behovet to haif þe affiftance of fum man quho wald tak vpon him þe name and represent the perfonage of the faid Johnne Alfchunder, 3e firft delt with Ramfay, ane aged begger, to play that perfonage ; and eftir 3e had craftillie intyfed him to confent pairto, 3it foirfeing⁷ with 5our felf the grit and mony

¹ Alexander. ² To ingratiate, by artifice and circumvention. From Lat. *in*, and *gyro*, to twist or turn round ; to entwine, &c. ³ Weak ; facile. ⁴ Childless, and having no blood-relations, &c. to care for him in his old age. ⁵ Remained. ⁶ Livelihood ; maintenance. ⁷ Foreseeing

differences, in fauour and stature,¹ betuix him and þe said Johnne Alschunder, wald easilie bewray ʒour fallèt, ʒe delt wiþ Cuthbert, cordiner in the Kowgait, quha haifing refuifet to be actour in fo pernicious and wiked ane interpryfe, at laft ʒe delt wiþ Johnne Henrie, cobler in the Cannogait, and finding him bothe fit and willing to play the pairt of fo damnable a tragedie, and knowing that gif his face fould be fene bare and vncoverit, it wald be þaireftir easilie difcoverid, that he haifing the ficht of bothe his eyis nicht easilie be difcernit from Johnne Alschunder, quho is blind of one of his eyis, ʒe caufit þe said Johnne Henrie cover one of his eyis and þe fyde of his face with ane blak clothe, vpon the tuelf day of November laftbypaft, and than informet him fufficientlie of all the circumftances neceffar to be vlet be him in the representatioun of the perfone of the said Johnne Alschunder, for accomplifhing ʒour wiket, pernicious, and fals purpois: And immediatlie þaireftir, convoyit him with ʒow to the town of Leith; and þair travellit with Patrik Glasfurd, notter, to forme ane Affignatioun to ʒow of the foirfaidis Bandis, and of the said Johnne Alschunderis haill remanent guidis; quhilk being done at ʒour deſyre, ʒe þaireftir convoyit the said Johnne Henrie, cobler, to þe wryting-buithe of the said Patrik Glasfurd in Leyth, in quhais prefens, and in þe prefens of Archibald Norwell, connotour,² and dyuerſe honeft witneffes, altogidder ignorant and innocent of ʒour falſe, difſaueabill, and wiket purpois, the said Johnne Henrie, cobler, quhome ʒe ſuppoſed in place of þe said Johnne Alschunder, and quho, of ʒour ſpecial cauſeing, command, counfell and perſuaſioun, taking vpon him, faultie and miſchautlie,³ þe name and perſonage of þe said Johnne Alschunder, gaif command to the faidis connoteris to ſubſeryve to ʒow and in ʒour fauouris the foirſaid Affignatioun⁴ to the said Johnne Alschunderis Obligatiounes and guidis. Quhilk being done, and ſubſcryuit be þe faidis Notteris and witneffes infert; and þe Notteris, for diſcharge of þair deutie, haifing proponit to ʒow, that reſſone and conſcience requyret that ʒe fould provyde for þe pure auld man Johnne Alschunderis intertenement, during his lyf tyme, ʒe conſented that þai fould forme ane Bak-Band, obleiffand ʒow to him to þat effect, during his lyf tyme; quhilk ʒe ſubſcryued and delyuered to the said Johnne Henrie, affirmeing him ſelf falſlie to be the said Johnne Alschunder: AND ſchortlie þaireftir ʒe cauſet regiſtrat the foirfaidis Obligatiounes, and gaif in the said Affignatioun to the Register; and

¹ In point of looks, complexion, personal appearance, and stature. ² Co-Notary. ³ From O. Fr. *meschant*, wicked, worthless, &c. ⁴ By the Law of Scotland, blind or maimed persons, and those who cannot write, may execute Last-wills and deeds of the greatest importance and solemnity, through the medium of two Public Notaries, who, in presence of four or more witnesses, read over and explain the nature of the Deed to be then completed; and on getting the instructions of the party, write out an official and Notarial schedule, or '*docquet*,' as it is called, attesting the fact, and stating precisely the reason of their being called upon to subscribe the deed in question. On the Notaries adhibiting their official signatures—the witnesses likewise, in attestation of the fact, subscribing their names—the writing is perfectly valid in Law.

pairpoun and vpone the said fals Assignatioun 5e raiset Letteris of Poinding and Intromiffioun, and fallie, wicketlie, and thiftiounlie mellit¹ and intromettit with fourtene scheip pertening to the said Johnne Alschunder, flew and disponit vpone tua of thame, fauld and disponit vpone the rest, and waisted and consumed the price pair of in satisfeing the gluttonie of 5our deboiſhed² affociattis: AND being callit befor pe Lordis of Secret Counfell, 5e abaid at pe verritie of the said Assignatioun, vpone 5our grit aith, and vpone the perrell of 5our lyfe: LYKAS, 5e haifing abiddin pairat, in presens of the Lordis of Sessioun, and periuredlie avowed the same to be ane trew evident, eftir that be pair diligence in 5our Examinatioun, 5e was put frome all cullour of justifeing pair of, 5it 5e malicioullie and impudentlie preifed to cleir 5our selff, and bring wrangus imputatioun pair of vpone 5our innocent wyfe and hir ffather. QUHAIRBY, 5e haif committed the crymes of Thift, Impositure, Periurie, Falfet, and Dissaitful suppositioun of ane counterfute personage, fallie, wicketlie and disfaueabillie to assume and vsurpe the name and personage of the said Johnne Alschunder, to his dissait, preiudice, and manifest oppreffioun, in maner aboue writtin. For the quhilk, 5e aucht to be exemplarlie punefchet, as ane Theif, abuscar, impositure, and periured falser, and persuader of ane pernicious villane to vsurpe, assume, and tak vpone him the name and personage of ane of his Maieſteis trew subiectis, for his dissait and ouerthrow.

THE persones of Affyse being chosin, suorne, and admittit, eftir acusatioun of new agane of the said Dauid Donaldfoun, be Dittay, in thair presens and audience, of the crymes aboue writtin, and eftir production to thame, be our said foueraue lordis Aduocat, of ane Decreit of the Lordis of Sessioun, of the dait the elleviint day of December instant, finding and declairing the foirsaid Assignatioun allegit, maid and grantit to the said Dauid Donaldfoune be the said Johnne Alschunder, in maner spacificit in his Dittay, to be ffals and fenzeit in the self, forget, and devyset be the said Dauid; and thairfoir, decerning and ordaning him to be punefchet in his persone and guidis thairfoir with all rigour, in exampill of vtheris.

VERDICT. The Affyse, be the mouth of Johnne Mathie, bonat-maker, chan-celler, ffand, pronuncet and declairit the said Dauid Donaldfoune to be Giltie, culpable, and convict of the crymes of Thift, Impositure, Periurie, Falfet, and Dissaitful suppositioun of the said Johnne Henric, cobbler, ane counterfute knaif, fallie, wicketlie and disfaueabillie to assume and vsurpe the name and personage of the said Johnne Alschunder, ane puir, aget, simple man, to his dissait, preiudice, and manifest Oppreffioun; in maner spacificit and at lenth sett down in the said Dittay.

¹ O. Fr. *mesler*, to intermeddle, &c.

² O. Fr. *desbauché*, debauched, worthless, &c.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair to be hangit vpon ane gibbet, quhill he be deid; and his haill moveable guidis and geir to be efcheit and inbrocht to our fouerane lordis vfe, as culpable and convict of the faidis crymes:—And lykwayis, Ordanit thir woirdis, ‘FOR THIFT, FOR FALSET, FOR IMPOSTURE, AND PERIURIE,’ to be writtin in grit letteris vpon tua feuerall paperis, and affixt, ane vpon his bak, the vther vpon his breift, the tyme of his executioun. Quhillk was pronouncet for Dome.

[*Sir Williame Heart, Justice-Depute.*]

ASSESSORES *nominat to the Justice be the Lordis of Secret Counsell.*

Mr Johne Prestoun of Pennicuik, Prefident of the College of Justice; Sir Richard Cokburne of Clarkingtoun, Lord Previe Seall; Sir Alexander Drummond of Medope; Mr Williame Oliphant of Newtown.

‘**Inbasion**’—**Taking Captive**—**Wearing Hagbutts, &c.**

Dec. 21.—WILLIAME DOUGLAS, Younger of Drumlanerig.¹

Dilaitit of the Invaiding and perfewing of Williame Kirkpatrick of Kirkmichell; and for Vfurpatioun of our fouerane lordis royall pouer and authoritie, in taking him Captiue and Prifoner at Dreffitland, and thairfra tranfporting him to the place of Drumlanerig, quhair he was detenit; and keeping him in cloife prifone, within the Tour of Drumlanerig, for the fpace of fax or fevin dayis, or thairby, he being our fouerane lordis frie lege; committit vpon the fyftene day of July, 1610 yeiris: And for contravening of our fouerane lordis Actis of Parliament, in beiring and weiring of hagbuttis and piftolettis.

PERSEWARIS, Williame Kirkpatrick, appeirand of Kirkmichell; Sir Thomas Hamaitoun of Byres, kny^t. PRELOCOUTOURIS in defence, Mr Alexander King, Mr Thomas Hoip, Aduocatis; my Lord of Angus; my Lord of Wigton; Sir James Douglas elder of Drumlanerig; my Lord Sanquhar.

It is allegit—na proces at Kirmichellis instance, becaus he is rebell; and product the Hoirning for verificatioun thairof, at the instance of the Laird of Cloisburne elder, for nocht payment of the pryces of certane victuall. It is anfuirit, aucht to be repellit, in respect he is relaxt; and product the Relaxatioun thairvpon.—It is forder allegit, that he is at the horne for nocht payment of the Taxatioune.—Thaireftir, my Lord Aduocat declairit that he had Warrant of his Maieftie to perfew, and conforme thairto, declairit he wald infist in the pannellis perfute, for the crymes contenit in the fummondis.

It is allegit be my Lord Aduocat, that this Hoirning for the Taxatioun aganis Kirkmichell can nocht debar him to perfew, becaus, be Act of Parliament, in anno 1597, it is appointit that all Hoirningis execute aganis ony partie, fall ather be productud iudiciallie, or in prefens of ane Notter and foure wittneffes: And trew it is, that the Registratioun thairof is contrair to the faid Act. It is

¹ See the Case of Alexander Kirkpatrick, sone to Sir Thomas K. of Cloisburne, kny^t, Jun. 28, 1611.

anſwerit that the Act of Parliament in anno 1597 is tane away by a poſterior Act of Parliament, viz. in anno 1600.—It is allegit be my Lord Aduocat, that this Hoirning is nocht competent in the perſone of the pannell, ſeing it is nocht execute at the pannellis inſtance for ane criminall cauſe; and forder, the pairtie perſewar is relaxt, albeit he haif nocht his Relaxatioun vpoun him. It is anſwerit, it is verrie competent to allegie na proces at the inſtance of the perſewar, ſa lang as he ſtandis rebell.

THE Juſtice, with advyſe of the Aſſeſſouris, ſfindis na proces at the inſtance of Kirkmichell, ſa lang as he ſtandis rebell, vnrelaxt.—Quhairupoun the pannell aſkit inſtrumentis.

My Lord Adnocat declairis he inſiſtis, for his Maieſteis intreis, in perſute: quhairupoun the pannell aſkit inſtrumentis.

It is allegit, that my Lord Aduocat man (*muſt*) condifcend in the Summondis: *Firſt*, that the pannell, anent the beiring of Piſtolettis, thai war borne on his perſone: *Secundo*, gif thai war borne in his companie, man¹ condifcend vpone that perſone: *Tercio, non fait dolo*, becaus gif any was borne in his company, it was by² his knowlege.—It is anſwerit, aucht to be repellit, in reſpect of the Summondis beiring that the Laird of Drumlangrig and his complices, at the leiſt ane or vther of thame, buir piſtolettis at the tyme lybellit, viz. thais quha ar expreſſit in the Summondis, and euerie ane of thame, at the leiſt ane or vther of thame.

THE Juſtice, with advyſe of the Aſſeſſouris, ſfindis the ſummondis, as thai ar fett down, to be relevant, beiring that the pannell, with thair complices, lurkit and darmit³ thame ſelfis in maner lybellit.—Quhairupoun my Lord Aduocat aſkit inſtrumentis.

It is allegit, that the pannell can nocht be convenit for *Williame Douglas of Reidhous*, becauſe the ſaid Williame, being convenit for piſtolettis afor the Counfell, was fynet be the Counfell thairfoir; and producet ane Decreit of Counfell, for verifeing thairof: And in reſpect of the Act of Parliament, in anno 1600, can nocht be perſewit afor the Juſtice, for that cryme, of new agane.—It is anſwerit, aucht to be repellit, in reſpect of the Summondis. It is allegit, that Williame Douglas being perſewit at the inſtance of the pannell, befor the Counfell, for beiring of piſtolettis, and the (injury) done to the pannell the tyme lybellit; as the Decreitis beiris: It is thairby tryit,⁴ that the beiring thairof was in Kirkmichellis companie, and nocht in the pannellis company: *Secundo*, ſeing Douglas is fynet befor the Counfell ſen that cryme, as be the ſaid poſterior Act of Parliament he ſuld nocht be of new perſewit befor the Juſtice for that cryme, *per confequentiam* the pannell can nocht be perſewit as haifing Douglas in his companie.—It is anſwerit be the Aduocat, that it is a verrie evill conſequence,⁵

¹ Muſt. ² Without; contrary to. ³ Concealed; hid. ⁴ Decided. ⁵ A very false conclusion.

and the allegiance aucht to be repellit, in respect of the Summondis.—It is allegit for *Hob Hunter*, that he was deid before the tyme lybellit; quhilk he offeris to preve, be Witnesses present at the bar.—It is anfuert, that that probatioun can nocht be reffaut, bot man be tryit be the Assyse.—It is allegit that the Summondis is nocht relevant, except the perfonen contenit in the Summondis war the pannellis houshald ferwandis, or cum furth of his housé with him, be his directioun, and that thai¹ war borne *ex mea scientia*: And that na fact or deid is done with pistolettis to the hurt of ony perfone, quhilk is nocht exprest in the Summondis.—It is anfuert, aucht to be repellit, in respect of the Act of Parliament and Dittay foundit thairnpoun: And forder, seeing the lyk perfute hes oft tymes bene decydet and fund relevant in this Judgement ofbefoir, desyres my lord Justice to advert thairvnto.—It is anfuert be the pannell, that the preceis wordis of the Law is not to be respectit, bot *anima et ratio legis*, for the Lawmaker is nocht to punnise perfonen for haifing pistolettis in thair company by² thair knowlege, bot³ the breker of the Law be schuting of pistolettis, and beiring of thame of purpois to offend thairwith.—Anfuert the Aduocat, aucht to be repellit, in respect of the Act of Parliament, quhairto he referis him self.

THE JUSTICE, with advyse of the Assessoris, Repellis the allegeances, in respect of the lybell as it is fet down, except for *Reidhous*, quhilk the Justice continewis that matter quhill⁴ the Counfell be advyfet thairwith.

It is forder alleget for the pannell, that feing the Judge has fund the Dittay relevant, in respect he and his complices darnit and lurkit in maner lybellit; that thairfoir, the pannell can nocht be convenit for *Williame Douglas* beiring of pistolettis; becaus it is cleir, be the Decreit of Counfell producet, that *Reidhous* wes vpone the Ball-greue, playing with him, Kirkmichell, the hail lycht, and sa possibillie could nocht be darnit ofbefoir in the leght; and the persewer is nocht able to afferme that thai war darnit eftir the boillspell⁵ dissoluit.—It is anfuert be the Adocat, it is nawayis contrair, feing *Williame Douglas* mycht haif bene in Kirkmichellis company afoir none, and with the pannell (efter none).

It is allegit be the pannell, that the taking of ane man is nocht capital, bot is only persewis as ane Ryote befoir the Counfell; and producet tua practikis⁶ led afoir the Counfell for the lyk cryme.—It is anfuert, aucht to be repellit, in respect of the cownoun Law and practik obseruit befoir the Justice in the lyk persutes ofbefoir: Repeittis *Dumbrekis* practik, M^cgregouris, and Fintreis for verifing thairof.—It is anfuert, for *Dumbrekis* practik, that he is nocht fa

¹ Viz. the pistols.

² Without.

³ Unless.

⁴ Until.

⁵ After the party broke up. This term is commonly written and pronounced *Bonspeil*, signifying a contest between two parishes or parties at 'curling' on the ice, archery, golf, &c. It is likely, in the present instance, to have been a match at 'golf,' or, more probably, *foot-ball*, both of them favourite games in Scotland. The *Ball-green* favours this conjecture.

⁶ Decisions; instances; parallel cases.

mekill convict for taking of the Kingis frie lege, as for Thift and Stouthereif; quhilk he referris to his convictioun.—It is allegit be the Adnocat, that *Dumbreck* is convict of Treflone, for the taking and detening of Meldrum of Aquhorteis, and Andro Meldrum his brother. Allegis the lyk for *M Gregouris*, quha war bayth convict and put to the death for the saidis crymes: And as for *Fintric*, the Summondis was ffund relevant, albeit he was abfoluet be pe Affyfe.—It is anfuert be the pannell, thair was ma¹ cryme conioyuet in thair Dittayis, nor² fimple Taking only, and mair nor ane Taking; and the Law Ordanis *exercitium Privati carceris*, only to be ane cryme, loco, ‘*Jubens*,’ *codice*, ‘*de Privatis carceribus*,’ et *Baldus ibid.*: Quhilk Law is alfo derogait be ane posterioure Law in that famyn Title, be quhilk (*exercitium privati carceris*) is only punifchet *pena* and the practyk of³ is only to punife *pena pecuniaria*; and allegit Julius Clarus.⁴

It is allegit, the Laird of Kirkmichell, the tyme of his taking lybellit, was at the horne, and be vertew of Letters of Captioun, was tane be the Scheref of the fchyre, quhome the pannell affistit allanerlic⁵ in the Taking: And producet the Hoirning and Letteris of Captioun, be the quhilk the Scheref-Depute, Robert Creichtoun, was charget to tak him, being rebell. It is anfuert, that the allegance aucht to be repellit, in respect the Letteris quhairupoun the Laird of Kirkmichell is denuncet war fufpendit *simpliciter, in foro contradictorio*, and he relaxt be the fpace of ane half yeir of befoir.—It is allegit be the pannell, that the tyme of Kirkmichellis taking, thair was na Relaxatioun fchawin, and na knowlege was gevin of his Relaxatioun to the Schireff; and fa he was *in optima fide* in taking of the Kingis rebell, nocht kuawin to him to be relaxt: And forder producet ane Act, quhair Robert Creichtoun was conffitute Scheref-depute. It is forder allegit, that gif the Scheref had been perfewit for Taking of the Kingis fre lege, nocht knawn to him to be relaxt, bot charget to tak him; as na Dittay could be relevant aganis him, in lyk manner, na proces aganis the pannell for being in his companie, and affifting the Scheref at that tyme.—It is anfuert, aucht to be repellit, in respect of the Summondis, Decreit fufpending the Hoirning, and Relaxatioun producet; and the lybell heiring that Young Drumlanerig and his complices hurt and woundit Robert Creichtoun for ftaying them to flay Kirkmichell; and fua can nevir allege that thair affistit him in execution of his office.

It is forder allegit, that this Dittay can nocht be comptit ane cryme, in respect the perfone tane was the Kingis rebell; and for verifeing thair of, repeitit the Hoirning producet for nocht payment of the Taxation; and thairfoir the Dittay can nocht be put to ane Affyfe: Quhilk Hoirning is daitit the xj of Februar

¹ More. ² Than. ³ Obliterated in Record. ⁴ An old Commentator. ⁵ Only; merely.

1601. It is anſwerit, that it is nocht onlie for Taking of the Kingis frie lege that the pannell is convenit, bot for Vſurpatioun of the Kingis authoritie.—It is allegit, that except the perſone tane, the tyme of his taking, had bene the Kingis frie lege, it can nocht be fund that the pannell vſurpmit the Kingis authoritie.—It is anſwerit, that the taking of ony perſone but¹ Commiſſioun of the Prince is Vſurpatioun of the Kingis authoritie, quibidder he be rebell or nocht.

THE Juſtice continewis, with advyſe of his Aſſeſſouris, Interlocutour vpon the former allegances to Tyſday nixt.

It is forder allegit, that as of the Law, *bannitus poteſt impune occidi, ſic multo fortius capi et incarcerari*; quihilk is expreſſie decydit be Baldus, in the foirſaid Law 'Jubens,' codice 'de Privatſis carceribus,' numero finali: And be Julius Clarus, L. *ſententiarum* § *Homicidio*.—It is anſwerit be the Aduocat, that *Banniti*, of the Cowmoun Law, was only thay quha war declairit rebellis for ane capitall cryme.—It is duplyt for the pannell, that of the Ciuill Law, that *Banniti* war alſweill rebellis for crymes, as for pecuniall ſowmes; and for preving thairof citit Julius Clarus, L. *ſententiarum* § *Homicidium*.

THE Juſtice Continewis Interlocutour, with advyſe of his Aſſeſſouris, to Tyſday nixt.²

Dec. 24.—Compeirit Williame Douglas, younger of Drumlanerig, quha declairit that he offerit him ſelf reddie to anſuer and abyd tryell vpon the Summondis and Dittay, at the inſtance of his hienes Aduocat: And als, is content, that nochtwithſtanding the Laird of Kirknichell be rebell, and was declairit be Hoirning the laſt dyet, to pas fra the ſaid Hoirning vſet aganis him, and that he haif place and perſone to ſtand in Judgement aganis him, and to inſit in his perſute on the Summondis and Dittay productet aganis him: And in reſpect thairof, the pannell deſyret my Lord Juſtice to pronunce Interlocutour vpon the allegances and anſweris maid in this caus vpon Setterday laſt, quihilk was the laſt dyet of this proces.

THE Juſtice Defertis this dyet, and that in reſpect that my lord Aduocat and the Laird of Kirknichell, parteis perſewaris, quha war oft tymes callit to inſit in this perſute, compeirit nocht to that effect—Quhairupone the pannell aſkit inſtrumentis; and that nochtwithſtanding thairof, he offerit him ſelf to defend according to the Law, for the haill crymes contenit in the Dittay.

(Apr. 24, 1612).—MY Lord Aduocat declairit that he wald inſit for baith the crymes contenit in the Summondis, alſweill for taking and incarceration, as beiring and weiring of piſtolettis.—The pannell, ffor cleiring of his In-

¹ Without. ² [On the margin of the Record,] "This haill proces preceeding, be ane Act maid vpon the xxiiij day of Apryle, 1612, is be the Juſtice, with advyſe of the Lordis of Secreit Counſell, ordanit to be delcit furth of the Buikis of Adiorrnall," &c.

nocencie of the first pairt of the Summondis, concerning the taking of the Laird of Kirknichell, &c., producet ane Letter, subscrivuit be the Laird of Kirknichell, and certane famous Witnellès ; quhairof the tennour followis.

I, WILLIAM KIRKPATRICK, appeirand¹ of Kirknichell, Testifeis and declairis, that þe tyme I went with Young Drumlanerig to the place þairof, quhilk was vpon the xv day of July, 1^o.Vj^o. and ten zeiris, it was at my speciall desyre to gang with him, for eschewing of farther inconvenient to my brother and sic vtheris as war in my companie, for allegit wrangis done to his fader ; quhairof I was innocet : And declairis þat I wes nocht tane þair againt my will ; and that efter I come to the Place of Drumlanerig, I was honettlie and courteoullie interteneit, haifing sic libettie to pas quhair I pleisit, as ane sic Gentilman : And being on the morne þairefter oft and dynerse tymes requyret be Young Drumlanerig to pas quhair I pleaset, I refuset to go forth, in respect of sum information I had redlait ; and remanet þair againt his will, quhill he foret me to pas away, always with sic forme of courtesie as he could vse to sic ane Gentilman : And that I was nawayis detenit nor keptit as Captive or Prisoner : And that þe Letteris raisit at my instance aganis him befor þe Justice, was by² my knowlege or advyse : Quhilk I testife to be of treuth. AND contentis þat þir presentis be infert and registrat in the Buikis of Counsell or Adionnall : And to that effect, Constitutis Mr Alexander King, aduocat, my Pro^r, to compeir and consent to þe registering heirof ; quhilk is writtin be Williame Penman, wryter in Edinburgh, and subscrivuit with my hand, AT EDⁿ, the ellevint day of Januar, the zeir of God 1^o. fax hundreth and twelf zeiris, befor þir Witnellès, Thomas Greifone of Bariarg, James Greir his broþr, Sir Williame Greifone of Lag, kny^t, James Dowie, wryter, and George Bryce, inferior of þe dait and witnellès heirintill.

KIRKMICHELL, Younger.

LAG, witness, THOMAS GREIFONE, witness, JAMES GREIFONE, witness,
J. DOWIE, witness, GEORGE BRYCE, witness.

Compeirit the said Mr Alexander King, as pro^r for Williame Kirkpatrick, younger of Kirkmichael, and desyrit the samyn to be infert and registrat in the Buikis of Adionnall, to the effect foirsaid ; and alledges, that the said cryme of Taking and Incarceratioun of Young Kirknichell, can nawayis be put to the knowlege of ane Aylse, in respect of the said Letter and contents thairof : And for better securitie, desyret, as of befor, the said Letter and Declaratioun to be infert and registrat in the Buikis of Adionnall, therein to remane *ad futuram rei memoriam*.

My Lord Aduocat takis instrumentis of the production of the said Letter and Declaratioun thairin contenit. The Pannell declairis he will vse na vther defence in this matter, bot the allegiance immediatlie preceeding, and renunes all vther exceptiones proponit be him in this caus of befor for this cryme, or competent to him aganis the same. My Lord Aduocat producet HIS MAJESTEIS LETTER, and desyret the clause following, infert thairintill, quhilk concernis this persute, to be infert in the Buikis of Adionnall ; quhairof the tennour followis.

AND as for that vther poynt of your Letter, concerning the forder following of that persute intentit aganis YOUNG DRUMLANERIG, forasmuch as We understand that he, being laillie reconceillit to Kirknichell younger, is to compeir befor our Justice at þe day and place specifieit in your last Summondis raisit againt him, and þairby (for clearing him self of that cryme quhairof he is accuset) to alledge that he did naper violentlie apprehend, nor detene the said Kirknichell. IT is þairfor our speciall

¹ Heir-apparent.

² Contrary to ; without.

pleafour, that at þe foirfaid dyet ʒow continow ʒour perfute againſt him, and that vpon his allegeing þe foirfaid exceptioun, ʒow do demand of him, gif he will nocht halilie rely þairupoun, renouncing all vther exceptiounes formerlie proponit in his defence : And vpon his Declaratioun that he will do ſo, ʒow fall than inſtit for remitting þe Tryell and furder conſideratioun þairof to the Lordis of our Counfell ; inſiſting, in the meane tyme, earnestlie, that theſe vther exceptiounes heirtofoir vſet in his defence, being ſo dangerous, and by no preſident warranted, may nocht heireftir be recoridit in the Registeris of Ad-iornal, as lauchfull or tollerable Defences to be proponit in the lyk Caiſſis, in ony tyme cuming :¹ Quhairin, naways douting of ʒour cair and reddines, We bid ʒow ſfairweill. Frome our Court, ATT QUHYTEHALL, the nynteneth of Merche, 1612.

And in reſpect thairof, and of the allegiance proponit be the pannell and his Iudiciall Declaratioun, that he renounces all his former Defenſſis, proponit of befoir in this cauſe, for this cryme, or competent to him aganis the ſamyn, except vpon the particuler allegeance foundit vpon Kirknichellis Declaratioun aboue mentionet, ſubſcriuit be him, and producet be the pannell this day ; firſt, deſyres, according to his Maieſteis commandment, that the tennour of the former Defenſſis proponit be the pannell in this cauſe, be deletit furth of the Register of Ad-iornal ; quhilk the Juſtice hes preſentlie ordanit to be done : And mixt, deſyret my lord Juſtice, that he will be advyſet with the Counfell, concerning the allegiance aboue writtin, proponit this day be the pannell. My Lord Aduocat declairit that he paſt fra the perfute of the pannell, for the laſt pairt of the Summondis, for the beiring and weiring of piſtolettis at this tyme and place : Quhairupone the pannell aſkit instrumentis.

INTERLOCUTOR and Decifion of the Juſtice and Lords of Secret Council.

THE JUSTICE, In reſpect of this Letter producet be Mr Alexander King, ſubſcriuit be the Laird of Kirknichell, and circumſtances contenit thairin, with advyſe of the Lordis of Secret Counfall, findis that this matter can nocht be put to the knowlege of ane Aſſyſe : And ſiclyk, in reſpect that the pannell hes this day paſt fra the hail former Defenſſis proponit be him in this cauſe, for the ſaid cryme, of befoir, in maner contenit in his former Declaratioun, the Juſtice, with advyſe of the Lordis of Secret Counfell, ſittand this day in Counfell, Ordanis the hail former allegeances proponit in that matter of befoir, to be deletit furth of the Buikis of Ad-iornal.

Quhairvpon my Lord Aduocat aſkit instrumentis ; lyk as the pannell alſo aſkit instrumentis, vpon the firſt pairt of ſaid Interlocutour.

Slaughter.

Feb. 12, 1612.—ROBERT SCOTT and ADAME SCOTT, Bailles of Hawik ;
 Jok Scott, belman in Hawik ; Williame Donald, alias
Nymbill, in Hawik ; John Lidderdaill, thair, callit *Jok
 the Deacone* ; Hob Scott, thair, callit *Hob the Lonkie* ;

¹ It is obvious that steps had been taken by the Officers of the Crown, in this remarkable Case, to procure the private agreement of the parties ; and on this being effected, the '*dangerus*' Defences, so boldly and ably urged by the eminent Counsel and fore-speakers, would forthwith be expunged from the Record ; or, at all events, never be permitted to be cited as precedents in future. The Defences were accordingly withdrawn, on this understanding, that the matter would be privately adjusted by the Lords of the Privy Council, as umpires. No deletion appears on the face of the Record.

Jok Schorte, thair; and William Johnneftoun, feruitour
to *Mariones Hob*.

Dilaitit for airt and pairt of the Slauchter of vniq^h Johnne Ellote in Redden.
callit Johnne of Rynfiegill, committit within the said Jok Schortis duelling hous
in Hawik, in the moneth of July, the yeir of God I^m.Vj^c. and ten yeiris.

PERSEWAR, Bessie Ellote as relict, with the fyve fatherles bairnes, &c.

PRELOCUTORIS for the pannell, Mr Thomas Nicholfoun and Lawrence Scott, Advocatis.

The persewar product the Letteris deulie execute and indorsate; and in re-
spect thairof, and that scho offeris hir self reddie to persew, protektis for the
releif of George Elphingfoun of Glenfakifbarneheid, and William Elphing-
foun his brother, of thair cautionerie.

It is allegit, that the Dittay is nawayis relevant to be put to ane Affyse, in
respect that the Dittay beiris that he was fund lying deid in the Irnes;¹ bot it is
of verritie, that vpon the morne thaireftir his committing to waird,² he hangit
him self in his awin belt; and sa, haifing desperatlie put hands in him self,
the pannell can nocht be put to the Tryell of ane Affyse, as airt or pairt of his death.—
It is answert, aucht to be repellit, in respect the allegiance is contrair to the lybell.

THE Justice remittis the matter, anent the Slauchter of the defunct, and tryell
of the treuth of pannellis allegiance, concerning the putting handis in him self,
to the knawlege of ane Affyse.

ASSISA, Jok Ellote, in Braillie, Will Scott, in Branxholme, George Airmetrang, in Grundunfyde.³

Robert Layng, being suorne, in presens of the pairtie and Affyse, and being
inquiryet concerning Jok Ellotes death, quhat he kenis thairof? Deponis, he is ane
mercheand; being in the Kirk;aird of Hawik priking sum skymis,⁴ and heir-
ing that Jok Ellote was hingand in the steppill,⁵ come, vpon the repoirt thairof,
into the steppill, quhair he saw the defunct hingand, in his awin belt; quhill
belt he cuttit, and thair being lyfe in the defunct, was brocht out, bot shortlie
thaireftir he deceit.—*Robert Scott*, being examinat and solempnelie suorne in
the premiffes, *est conformis precedenti, in omnibus*

VERDICT. The Affyse, all in ane voce, be the mouth of James Greiff in
Bowmanehill, chancellor, stand, pronuncet, and declairit the saidis persones, and
ilk ane of thame, to be Cleane, innocent, and acquit of airt and pairt of the
Slauchter aboue specifcit.—Quhairvpon thai, and ilk ane of thame, alkit actis
and instrumentis.

¹ *Irons*, or fetters.

² After his commitment to prison or confinement.

³ Niniane

Qubigholme in Peilbrae, (now written *Whigham* or *Wigham*.) and nine other 'Affysouris' names fol-
low.

⁴ Being a leather merchant.

⁵ The accomodation for prisoners (in England as well as Scotland) was at this period of the most wretched description. Steeples were often fitted up with fetters in their square or lower parts, riveted into the wall, where these luckless victims were detained until Trial, without any Jail allowance. In cases of Witchcraft, &c., iron collars were added; and it is highly probable that cases of suicide were by no means infrequent, owing to the desperate circumstances of these miserable creatures. See *Sir Walter Scott's Letters on Demonology*, &c.

“RODGER SCOT, Capitane of the Airmetage, Robene Ellote of Dunlabyre, Robene Ellote of Copchaw, Frances Ellote his brother,” and nine others of lesser note, “vnlawit and amerciat, ilk ane of thame, in the pane of ane hundreth merkis,” for thair nocht compeirance to haif past vpon the Assyse.

Irreverend Speeches against the King, his Council, &c.—Thrift, &c.

Mar. 11.—WILLIAME TUEDIE, callit *Coill-hoill*, in Heuchbrae.

Dilaitit of airt and pairt of certane poyntis of Thrift, &c. : And for certane vnvenerent and diflanefull speiches vtterit be him aganis the Kingis Maieftie, his hienes Counfell, and Iuftices of peax.

DITTAX againft the Pannell.

FORSAMEKILL as it is ftatute and ordanit, be dyuerfe Actis of Parliament, alfwellit maid in his hienes awin tyme, as in his hienes prediccessouris tyme, of guid memorie, that na maner of perfone or perfones presume nor tak vpon hand to vtter or geve out felanderous, reprochefull, or treffonabill speiches, apir be woird or writ, aganis HIS MAIESTIE, his Counfell or Nobillitie, vnder the pane of deid ; as the saidis Actis at lenth beiris : Nochtwithftanding quhairof, it is of verritie, that pe said Williame Tuedie, in the moneth of December lastbypast, haifing committit, ofbefoir, dyverfe Oppreffions aganis findrie of his hienes peceable subiectis, and speciallie aganis Richerd Powrie, Minister at Dawik, quha laifing compleint vpon pe said Williame Tuedie to the Iuftices of peax within the Sherefdom of Peiblis for pe fauyn, thay directit Johne Mathiesone in Stobo, and James Ruffell, tua of the Conttabillis of the said Scheref-dome, to fummond and arreift him, to compeir befor thame, in the Tolbuth of Peiblis, at ane certane day, to haif ordour tane with him for the saidis Oppreffions ; quha, according to pair directioun, cam and fummond and arreiftit pe said Williame, first in his Maiefties name, and than in the name of pe Lordis of his hienes Secret Counfell, and of the saidis Iuftices of peax, to the effect foirfaid ; nochtwithftanding quhairof, he, altogidder vnuynfull of his deutie, first towardis his God, our Souerane lord, and Lordis of his hienes Secret Counfellis auctoritie, and of the saidis Iuftices of peax, his hienes Judges and ordiner Magistratis ; nocht only irreverentlie, reprochefullie, and felanderullie vtterit and gaif vnfemelie speiches to the saidis Conttables againft the saidis Iuftices of peax, be faying that he ‘ wald nocht gif ane scab of his erfe for thame !’ And defyret thame ‘ to cum and kifs his erfe !’ Bot lykwayis, the said Williame, at pe fame tyme, maift treffonabillie, vnvenerentlie, felanderullie, and vndewtiefullie faid to the saidis Conttables, that he ‘ wald nocht gif pe scab of his erfe’ for his facred Maieftie and Lordis of his hienes Secret Counfell ; and bad ‘ his Maieftie and thame cum and kifs his erfe !’ And sua, be vttering of the saidis treffonabill, vndentifull, vnvenerent and felanderous speiches, he has contravenit pe temour of pe saidis Actis of Parliament, and incurrit the panes of death appointed aganis pe contraveneris pairof : Quhilk aucht and fould be execute vpon him, with all rigour, to the terour and exampill of vperis. AND sclyk, being Indytit and accuset, flor cuming, in pe moneth of November 1583, to Carrane-mouth, in Stobo-hoip, and pair thiftioulle ftaw,¹ rest, and away-tuik, fra tua cowmoun Thevis, xxiiij auld rcheip, quhilkis war ftowin² be jame furth of Cliddifdail : And for letting the saidis Thevis to frie libertie, and nocht presenting of jame to pe Justice. ITEM, flor airt and pairt of the fleilling and away-taking of ane beir ftak,³ contening tuelf tchevis of beir, committit in Januar, 1600 zeiris. ITEM, flor airt and pairt of the fleilling of ane quhite wedder-lamb, pertening to Williame Ruffell in Eitertoun of Stobo, furth of the Kuovell-fald ; committit in the moneth of Junij, 1601 zeiris. ITEM, flor airt and pairt of pe Slaucher of vnuq⁴ Eduard Curres in Brairdford, be cafting of ane ftane at him, quhairwith he ftak him ane deidlie ftreak on the hert ; be the quhilk ftreak, he tuik bed and dwynet in pe fpace of ane zeir, and in end deceiftit of pe said hurt ; committit in Junij, 1596. ITEM, flor airt and pairt of the fleilling of ane blak zeild⁴ kow, fra James Foulden in Harro of

¹ Stole.

² Stolen

³ Stack of barley.

⁴ Barren ; not giving milk.

Stobo, furth of the Hammer-bank, callit the Braid-blak-heid, in the moneth of November, 1607 5eiris. ITEM, flor airt and pairt of the fleilling fra Patrik Mathiesone, in Harro, of ane quhyte 5ow,¹ furth of þe grund of Harro, in the moneth of December, 1607 5eiris. ITEM, for dryveing to ane bucht² at þe Blak-hill-flell, in Harro-heid, of aucht 5owis, perteneing to Johnne Alexander, in Harro-heid: And flor the thiftous clipping of the said aucht feheip, and fleilling and away-taking of the haill aucht fleiffes of woll; committit in the moneth of Junij, 1602. ITEM, flor airt and pairt of the fleilling, cutting-down, and away-taking of tuelf grit allour-treys,³ furth of Dawik-woid, in the moneth of August, 1607 5eiris. ITEM, flor airt and pairt of the Murthour and Slauchter of Mathiesone, his spouse, he striking her in dynerte pairtis of hir body, quhairof scho deceidit þairestir. ITEM, flor Cowmone Thift, Cowmone Reflet of Thift, outputting and inputing of Thift fra land to land, fra cuntrie to cuntrie, baith of auld and new.

PERSEWAR, Sir Thomas Hamiltoun of Byres, kny^t, Aduocat to our fouerane lord.

PRELOCUTORIS for the pannell, Mr Laurence McGill and Mr David Aytoun, Aduocatis.

It is allegit, that the pannell aucht to haif bene citet vpon xv dayis wairning. It is answerit, aucht to be repellit, in respect the pannell is brocht furth of waird to the Bar; quha hes bene wairdit this foure monethis for the crymes lybellit.—It is allegit that *Johnne Mathiesone* can nocht pas vpon this Assyse, becaus he is pairtie and vpgeter of the Dittay, and is Constable, to quhome the allegit speiches was vterit. Aucht to be repellit, in respect of the persute at the instance of the Minister of Dawik, quha persewit the pannell afoir the Counfell, for injurie done; and the said Johnne Mathiesone was alreidie refflaunt Witnefs, and examinat be the Counfell; and sa may be ane Assyfour.⁴

ASSISA.

Johnne Mathiesone, Constable of the parochin of Stobo; James Ruffell, Constable thair; James Rammage, Constable thair; Johnne Reidschaw in Weiler Hoprew; Adame Ruffell, smyth thair.⁵

The Aduocat, for verificatioun of the Dittay, &c., product ane Decreit of the Lordis of Secretit Counfell, finding the speiches aboue writtin to be cleirlye provin; and protestit for Wilfull Errorr, in caise thay Acquit.—The pannell askit instrumentis, that name compeir to sweir the Dittay.

VERDICT. The Assyse, all in ane voce, be the mouth of the said Johnne Mathiesone, chanceller, stand, pronuucet, and declairit the said Williame Tuedie to be flylit, culpable, and convict of the selanderus, reprocheful, and vnreuerent speeches vterit be him aganis his Maiestie, his hienes Secretit Counfell and Justices of the peace, in maner specefieit and contenit in the first Article of his Dittay, and Decreit of the Lordis of Secretit Counfell, product, for verificatioun thairof: And as to the remanent crymes aboue writtin, contenit in the said Dittay, stand, pronuucet, and declairit the said Williame to be Cleane, innocent, and acquit thairof.—Quhairvpon the said Williame askit instrumentis.

¹ Ewe.

² *Ewe-bucht*, a pen or fold, where sheep are sheltered at night.

³ The *aller*

or alder-tree. ⁴ The admission of this person and his fellow-Constables, was contrary to every principle of justice; and very strongly shows how extremely arbitrary the proceedings of the Court were, at this period. ⁵ Ten other names are inserted, but they were persons of no note.

THE Justice continewis the pronunceatioun of Dome, to fryday next, that in the meane tyme he may tak advyfe with the Lordis of Secreit Counfell thair-
anent.

(Mar. 13.)—SENTENCE. The Justice, with advyfe of the Lordis of his
hienes Secreit Counfell, be the mouth of Alexander Kennydie, dempfter of Court,
decernit and ordanit the said Williame Tuedie, in Henchbra, to be SCURGET
through the Burgh of Edinburgh: And thaireftir to be BANISCHET furth of
his Maiefteis haill dominionis: And nawayis to returne agane within the
famyn, vnder the pane of hanging to the deid, but¹ forder Dome: And being
fcurget throw the towne, that the Magistratis of Edinburgh returne him bak
agane to his waird, within thair Thevis-hoill, thairin to remane quhill ane
schip be provydit to tranpourt him furth of his Maiefteis dominions, in maner
foirsaid.

Slaughter.

Mar. 13.—ALEXANDER FRENCHÉ, Tutor of Thorniedykis,² and James
Wicht, at Gordoun-mylne, his sifter-sonne.

Dilaittit of air and pairt of the Slauchter of vni^q^{le} Johnne Cranftoun, brother
to Patrik Cranftoun of Corfbie; committit be thame vpon the grund and landis
of Boun, in the Mersé, vpon the tent day of Februare lastbypast, be wounding
of him in the heid, leg, and dyuerse vtheris pairtis of his bodie, to the effusioun
of his bluid in grit quantitie: Off the quhilkis straikis and deidlie woundis the
said vni^q^{le} Johnne nevir thaireftir convalescit: bot, vpon the first day of Merche
instant, depairtit this lyfe, of the saidis hurtis and woundis.

PERSEWAR, Patrik Cranftoun of Corfbie, as brother.

The persewar, be his grit aithe, declairis that he hes most caus to persew: And
fuers the said Dittay to be of verritie, and takis instrumentis thairupoun; and
Protestis for Wilfull Errorr, gif the Assyse Acquit. As also, for verificatioun
thairof, haifing vsæt and producet the Depositiones of certane famous Witnesfes,
quhill was oppinlie red in Judgement.

VERDICT. The Assyse, all in ane voce, be the mouth of Hew Bell in Blithe,
chancellor, ständ, pronuect, and declairit the said James Wicht to be ffylet, cul-
pable, and convict of the crewal and vnmerciefull Slauchter of the said vni^q^{le}
Johnne Cranftoun. AND siclyk, for the maist pairts, Declairit the said Alexan-
der Frenché, to be ffylet, &c.—SENTENCE. To be tane to the Castell-hill of
Edinburgh, and thair, thair heidis to be strukin frome thair bodeis; and all thair
moveable guidis to be efcheit and inbrocht to his Maiefteis vsé, as convict, &c.

¹ Without.

² See the Trial of Sir Patrick Chirnesyde of East Nisbet, and others, Nov. 8,
1616, for Forcible Abduction and Marriage of Adam Frenché of Thornydykes, &c.

Raid of Glenfrwne — Fire-raising — Slaughter.

May 8.—DOUGALL M^cGREGOUR alias *Dougall M^ccandochie*, Callum M^cgregour callit *M^ccalexter f^coir*,¹ and Duncane M^ccarlich Culjame M^cgregour.

Dilaitit for being in companie with THE LAIRD OF M^cGREGOUR and his complices, at the Raid and ffeild of Glenfrwne,² in the moneth of februarye 1603 yeiris, aganis the Laird of Lufe, his kyn and freindis: And for being in cunpanie with the Laird of M^cgregour, at the burning of Barnehill, pertening to Colene Campbell of Laweris,³ quhair thai slew nyne men and thre bairnes; Robert Abroche M^cgregour, and Johne M^cfadrik, being thair with thaim.

THE Justice continewis the puting of the perſones foirfaidis to ane Affyſe to Thuriſday nixt.⁴—Thaireftir, the perſones on pammell, be Ordinance of the Comfall, war ordanit to be delyuerit to the Erle of Lynlythgow, and he to hald Court vpon thame, conforme to ane Commiſſioun gevin to the ſaid Erle to that effect.

Treasonable Intercommuning with John, sometime Lord Maxwell, &c.

May 16.—NINIANE AIRMESTRANG callit *Ninians Thome*, ſone to Thomas Airmeſtrang; and Johnne Amulliekyn, in Cruikis.

Dilaitit ffor the treſſonabill Reſſet, ſupplie, Intercowmoning, and accompaneing of JOHNNE, ſumtyme LORD MAXWALL,⁵ his Maieſteis declarit Tratur, ſforfalt in Parliament, for dyuerſe crymes of Treafone and Leſmaieſtie, at lenth ſpecifeit and contenit in the proces and dome of ſforfaltour deducet aganis him: And namelie, the ſaid Johnne Amulliekyn, for Reſſetting, Suppleing, and Intercowmoning with the ſaid ſumtyme Lord Maxwell, within his awin duelling hous in the Cruikis, and in his barne thairof, vpon the tventie ſax day of Apryle laſt-bypaſt; at the quhilk tyme, he haſſing reſſaut fra the ſaid ſumtyme Lord Maxwell the ſowme of ten pundis; he, for obedience of the ſaid Lord Maxwell's directioun, paſt thairwith vpon the morne thaireftir to the Town of Dumfreis, to the ſaid Niniane Airmeſtrang, quhair thay bocht ane hagbut and ane pair of ſchone,⁶ quhilk was delyuerit be the ſaid Johnne Amulliekin to the ſaid Niniane, to be gevin to the ſaid ſumtyme Lord; conforme to the ſaid Johnne Amulliekyn his Depoſitioun, maid be him in prefens of my Lord Chancellor, and vtheris Lordis of his Maieſteis Previe Counfell: AND ſicyk, the ſaid Niniane, for Intercowmoning and keeping companie with the ſaid Johnne, ſumtyme Lord Maxwell,

¹ M^callaster ſcoroch, q. d. *buck-toothed*.

² See Jan. 20, 1604.

³ This perſon is underſtood to have been Colin Campbell of ABERUCHILL, and the *Barnehill*, which is here ſtated to have been burned, is likely to have been ſome appendage of that property.

⁴ In conſequence of the ſubſequent order, no further procedure took place before the High Court of Juſticiary.

⁵ See his Trial, Jun. 24, 1609, &c., III., 28, &c.

⁶ Shoes.

declairit Tratour, in the said moneth of Apryle lastbypast, be the space of fyve dayis togidder, in the Laugwoid and Schillingtonelhill; and for bringing of ane hagbut fra James Louk, and delyuering the same to the said Lord Maxwell, his Maiesteis declairit Tratour; and bringing of the said vther hagbut, with the pair of schone ressaunt be him fra the said Johnne Amulliekyne, within the town of Dumfries, and delyuering the samyn to the said Lord Maxwell; as at lenth is contenit in thair Dittayis. IN doing quhairof, the saidis Johnne and Niniane had committit manifest Treafone: And thairfoir, according to the Lawis of this realme, had incurrit the paines and pwnceishment of tynefell¹ and florfaltour of lyfe, landis, and guidis, to be inflictit vponne thame; to the terrour of vtheris.

VERDICT. The Assyse, be the mouth of Dauid Bailzie, burges of the Cannogait, chancellor, ffand, pronuncet, and declairit, all in ane voce, the saidis Johnne Amulliekyne, and Niniane Airnesfrang, and ather of thame, to be flylit, culpable, and convict of the crymes aboue specifeit in thair Dittay; and that in respect of thair awin Judiciall Confessioun and Depositiones product.—SENTENCE. To be tane to the mercat croce of Edinburgh, and thair to be hangit vponne ane gibbet, quhill thai be deid: And all thair landis, heritages, guidis, and geir, gif thai ony haif, to be florfaltit and escheit to his Maiesteis vse, as convict, &c.

‘Unbesetting the hie-way’—Slaughter.

JUN. 3.—GAWIN HORNE in Inner Kethie, and Hobel Jak, mother to the said Gawin.

Dilaitit, accusit, and perfewit, that thei with their complecis, being bodin in feir of weir, with swordis, durkis, and vther vapones *invasiue*, laitle, vponne the fast day of Januar lastbypast, haifing confaut ane deidlie feid, rancour, and malice cauldes, aganes vniq^{le} Patrik Low in Naderdaill, came vnder silence and clud of nyelit to the town of Nether Kethie, quhair he was going hame to his duelling hous, in maist peciabil maner, vnder Godis peax and our souerane lordis, and thair Unbeset his hie-way and passage,² and crewallie Invaudit him for his Slaughter, hurt and voundit him in his body and breist, with durkis and swordis, to the effusioun of his bluid in grit quantitie: Of the quhilkis hurtis he newer convalessit, bot continewing bedfast in grit dollour and diseis thairof, vnder the cuir of chirurgieanes, be the space of fourtein dayes, or thairby; quhill at last, the said vniq^{le} Patrik, vponne the twenty day of the said moneth of Januar, departit this lyfe: And swa wes crewallie and vmercifullie flane be thame; and thei and ather of thame wer airt and pairt of the said crewall Slaughter.

¹ Loss; deprivation. ² Waylaid; lurked, or lay in ambush for, for the purpose of ‘besetting.’ See various Trials in this Collection, where this phrase repeatedly occurs. The highway was likewise said to be ‘unbeset,’ when one party blocked up the road with his retainers, for the purpose of *daring* his rival to pass—or to give battle, and thus force a passage, if he could.

PERSEWAR, Andro Low as fone. PRELOCOUTOUR for the persewar, Mr Williame Livingstoun.
PRELOCOUTOUR for the pannell, Mr Johnne Ruffell, Aduoact.

Protestis for Wilfull Errorr in caise they Acquit.

Mr Johnne Ruffell takis instrumentis, that thair is nane to fweir the Dittay bot ane young boy of faxtene yeir awld; and fwa can mak na faith.—Produces ane instrument subferynit be the Justice of Peax and the Conftabill, for verifiatioun of the Slauchter of vniq^{le} Patrik Low and cleiring of the famyn, subferynit be the said Conftabill, Johnne Innes of Knokecorth, ane of the Conftabillis of peax; and schawis that Williame Smairt confessit that he hurt and voundit the said vniq^{le} Patrik.—Quhilk cryme the pannell alluterlie denyit.

VERDICT. The Assyse, be the mouth of George Leslie in Drumblair, chancellor, for the maist pairt, fstand, pronuncit, and declairit the saidis Gawin Horne and Isobell Jak to be Clein, innocent, and acquet of airt and pairt of the said Slauchter.

Abiding from the Raid of the Isles.

JUN. 5.—ROBERT MAXWALL of Potterak, Alexander Fergusone of the Yle, Johnne Charteris in Redingwoid, Johnne Wallace in Carnezeill, Thomas Edger in Holme, and Mr Samuell Kirkpatrik.

Dilaitit for Contravening the Proclamationn in abydng fra the Raid of the Yles, in anno 1608.

PERSEWAR, Andro Lord Stewart of Vchiltrie.

My Lord Vchiltrie passis fra perfute of Mr Samnell Kirkpatrik. He also passis from the pursuit of *Hew Douglas* and *Thomas Douglas in Dalvene*.—*Williame Greir* provin to be feik, be the Depositionn of Johnne Broun, Minister of Glencairne.—*James Fergujoun of Crochedow*, provin to be feik, be the said Ministeris Depositionn.

THE Justice continewis this matter to the morne, *in eodem statu quo nunc est*.

JUN. 6.—IN respect na pairtie compeiris this day to insist in thair perfute, Protestis for thair cautioneris releif; and that thai be nocht charged or trubillit for the said allegit cryme, in ony tyme cuming. And thairupoun askit instrumentis.

Mutilation and Demembration.

JUN. 12.—WILLIAME RUTHERFURD of Synewallis, and George Well his seruand.

Dilaitit for the Mutilatioun and Demembring of James Weir, fernitour to Williame Weir in Softlaw; committit in februar 1611, of the formeft finger of his left hand.

PERSEWER, James Weir.
PRELOCOUTOURIS in defence.

Sir Robert Stewart, Mr Johnne Rutherford, Mr Johnne Ruffell, Mr Johnne Dauling.

JAMES WEIR, seruitour to Williame Weir in Softlaw, Dilaitit of airt and pairt of the Mutilatioun of Williame Rutherford of Synewallis of his . . . hand, at the leift of the mid-finger thairof; committit in februar 1611.

PERSEWAR, Williame Rutherford of Synewallis.

PRELOCOUTOURIS in defence.

The Laird of Blaikwoid, The Laird of Lammingtonn, The Laird Symontoun,
The Guidman of the Caveris, Robert Hammiltoun, Aduocat.

It is allegit be Mr Johnne Ruffell, that the Dittay is altogidder irrelevant; and thairfoir can nocht pas to ane Assyse: And as to that article of the Dittay, concerning the demembring James Weir of the finger, quhilk is the only point that fould be tryit in this Judgement, nather mutilatioun nor demembratioun is relevant; becaus, except the haill hand had bene cuttit af, it can nocht be comptit demembratioun; and the finger is nocht ane member, *sed tantum est pars membri*. It is forder allegit, that this Dittay aganis Rutherford and his man can nocht pas to ane Assyse, becaus, gif ony mutilatioun or hurting was done to Weir, the samyn was done in Rutherfordis awin defence, he being in fober maner passand out the hie-way, convoyand ane gentilman to his hors; at quhilk tyme, vnder nycht, Weir, with ane drawin suord, invaidit Rutherford; and sa, gif ony hurt wes gevin to Weir, it was in Rutherfordis defence.—It is ansuerit, that the Dittay is relevant, nochtwithstanding of the allegeance; and desyres the Assyse to cognosce, quhidder the samyn was done in Weiris defence or nocht; quhilk Weir altogidder denyis.—It is allegit be James Weir, that the lybell at the instance of Williame Rutherford aganis him can nocht pas to ane Assyse; and gif ony mutilatioun was done to the said Williame Rutherford, the samyn was done in Weiris awin defence.

Compeirit, Williame Lord Cranftoun, Commissioner for his Maiestie, and desyre my Lord Justice, that thir tua perfutes, movet in this Judgement, may be remittit to the Commissioneris, to be tryit befoir thame, feing the factis lybellit was done within the boundis of thair Commissioun: And siclyk, feing thair is ane Court affixt to be haldin within the boundis thairof, quhair justice fall be ministrat to ony pairtie, conforme to the Lawis of this realme.

THE Justice continewis this matter to Thurisday nixt, vnto the tyme he be advyset with the Counsell, concerning my Lord of Cranftones desyre.

Lawburrows are granted at the instance of the parties against each other, viz. 'Mr Johnne Rutherford become fouertie and Lanborrus for Synlawis and his serwand, &c. vnder the pane of ffyve hundreth merkis, and three hundreth merkis. William Rutherford of Synlawis for the said Mr Johnne, vnder the pane of three

hundreth merkis. And James Douglas of Todhoillis for George Weir of Blaikwoid, and for the pannell James Weir, vnder the pane of ane thowfeand pundis, and thre hundreth merkis.'

Thaireftir the Justice abfolutelie, without forder continuatioun of this matter, Remittit the tryell of baith thir actiones, perfewit be ather pairtie aganis vtheris,¹ to the Commiffioneris, to be cognofcet and tryet be thame as accoidis of the Law.

Abiding from the Raid of the Isles.

JUN. 25.—ROBERT HEREIS, in Lafoun, and five others.²

Dilaitit for contravening of his Maiefties Proclamatoun, in nocht paffing fordward with Andro Lord Stewart of Vchiltrie, his hienes Lieutenant, to the Raid of the Yles, in anno 1608.

PRELOCUTORIS in defence, Mr Johnne Halyday, Mr Johnne Belfis.

The perfones on pannell takis instrumentis of thair compeirance, and declairis that thay war nawayis fubiect to the tenour of the Proclamatoun ; in refpect thai ar nather Erles, lordis, barrones, feweris, frehalderis, or landit gentilmen ; and gif the famyn can be tryit³ that thai war sic men, the tyme of the making of the faid Proclamatoun to the faid Raid, thay ar content to affigne, and be thir prefentis affignis, thair haill landis and heritages to the Kingis Maieftie, &c. And in refpect thair is na pairtie perfewer prefent to infitt in thair perfute, proteftis for thair cautioneris releif, and that thai be nocht callit or perfewit, for this matter, at any tyme heireftir.

Slaughter.

JUL. 1.—ROBERT FORBES, fone to James Forbes of Mylnebowie.

Dilaitit, accuset, and perfewit by DITTAY following.—FORSAMEKILL as he, accompaneit with Williame Forbes, callit of Mylnebowie, and Patrik Forbes his brother, now rebellis and att the horne for the cryme vnderwrittin, and dineris vtheris thair complices, haifing confaut ane deidlie feid, rancour, and malice aganis the faid vmq^{le} Johnne Ker, vnderftanding him to haif bene att the Kirktooun of Skene, att the mariage of his wyfes fifter ; thay, vpon the fyftene day of October lafbypaft, darnit thame⁴ in the hie-way, betuix the faid Kirktooun of Skene and the faid vmq^{le} Johnne Ker guidfatheris hous, in . . . , quhair the faid vmq^{le} Johnne had his refidence for the tyme ; and thair, bodin⁵ with fwordis, dageris, gantilletis, and vtheris wapponnis inualue, lay att wait all that day for the faid vmq^{le} Johnnis hame-cumming : Lyke as, about the ewening, vnder filence and cloud of nycht, the faid vmq^{le} Johnne, lipning for na ewill, harme, or

¹ By both parties against each other.

² This case was continued from Jun. 23.

³ Proved ;

instructed. ⁴ Hid ; concealed themselves.

⁵ Furnished ; provided.

injurie of ony perfonnes, bot to haif paft hame to his hous in peceabill maner, vnder Godis peax and our fouerane lordis, haifing tane his hors with ane young woman on behind him ; in his hame-paffing to his faid guidfatheris duelling hous, was vmbefett in the hie-way, be the foirnameit perfonnes ; quhair, befoir ewir he wes aduertefit of thame, thay, with their wappinnis foirfaidis, maift fehamefullie ftrak him fra his horfe, and maift crewallie invaidit him for his flachter, gaif him twa crewall and deidlie ftraikis in the heid with their fwordis, and hurt and woundit him in dyverfe pairtis of his body ; to the effufioun of his blude in grit quantitie : Off the quhilkis crewall woundis, he newir thair-eftir convaleft, bot continewand in grit dolour and payne thairof, vnder the cuir of cherurgeonis, be the fpace of elleuin oulkis¹ or thairby thaireftir ; quhill² at laft, the faid vmq^{le} Johnne Ker, in the moneth of Januar laftbypaft, deceiffit of the faidis deidlie woundis ; and fwa wes crewallie and vnumerciefullie flayne be the faidis (perfonnes) : And the faid Robert Forbes is airt and pairt of the faid crewall flachter of the faid vmq^{le} Johnne Ker ; committit vpoun fett purpois, prouifioun, and foirthocht felony.

PERSEWAR,

Johnne Ker at the mylne of Clwney, as father ; Alexander Gordoun of Clwny, affiter in this perfute.
PRELOCUTORIS for the pannell, Mr Johnne Ruffell, (Advocate.)

It is allegit, that this matter can nocht pas to ane Affyfe, becaus in November 1611, eftir the allegit hurting, this perfewar haifing intentit actioun befoir the Counfell aganis Williame Forbes of Mylnebowie, and Patrik Forbes, his brother, committeris of the flachter, to haif hard and fene thame decernit to haif committit ane oppin and manifefit Ryote and Oppreffionn : ffor preving of the quhilk complement befoir the Counfell, the faid Johnne Ker vset the pannell as ane witnefs to verifie the fame ; and fua, haifing anes vset him as witnefs in the faid matter, thai can nevir be hard to follow him as pairtie. For verifeing quhairof, producet the Counfellis Act, and ane tefificat of his fummondung, fubfcryuit be Alexander Watfone, meffinger. Anfueris, thair was na witneffe led in the proces afoir the Counfell ; and albeit at that tyme na knowlege of the pannellis giltines was cleirlye knawin, yet that can nocht liberat him fra pwneifchment, his giltines being tryit³ thaireftir.

THE JUSTICE remittis the fame to the Affyfe.

VERDICT. The Affyfe, be the mouth of Alexander Thome in Eifter Cairny, chancellor, all in ane voce, ffand, pronouneit, and declairit the faid Robert Forbes to be Cleane, innocent, and acquitt of the flachter of the faid vmq^{le} Johnne Ker ; and of airt and pairt of the faid Slauchter.

¹ Weeks.² Until.³ Proved ; established.

Slaughter.

Jul. 3.—THOMAS MAXWALL of Arenyuing,¹ brother to Alexander Maxwell of Logane; Johnne Huttone, messenger in Carlingwark.

Dilaitit of the crymis sett down in the Letteris and DITTAY following. FOR-SAMEKILL as the said Thomas, accompaneit with Johnne Maxwell, sone to the said Alexander Maxwell of Logane, now fugitiue and at the hørne for the slauchter vnder writtin, vpone the tuentie nyne day of Apryle lastbypast, haifing confaet ane deidlie feid, rancour, and malice againt vmq^{le} Johnne M'nacht of Kilquhannatie, and vnderstanding that thair was ane tryft² affixt to be keptit at the toun of Carlingwark, betuixt him and Dauid Maxwell of Newark, the said day; the said Thomas and Johnne, his brother-sone,³ and vtheris thair complices, bodin⁴ with fuordis, quhingeris, and vtheris wapponis inuasue, come to the said toun of Carlingwark, quhair the said vmq^{le} Johnne M'nacht was rydeing vp and doun, attending vpone the said Dauid Maxwell of Newwarkis cuning, in sober and quyet maner for the tyme, liping for na harme, iniurie, or persute of any persone, bot to haif leuit vnder Godis peax and our fouerane lordis; and haifing first violentlie drawin him af his horse, and thaireftir compellit him to pas with thame in to Johnne Huttone messengeris hous, in Carlingwark, thay thair, efter dyuerse ruche⁵ and hard speiches vtterit to him, drew thair quhingeris and fuordis, and within the said hous persewit him for his slauchter: The said Thomas Maxwell grippit him be baith the airmes, and held him, vnto⁶ the tyme the said Johnne Maxwell, his brother-sone, gaif him tua straikis, the ane at the hert, and the vther on the left airme: Off the quhilkis, he immediatlie thaireftir deceiffit; and sa was crewallie and vnumercifullie slane be the saidis Johnne and Thomas Maxwellis: And thay and ather of thame ar and war airt and pairt of his said slauchter; committit vpone set purpois, prouisioun, and foirthocht felonie; in hie and manifest contempt of our fouerane lordis auctoritie and lawis.

PERSEWARIS, Johnne M'nacht, burges of Edinburgh, neir kynfman; (Capitane) Charles Geddes of Raclan; [Margaret Gordoun, Lady Kilquhannatie, the relict, with the thrie fatherles bairnes, kyn and friendis of vmq^{le} Johnne Maknacht of Kilquhannatie.]

PRELOCUTORIS for the painell, Alexander Maxwell of Logane; Johnne Maxwell of Couhathie; Robert, Maister of Maxwell; Mr Williame Maxwell of Caveris; Mr Alexander King, Aduocat; Adame Cunninghame, Aduocat; Sir Robert Maxwell of Spottis; The Guidman of Cowhill.

The persewaris, vnderstanding Johnne Huttone to be innocent of the slauchter, passies *simpliciter* fra his persute; quhairupoune Johnne Huttone askis instrumentis.

VERDICT. The Assyfe, be the mouth of James Cannane of Killochie, chancellor, all in ane voce, stand, pronuncet, and declairit the said Thomas Maxwell to

¹ In the Dittay called of Arenemin.
furnished.

² Rough; uncouth.

³ An appointed meeting.

⁴ Nephew.

⁵ Provided;

⁶ Until.

be Cleane, innocent, and acquit of the slauchter of the said vni^q^e Johnne M^cnacht of Kilquhannatie, and of being airt or pairt thairof.

Alexander Maxwell of Logane become pege and fouertie for Thomas M. his brother germane—and Capitane Charles Geddes of Rahan, and Johnne M^cnacht, mercheand burges of Edinburgh, ather of thame become peges and fouerteis for vtheris,¹ that thair ather of thame fall oberue and keep his Maiesteis peax to all our fouerane lordis legis, and nawayis to moleit or trouble thame in thair perfonis, guidis, or possiſſiones, vtherwayis nor² be ordour of law and iustice; ather of thame vnder the pane of fyve hundreth merkis.

Murder under trust—Slaughter—Theft.

JUL. 11.—PETRIE M^cGILLIEVORICHE in Brachloche.

Dilaitit of the crewall Murthour and Slauchter of Duncane M^callaster and M^cgilliecreift,³ his tua sifter-fones; and for dyuerſe poyntis of theft, (viz.) FOR airt and pairt of the crewall and abhominabill Murthour vnder Trust of vni^q^e Duncane M^callaster, his sifter-fone, be schuitting him with ane hagbut throw the body; committit in the moneth of Apryle, the yeir of God I^m.Vj^e. and thre yeiris. ITEM, for airt and pairt of the thiftious steilling, at the leift reſetting, of fourtie ſcheip, pertening to the Guidman of Campbell-Burnet. AND for airt and pairt of the thiftious steilling of tua oxin and ane kow, pertening to Johnne Leith in Edingerroche; committit a tua yeir fyne, or thairby. ITEM, for airt and pairt of the steilling fra Adame Leith of foure oxin; committit a tuelf yeir fyne, or thairby. ITEM, for cowmoun thift, cowmoun reſset of thift, outputting and in-putting of thift, fra land to land, fra cuntrie to cuntrie, baith auld and new.

PERSEWAR, Mr Williame Oliphant of Newtown, Aduocat to our foueran lord.⁴

ASSISA.

Williame Forbes of Monymusk, Younger,	George Jope in Cowclarachie, Johnne Woid in Mylnebowie,	Mr Johnne Horne, seruant to the Laird of Fren draucht,
Mark Mawer of Mawerftoun,	Andro Meldrum of Dumbrek,	Johnne Forbes, seruitour to my
Edmond Gradane in Kinloche,	Alex. Irwing, Younger of Lenturk,	Lord Forbes,
Williame Lummifden, brother to the Laird of Cufchie,	Patrik Mortimer, Mr Patrik Grant, Miniſter at	George Gordoun, seruitour to the Laird of Lesnoir,
Tho ^s Cowie, burges of Abirdene,	Cromedaill,	Mr Robert Elphingfoun, Tutour of Glak.

VERDICT. The Allyſe, be the mouth of the said Williame Forbes of Monymusk, chancellor, all in ane voce, ffand, pronuncet, and declairit the said Patrik to be flylet, culpable, and convict, according to his awin Confessioun, set down in his Depositiones, of the crymes *reſpectiue* aboue ſpecified.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair, vpone ane gibbet, to be hangit quhill he be deid: And all his landis, heritages, &c.,

¹ For each other.

² Otherwise than by form of Law.

³ No mention is otherwise made

in the Dittay or proceedings of this murder of M^cgilliecreist.

⁴ He appears here for the first

time, in the Record, as Lord Advocate.

guidis and geir pertening to him, to be fforfault and efcheit to his Maiefteis vfe, as convict and culpable of the faidis thiftious and abhominable crymes.

Wlaughter, &c.

Jul. 17.—SUBMISSION betwixt GEORGE (*fifth*) ERLE OF CAITHNES, (WILLIAM) LORD BERRIDAILL, his fone, and (JOHN *seventh*) ERLE OF SUTHERLAND.¹

Compeirit Mr Johne Manfone and Mr Johne Sinclair, feruitouris to George Erle of Caithnes, and producet ane WARRANT of THE LORDIS OF SECRET COUNSALL, anent the deferting of the criminall perfutes appointit, *hinc inde*, aganis the Erles of Caithnes and Sutherland, to be difputit and reflonit afor the Justice this day : off the quhilk Warrant the temour followis.

MY LORDIS of Secrett Counfell, vnto 3our lordfchipis humlie meanis² and fehawis, we 3our feruitouris, GEORGE ERLE OF CAITHNES, LORD BERRIEDAILL, his fone, for our fellis, and in name of our friendis and fervandis, quho ar charget in the matter vnderwritten : That quhair, pe xvij day of Julij infant is appointit vnto ws for our compeirance befor pe Justice and his deputis, in the Tolbuth of Edinburgh, to vnderly the Law, for the slaughter of Neill Nathmarne ; the hurting and wounding of Johne Gordoun of Golfpitour, Donald M'ky, fear of Far, and fome vther friendis and fervandis to THE ERLE OF SUTHERLAND ; the taking and detening priifoner of Angus M'William³ and for certane vtheris crymes, fpecifeit and contentit in the Letteris raift and execute aganis ws at pe instance of pe faidis perfones, and of his Maiefteis Aduocat for his hienes intris : Lyk as, pe Justice intendis to proceed in pis matter aganis ws, althocht it be of veritie, that howbeit we wer moft willing and reddie to haif fubmittit our fellis to the Tryell of the lawis, for pe haill crymes contentit in the faidis Letteris ; and for this effect, to haif prefentit our fellis in judgement befor the Justice the day foirfaid : 3it it was 3our lordfchipis plefour to burdene ws with ane Submiifion of all matteris questionable betwix ws and the Erle of Sutherland, and M'ky and pair freindis ; in the quhilk Submiifion, pir matteris ar Speciallie and perticulerlie comprehendit : AND feing thay ar now in 3our lordfchipis handis, vnder Submiifion, as faid is, the dyett appointit to ws afor pe Justice aucht to defert. Heirfoir we befeik 3our lordfchipis to geve command to the Justice, Justice clerk, and pair deputtis, to defert pe faid dyet, and to delit and ceife fra all proceeding pairintill, and to difpens with our perfonal compeirance : Quhairanent pir prefentis falbe vnto thame a Warrant, and 3our lordfchipis aufuer.

APUD ED^B, xvj Julij, 1612. *ffiat ut petitur.* AL. CANCELL^S. J. PRYMOIS.

At command of the quhilk Warrant, the Justice ordanit baith the dyettis appointit, *hinc inde*, to this day to defert.

Lykas, Johne Gordoun, appeirand of Sydra,⁴ compeiraud perfouallie in judgement, in name of Sir Robert Gordoun, brother to my Lord of Sutherland, Duncaue M'ky, fear of Far, Johne Gordoun, appeiraud of Gordoun of Golfpitour,

¹ *Ibid.* Jul. 30, 1612. In order to a proper understanding of this FEUD, reference may be made to *Gordon's History of the Family of Sutherland*, Edinburgh, 1813, p. 317, &c. It would occupy too much space to give a suitable outline of the various disputes in which these families were embroiled. ² Complains ; literally, *moans*. ³ *Alias* Herrach (Herraghl). ⁴ The eldest son of John Gordon of Sidderay.

and producet the Letteris raifit be thame, and remanent complineris infert thairin, aganis my Lord of Caitlines, my Lord of Berriedaill, his sone, and remanent defenderis thairin contentit; be the quhillkis, thay and everie ane of thame ar charget to find cautioum for thair compeirance befor the Justice or his deputis, this day and place, in the hour of caus, to vnderly the law for the slaucher of Neill Nathnear, vniq^{le} Airthour Smyth, taking captiue and priffouer of Angus McWilliam, *alias* Herrach, but Commiffioun; and dyuerse vtheris crymes Ipeceifeit in the saidis Letteris—afkit instrumens, and proteftis for relief of the said Sir Robert Gordoun, kny^t, of his cautionerie.

Slaughter—Fire-raising—Theft—Intercommuning with Clan Gregor.

Jul. 28.—GREGOUR BEG McGREGOUR, sone to vniq^{le} Gregour Mc'eane; Gregour Mc'Allafter Galt¹ Johnne Mc'inleithe;² Johnne Dow Mc'gilliephadrik V^crobert; Allafter Mc'allafter V^ccoule; Patrik Mc'gregour Craiginfche; Duncane Mc'coule cheir; Patrik Roy Mc'Gregour, sone to Johnne Mc'phadrik, in Rannache; Gregour Mc'eane V^ccoulcheir; Johnne Dow Moir Mc'gregour, in Rora.

Being all presentit vpon pannell, dilaitit, accuset, and persewit be Dittay, at the instance of Sir Williame Oliphant of Newtown, kny^t, Aduocat to our souerane lord, for his lienes intreis, of the crymes *respective* following, viz. THE saidis *Gregour Beg Mc'gregour, Gregour Mc'Allafter Galt, Johnne Dow Mc'inleith, and Johnne Dow Mc'gilliephadrick V^crobert*, for airt and pairt of the tressonabill raising of fyre, burning and distroying of the haill houffis and biggingis of Glenlocha and Achallader: And for the Slaucher of. . . . Mc'coleane, bowman to the Laird of Glenvrquhie, with dyuerse vtheris perfonas, to the number of aucht perfonas: Burning of thre 3oung bairnes, dochteris to Johnne Mc'kifchak: And for Steilling of fax scoir ky and oxin furth of Glenlyoun, committit in Apryle, 1604. AND siclyk, the saidis *Allafter Mc'allafter V^ccoule, Patrik Mc'gregour Craiginche, Duncan Mc'coule cheir, Gregour Mc'eane V^ccoule cheir, and Patrik Roy Mc'gregour*, sone to Johnne Mc'fadrik in Rannache, being indytit and accuset, for airt and pairt of the burning and distroying of the haill houffis and biggingis vpon the fourtie merk land of Abervrchill, pertening to Colene Campbell: And for the Slaucher of Duncane Wobster, Johnne Seaton, Patrik Stavache, Johnne Mc'gillievorich: Burning of the thre dochteris of Johnne Mc'kifchak, steilling and away-taking of auchtene scoir ky, faxscoir peife of horsis,³ aucht scoir scheip and gait, pertening to the said Co-

¹ The stranger, or travelled son of rough, or dark John.

² Mc'inleiche, son of the leech, or doctor. Query, Mc'indreiche?

³ One hundred and twenty *piece* of horses, as we say *head* of oxen.

lene : And lykways for burning of the mylne of Bolquhafter, with the haill houffis and bigingis vpon the grund and landis of Carne, Downe, and Dillater, pertening to Robert Campbell of Glenfalloche, and of his haill houffis and bigingis vpon his landis of Ardeanknockaur ;¹ committit be thame in the moneth of Junij, 1611. ITEM, the said *Gregour M^cgregour Beg*, ffor airt and pairt of the Slauchter of vniq^{le} Solomon Lany, *alias* Buchamane ; committit at the Kirk of Kilmahug, at tuentie yeir fyne, or thairby. ITEM, the said *Johne Dow Gilliephadrik*, ffor airt and pairt of the steilling and away-taking furth of Glenfynles of ane grit heirfchip² of ky and oxin, pertening to the Laird of Lufe and his tennentis : And Slauchter of vniq^{le} Johne Reid, wobfter, and Patrik Laug, iervand to the Laird of Lufe ; committit vpon the saidis landis of Glenfinles, in the moneth of December, 1602. AND ficylk, the said *Johne Dow Moir M^cgregour*, in Rora, ffor steilling and away-taking of ane grit number of guidis,³ pertening to my Lord Ogilvie, furth of Glenylay : And ficylk, for taking and keiping of the Ileand calit Ileand-Varnak,⁴ againft his Maieftis Commiffioner, and herreing⁵ and oppreffing of the haill tennentis and inhabitantis of the cuntrie about ;⁶ taking and inbringing of thair haill guidis and beftiall, to the number of aucht feoir ky and oxin, xvij feoir fcheip and gait, quhillkis war eittin and flane be thame, wihtin the said Ileand.⁷ ITEM, the haill foirnamet perfones indytet and accufet, ffor cownone thift, cownone reffet of thift, cownone foirning,⁸ and oppreffing of his Maieftis peceable and guid fubiectis ; and for Intercowmoning with the reft of the furname of M^cgregouris, fugitiues and at the horne, and fforneiffing of thame with meit, driuk, and money ; and keiping of tryftis, counfallis, and gaddingis⁹ with thame, contrare the tenour of his Maieftis Proclamaciones—war all put to the knowlege of ane Affyfe of the perfones following.

ASSISA.

Colene Campbell, appeirand ¹⁰ of Glenvrquhie,	James Campbell, ferutour to the Laird of Lundie,	Johne M ^c dowgall of Raray, Duncane Menzeis of Comereile,
Johne M ^c farlane of Arrochar,	Duncane Campbell, Capitane of Carrik, ¹¹	Williamme Sterling of Achyle,
James Campbell of Laveris,		Mr James Schaw of Knokhill,
David Drummond, ferutour to my Lord of Perth,	Johne Drummond, ferutour to my Lord of Perth, and Chalmerlane of Stratherne,	Johne Bantene of Ardoche, Mr James Kirk, ferutour to my Lord of Argyle.
Alexander Menzeis of that Ilk,		
Alexander Schaw of Cambufmoir,		

The Aduocat takis instrumentis of the fivering of the Affyfe, and proteftis for

¹ Ardehanachrochan, the now celebrated inn and farm at the Trossachs. ² Plunder, or spoil.
³ Stock, cattle. ⁴ A small Island, near the western extremity of Loch Katrine, on its north shore, opposite Portnellan. ⁵ Spoiling ; plundering. ⁶ Circumjacent. ⁷ The Clan-Gregor had a garrison here, in January 1611 ; and were besieged by Campbell of Glenurchy's second son, Robert Campbell of Glenfalloch, who abandoned the siege, owing, as is alleged in the *Book of Taymouth*, to a storm of snow. ⁸ Taking free quarters by violence, &c. ⁹ Appointed meetings, councils, and gatherings, or convocations. ¹⁰ Heir-apparent. ¹¹ Captain of the Castle of Carrik, on the banks of Lochfyne.

Willfull Errour, in caice thay clange the pannell of the crymes contenit in thair Dittay; in respect of the notorieite thairof, and of thair Confessioun.

VERDICT. Eftir accufatioun of the foirlaidis perfonen enterit vpon pannell of the crymes *respectiue* aboue writtin, be our laid fouerane lordis Adnocat, quhilk was verifeit be thair Depositiones and Confessiounes, maid in presens of ane grit number of the laidis perfonen of Assyse, the laid David Drummond, chanceller, in name of the laid Assyse, all in ane voce, exponit, pronuncet, and declairit the laidis perfonen on pannell, in respect of thair awin Confessioun, to be flylit, culpable, and convict of the crymes *respectiue* aboue specifit, contenit in thair Dittayis.—SENTENCE. To be tane to the Burrow-mure of Ed', and thair to be hangit quhill thai be deid; and thair hail landis, heritages, and annuelrentis, takis, possessiones, guidis and geir pertening to thame, to be forfalt and escheit to his hienes vsf, as convict and culpable of the laidis crymes.

Slaughter — (Pannell ordained to satisfy the Private Party, notwithstanding of the King's Remission, and 'Actters of Slains' from the Eldest Son of the Deceased.)

Jul. 29.—WILLIAME MURRAY, sone to Williame Murray in Glasfurd, sumtyme seruant to James Hammiltoun of Eviindail.

Dilaitit of airt and part of the crewall Slauchter of vniq^{le} Archibald Stevinfoun, in Gallowfarvene; committit with sehottis of hagbuttis and piskolettis, vpon the xxiiij day of Marche, I^m.Vj'. and aucht yeiris.

PERSEWARIS, Archibald and Thomas Stevinfones, as sones; Agnes Finlay, as relict; Gawin Stevinfone, baxter, burges of Ed', as neir kynfinan.

The laid Williame tuik him self to our fouerane lordis Remissioun, grantit to him vnder his hienes Grit Seall, vpon the nynt day of Januar lastbypast, beirand,¹ that his Maiestie, of his speciall grace and mercie, had pardonet and forgevin the laid Williame all actionn. cryme, and offence that mycht be imput² to him, for airt and part of the Slauchter of the laid vniq^{le} Archibald; and in respect thairof, and of his Maiesteis clemencie, mercie, and pardoun expreffit thairin, allegit, that the Justice could nawayis put him to ane Assyse, for the laid crymes.—To the quhilk it was anfuerit be the persewaris, that the foirlaid Remissioun is null, and thairfoir sould nocht be admittit; in respect, be Act of Parliament, maid be our fouerane lord and thre Estaitis, in the moneth of Julij, 1593, cap. 174, it is expresse provydit, statute and ordanit, be his Maiestie and Estaitis foirlaidis, that na Respett nor Remissioun be grantit to ony persone or perfonen, at na tyme thaireftir, that passis to the horne for thift, reif, slauchter, burning, or heirship, quhill the partie skathed³ be first satisfeit; and gif⁴ the samyn be

¹ Bearing.

² Imputed.

³ Until the party injured, &c.

⁴ If.

vtherways grantit, without satisfioun of pairtie, all sic Respettis and Remissions to be null, allweill be way of exceptioun as reply: And trew it is, that the pairtie perlewair is naways satisfeit, conforme to the said Act; and thairfor, nochtwithstanding of the foirsaid Remission, the pannell could be put to ane Assyse, for the said cryme.

To the quhilk it was duplyt be the pannell and his preloctouris, that the foirsaid Remission man¹ be admittit, in respect the samyn is grantit vpon the sicht of ane Letter of Slanes gevin be Andro Stevinfoun, eldest lauchfull sone to the said vni^{le} Archibald, and nerrest of kyn to him, with consent of Agnes Finlay his mother, and Mathow Thomefoun, his vnele, beiring satisfioun maid to the said Andro for the said slauchter: And for verificatioun thairof, producet the said Letter of Slanes, of the dait the penult day of Julij, 1st. Vj^c. and ellevin yeiris: And vpon the production thairof, togidder with the Remission about writtin, askit instrumentis.

THE JUSTICE, in respect of the Letter of Slanes producet, Admittis the Remission; and ordanis the pannell to find caution to satisfie the pairtie, conforme to the lawis of this realme.—James Murray of Guidisburne, and Gawin Murray of Vdistounheid, become cautioneris, &c.

Slauchter.

Jul. 30.—DONALD M'KY, fear of Far, Johne Gordoun, younger of Golfpitour, and vtheris.²

Dilaitit ffor being airt and pairt of the Slauchter of vni^{le} Johne Sinclair of Stirkeo, and James Sinclair of Dyn, and remanent crymes contenit in the Letteris.

Compeirit personallie George Murray, feruitour to my Lady Sutherland, quha producet ane Warrant of the Lordis of Secretit Counfall, &c. off the quhilk the tennour followis.

JUSTICE, Justice clerk, and your deputis. Quhairas, thair ar Letteris direct at þe influence of George Sincler of Dyn, as brother to vni^{le} James Sinclair of Dyn, and mother-brother to vni^{le} Johne Sinclair of Stirkeo, and Sir Williame Oliphant of Newtown, kny^t, Aduocat to our souerane lord, for his hienes intreis, aganis *Donald M'ky*, fear of Far, *Johne Gordoun*, younger of Golfpitour, *Adame Gordoun* in Geartie, *Murdo Neill*, *Johne Williamfoun* in Achines, *Neill Mallyffer Neillfoun* and *Donald Myller*, feruitouris to the said Donald M'ky, fear of Far, and remanent perfonnes defenderis, þair complices, contenit in the saidis Letteris, chargeing thame to compeir befor 30w, in the Tolbuth of Edinburgh, the penult day of Julij initant, to vnderly the law, for airt and pairt of the Slauchter of þe saidis vni^{le} Johne and James Sinclairis. And feing all matteris questionable betuix THE ERLE OF SUTHERLAND and M'KY, and þair kyn and freindis, on the ane pairt, and THE ERLE OF CAITHNES, his kyn and freindis, on the vther pairt, is be our moyane and travellis fabnaitit; in the quhilk Submissioun the saidis tua Slauchteris of þe saidis Johne and James Sinclairis ar speciallie comprehendit, and þe deeyding þair of reftis in our handis, to be discutit be ws. It is þairfor our Will, and

¹ Must.

² Vid. Jul. 17, 1612.

We command zow to DESERT pe said dyet appointit to pe said penult day of Julij instant, for tryell of pe saidis crymes, and naways to proceed in vlawing of the saidis perfones defenderis, or pair cautioneris ; dispening with thair non-compeirance, in that respect : Qubairnent pir presentis fall be to zow ane sufficient Warrant. Subfcryuit be ws AT ED^s, the xxv day of July, 1612.

AL. CANCEL^s. LOTHIANE. S^s T. HAMILTON.

At command of the quhilk Warrant, the Justice ordanit the said dyet to defer, &c.

Slaughter—Beiring, Weiring, and Shooting of Hagbutts and Pistolets.

Jul. 31.—JAMES HALL of Foulbar ; Mr Williame Hall, indueller in Dumbarten, his brother-germane ; Thomas Stewart, at the Ferrie-boit of Inchynnae.

Dilaitit of airt and pairt of the crewall Slauchter of vmq^{le} Johnne Montgomerie, younger of Scottifloun ; committit with schottis of hagbuttis and pistolettis, within the burgh of Renfrew, in the moneth of November, the yeir of God I^m.V^c. fourfoir nine yeiris : And als, for contravening of the Actis of Parliament, in beiring and weiring of hagbuttis and pistolettis, schoiteing and slaying of the said vmq^{le} Johnne Montgomerie younger thairwith, at the particuler tyme and place aboue mentionet.

PERSEWARIS.

Johnne Montgomerie, elder of Scottifloun, as father ; Sir Williame Oliphant of Newtoun, kny^t.

PRELOCUTORIS for the pannell, Mr Alexander King, Mr Laurence McGill, Advocatis.

Sir Johnne Buchannan of that Ilk, kny^t, become fouertie for Thomas Stewart his entrie, vpone xv dayis wairning, to vnderly the law for the slauchter aboue writtin, vnder the panes contenit in the Actis of Parliament.—The said James Hall, and Mr Williame Hall, his brother, tuik thame felffis to tua feuerall Remissiones, grantit to thame be our fouerane lord ; the ane beirand, that his Maieftie, of his speciall fauour and grace, remittis and gevis pardoun to the saidis James Hall of Foulbar, and to Mr Williame Hall, his brother, for airt and pairt of the slauchter of the said vmq^{le} Johnne Montgomerie Younger of Scottifloun, and for all actioun and cryme that may follow thairupoun, or may be input to thame thairfoir ; quhilk is daitit at Falkland, the aucht day of Julij, the yeir of God I^m.V^c. fourfoir fyftene yeiris (1596), vnder his hienes Grit feill : The vther of the saidis Remissiones beirand, that his Maieftie, of his speciall grace and mercie, gevis pardoun and remiffioun to the said James Hall, feruitour to Archibald Erle of Argyle, and to the said Mr Williame Hall, his brother, and to ather of thame, for all cryme and offence that mycht be laid to thair charge, ffor thair beiring, weiring, or schuiting with hagbutis and pistolettis, contrair to his Maiefteis Actis of Parliament, at ony tyme bygane, preceeding the day and dait of the

fame Remiffioun, quhilk is daitit at Edinburgh, the tent day of Julij infant, I^m.Vj^c. and twelf yeiris.

THE JUSTICE admittit the famyn, nochtwithftanding of dyuerfe allegeances maid be our fouerane lordis Aduocat in the contrair; and Ordanit the fãidis perfones vponne pannell to find caution to fatisfie the pairtie, conforme to the lawis of this realme: Quhairupone the fãidis James and Mr Williame Hallis afkit inftrumentis: And for obedience of the fãid ordinance, ffand, with thame felfis, Williame Sempill of Foulewood, and James Wallace of Johnftoun, cautioneris for thame, to fatisfie the pairtie, &c.

Slaughter, committed by a Douth fourteen years of age.

Aug. 26.—JAMES MIDDELTOUN, fone to vmq^{le} Robert Middeltoun, tailzeour, burges of Edinburgh.

Dilaitt off airt and pairt of the crewall Slauchter of vmq^{le} Clement Mauchane, fone to vmq^{le} James Mauchane, mercheand, burges of Edinburgh, be ftreking of him with ane durk, vnder the fchorte ribbis, vpwãrdis, on his left fyde, the lenth of aucht or nyne inches, vponne the *diaphragma*, or midreid, quhilk is ane noble pairt; committit within the burgh of Edinburgh, within the duelling hous or ludgeing of Alexander Hunter, burges thair, vponne the threttene day of Auguft infant: Off the quhilk crewall and deidlie fraik fa gevin to him, he nevir thair-eftir convalefchet, bot immediatlie thaireftir taking bed within the foir chalmer of vmq^{le} Henrie Lummifden, chirurgane, to the quhilk he was led and cayreit, remanit bedfast in grit dollour and pane, vnder the cure of chirurganes, the fpace of nyne dayis togidder, or thairby; and at laft, vponne the xxij day of Auguft infant, about nyne houris afore none, he depairtit this lyfe, of the fãid deidlie fraik: And fa, was crewallie flane be the fãid James Middeltoun, vponne fet purpois, prouifoun, and foirthocht felonie; in hie and manifet contempt of our fouerane lordis auctoritie and lawis.

PERSEWARIS, Mr James Mauchane, as brother; Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord.

PRELOCOUTOURIS in defence, Mr Johnne Raffel, Mr Laurence M^ggill.

The perfewaris producet the Dittay, with the roll of the Affyfe, and defyret proces.—THE JUSTICE Ordanit the Dittay to be red.

Mr Laurence M^ggill, prelocoutour, in name of Johnne Carmichell, decone of the Tailzeouris, Alexander Miller, tailzeour to his Maieftie, and of the mother and certane vtheris the pannellis freindis, befoir ony forder proces, and to efchew forder difputatioun in this matter, offerit to the perfewaris, that for thair fatisfacioun for the flauchter aboue writtin, that thair war content to cauf the pannell ather imbrace the Sentence of perpetuall Banifelment; or vther wayis, to thair power,¹ to mak sic vther fatisfacioun, baith of honour and guidis, to the

¹ To the utmost extent of their means.

perfewar, as be the advyfe of friendis fould be inioynet to him, his lyfe being faift.—The faid Mr James Mauchane, as brother, and perfewar of this mater, for anfuer declairit, that, feing his brother is flane, aganis the Law of God and his Maiefteis lawis and Actis of Parliament, refuifet altogidder to enter in capitulation of agrement of this matter; and thairfoir defyret that iuflice be miniftrat, according to the lawis of this realme.

THE JUSTICE, in refpect of the perfewaris anfuer and defyre aboue writtin, Ordanis proces.

It was allegit be the pannell and his prelocutouris, that this matter fould nocht pas to the knowlege of ane Affyfe for tua cauffis; *ffirft*, becaus he is nocht wairnit vpone fyftene dayis wairning, conforme to the Act of Parliament; *fecundo*, he was nocht tane in *fragranti crimine*; in refpect be the Dittay it is affirmet, that the fact was committit vpone Thurisday the xij day of Auguft inflant, and vpone the fyftene day of the faid moneth, being Setterday, was tane be the Magiftratis of Edinburgh, as fufpect giltie and culpable of the faid fact, albeit¹ the Magiftratis of the faid bur¹ had na power fa to do, the tyme limitat to thame being expyret, viz. xxij houres allanerlie² eftir the committing of the fact; and fa, he nocht being tane in *fragranti crimine*, bot within thre dayis eftir the allegit time of the committing thairof, the pannell, of all equitie, aucht to haif bene fummond vpone fyftene dayis wairning.—It is anfuerit be my lord Advocat, that the foirfaid allegiance aucht to be repellit, in refpect of the Dittay beiring the flachter to be committit vpone the xij day, be the pannell, and he to be tane and apprehendit be the Magiftratis vpone the xv day thaireftir, and committit to ward; quhairin he hes remanit to this hour. And fa, the Slauchter being committit recentlie, and the pannell tane thairfoir in *fragranti crimine*, he aucht to be put to ane Affyfe, but³ ony citioun preceeding; fpeciallie, in refpect he is brocht fra the priffone to the bar, be the Magiftratis, his takeris.

THE JUSTICE Ordanis the pannell to pas to ane Affyfe, nochtwithftanding of the former allegiances.

It is forder allegit be the pannell, that my lord Justice can nocht put the pannell to the knowlege of ane Affyfe, for this cryme; becaus, be ane text of the Cowmone Law, *de delictis puerorum*, the fyft of *the Decretallis*, it is fpeciallie declairit, that minoris within xij yeiris of age committing crymes, ar nocht *doli capaces*, quhilk can nocht be eftimat to be done be thame *ex certa scientia*; and thairfoir, can nocht be perfewit thairfoir: Lyk as, in the accident that fell furth be the fcelleris of the Grammer-fcole of Edinburgh, in flaying of Johnnie M^rmorane, being ane bailzie, and in the executioun of his office, this allegiance being proponit in the perfute intentit aganis thame for the faid Slauchter, it was ffund, be Interloquitour of the Judge, in refpect of thair minoritie, that thair war nocht

¹ Although.

² Only.

³ Without.

doli capaces, and fa wer allöilzeit,¹ and na perfüte followit furth aganis thame; Quliik practique the pannell repeittis, and fayis, that in respect of the Cowmone-law and practique aboue writtin, he being minor *et non doli capax*, he can nocht pas to ane Affyse for the said cryme. *Secundo*, the slauchter aboue writtin was nocht committit vpone sèt purpois or foirthocht felonie; in respect thair was na querrell betuix the defunct and the pannell ofbefoir, bot only the defunct missing his dager, quhilk was tane fra him be Capitane Erskine, quha also was with him in companie, and was cassin vp be him vpone ane almerie heid,² the defunct, for wanting thairof, challanget the pannell, and maist outrageouffie abuset him, baith with langaige and fraikis;³ lyk as, the pannell, finding him self sa vsèt, and feing ane durk vpone the buird besyde him, tuik vp the said durk and defendit him self thairwith, vpone the quhilk durk, haldin out be the pannell for his awin defence, the defunct ran him self; and sa was the caus, him self, of his awin slauchter: And thairfoir, fould nocht pas to ane Affyse.

To the quhilk it is anfuierit, be my lord Aduocat, that the foirsaid allegeance of minoritie fould be repellit, becaus it is nocht condiscendit be the proponer of the said James Middeltones age, quhidder he be past xiiij yeiris or within the samyn, quhilk of necessitie man⁴ be condiscendit vpone; becaus he being past xiiij yeiris of age, *est doli capax*, and sua may be persewit and pwneist to the daith for the slauchter: Always,⁵ to mak the matter cleir to my lord Justice, it is affirmet be the persewer that he is past seiventene yeiris of aige, befoir the committing of the slauchter, as is manifest, nocht onlie be ocular inspectioun, bot be the extract of the tyme of his birth furth of the Register of the Kirk-buikis of Edinburgh, he being baptizet vpone the 23 day of Julij I^m.V^c.lxxxxv.—As to the practique allegit betuix Johnne M^rmorrane and the Chancellor of Caithnes sone, and the rest of the bairnes, quhome the pannell allegis to haif bene persewit for the said Johnne M^rmorranes slauchter, it is certane that all the bairnes that war persewit and accuset for that slauchter war within fourtene yeiris of age; and thair was na Interlocutour gevin in that cause, bot the matter was tane vp be his Maiesteis expres Warrant.—And acceptis the Confessioun of the durk in his handis, and Slauchter thairwith.

Thaireftir the pannell, for fatisfeing the desyre of my lord Aduocatis allegeance, condiscendis that he was within fourtene, at the leifst fyftene yeiris of age, the tyme of the committing of the slauchter lybellit. And quhair, it is allegit and affirmet that the haill bairnes persewit for Johnne M^rmorranes daith war within fourtene yeiris, thair is na thing productet to verifie the samyn. And last, as to the Tes-

¹ Absolved; dismissed.

² Cast or thrown by him on the top of a cupboard or press.

³ Both

by words and blows.

⁴ Must.

⁵ Nevertheless; at all events.

timoniall producet be the perfewar, anent the pannellis baptifme; *ffirfl*, it is anfwerit, that na fayth can be gevin thairto, becaus it is nocht regiftrat; *secundo*, it hes na witneffes; *tertio*, of the Law, *teftibus et non teftimonijs credendum efl*.—The perfewar repeatit his former anfver, with the Testimoniall extractit furth of the Kirkis Register.

The Juftice Repellis the allegiances proponit be the pannell; and Ordanis him to be put to the knowlege of ane Affyfe.

ASSISA.

Jo ⁿ Quhyte, culteller, burges, Ed ^r ,	Patrik Craig, mercheand, burges	James Cathkyn, librar, burges of Ed ^r ,
Johne Naper, tailzeour iu Poket- fleve,	Johne Mitchelhill, mercheand,	David Laufone, mercheand, bur- ges thair,
Johne Gilbert, tailzeour in the Cannogait,	Patrik Meayne, couper, burges	Thomas Cuthbertfone, culteller, Troyalus Laufone, baxter, burges of Ed ^r ,
Johne Smyth, mercheand, bur- ges of Ed ^r ,	Robert Young, maltman,	
Clement Ruffell, mercheand, bur- ges thair,	James Halyburtoun, mercheand, burges of Ed ^r ,	Johne Johnnefloun, tailzeour, burges of the Cannogait.

It was allegit aganis Johnne Quhyte, that he can nocht be admittit vpon this affyfe, becaus *ultra citroque gessit se hoc negotio*, in furtherance of this perfewer, in perfute of the pannell; and desyret the Judge to tak his ayth thairupoun, and to purge him of partiall counfall; quha being fuorne, declairit, that he had gevin na partiall counfall in that matter: In respect quhairof, the Juftice admittit him vpon the Affyfe.

The Defender, eftir his accufatioun be Dittay of the Slauchter abone writtin, vpon his confcience, denyis the famyn; and allegit, that thair was nothing producet to the Affyfe to verifie his giltines of that fact.

Mr James Mauchane, perfewer, and brother to the defunct, being fuorne, gaif his ayth vpon the Dittay, that he had juft cauf to perfew the pannell for the flauchter of his brother: And repeittis to the Affyfe the notorietye of the flauchter, in maner fet down in the Dittay.—My Lord Advocat takis instrumentis of the sweiring of the Affyfe; and repeittis, for their forder instructioun, the offer maid be the pannell to the perfewer, ather to imbrace the sentence of Baniffment, or vtherwayis, in honour or guidis, to mak fatisfacioun to thair power; quhairin the pannell hes confest his giltines of the fact, in maner fet down in the Dittay. And protestis, in respect thairof, for Wilfull Error aganis the Affyfe, in caice thay acquit.—It is allegit be the pannell, that the offer allegit maid be him to the pairtie perfewer, in the begyning of the caufe, was nocht maid be him, bot be Johnne Carmichell, deacone of the Tailzeouris, and vtheris his brether, the pannellis freindis and weill-willeris, out of thair awin box,¹ quhilk offer was

¹ Out of the box or funds belonging to the Incorporation.

nocht maid to induce ony Confessioun of the cryme, *sed ad eritandum litigationem*.—My Lord Advocat, as of befoir, repeitis the offer, and notorietic of the fact committit; and protestis for Wilfull Errour, gif the Adlyse acquit.

VERDICT. The Adlyse, all in ane voce, be the mouth of the said James Cathekyn, buikfeller, stand, pronuncet, and declairit the said James Middletoun to be flylet, culpable, and convict of the crewall slaucher of the said vmq^{le} Clement Mauchane; committit at the tyme and in maner spacificit in the said Dittay.—SENTENCE. The Justice, be the mouth of John Dow, dempfter of Court,¹ decernit and adjudget the said James to be tane to the Mercat-croce of Ed^l, and thair his heid to be strukin frome his body; and all his moveable guidis and geir, gif he ony hes, to be escheit and inbrocht to his hienes vs^e, as convict of the said Slaucher.²

Horse and Sheep Stealing—Theft—Perjury.

SEP. 18.—ALEXANDER IRWING, sone to vmq^{le} Gilbert Irwing of Wyfbie, James Irwing, sone to vmq^{le} Williame Irwing, brother to the said vmq^{le} Gilbert.

Dilaitit, accuset, and persewit, be Dittay, at the instance of Williame Mannecht in Echt, and Alexander Wilfone, gairdner thair, and be Sir Williame Oiphant of Newtown, kny^t, advocat to our souerane lord, off the feuerall pointis of Dittay following, viz.

FOR airt and pairt of steilling and away-taking of thre lynning wobbis furth of the houffis of Gulielandis, pertening to ane pure woman thair; committit in Julij, 1610 yeiris. ITEM, for airt and pairt of the steilling of fevin naigis and meiris³ furth of the laudis of Mouswall and Drummwre; committit in the moneth of October, 1610 yeiris. ITEM, for airt and pairt of the thiftious steilling and away-taking of aucht scheip furth of Dronnok, fra James Quhyte thair; committit in September, 1609. ITEM, for airt and pairt of the steilling and away-taking of tua naigis and ane mere, pertening to Johne Gillefpie, and George Ker, in Robiequhat; committit in October, 1610. ITEM, for airt and pairt of the thiftious steilling and away-taking of fax oxin furth of the landis of Lochirgrane, within Drummwre; committit be the said Alexander, in the yeir of God I^o. fax hundreth and aucht yeiris. FOR the quhilkis fenerall crymes, the saidis Alexander and James Irwingis being arreistit to the Justice Court, haldin be the Committioneris in the Tollbuthe of Dumfries the fyftene day of October, I^o.Vj. and ellevin yeiris, thay, for thair non-compeirance, war declairit fugitives and put to the horne, as rebellis and fugitives, for the saidis crymes. ITEM, the saidis James and Alexander Irwingis war indytit and accuset, at the instance of the saidis persewaris, for airt and pairt of the steilling and away-taking furth of the ward of Echt of ane gray naig, pertening to the said Williame Mannecht, and of ane broun naig, pertening to the said Alex^r Wilfoun, gairdner in Echt; committit vnder silence of nycht, vpon the first day of August lastbypast; quhilkis tua naigis war brocht Southe ower be thame to Ed^l to Thomas Lokeis hous, at the Wast-Poirt thair, quhai thair war keptit for the space of thre

¹ This person appears, for the first time, as dempster, in the Record.

² See Nov. 18, 1618, when, after six years' imprisonment, the party relents, and Myddiltoun goes into voluntary exile for life. This arrangement is sanctioned by the Privy Council and the Justice, to whom the matter had previously been submitted. ³ Riding horses and mares.

dayis and thre nychtis ; and ypone the . . . day of the said moneth, being Monday, the ordinar mercat day of the said burgh,¹ presentit thame to the horfe-mercat thairof to be fauld, quhair the saidis tua horllis war challangit in thair possessioun, be Airthour Forbes of Sonnahony; and thair thairefter apprehendit and committit to waired within the Tolbuth of Ed^r, thair to haif remanit quhill thair tryell. ITEM, for airt and pairt of the steilling and away-taking of ane horfe furth of the Hench of Duris, pertening to Thomas Frazer, sone to the auld Laird of Duris ; committit in Junij lastbypast. ITEM, for airt and pairt of the steilling, conceilling, and away-taking of ane blak horfe, pertening to Johnne Clark in Auchroffe ; committit in the moneth of Majj, 1^m. Vj^e. and ten yeiris. ITEM, for the detestable and odious cryme of Periurie, in the periureing and menfweiring² of thame selfis, the tyme of thair examinatioun and vptaking of thair Depositiones ; the said James Irwing, be his grit aithe, affirminge him selft to be namet Johnne Poole, quhairat he fill abaid quhill the contrair was verifeit ypone him, and he maid to confes the treuth thairof ; quhill was also sworne and affermet be the said Alex^r Irwing, that the said James was namet Johnne Pole. ITEM, thay and ather of thame war indytit and accuset for Cowmone thift, Cowmone relict of thift, fra the South to the Northe, and fra the Northe to the South, in outputing³ of the famyn.

My lord Aduocat, for verifeing the first point of Dittayis, productet ane Precept of the Commiffioneris, be the quhillk the pannell ar denuncet fugitives, for certane poyntis of thift gevin vp agains thame ; and repeitis the fueiring of the Dittay be the tua persewaris, anent the steilling of thair tua naigis : And in respect thairof, and of the notorietic of the pannellis thiftious lyfe, protestis for Errour. gif thay acquit.

VERDICT. The Assyse, be the mouth of Johnne Abercrombie, in Leith, chancellor, stand, pronuncet, and declairit the saidis Alexander and James Irwings to be flylit, culpable, and convict of the haill crymes *respectiue*, aboue expremit.— SENTENCE. To be tane to the Castell-hill of Ed^r, and thair to be hangit ypone ane gibbet, quhill thay be deid : And all thair guidis and geir to be efcheit, &c.

Slauhter.

Nov. 5.—JOHNNE HAY, seruitour to James Henderfone, chirurgane.

Dilaitit. accuset, and persewit be Cristiane Adamefone, the relict of vmq^{le} Niniane Paterfone, staibler in Ed^r, and Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord, of the crymes following, viz.

FORAMEKILL as the said Johnne Hay haifing, in the moneth of Majj bypast, hyret and conductet the said vmq^{le} Niniane Paterfones horfe to Roilling-mylne, for hame-bringing of þe said James Henderfones bairne ; and þe said Niniane haifing past with him, of purpois, at his lichtig,⁴ to haif attendit ypone his said hors, the said Johnne Hay, be the way, directit the said vmq^{le} Niniane to ryn befor, and to attend⁵ his cuming, becaus he was him selft to repair to Lesuaid, thair to speik with his sager and vtheris his freindis ; lyk as, about ten hours at evin, the said Johnne, haifing cum to the said mylne, altogidder ouerfet with drink, and sa, nawayis being able at that tyme of the nycht, and in sa beistlie estait, to gouerne him self, let be to haif horset and cayreit befor him his said maiteris bairne, without danger of bothe pair lyves ; becaus þe said vmq^{le} Niniane maid sum oppositioun and resistance to that his intentionn, in ryding at þat tyme of the nycht ; he þairfor, in his beistlie rage and furie, ran ypone

¹ Now held on Wednesdays.

² Mansweiring.

³ Selling ; disposing of.

⁴ Alighting.

⁵ Await.

Fr. *attendre*.

him, and with his kneis and feit possit¹ him vnder his feit, best and dang² him in þe heid, bellie, breistis, and fydis, and brak and birst³ his hail intrallis within him: And nocht being satisfeit with that his crewall and outrageous abuse, the said vni⁴ Niniane, being riffin vp on his feit, the said Johne come to him and hurritill him mait violentlie over the brae besyde þe mylne, of purposis to haif drowned him in the dambe, quhilk, be refone of þe said downward fall, he had nocht fail⁵ to haif done, war nocht, be þe Providence of God, he was haldin and stayit be þe globe and rate of ane trie, his face and heid, nochtwithstanding, being mait schamefullie demanit⁴ and hurt, he occasioun of þe said fall: Off the quhilkis straikis, hurtis, and woundis, fa gevin to the said vni⁴ Niniane, in maner soirlaid, he nevir pairfeitr conualeffit; bot being borne and cayreit hame to his duelling hous, tuik bed, quhairin he remanit bedfast, in grit doulour and payne, continuallie pairfeitr, to þe tyme of his daith; and at lenth, vpone Lambes day⁵ pairfeitr, quhilk was þe first day of August lastbypast, he deceiffit of þe saidis hurtis and woundis; and at þe hour of his daith, and dyuerse tymes of befoir, during his feiknes, left his deid,⁶ and þe only cause pairof, vpone þe said Johne: And fa was schamefullie, crewallie, and vnmerefullie flane be þe said Johne Hay; and he is airt and pairt of þe said crewall slauchter, committit vpone fet purposis, prouisioun, and foirthocht fellonie; in hie and manifest contempt of his hienes auctoritie and lawis.

PRELOCUTORIS in defence, Gilbert Hay, as fader to the defender;

Mr Lawrence M^cGill, Adame Cuninghame, Johnne Elphingstone of Schank.

It is allegit, be the pannell, that this lybell is nocht relevant, in respect the perticuler day of the moneth of the allegit committing of the fact lybellit, is nocht condiscendit vpone.—To the quhilk it is answert be the persewar, that the allegeance aucht to be repellit, in respect of the Summondis beirand the cryme lybellit to be committit, be this defender, in the moneth of May last; and that be the straikis gevin to the defunct, at that tyme, he deceiffit thair of in August thaireftr.

THE JUSTICE, nochtwithstanding of the allegeance, in respect of the persewaris answert, remittis this matter to ane Assyse.

VERDICT. The Assyse, all in ane voce, be the mouth of Thomas Inglis, burges of Ed^l, chancellor, stand, pronuncet, and declarit the said Johne Hay to be clene, innocent, and acquit of the Slauchter of the said vni⁴ Niniane, and of airt and pairt thair of.—Quhairupoun the said Johne Hay askit instrumentis.

Thert.

Nov. 24.—THOMAS MOWAT, sumtyme seruant to Williame Lord Keith.

Dilaitit of airt and pairt of the thiftious steilling and abstracting fra Williame Lord Keyth, his maister, of ane purse, togidder with sax scoir Angellis of gold, being thairintill, vnder nycht, furth of ane foir chalmere in Ed^l, quhair his said maister was ludget for the tyme; committit vpone the xij day of Marche last.

This case was continued to Dec. 23, Jan. 29, Feb. 5 and 12; and at length

¹ Pushed. Fr. *pousser*.

² Beat and struck.

³ Bruised. It is sometimes in the Record

expressed by *brast*; burst.

⁴ Used; treated.

⁵ Lammas-day, 1st August, or the Feast of

St Peter ad Vincula (in bonds); supposed to be so named, because lambs were offered at this Mass, in commemoration of the command of our Saviour to the Apostle, 'Feed my lambs.' This metaphorical expression was, as usual, seized upon by the Romish Church, and converted into a source of substantial profit.

⁶ Death.

was prorogated to the Justice-air of 'Sterling, tertio Itineris, vel super premonitione xv dierum.' No procedure is recorded, saving these continuations, owing to the absence of Lord Keith, &c.

'Englisch Pirattis'—Piracy—Theft.

Feb. 2, 1613.—JOHNS DAUIDSON, borne at Ratleiff, besyde Lundoun,
Johnne Lewis, borne in Cairleill, baith Englisch Pirattis.

Dilaitit of Piracie and Thift, committit vpon dyuerse his Maiesteis subiectis, bothe in England and Scotland, viz.

FOR the thiftious steilling of ane schip-boit furth of Ratleif; committit vpon the fourtene day of Jannar last, and passing thairwith to the sie: AND for airt and pairt of the buirding of ane catche or oister-bott, and thiftious away-taking of the samyn, vnder silence of nycht; and passing thairwith, furth of the river of Thames to Liefwall, quhair thai buirdit ane Harwadge Hoy, and be way of maisterful thift and stouth-reif, reft and away-tuik furth thair of ane piece of stuff worth threttie schillingis sterling, togidder with breid, beir, and vther victuallis: AND thairfra, foranent Harwadge,¹ perfewit and buirdit ane Yarmouth bark, and tuik furth thair of thre caddis of reil heiring, and ane half barrell of quhyte heiring, with the barkis topfall, the skipperis cloik, and ane stand of apparell, laid over with siluer laise: AND thairefter, come to Yarmouth-Raid, quhair thai perfewit and buirdit ane Scottis bark, pertening to Alexander Law in Kirkcaldie, in vaidit the skipper with his companie, being thairin, hurt and woundit the said Alexander Law, skipper, in the heid: AND for dyuerse vtheris crymes of Pirracie, at lenth specifieit in the Dittay.

Quhilkis ('feuerall crymes') war confessit judiciallie be thame to be of verritie.

VERDICT. The Adyse, be the mouth of Walter Lukkie, skipper in Leyth, chancellor, stand, pronuncet, and declairit the saidis Johnne Dauidson and Johnne Lewis to be flylet, culpable, and convict of the perticuler crymes of Thift and Pirracie aboue specifieit.—SENTENCE. To be tane to the Sandis of Leithe, within the fluid-mark thair of, and thair, vpon ane gibbet to be hangit quhill thay be deid; and all thair moveable guidis to be escheit, &c.

Fire-raising—Burning—Murder—Theft—Piracy.

Mar. 30.—NEILL M'CLAUD, sone-naturall to vmq^{le} Rorie M'claud, sumtyme of LEWIS.

Dilaitit of airt and pairt of the crewall Burning of dyuerse houffis, erectit and biggit be the Lairdis of Balcomie, Airdrie, Wormestoun, &c. vpon THE ISLE OF THE LEWIS, and for dyuerse vther crymes, set down in his DITTAY following.

¹ Opposite to Harwich.

NEILL MACCLAUD, sone naturall to vniq^{le} Rorie Mcclaud, sumtyme of Lewis. 5E ar indytit and accuset, florflamekill as, from 5our verrie 5outhie, 5e being tranet vp in all maner of barbarous crewaltie and wiketnes, and following þe pernitious example of 5our godles parentis, kynsfolk, and cuntrie people, haifing committit innumerable oppreffiones, heirfchipsis, and violent factis aganis sic perfones as 5e mislyket, duelland within the cuntrie of THE LEWIS, and vtheris HIELAND YLES pairabout, to the heich offence of Almychtie God, displefoure of the King's Maiestie, contempt of his royall authoritie, and violatioun of his hienes lawis; flior forder manifestatioun of 5our extreme and vniaturall miselancie,¹ vnderstanding that THE KINGIS most excellent Maiestie, for repressing of the abhominable villaneis, crewalteis, and oppreffiones committit be 5ow and 5our allociatis duelland within þe Yleand of the Lewis, out of his princelie wisdom, had directt ane grit number of his hienes peceable and guid subiectis furth of þe Lawlandis, bodin² with all maner of furnitour, and necessar prouisioun for þair intertenement, towards þe said Ile of þe Lewis, thair to haif plantit and sett doum Townes and Villages, and to haif establischet all guid ordour and ciuilitie; of purpois, pairby, to haif extirpat and ruiteit out þe name of barbaritie furth of thais pairtis: 5r. accumpaneit with *Tormoud Mcclaud*, 5our broþer, and with tua hundreth barbarus, bludie, and wiket Hielandmen, foirneris and avowed maliefactouris, ancient inhabitantis and lawles perfones within the Lewis, quhome 5e conuenit to 5our selff, to resist and withstand the purpois and godlie intentionioun resoluet vpon þe his Maiestie, anent þe quyeting of Jat cuntrie—come, all bodin in feir of weir,³ with bowis, darloches, tua-handit-fouirdis, hagbuttis, pistolettis, and vperis wappones *invasiur*, in oppin and hosteill maner, about a fourtene 5eir fyne, or pairby, to the said Ileand of the Lewis, quhair vniq^{le} WILLIAME LORD PITTINWEME, the *Laird of Wormestoun*, the *Laird of Fingysk*, the *Laird of Balcomie*, the *Laird of Airdrie*, accumpaneit with dyuerse Inlandis Gentilmen, his Maiestieis peceable and obedient subiectis war landit, and in planting of dyuerse houffes, pairtlic of tymmer, and pairtlic of stane and faille,⁴ for þe tyme, lipning for nothing lets nor to haif bene inuaidit and withstuid in thais pair vertuous⁵ proceedingis; and pair, maist fearelic inuaidit and pestewit the saidis Lawland Gentilmen and þair companeis, maist crewallie mordreit and slew vniq^{le} Robert Traquair, vniq^{le} James 5oung, vniq^{le} Wedderburne, and dyuerse vtheris, to the number of tuentie tua perfones, maist treflonabillic pat handis in the perfone of the said *Laird of Balcomie*, be taking him as captiue and priisoner: AS ALSO, maist treflonabillic raist flyre, brunt and distroyit to the grund the haill houffis erectit vp be thame, with þe victuall and furnitour of meill, malt, and vther prouisioun, to the auaille⁶ of tuentie thoufand merkis: AND pair-estir, be way of maisterfull Thift and Stouth-reiff, thiftioullie stail and away-tuik the haill horsis, ky, oxin, scheip, and vther bestiall, pertening to þe said Lauland gentilmen, to the auaille of ten thoufand pundis. And 5e, the said *Neill*, ar airt and pairt of the saidis treflonable and barbarus crymes, and was þe special ringleider and Chiftane, with the said *Tormoud*, 5our broþer, in putting of the samyn to sic merceles executionn: quhilk 5e can nocht deny. ITEM, 5e ar Indytit and accuset, florflamekill as *Johnne Pullet* and *Robert Blair*, burgesses of Perth, haifing pairt, with ane Schip pertening to thame, to *Loche-Brueme*, to the fischeing, 5e, vnderstanding þairrof, come with ane number of thevis and lymmeris, 5our allociatis, to þe number of fourtie men, or pairby, all bodin in feir of weir; and haifing deuydit 5our companie in tua feveral companeis, and enterit in tua boittis, 5e pairrestir rowit af þe land towards the said fchip; and pair, as Pirattis, Thevis, and Sea-robberis, estir dischargeting of dyuerse muscattis, hagbuttis, and vperis ingynes of fyre-work at the said fchip and companie þairrof, 5e buirdit the samyn, intronettit with the haill furnitour, mercheandice, wynes, claithes, and vper prouisioun being þairintill, disarmet the merchandis, skipper, and marineris, and tuik af þame þair haill clething, and abulzementis,⁷ pat tua (of) þe companie of the said fchip a land, and in maist pitiefull⁸ maner mordreit and slew þe rest of the companie, to the number of sevin or aucht men; and pairrestir,

¹ O. Fr. *meschancie*, *meschance*, wickedness. particular quality.

² Provided.

³ In warlike array.

⁴ Thickly cut turf, of a

value.

⁵ Virtuous; honourable.

⁶ Value.

⁷ Dress; apparel.

⁸ Pitious.

disponit vpon the said Schip, mercheandice and guidis being þairin, at þair plesour: And the said *Neill* was and is airt and part of the Thifteis and crewall Murthouris aboue writtin. ITEM, 5e an indy-tit and accufet, florflamekill as 5e, perfeveiring in 5our former devillifche and abhominable tred of lyfe, 5e, accompaneit with dyuerfe thevis, foirneris, and brokin men, 5our complices, to the number of three hundreth perfones, or þairby, all bodin in feir of weir, with fuordis, durkis, bowis, darloches, hagbutis, mufcattis, and pitolettis, refolveing with 5our felff to putt the haill Lawland Gentilmen being than within the said Ileand of þe Lewis to þe fuord, quhairby thay nor na vþeris fould haif any power or commandment in that Ileand to withftand 5our wicket attemptis, in the moneth of Apryle, the 5eir of God I^m. Vj^r. and fevin 5eiris, 5e of new agane come to that part of the said Ileand, quhair þe said Lawland Gentilmen had biggit dyuerfe Townes and Villageis, and erectit dynerfe houffis: And the bettir to bring 5our wicket refolutioun to pas, 5e, in freindlie maner, humbillit and offerrit 5our felffis to becum peceable and obedient people, and defyrit thame to accept 5ow in feruice, to qhhome 5e wald be willing to do all maner of guid and fteidable¹ offices, as 5e fould be imployit, in regard 5e fand (as 5e declairit) þair cuning to þat land to be for na evill intent, bot for guid: And þe faidis Gentilmen, beleveing 5our fair promeiffis, and lipping nathing les þan that ony Treafone fould haif bene practisct be 5ow, haifing grantit 5ow fum overficht,² 5e, with 5our affociattis, maift treflonabillie, vnder trutt and freindfchip, and in þe dark and maift quyet tyme of the nycht, enterit within the Campment belonging to the said Lawland Gentilmen, raift ffyre, and brunt and ditroyit with fyre ane hous erectit and pertening to *Sir George Hay of Nether Liff*, ane vþer hous pertening to the *Laird of Airdrie*, ane vþer hous pertening to the *Laird of Wormefloun*, ane vþer hous pertening to *Johne Dalgleifche*, with dyuerfe vþeris houffis, newlie buildit within the said Ileand, and alongis þe Sea coift þairof, brunt and ditroyit the haill victuallis, furnitour, inficht and pleniffing being within the faidis houffis, to the avaiill and eftimatioun of ten thousand pundis: And at þe famyn tyme, maift crewallie Mordreift and Slew vniq^l *Patril Gifirt*, fervand to the Laird of Airdrie, with dyuerfe vtheris fervandis and offic men within the said Campment, in þair cuning out of þe faidis houffis, to fave thame felffis frome the rage and violence of the ffyre, being all his Maiefteis faithfull and guid fubiectis: And 5e, the said *Neill*, ar and war airt and part of the faidis treflonable and crewall factis. AND fnallie, 5e, the said *Neill*, in regard of 5our former abhominable lyfe, feiring 5our awin apprehentioun, and haifing, for 5our grither furetie and releiff, fled af þe Mayne and Continent-land to ane Craig callit *Birfay*, ane myle within ane Loche, quhilck 5e mannit and fortifeit with men, munitioun, and all maner of prouitioun for 5our intenteincement; and haifing also tua boittis provyddit, for 5ow and 5our complices paffage and repaffage fra þe land to þe said Craig, 5e, with 5our affociattis, during 5our abiding within the said Craig, and keeping þairof, come a land, and ran dynerfe furrowes³ throw the cuntrie, and in maift thiftious maner ftaw, refit, and away-tuik with 5ow, to þe said Craig, dyuerfe guidis and beftial fra þe inhabitantis of the countrie about, namelie, fra *Gilliechallum Malbyfer Coule* and *Gilliechallum Mcconell*, fra aþer of thame, twelff ky and oxin; quhilkis, with dyuerfe heifrfchipsis of coirme, victuall, and vther necessaris, ftowin and refit be 5ow, was tranfporit be 5ow to þe said Craig, in maift thiftious maner; quhair-upoun 5e difponit and interteneit 5our felffis at 5our plesour: And 5e, the said *Neill*, was airt and part of the faidis crymes. To the taikin, 5e haif confeffit the haill premiffis to be of veritie, the tyme of 5our lait Examinatioun, in prefens of the Lordis of his Maiefteis maift honourabill Prieve Counfell.

The pannell, be the interpretatioun of Andro Monro, Duncane Cuminghame, and James Logie, fuorne to the trew interpretatioun of all that fall be anferit be the pannell,⁴ Confeffit the haill poyntis of Dittay producet aganis him. Quhair-

¹ Serviceable. ² Oversight; superintendence. ³ Furrows. ⁴ This is one of the earliest instances on record of sworn Interpreters being allowed to Highlandmen or foreigners. The practice had no doubt been common long before this period, though the circumstance has not been entered in the Books of Adjournal.

upoune the Aduocat tuik instrumentis. In respect of the quhilk Judiciall Confessioun, the Justice referrit the samyn to the Tryell and knowlege of ane Assyse. And for forder verificatioun of the said Neillis giltines, productet his Depositiones tane in presens of the saidis Lordis of Secreit Counsall, confessing the haill premisses to be of verritie. And in respect thair of, Protestis for Wilfull Errorr aganis the Assyse, gif thay acquit.

VERDICT. The Assyse, all in ane voce, be the mouth of Dauid Weymes, skipper in Leyth, chancellor, stand, pronuncet, and declairit the said *Neill*, be reason of his awin Judiciall Confessioun, to be flylet, culpable, and convict of the haill tressonable crymes of flyre-raiseing, Burning, Murthour, and tenevall Thiftis at lenth sett down in his Depositiones, and Dittay foundit thairupoune.— SENTENCE. To be tane to the Mercat-croce of Edinburgh, and thair to be hangit vpon ane gibbet, quhill he be deid; and thaireftir, his heid to be strukin frome his body, and affixt and fet vpon ane priket, aboue the Neper-boll Point¹ of the said burgh: And his haill landis, heritages, takis, steidingis, rowmes, possessions, guidis, and geir, perteneing to him, to be forfalt and escheit to his Maiesteis vse, &c.

Slaughter.

May 19.—*JOHNE WEIR*, callit of the Quhytecleuch; Mungo Weir, his brother.

Dilaitit of airt and pairt of the slaucher of vni^{le} *Johnne Hammiltoun*, mercheand burges of Edinburgh; committit be thame in the moneth of September, the yeir of God 1^m. Vj^c. and auclit yeiris: AND siclyk, the said Mungo Weir, for airt and pairt of the slaucher of vni^{le} *Walter Couthird*, in Crawford-Johnne; committit at Lambes last, be schmiting him throw the body with ane pistolet.

PERSEWARIS, Jonet Small, the relict of vni^{le} *Johnne Hammiltoun*; *William Hammiltoun*, as brother; *Johnne and Mungo Couthirds*, as fones to vni^{le} *Walter Couthird*.

ASSISA.

Johnne Gordoune of Earlstoun, *Johnne M^omathe* of Coribank, *Eduard Creichtoun* of Peiltoun, *Johnne Creichtoun* of Craufurditoun, *Harie Gordoun* of Kilture, *Johnne Masone*, burges of Edr.²

Quhilkis crymes war judiciallie confest be thame to be of verritie, in presens of the said Justice and Assyse.

VERDICT. Fand the saidis *Johnne and Mungo*, according to thair awin Judiciall Confessioun, to be flylet and convict of airt and pairt of the said Slaucher.— SENTENCE. To be tane to the Mercat-croce of Edinburgh, and thair, thair heidis to be strukin frome thair bodeyis: And all thair moveabill guidis and geir to be escheit, &c.

¹ The Nether-Bow-Port.

² The rest of the Assise were burgesses.

Slaughter.

JUN. 2.—DAVID ERLE OF CRAWFURD; Harie Lyndfay, callit of Blarie-fadden; Harie Stewart, sone to vmq^{le} James, Lord Stewart of Newtoun; and Johnne Bellenden, fervandis to the said Erle.

Dilaitit of airt and pairt of the crewall Slauchter of vmq^{le} Sir Walter Lyndfay of Balgaweis; committit betuix the Cite of Brechin and the Place of Edzell, vpon the xxv day of October, 1605 yeiris.¹

PERSEWARIS, Margaret Lyndfay, as dochter; Duncane Hunter of Ballagane, hir spous; Sir Williame Oliphant of Newtoun, kny^t.

PRELOCCTOURIS in defence, Mr Alexander King, Mr Robert Lermonthe.

Continewit, to the ix day of Junij instant. My Lord of Tulliebairne² cautionit for the entrie of the pannell, this day aucht dayis, the ix *instantis*.

JUN. 9.—Margaret Lynd with consent of the said Duncane Hunter of Ballagan, hir spous, for his entreis, being baith perfonallie present, passis *simpliciter* fra the perfute of the said David Erle of Crawford, &c., and renounces all actioun, instance, and perfute quhatsumeur, &c. And forder, product to my Lord Justice, his Maicsties Remmissioun grantit to the said Erle and remanent his complices, enterit vpon pannell for the said slauchter, daitit at Newmercat, the xxiiij of Nouember, 1^m. Vj^c. and aucht yeiris, togidder with tua feuerall Letteris of Slanes, the one grantit be David Lyndfay of Balgaweis, sone to the said Sir Walter, daitit the xx of Nouember, 1607, the vther gevin and grantit be the said Margaret, with consent of hir said spous, daitit the sevint day of Junij instant, beiring satisfioun and Affythement to be maid be the said Erle to thame for the foirsaid Slauchter, &c.

THE JUSTICE Admittit the protestatioun, and Ordanit the said dyet appointit to this day to defert; as also, that Johnne, Lord Lyndfay of Byres, Harie Lyndfay of Kinfaunes, and . . . Maister of Tilliebairne, cautioneris for the said Erle, sould be fred and exonerit, &c.

Incest — Adultery.

JUN. 16.—JAMES STEWART, sone to Allane Stewart, Capitane of Dalkeith.

Dilaitit, accuset, and persewit be Sir Williame Oliphant of Newtoun, knycht, for his hienes intreis, of the cryme vnder written, viz. FORSAMEKILL as the abhominable, vyld, and filthie vyce of Incest, being sa odious and detestable in the presence of Almychtie God, and be the same eternal God his expres woird, sa cleirlye condemn'd: Thairfoir our fouerane lord, out of his godlie dispositioun and zeale, be dyuers^e his hienes Actis of Parliament, hes expresse statute and ordanit, that quhatsoeur persone or persones committis the said abhominable

¹ See this Collection, Jul. 8, 1607, and Sep. 19, 1609. ² William, second Earl of Tullibardine.

cryme of Incest, fall be pwnceifched to the deith; as the saidis Actis of Parliament in thame selfis proportis: Nochtwithstanding quhairof, it is of verritie, that the said James Stewart, being mareit with Aleifoun Clogie, his lauchfull spous, dochter to Johnne Clogie, cordiner, burges of Edinburgh, maist schamefullie, but¹ feir of God, or respect to our foueraue lordis lawis, hes gevin the vse of his body to Katharene Clogie, his wyfes sifter, in the monethis of Marche, Apryle, and Majj, I^m.Vj. and tuelff yeiris, in his and hir journeying togidder betuix the burgh of Edinburgh and the toune of Elgyn, and within the said toune of Elgyn: In the quhilk filthie and incestuous copulation, scho hes procreat to him ane bairne; committing thairthrow the detestable crymes of Incest and Adulterie, to the heiche displeour and offence of Almychtie God, violatioun of the Kingis Maiesteis lawis, and evill exampill of vtheris to ryn in the lyk filthie and abhominable vyce, gif the samyn be sufferit to remane vnpwneist.

VERDICT. Fylet, culpable, and convict of the said cryme.—SENTENCE. To be tane to the Mercat-croce of Edinburgh, and thair to be wirreit at ane staik, quhill he be deid; and thaireftir his body to be brunt in asches: And all his moveabill guidis to be efcheit, &c.

Theft—Slaughter—Fire-raising—Oppression, &c.

JUN. 22.—DUNCANE M^cPATRICK M^cGREGOUR, Allafter Casè (Cafs)² M^cgregour, Johnne Dow M^ccondochie Vayne M^cRobert, Patrik Roy M^ccoulecheir, Ewin Crowbache³ M^cgregour, Johnne M^cneill Corroche.⁴

Dilaitit of airt and pairt of dyuersè pointis of Thift, Slauchter, Burning, and Oppressioun following, viz. THE said *Duncane M^cpatrick M^cgregour*, ffor being in cumpanie with Gregour M^ccondochie Glen, at the burning of the Castell of Achallader and landis of Glenlocha: And ffor being at the ffeild of Benvek,⁵ quhair vmq^{le} Patrik Dow M^criab, Donald Campbell Oig, sone to Johnne Campbell, and dyuersè vtheris, to the number of fevintene perfones, war flane: And ffor airt and pairt of the slauchter of vmq^{le} Allane M^cdougall, ffervand to the Laird of M^ccoule. THE said *Allaister Casè M^cgregour*, ffor the cewall slauchter of vmq^{le} Neill M^cweyane, chopman, be streking him in the bellie with his awin knyfe, quhairof he deit: ITEM, ffor cowmone foirning, thift, and oppressioun. THE said *Johnne Dow M^ccondochie Vayne*, ffor being at the ffeild of Glenfynles, and of airt and pairt of the heirschip,⁶ rest and tane away af the Landis, pertening to the Laird of Lufe and his tennentis: ITEM, ffor airt and pairt of the steilling of certane ky and horsis, pertening to Walter Sterling of Ballagan, furth of the parochin of Campsie: ITEM, ffor being in companie with the rest of the

¹ Without. ² Short-tempered; passionate. ³ Deformed. ⁴ Hasty; precipitate. ⁵ Bin-toik? ⁶ Spoil; booty; plunder.

CLAN-GREGOUR at the Burning of Abervrehle, and heirship brocht furth thair-
of: As also, for airt and pairt of the Slauchter of vniq^h Johnne M^cgillip, ane
fidler, vnder my Lord of Tulliebairne: And for cowmoun Thift and foirming.¹
THE said *Patrik Roy M^ccoule-cheir*, for being in companie with *Duncane M^c-
ewin M^cgregour*, callit THE TUTOR,² at the Burning of Abervrehle, quhair
fevin men war flane, thre bairnes war brunt, tuentie ky and oxin war stowin,
refit, and away-tane: And for Cowmone-thift, Soirning, and Oppressioun. THE
said *Ewin Crowback M^cgregour*, for airt and pairt of the feilling of ane meir
fra Robert M^claren: And for airt and pairt of the steilling of tua horsis fra M^c-
Innerich, in Cregan: And for breking of ane puir mannis hous in Kynnaldie,
taking of the said puir man and binding vp his eyne, and steilling and away-
taking of the hailt inficht pleniffing of the said hous: And for steilling of ane
kow fra Donald M^cconceill Vayne, furth of Johnne Stewart Neillfones landis.
THE said *Neill Corroche*, for being in companie with the said Duncane M^cewin
M^cgregour, callit the *Tutour*, at the Burning of Abervrehle, and slauchter and
heirship abone writtin, committit be thame: And for affisting and taking pairt
with the rebellis and fugitiues, that tuik in the Ile callit Ileand-Vernache; and
in taking in to the said Ile of aucht feoir ky and oxin, auchtene feoir scheip and
gait, stowin, refit, and away-tane fra the Inhabitantis of the cuntry about: And
fielyk, for airt and pairt of the steilling of ffyve ky fra James Chisholme, Don-
drwne: And for cowmone Thift, Soirning, and Oppressioun.

War all fax put to the knowlege of ane Assyfe of the perfones vnderwritten.

ASSISA.

Mr James Kirk, fervand to my	Johnne Buntene of Ardoche,	Allaster M ^c Rannald of Gargow-
Lord of Argyle,	Patrick Colquhoun of Trafeill,	oche, ³
Johnne Stewart Neillfoun of Gra-	Allaster Colquhoun V ^c James,	George Stewart of Downe-Mach-
niche,	in Calvin,	reif,
Johnne Makfarlane of that Ilk,	Robert Alexander, notter in	Johnne Stewart of Pitfowrie,
David Drummond, callit the Chal-	Drymmene,	Patrik Stewart of Balliachan,
merlane,	Johnne Buchannane, fervand to	David Chirnfyde of Poffo.
Alex ^r Schaw of Cambusnoir,	my Lord of Madertie,	

VERDICT. The Assyfe, be the mouth of the said Johnne M^cfarlen of that Ilk,
chancellor, stand, pronuncet, and declairit the saidis fax perfones vpon pannell,

¹ Taking free quarters by force and violence. ² The TUTOR OF GLENSTRAE, styled, in the Record of Secret Council, 21st December, 1613, 'Duncan M^cEwin of Moirinfche, Tutour of Glenstrae.' In the same Record, 31st January, 1611, he is spoken of, to the prejudice of his Ward, as 'now callit THE LAIRD'; and, in the Justiciary Record, 8th May, 1612, as 'THE LAIRD OF M^c-GREGOUR!' In a Letter from the King, from his Court at Roystoun, 23d October, 1611, to the Scottish Council, (who took it into consideration 17th November following,) he is described as 'Duncan M^cEwne, alias Duncane THE TUTOR.' He was cousin-german of Allaster M^cGregor of Glenstray, executed at Edinburgh in 1604; and was Tutor to Gregor M^cGregor, otherwise John Murray, nephew and heir of Allaster, and who, on the King's recommendation, was restored to the Lands of Glenstray, in 1624. Duncan the Tutor assumed the protective surname of DOUGLAS, in compliment, probably, to the *Dowager Countess of Argyle*. ³ Lineal ancestor of Macdonald of Keppoch. In the Record, he is sometimes styled 'the Laird of M^cRannald.'

be reffone of thair awin Confessiones, maid in prefens of the maift pairt of the faid Affyfe, to be flylet and convict of the hail crymes aboue reherfit.

SENTENCE. To be tane to the Burrow-Mure of Edinburgh, and thair to be hangit vpon the cowmoun gibbit, quhill thay be deid: And all thair moveabill guidis to be efcheit and inbrocht to oure fouerane lordis vfe, as culpable and convict of the faidis crymes.

**Fire-raising — Slaughtering — Intercommuning with MacGregors
— Slaughtering and Houghing of Oxen, &c.**

Aug. 3.—DONALD DARG¹ M^cALLANE, fervand to Johne Calder; Donald Mcane V^cAllaister Bayne; Johne M^cFyndlay M^cquiben.

Dilaitit of the crymes *respectiue* following, viz. THE faidis *Donald Darg Mallane*, and *Donald Mcane V^callaister Bayne*, ffor being in companie with Johne and Donald Calderis, fones to Thomas Calder in Delneis, vpon the xxj day of Majj laft, at the treflonabill Raifeing of flyre, burning, and diftroying of the Hall, kitching, and remanent office-houffis within the precink of the clois of Clwnes, pertening to Colene Campbell of Clwnes: And ffor airt and pairt of the faid flyre-raifeing and burning. As alfo, ffor airt and pairt of the Slauchter of four hortis and meiris, being vpon the laudis of Clwnes at that tyme, pertening to the tenmentis thairof: As alfo ffor cuming, vpon the xxiiij day of the faid moneth, bak agane to the faidis landis of Clwnes, and thair, for airt and pairt of the Burneing of the hail houffis and biggingis within the Myd-toun of Clwnes, callit the Thornyfurd, and Burning of tua barnes and ane flable, in the Nether-toun, quhillkis war left vnbrunt ofbefoir: AND ficyk, ffor airt and pairt of the crewall Slauchter and Hocheing² of threttie heid of ky, oxin, and vther beftiall, pertening to Mr Williame Campbell of Breachlie his tenmentis: committit vpon the xxv day of the faid moneth of Majj laft: AND ffor airt and pairt of the crewall and vnatural Slauchter of fourtie heid of guidis, within the Forrest of Leonache; committit vpon the Mononday befor St Colmes-mefs laft. AS ALSO, the faid *Johne M^cFyndlay M^cquiben*, off airt and pairt of the Slauchter of vniq¹⁶ Patrik M^cgreflie Roy in Budzet, with ane durk; committit be him a tua yeir fyne, or thairby: AND for being in cumpanie with Robert Abroche M^cgregour, his kyn (and) freindis, Thevis and Soirneris, be the fpace of ane moneth, in dyuerfe thair wiket and thiftious deidis.

Quhill Dittay was verifeit be the faidis perfones Depofitiones, producet in proces.

The Aduocat repeittis the Depofitiones alreddie producet, and in the Clerkis keping; takis instrumentis of the fweiring of the Affyfe; and proteftis for Wilfull Error, gif thai acquit.

¹ Red-skinned; ruddy-complexioned. *Roy* fignifies red-haired.

² Ham-stringing.

ASSISA.

George Monro of Tarrell,	Johne M'gillievorich, fervand	James Borthuik of Lochehill,
Alexander Bayne of Logie,	to Colene of Bothe,	Johne Stewart of Apyn,
Hew Campbell of Ballangowne,	James Dumber of Bothe,	Mr James Kirk, fervand to my Lord Argyle. ¹

VERDICT. The Assyse, all in ane voce, be the mouth of Alexander Bayne of Logie, chancellor, ffand, pronuncet, and declairit the saidis thre perfones on pannell, according to thair awin confeffione, to be ffylet, culpable, and convict of the crymes *reflective* aboue spacificit.—SENTENCE. To be tane to the Burrowmure of Edinburgh, and vpone the cownone gibbet thair of to be hangit, quhill thay be deid; and all thair moveabill guidis to be efcheit, &c.

Stouthreif—Theft—Beiring and Shooting of Hagbutis and Pistoletts, &c.

Sep. 3.—GILBERT CRANSTOUN, father-brother to vniq^{ie} Patrik Cranftoun of Corfbie.

Dilaitit of the crymes following, viz. FOR the thiftious steilling, conceilling, and away-taking, be way of Maisterfull thift and stouth reif, furth of the stable of Corfbie, of ane gray stanet horfe,² pertening to Patrik Cranftoun of Corfbie, his brother sone; committit be him vpone the tent day of July last. ITEM, for airt and part of the thiftious steilling, conceilling, reflectting, and away-taking of tua fcheip, pertening to Andro Vaiche in Hammiltoun, vpone Lyne watter; and of four fcheip pertening to James Tuedie, his fervand; and of tua fcheip pertening to Johne Stewart, in Stobo; tua vther fcheip pertening to James Fouldane, thair, &c.;³ flowin be the said Gibert and his complices, furth of the boundis of Hammiltoun, vpone Lyne Cownone, in the moneth of ffebruar, 1^m.Vj^e. and tuelff yeiris. ITEM, for contravening of the Actis of Parliament, in beiring and weiring of hagbutis and pistolettis, and schuitting of George Home of Bassinden thairwith, in his left thie;⁴ committit in the moneth of September, 1609 yeiris. ITEM, for Cownoun Thift, and cownoun resset of thift, outputing and inputing of thift, fra land to land, fra cuntrie to cuntrie, baith of auld and new.

VERDICT. Fylet, culpable, and convict of the hail crymes aboue writtin.—SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit vpone ane gibbet, quhill he be deid; and all his moveable guidis to be efcheit, &c.

Beiring, Saying, and Celebration of the Mass, &c.

Sep. 14.—MR ROBERT PHILLOPE, Preift; James Stewart, callet *James of Jerusalem*.

¹ The rest of the Assise were tradesmen. other petty thefts narrated in the Dittay.

² Stallion.

⁴ Thigh.

³ It is unnecessary to detail the various

Dilaitit of faying and heiring of Messis, contrair the tennour of the Actis of Parliament, &c.

FORSAMEKILL as, be dyuerse Actis of Parliament, speciallie be the fyft Act of our fouerane lordis first Parliament, and be the first Act of his hienes fourtene Parliament, it is speciallie prouydit, statute, and ordanit, that na mauer of persone or perfones, of qualitateir degre or condition they be of, preswme nor tak vpone hand to say Mess within this kingdome, or zit heir Mess, nor be present pair-at; vnder the pane of deid, with confiscatioun of thair haille movebill guidis; as the saidis Actis of Parliament in thame fellis proportis: Nochtwithstanding quhairof, it is of verritie, that the said *Mr Robert Phillope*, Preit, quha resanit the ordour of Preitheid in Rome, haifing remanit furth of this kingome sen the zeir of God I^m.Vc. fourfcoir nytene zeiris, fludeing the Catholique Romane Religioniou; in the moneth of Maij lastbypast, he returnet hame to this cuntrie, off purpos and intention (as he hes declarit) to convert saules to the Romane Religioniou; sen the quhilk tyme of his hame cuming, viz. in the monethis of Maij, Junij, and Julij lastbypast, ffor performinge of his former Idolatour intention, expres contrair the tennour of pe saidis Actis of Parliament, as ane Seminarie Prieit, and perverser of his Maiesties guid subiectis from the trew Religioniou, professit presentlie within jis realme, he hes seducet and conferrit with dyuerse of his hienes subiectis, doing quhat in him lay, be his fals and hereticall doctrine, to pervers pair saules from the treuth, and to convert thame to his erroneus opinioun: AND for that effect, hes, within the said space, said and celebrat, to pe number of sax or sewin Messis, in dyuerse pairtis and places of jis realme, secreteilie, in dyuerse houffis within the samyn, nanelie: ANE of the saidis Messis was said be him in grit solemnitie, with his Mess-claithes, consecrat alter, Mess-buik, and with his vther superstitious rites and ceremoneis belanging pairto, within foure or fyve myles to the burgh of Dumfries, Mr George Aflowane, sone to the Laird of Garroche, being Clerk pairto, and bringer in of the fyre to lycht pe candillis; quhairin the said Mr Robert hes contravenit pe tennour of the saidis Actis of Parliament, and incurrit the panes and pwnesment mentionat pairtill, quhilk aucht and sould be execute vpon him, with all rigour: LYKAS also, it is of verritie, that *James Stewart*, callit of *Jerusalem*, induellter within the burgh of Ed^r, being ane oppin and professit Papist, keiping and heiring companie with Jesuittis, Seminarie Prieittis, and excommunicat traifiquing Papistis, and ane cowmone ressoner in all companeis for pe said Romane Religioniou, aganis pe trew Religioniou, professit be his Maiestie and his hienes loyall subiectis within this his kingdom, expres contrair the tennour of pe saidis Actis of Parliament, in the monethis of Januare, Februare, Marche, Apryle, Maij, Junij, Julij, August, September, October, November, December, in the zeiris of God I^m. sex hundreth and nyne, sex hundreth ten, sex hundreth ellevin, and sex hundreth tuelff zeiris,¹ at the leist, in ane or vther of the saidis monethis and zeiris of God, he hes hard and gevin his bodielie presence to dyuerse Messis, said be dyuerse Prieittis within this realme, in dyuerse places of pe same; and nanelie, the said *James Stewart*, avowing himself to be ane Catholik Romane, in pe zeir of God I^m.Vj^r. and nyne zeiris, or pairby, was present at ane Mess said be *Mr Patrick Anderjon*, Jesuite, within his duelling hous of *Patrik Abercrombie* in Ed^r, in the *Laird of Leyis land*, besyde the buriall zaird of the said burgh: Lyk as, the said James Stewart, acumpainet with the said *Johne Logane*, portioner of Restalrig,² about ane quarter of ane zeir pairrestir, was present at the heiring of ane vther Mess, quhilk was said in the said James awin duelling hous in Ed^r, a littill aboue the Nether-boll-Point, quhair he duelt for pe tyme, be *Johne Bard*, Preit, quha was brocht to pe said hous be pe said *Johne Logane* to the effect foirsaid, nane being present at that Mess bot pe Preit, the said James Stewart and his wyfe, with the said *Johne Logane*, and ane vther blak man. ITEM, schoirtlie pairrestir, the thrid Mess was said within the said *James Stewartis* duelling hous in the Cowgait of Ed^r, quhair he duelt for pe tyme, the said James being present him self at the heiring and faying pair of be the Preit. BE the quhilk wilfull heiring and present-being at pe saidis

¹ There was a Messe the same moneth (May 1633) in Edinburgh, in James Stewart's house, who wes called *James of Jerusalem*. The Preist and the said James fled. Sundry of the company were taken and wairdit.—*Calderswood's MS. Church Hist.* Adv. Lib. ² See his Trial, immediately following the present.

feuerall Messis *respectiue* foirfaidis, the said James Stewart hes contravenit þe tennour of the saidis Actis of Parliament, and hes incurrit the panes and pweischment mentionet pairintill, quhilk fould be execute vpon him with all rigour, to the terrour of vperis.

Quhilk Dittay being red, in prefens of the saidis Mr Robert Phillipe and James Stewart, and thay accuset, be vertew thairof, of the feuerall crymes aboue specifeit; thay and aither of thame confessit, in face of judgement, that thai had contravenit his Maiesteis lawis and Actis of Parliament, in heiring, sayng, and being present at dyuerse Messis, in maner specifeit in thair Dittay, ffor the quhilk thay offerit thame felffis, and become in his Maiesteis will: Quhairupoun instrumentis was tane be my Lord Aduocat.

Nochtwithstanding quhairof, the Justice ordanit thame to be put to the knowlege of ane Assyse.¹—The Aduocat, for verificatioun thairof, repeittit to the saidis perfones of Assyse thair former Judiciall Confessioun maid of thair crymes, aboue specifeit; and thairwith productet thair Depositiones and Confessiones, maid in prefens of dyuerse Lordis of his Maiesteis Previe Counfall, and of the Ministeris,² subferyuit with thair awin handis; and tuik instrumentis vpon the production thairof.

VERDICT. Fylet, culpable, and convict of the contravening of his Maiesteis Actis of Parliament, viz. the said *Mr Robert Phillipe*, for sayng of the feuerall Messis set down in his Dittay; and the said *James Stewart*, for heiring and being present at the feuerall Messis, also set down in his Dittay: conforme to their awin Depositiones, and ratificatioun thairof in judgement.

THE JUSTICE Ordanit the perfones convict to be returnet to waird,³ thairin to remane, in strait firmanee, vnto the tyme DOME be pronouced aganis thame.

(Nov. 19.)—COMPEIRIT Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our souerane lord, and product ane Warrant, direct fra the Lordis of his hienes Counfall to the Justice; quhairof the tenour followis.

JUSTICE, Justice clerk, and 5our deputis: 5ow fall, vpon the sight heirof, appoint ane Justice Court to be holdin within the Tolbuthe of Ed^b, at siche convenient and lauchfull day as 5ow fall think meit; and pair call befor 5ow JAMES STEWART, callit of *Jerusalem*, and MR ROBERT PHILLOPE, Preit, and pronouce DOME aganis thame, vpon the Sentence of convictioun alreddie gevin aganis þame, as followis, to wit: Decerne the saidis James Stewart and Mr Robert Phillope to be BANISCHET his Maiesteis dominiones; and to depart furth pairof, within the space of ane moneth; and nevir to returne agane within the samyn, without his Maiesteis Licence had to that effect, vnder the pane of deid. Quhairanent þir presentis fall be 5our Warrant. AT ED^b, the xvj day of November, 1613.

AL CANCELL^r. SANCTANDROIS. ARGYLE.

‘DOME’ pronounced, according to the terms of the above Warrant.

Wearing of the Mass.

Sep. 16.—JOHNNE LOGANE, portioner of Restalrig.

Dilaitit for the wilfull heiring of ane Mess, and being present thairat, in com-

¹ All tradesmen.

² Of the gospel; clergy.

³ Prison.

panie of James Stewart, callit *of Jerusalem*; quhilk Mefs was said in James Stewartis hous, a littill about the Nether-boll-Poirt of Ed^o, quhair he duelt for the tyme, in the yeir of God I^m. lxx hundreth and nyne yeiris, or thairby, be Johnne Burd, Preist.¹

Andro Logane of Coitfield protestis, in respect of the entrie of the pannell this day, that the vnlaw quhairin he was adiudget the last dyet,² be nocht buikit nor gevin out aganis him: And producet the Counfallis Warrant, subferyuit be my Lord Chancellor, daitit the xv of this instant, Ordaning the said vnlaw nocht to be buiket; bot the said Johnne Logane, for quhome he became cautionn, and now enterit vponne pannell, to be put to ane Tryell for the cryme spacificit in his Dittay.

My lord Aduocat producet the Dittay; and efter reiding thairof, desyret the pannell to be put to the Assyse for the crymes spacificit thairintill.

It is allegit be the pannell, that, as to the first Act of the first Parliament holden be our souerane lord and Estaitis, he can nocht, be vertew thairof, incur the pane and pwneischment of daith mentionat in the Dittay, becaus the maist that the said Act extendis to, is only daith to be inflictit for sic as the thrid tyme fall be fund culpable and convict of heiring of Mefs, or beis wilfullie present at the heiring thairof: And trew it is, that in the said Dittay, producet aganis him, thair is only mentioun maid of ane Mefs hard be him: *Igitur*, &c.—To the quhilk it is answert be my lord Aduocat, that he infistis only in persute of the pannell for contravening the first Act of his Maiesteis fourtene Parliament, maid aganis wilfull heiris of Mefs, sen the moneth of Junij 1594, quhilk is the dait of the said Act, quhairvponne the Dittay is speciallie foundit: In respect quhairof, the pannell fould be put to ane Assyse, for heiring, and wilfullie being present at ane Mefs, in maner, and at the tyme content in the Dittay.

It is forder allegit be the pannell, that he can nocht be put to ane Assyse for contravening the Act of the xiiij Parliament, becaus he nevir was present at ane Mefs within this realme, bot anes, sen his cuming out of Flanderis, quhilk is four or fyue yeir fyue; and the Act aucht only to be extendit aganis sic as hes hard mony Messis: Lykas, the pannell was drawin to the said Mefs be senistrous information, and at the infigatioun of James Stewart, quha inueitit him to his hous to the heiring thairof; and sa, in effect, come thairto contrair his will; ffor the quhilk cryme he is maist penitent, and craves first God, and nixt his Maieste and Counfall, and the Kirk, pardoun for the samyn: Lyk as, in respect of his penitence and greif for the said offence, he was reslauiit in fauour with the Kirk

¹ The Dittay is conceived in terms precisely similar to the preceding case. ² On Sep. 14. This marking is inserted—M^p. The Guidman of Coitfeld being vnlawit this day, for nocht entrie of Johnne Logane, portioner of Restalrig, to haif bene tryit for þe said crymes; the Act of buiking þairof, be þe Counfallis Warrant, was (in respect of Johnne Loganis entrie in ward) dischargit.

and Seffioun of the parochin quhair he duellis ; and hes fenfyne borne office in the Seffioun thairof, refoirtit continuallie to the heiring of the word, and at all tymes was present at the celebratioun of the Communioun and ministratioun of the Sacramentis : Proteffing, be God's grace, to continew ane trew and constant Profeffour of the trew Religioun, presentlie profeffit within this realme, to his lyves end ; and for the offence aboue writtin maist humlie becumis in his Maiefteis will.—It is anfuertit be my lord Aduocat, that the allegiance maid be the pannell is na relevant caufe, of the Law, to flay the puting of him to the tryell of ane Affyfe, vpon the Dittay lybellit ; becaus all perfones man be comptit wilfull heiraris of Meſs that cumis voluntarlie thairto, and patientlie abydis and heiris the famyn ; and it is nocht allegit be the pannell that he was compellit to cum and heir that Meſs ; nather can the famyn be sustenit, except he purge the famyn be ane violent deid compelling him to refoirt thairto : And albeit the pannell hes communicat fenfyne, and borne office in the Kirk, he anis haifing wilfullie hard Mes, quhilk is ane cryme capitall, be the said Act of Parliament, na deid done be him, without his Maiefteis pardoun and Remiffioun past, can purge that cryme : And forder, to mak it knawin that he was ane wilfull heirar of the Meſs lybellit, it is affirmet that he come to James Stewartis hous at the Nether-holl, and brocht with him Johnne Burd, Preift, quha cravet seruice, James Stewart then being sleiping in his bed ; and being walknit, he anfuertit, that for releif of his confcience he was content to heir him : And than the Meſs was said in the said James Stewartis hous, quhair thairefter thay dynet altogidder. This is verifeit be James Stewartis awin Depofitioun, fubſcryuit with his hand, and heirwith producet, for verifeing the premiffes.

THE JUSTICE Repellis the allegations aboue writtin, and ffindis the Dittay relevant ; and Ordanis the pannell to pas to the tryell of ane Affyfe, for the cryme lybellit.

VERDICT. The Affyfe, all in ane voce, be the mouth of Thomas Fifcher, mercheand, chancellor, ffland, pronuncet, and declairit the said Johnne Logane, conforme to his awin Depofitioun, fubſcryuit with his hand, and ratificatiounis thairof maid in judgement, in thair prefens and audience, to be flylet, culpable, and convict of the heiring of ane Meſs said be the said Johnne Burd, Preift, within the duelling hous of the said James Stewart ; in forme and maner, and at the perticuler tyme ſpecificit in the said Dittay.

THE JUSTICE Ordanit him to be tane bak agane to waird within the Tolbuth of Ed^l, thair to remane quhill DOME war pronuncet vpon his former convictioun, &c.

(Nov. 26.)—The Lord Advocate produced a Warrant of the Privy Council, dated ' at Ed^l, the xvj day of November, 1613,' ordaining the Justice to ' pro-

nunce DOME aganis him, vpon þe Sentence of Convictioun alreddie geven aganis him, as followis, viz.⁷

SENTENCE. That he mak payment to his Maiesteis Thesaurer depute and Reffauer, in his Maiesteis name, of the fowme of ane Thowfeand pundis money, as a fyne inpoist vpon him.

Incest and Murder.

Sep. 24.—JOHNNE RAMSAY of Pryour-Lethame.

Dilaitit for the filthie and abhominable cryme of Incest, committit be him with Margaret Ramfay, his awin dochter: As also, for airt and pairt of the crewall Murthour and slauchter of vniq^{le} Williame Olett, his awin fervand; and remanent crymes contenit in the Letteris.

Mr Vmphra Blinshell, Aduocat, as bailzie and procuratour for George, Archebifchope of St Androis, Lord of Regalitie thairof, quha exponit and declairit that the said Johnne is duelland within the boundis of the regalitie of St Androis, and thairby is subiect to the said Lord of Regalitie, his judgement and iurisdiction, for the crymes aboue spicifeit: And thairfoir Proteffit, that quhatfoeuir war done be the Justice this day, fould nawayis preiudge the said Lord of St Androis, nor his privilege of Regalitie thairof.

Michell Ramfay of the Forther vulawit and amerciit in the pane of fyve hundreth merkis, for nocht entrie of the said Johnne. And fielyk, that the said Johnne, for his nocht compeirance, be denuncet rebell and put to his hienes horne; and all his moveabill guidis to be efcheit, &c.¹

Fire-raising—Houghing of Cattle—Oppression, &c.

Nov. 5.—THOMAS CALDER, in Delneis; Robert Caddell (Calder), fone to Johnne Caddell in Flines.

Dilaitit for airt and pairt of the coming to the landis of Clunes, pertening to Colene Campbell of Clwnes heretable, and maist tressonable and awfullie Rasing of fyre in the hall, chalmeris, barnis, byris, and schein-coit thairof, and burning and distroying of the famyn, and be Maisterfull Oppressioun, hoching² and laying of thre meiris (*mares*) and ane horse, pertening to the said Colene; committit vpon the xxij day of Majj lastbypast, vnder fylence and cloud of nycht. AND fielyk, for cuming to the said landis of Clunes, on the xxiiij day of the moneth of Majj lastbypast, att tuell houris in the day licht, and willfullie, awfullie, and tressonabillie Rasing of fyre, in ane toum,³ callit in Ersch⁴ *Andraane*, and in

¹ No farther notice is taken of this case, which had likely been quashed by Archbishop Gladstones, (translated from the See of *Cathness*, A.D. 1606,) or privately compromised within his Regality.

² Hamstringing.

³ Farm-steading.

⁴ Gaelic.

Scottis *Thorne-furd*; and to the Cot-toun of Clune, and Burning and distroying of the famin, togidder with the haill infycht and pleneiffing, pertening to the said Colene Campbellis tenentis thair: And swa, for committing of oppin and manifest Treafoon.

PERSEWARIS, Colene Campbell of Clwnes; Sir Williame Oliphant of Newtown, kny^t, Aduocat, &c.

THE Justice, of consent of the persewaris, Continewis this matte to the fyftene day of December nixt.

(Dec. 15.)—James Cuming of Alter, cautioner for the said James, vnlawit and americiat in the pane of tua hundreth merkis, for his non-entrie; and Colene Campbell of Both, cautioner for the said Robert Calder, in the pane of ane hundreth merkis: And the pannels Decernit to be denuncet our fouerane lordis rebellis, &c., and all thair movable guidis to be efcheit, &c.

Murder—Theft—Fire-raising.

Nov. 24.—ALLANE CAMRONE *alias* McEandowie of Lochzell; Eugen Camrone in Caldort; and Allane Dow in Clinchphairne, &c.

Dilaitit for airt and pairt of the crewall Murthour and Slauchter of Johnne Camrone, *alias* Bodache, Allafter Camrone of Glennevas, and vni^q^{re} Ewin Mcconneill V^eewin, and remanent crymes of Murthour, Slauchter, Theft, and fyre-raifeing, at lenth speifeit and fett down in the Letteris.¹

James Gordoun of Knokaspek, as cautioner, for repoirting the Letteris, denlie execute and indorfate, purchest at the instance of Marie Neane Jeane Oig, the relict of the said Johnne; Meriorie Ewin, the relict of the said Allafter; Marie Neane Lauchlane V^eallane, relict of vni^q^{re} Ewin; with the remanent kyn and freindis, producet the saidis Letteris, denlie execute, &c., be the quhilkis thair all denuncet rebellis, and put to the horne.

Usurpation of King's authority—Destroying green Corn, &c.

Nov. 26.—WILLIAME FORBES, elder of Monymufk; Robert, Johnne, and Mr James Forbis, his thre fones; Johnne Forbes, callit of Burnegraues; James Geillis and Johnne Farquhar, domeftik feruitouris to Monymufk; and George Raitt, in Coiff.

Dilaitit for vsurpation of his Maiefteis authoritie, in taking of Williame Dougat, (Duguid ?) feruitour to George Gairdin; committit the 24 of Julij last: And for contravening the Actis of Parliament, in cutting of certane grene growand coirnes, pertening to Gilbert Menzeis of Pitfoddellis, growand vpon his landis of

PERSEWARIS, Gilbert Menzeis of Pitfoddellis; Williame Dougat, feruitour to George Gairdin; Sir Williame Oliphant of Newtown, kny^t, Aduocat.

¹ The Dittays are not inserted in the Record.

THE Justice, with advyfe of my lord Adnoeat, Continewis this dyet to the thrid day of the Air (of Aberdeen), or foner, vpone xv dayis warning; and Ordanis caution to be fund be the pannell. Plegio, Joanne Kymaird de eodem.

Cutting and Destroying Corn.

NOV. 26.—MARGARET IRWING, Lady Pitfoddellis; Gilbert Menzeis of Pitfoddellis, hir spous, for his entreis; David Knowis, his domeflik fervand; Johne Ramfay, his greif; Johne Philp, Williame Daveny, Williame Dougatt, and Johne Ramfay.

Dilaitit of airt and pairt of the contravening of our fouerane lordis Actis of Parliament, in cutting and distroying of coirnes; committit in the moneth of July lastbypast.

PERSEWARIS.

Williame Forbes, elder of Monymuk; Sir Williame Olyphant of Newtowne, kny¹, Aduocat. This case¹ also continued to the same Air. Plegio, Pitfoddellis.

Slaughter.

DEC. 1.—HEW SOMERVELL of Drum.

Dilaitit for airt and pairt of the Slaughter of vniq¹⁰ Johne Bryfone, in Gilmertoun, be gevin to him of dyuerse straikis, hurtis, and woundis, with ane lang battone or girth-thing,² in his fydis, schoulderis, breift, and bellie, and dyueris vtheris pairtis of his body, at the dur of his duelling hous in Gilmertoun, vpone the xxiiij of September last; off the quhilkis straikis, he haifing tane bed, and remaning bedfast the space of aucht dayis, in grit dollour and pane, deceffit thairof vpone the first day of October thaireftir.

PERSEWARIS, Agnes M'indo, the relict; Patrik and Margaret Bryfone, as bairnes.

PRELOCUTORIS in defence, Mr Thomas Hoip, Mr Laurence M'gill.

It is allegit be the pannell, that the Dittay is nocht relevant, in fa far as it is nocht qualifeit thairin, that the cryme was committit vpone foirthocht fellonie; without the quhilk war condiscendit vpone, na cryme can be inferrit: And thairfoir, as the Dittay is qualifeit, it can nocht pas to ane Assyfe. And forder, it is affermit be the pannell, that the said Johne Bryfonis death nawayis procedit vpone ony straik or hurt gevin to him the tyme lybellit; bot be the contraire, the said Johne, that same day of the allegit refflaueing of the straikis, past to the Coilpot-hill, and thairfra with his coillis³ come to Ed^r, quhair he fauld the

¹ It is obvious that the preceding cases arose out of the deadly feuds which then raged between the families of Monymusk and Pitfoddells. No information is afforded by the Record, how these Cases terminated—but from their withdrawal to 'the Air,' it is likely they were compromised by the intervention of mutual friends.

² Dr Jamieson interprets this word to signify a pole from which a girth, gird, or barrel hoop is made.

³ Coals. GILMERTON, at that period, as well as now, was famous for its collieries and stone quarries, and appears to have been, even in these early times, peopled by a most barbarous and regardless race. The recent atrocious case of Rape and Murder is too fresh in the public mind to require any farther notice of the proverbially savage nature of the colliers and carters inhabiting that village. A bare allusion to the evidence adduced in that shocking Trial is more than enough to justify the preceding observation.

famyn ; and passing hame, that same nycht, to his awin hous, lay down hail and feir ;¹ and his hail famelie being visseit with the hett-fever,² be the space of ane moneth ofbefoir, the said Johnne being also visseit thairwith, in aucht dayis thair-ettir, sa reaget thairin, that in end, at the tyme lybellit, he deceiffit of the said ffiever, notourlie knawin to the hail cuntrie about. And sa, can nocht pas to ane Assyse, for ony cryme set down in the summondis.

THE Justice findis the Summondis relevant, nochtwithstanding of the former allegiances : and Ordanis the famyu to pas to ane Assyse.

ASSISA.

Mr Pat. Edmestoun of Wowmet,	Nicoll Crawford, in Nether Lib-	Mr Jo ⁿ Wardlaw, in Libbertoun,
George Ramfay, Nether-houffis,	bertoun,	Symone Henderfoun, thair,
Robert Eddiflaw, in Lefuaid,	Henrie Arnote, in Lefwaid,	Dauid Ramfay, in Pethheid,
Nicoll Ramfay, thair,	Michaell Craufurd, at Libber-	Geo. Pacok, in Nether Libbertoun,
Gilbert Hay, thair,	toun-Kirk,	Thomas Andro, in Lefuaid.

It is allegit be the pannell (that) George Ramfay, Robert Eddiflaw, Nicoll Ramfay, can nocht be reffaut vpon his Assyse, becaus thair ar tennentis, haifing na frie landis of thair awin ; and the pannell being ane landit Gentilman, within the degrie of ane Barronne, halding his landis of Drum, and vtheris pertening to him, immediatlie of the Kingis Maieftie, sould thairfoir be tryit be his peiris, viz. be Barrones ; at the leift, the maift pairt of thame sould be in that rank ; *igitur*, &c. Repeatis the former allegiance aganis the remanent Assyfouris of the lyk qualitie.

THE Justice, vpon tryell of the said George Ramfay and remanent Assyfouris rank and estait, finding thame to be honest, substancial men, Admittis thame vpon the said Assyse.

VERDICT. The Assyse, all in ane voce, be the mouth of Thomas Andro, in Lefuaid, chancellor, stand, pronuncet, and declairit the said Hew Somervell of Drum to be Cleane, innocent, and acquit of the said slaughter.

Witchcraft—Poisoning—Treasonable Murder.

[THE CASE OF ROBERT ERSKINE, which follows, and the subsequent Trial of his three sisters, HELEN, ISOBEL, and ANNAS,³ afford very lamentable proofs of the baneful effects of an all-engrossing spirit of covetousness. There cannot be a doubt that the sordid avarice of these individuals, habitually indulged, and permitted to acquire the entire ascendancy over their minds, rapidly terminated in the perpetration of the highly revolting crimes for which their lives were justly forfeited to the offended laws of their country.

It is melancholy to reflect that these atrocious criminals, whose cold-blooded and calculating crimes form the subject of these Trials, were immediate descendants of the eminently good and pious John Erskine, Baron of Dun, and Superintendent of Angus and Mearns, one of the most active promoters of the Reformation of Religion in Scotland, whose character and public services are well known. This excellent man died Mar. 12, 1591, in the 82d year of his age, having, throughout his long and useful life, bestowed much of his time in attending to the religious and moral education of his children and

¹ Whole and sound.

² Probably the Scarlet fever.

³ See their Trial in this Collection, Jun. 22, 1611.

their numerous descendants. The Superintendent was the eldest son of John Erskine of Dun, by Margaret Ruthven, daughter of Sir William de Ruthven, first Lord Ruthven, and relict of Alexander, second Earl of Buchan. He married Lady Elizabeth, third daughter of David, seventh Earl of Crawford. John Erskine, the next Baron of Dun, married Margaret, eldest daughter of James, fifth Lord Ogilvy of Airlie. His son, John Erskine of Dun, married Margaret Keith, second daughter of Robert Lord Altrie, last mentioned. This Baron was succeeded by John Erskine of Dun, who married the Honourable Margaret Lindsay, daughter of Sir Alexander Lindsay, first Lord Spynie, (slain 1607,) and was probably the father of Robert and his sisters, Helen, Isobel, and Annas. David Erskine of Dun, the brother of these criminals, and father of their victims, John and Alexander Erskine, married Jean, eldest daughter of Patrick Maule of Pannure, by Margaret daughter of John Erskine of Dun.

It must therefore be obvious, owing to the high respectability of the ancient Family of Dun, and the rank and power of the numerous connexions of the pannels, that every influence must have been used for averting the stain of a public Trial and an ignominious execution; but their crimes were of too deep a dye to admit of the public prosecutor waiving this imperative duty.

One very striking feature of this remarkable Case is, that the brother was urged forward to the perpetration of this crime by the repeated suggestions and solicitations of his sisters; who, with desperate wickedness, goaded him forward to consent to the act. These wretched females were both the prime movers and the actors in this shocking tragedy. Their brother appears to have been a passive instrument in their hands.

It only remains for the Editor to state, that, after much research, he has only been able to procure the following notices, from an authentic source.¹

(Nov. 30, 1613.) ‘ROBERT ERSKINE, vncle to THE LAIRD OF DYNNE, being exaninat be foure of the Counsell, depute to that effect, vpon the practize of poifone aganes his tua nephewes, the brether of the Houfe of Dynne; after dyuerfe denyallis and confrontatioues with fome who avowed that mater vpon him, he is come to a cleere Confession of the hail treuthe of that mater; to wit, that he wes a deallar, confultor, and confentor to the Murthour of his tua nephewes by poyfoue; and that his three sifteris wer the first moveris of him to that wicked deide, that thereby he might atteane to the right of the leving of Dynne. Direction is gevin to the Justice to putte him to the tryall of the lawes, and Commiffion is gevin to the Erle of Mar to apprehend the three sifteris, and fome otheris gevin vp be the said Robert, as guyltie, and to present thame heare to there tryell.—(Dec. 1, 1613.) ‘Robert Erskyne wes this day execute for the practize of poifone, wherin he wes a counfellour and confentor aganes the tua bretherine of the Houfe of Dynne.’]

Dec. 1.—ROBERT ERSKYN, sone to Johnne Erskyn, appeirand of Dwn, callit *Johnne of Logy*.

Dilaitit, accufet, and perſewit, be Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord, for his hienes intercis, of the crymes following, viz.

DITTAY *againſt Robert Erſkyn*.

FORSAMEKILL as, be the Law of the Almychtie God, loveable Conſtitutioues of all Chriſtiane kingdomes, and Municipall Lawis of this realme, all Witchcraft, Sorcerie, Confultatioum with Witches, feiking of help or reſponſes of thame, and vſearis of Poyfoue or Poyfoneable herbis, quhairthrow ony Criſtiane man, woman, or bairne may take hearne, is prohibeit and diſcharged, vnder the pane of deid, confiscatioum of all the offendouris moveabillis, and dyuerſe vtheris grevous

¹ Minutes of Privy Council Proceedings, Denmylne MSS. Adv. Library. *Balf. Annales*, II. 44.

panes and pwnceifementis, at moir lenth expreffit in the faldis Lawis, Actis, and Ordinances : Nochtwithftanding quhairof, it is of veritie, that þe fald Robert Erfkyn, being blinded with the godles and infatiable defyre of þe landis and leving of Dwn, and knowing perfytlie that he could nevir attene to be full Laird þairof, fo long as Johne and [Alexander] Erfkynis, the tuo lauchfull fones of vmq^{le} Dauid Erkin, his elder lauchfull brother, was on lyfe : ffor removeing of the quhilk impediment, vpone a pretendit mifcontentement confaueit be him and his thre fifteris, Ifobell, Helene, and Annas Erkinis, becaus vmq^{le} Erfkyn of Dwn, quho was fone-in-law to the Laird of Pitcur, vpone his deid-bed had nominat Johne Erkin, Miniſter at St Ceres Kirk, to be Tutour Teftamenter to the faldis tuo zoung boyis, his brother-fones, and that be þe fald nominatioun of Tutorie, the fald Robert, as nerrefst agnat of bluid to thame, was defraudit of the charge of þais bairnes and þair Eftait ; albeit þe fald Robert his cheif difcontentment was, becaus, be þe furvieing of the faldis tuo bairnes, zour (*his*) rycht of fuceffiuon to the fald leving was impeidit. The fald Robert, þairfoir, ffor removeing of the fald impediment, in his devillifch difpofitioun, convenit to him felf his faldis thre fifteris, Ifobell, Annas, and Helene, within the Place¹ of Logy, about Mydfomer, in the zeir of God I^m. ſex hundreth and ten zeiris, and þair tretted, confulted, deliberat, and refolued vpone the deftructionn and Murthour of þe faldis tuo zoung childrene, his broþer-fones,² be Witchcraft and Poyfoun : AND for this effect, tuo of his fifteris, haifing proponit to aue Dauid Blewhous, that gif³ he wald vndertak to get aue Witche, that, be fufmiferous meanis, wald tak away the lyves of þe faldis tuo boyis that war betuix þe fald Robert and the leving of Dwn, that þe fald Dauid fould reffauie for his rewaird aue poffeffioun, for his lyftyme, out of the landis of Dwn, and fyve hundreth merkis of filuer ; and promeift to caus þe fald Robert, vpon the morne þaireftir, ratifie to þe fald Dauid the former conditioun : Lykas, fchortlie þaireftir, þe fald Robert, cuming to the fald Dauid Blewhous duelling hous, and haifing forgadderit⁴ with him þair, he þan demandit of þe fald Dauid, quhat he had done concerning the purpois impairtit be his fifteris to him, ament þe diftrictioun of þe faldis tuo bairnes ? And becaus, be þe anfuer maid be him to þe fald Robert and his fifteris, the fald Robert could nocht get his wiket purpois effectuat be þe fald Dauid Blewhous, thairvpon the faldis Annas and Helene, his tua fifteris, of the ſpeciall caufeing, fending, hounding out, airt, pairt-taking, counfell, and devyfe, paft, in aue evening, fra þe fald Place of Logy, over þe Cairnemouth, towardis þe Mure-ailhous, and þair forgadderit with aue woman, quha namet hir felf Jonet Irwing, aue notorious Witche and abufer of þe people ; and eftir conference with hir in the fald purpois, thay, for accomplifchment þairof, reffault of hir aue grit

¹ Mansion-house.² Nephews.³ If.⁴ Met.

quantitie of herbis, quihilkis war brocht with thame (with iniunctioun how to vse the saidis herbis) hame to Logy. Quhilk being sene be þe said Robert, in þair handis, and he atogidder distrustung that thais herbis war hable¹ to do that wicket turne for the quhilk þai war brocht, flor clerung of his dout, he, togidder with Johne Kirk, past over þe Month towardis the Mure-ailhous, quhair he consultit and conferit with the said Jonet Irwing, Witche, off quhome at þat tyme he refanet ane full resolutioun that þe herbis delyuerit be hir to his sifteris was forceable aneuche to effectuat þe former wicket turne: LYK AS, schortlie þaireftir, þe said Robert, returning hame agane, he concurrit and consultit with his sifteris in all þair wicket resolutiounes, to þe tyme that þe said poyfoneable drink was gevin be þame to the saidis tuo boyis; quha þaireftir, be þe said Robert his counfall and advyse, tuik þe saidis herbis, and steipit þame anangis aill ane lang space; and þaireftir, it being in deliberatioun betuix þe said Robert and his sifteris, quhidder it could be cassin out or vsed, in end, it was vniformelie aggreit and concludit amangis thame, that þe drink quhairin the saidis herbis war steipit could be gevin to the saidis tuo boyis: flor accomplisshment quhairof, tuo of the saidis sifteris, accompaneit with Gilbert Campbell, his horse-boy for þe tyme, haifing also in companie with thame the said *Johne Erskine*, the eldest of the saidis tuo boyis, past atogidder furth of Logy to þe burgh of Montrois, quhair þe vther boy with his mother remanit and duelt for þe tyme; and þair, of þe said Robert Erskine his knowlege, counsell, and devyse, the said poyfoneable drink was gevin to the saidis tuo boyis, his brother-sones: Quhilk drink, eftir þair ressaucing pairof, wrocht so violentlie vpone þame, that immediatlie þaireftir thay tuik sic ane extraordinar preise² of vomeiting, that na persone expected for þair lyfe: Be occasioun of the quhilk poyfoneable drink, sa ministrat and gevin to thame, the said *Johne Erskine*, the eldest of the tuo, contracted sic a deidlie diseas and seiknes, that his skyn turning all blak, and his hail nobill partis inwardlie consumeing, he daylie and continuallie þaireftir dwynet³ in grit dollour and pane, to the tyme of his death, viz. to the terme of Wittsonday last; at quhilk tyme, he in maist lamentable maner deceifit, of the said vennemous and poyfoneable drink, vttering befor his death thir or the lyk wordis, to all sic as war present, "Wo is me, that I evir had richt of successioun to ony landis or leving! flor gif I had bene borne sum pure coitteris sone, I had nocht bene sa demanet,⁴ nor sic wicket practizes had bene plottit aganis me for my Landis!" AND sa, was crewallie and treffonabillie Murthoret; and be þe foirsaid vnlawfull and poyfoneable drink, cuttit aff be þe said Robert Erskine, his uncle: And he was airt and pairt of the said treasonabill Murthour, and of þe damnable consultung and devyseing with the said Jonet Irwing, ane notorious Witche, flor

¹ Lat. *habilis*.² Literally, *press*.³ Pined away.⁴ Treated.

making and miniftrating of þe faid poyfoneable and vennemous drink, for the faidis tuo bairnes Murthour and deſtruction. LYKAS, the vther of the faidis tuo boyis remanis as ʒit fair vilfeit with intollerable payne, and feiknes vnuerfall throw his haill body, be occaſioun of the faid drink gevin to him at þe time foirfaid; off quahais lyfe þair is na hoip. To THE TAIKIN of the quhilkis premisses, þe faid Robert being examinat be the Lordis of his Maieſteis Previe Counfall; quhairpoune, eftir lang deilling with him þairintill, in end, come to his Confeſſioun, in maner ſpecificeit in his Depoſitiones: Lyk as, he being charget, be vertew of Criminall Letteris, to haif compeirit and fund caution that he ſould vnderly the Law for þe faidis crymes, was, for his nocht finding caution, denuncet to the horne, and declairit fugitiue fra his Maieſteis Lawis, for the crymes aboue ſpecificeit; at the quhilk Hoirning he hes ever ſen fyne remanit vnrelaxt þairfra. As þe faidis Letteris of Hoirning, producet aganis him, in the ſelf proportis.

Eftir reiding of the quhilk Dittay, and accuſatioun of the faid Robert Erkine, be vertew thairof, of the crymes aboue expremit, quhilkis war Confeſſit be him to be of verritie, the Juſtice, of his awin conſent, referrit the ſamyn to the Tryell of ane Aſſyſe of the perſones following.

ASSISA.

Mr Ja ^r Durehame of Duntervie,	Sir George Ramſay of Dalhouſſie,	Johne Beatone of Falay,
Mr Francis Bothnell, brother ger-	Mr Alexander Seatoun of Gormok,	Patrick Maxwell of Newark,
mane to vniq ^r Johne, Lord	Cuthbert Cuninghame, Proveit	Aulay Mc'caulay of Ardincapill,
Halyrudhous,	of Dumbarten,	Duncane Menzeis of Comerie,
Robert Falconer of Ballandro, Menzeis of Weyme,	Mathaw Bailzie of Littillgill.
Sir Johne Preſtoun of Vallafeild,	Patrik Auchterlonie, Dunlope of that Ilk.

Quhilkis crymes the faid Robert Erkine of new, in the faid Aſſyſe preſens and audience, confeſſit and acknowlegit to be of verritie. Quhairpoune inſtrumentis was tane be our faid ſouerane lordis Aduocat; and quha, for the faid Aſſyſe forder reſolution, producet to thame the faid Robert Erkinis Depoſitiones, ſubſeryuit with his hand, and dyuerſe of the Lordis of his Maieſteis Previe Counfall; togidder with the faidis Letteris of Hoirning, beiring him to haif bene fugitiue fra his Maieſteis lawis, continuallie ſen the committing of the faid fact.

VERDICT. The Aſſyſe, all in ane voce, be the mouth of Mr James Durhame of Duntarvie, chancellor, be reſſone of his former Depoſitiones, and ratification thairof, maid in judgement, ſſand, pronuncet, and declairit the faid Robert Erkin to be Giltie, culpable, and convict of airt and part of the Murthour and diſtruction of the faid Johne Erkine, his brother-ſone, be miniftrating to him and his faid brother of the poyfoneable drink, in maner ſpecificeit in the faid Dittay.—SENTENCE. To be tane to the Mercat-croce of Edinburgh, and thair his heid to be ſtrukin from his body: And all his moveabill gudis to be eſcheit, &c.¹

¹ See the Trial of Helen, Iſſobel, and Annas Erskine, Jun. 22, 1614.

Horse and Sheep Stealing.

Jan. 28, 1614.—PETER DAVIDSON in Heddene; James Wallace, sumtyme duelland in Dundie; and Donald Smyth in Dumbarren.

Dilaitit as follows, viz. The said *Peter Davidfoun* ffor the thiftious steilling, conceilling, refletting, and away-taking of ane cut-luggit stanet naig, mouf-hewit and flug-tailit;¹ togidder with ane foird bafsoned meir,² haifing three quhyte feit, allò flug-tailit, a faxteue myles beyond Beruik in Ingland; committit about Mydfomer laft. ITEM, ffor the thiftious steilling and away-taking of ane gray ambland meir, with ane littill foired meir, a fevin or aucht myles abone Annik,³ in Ingland; committit at Lambes laft, &c. AND the saidis *James Wallace* and *Donald Smyth*, ffor airt and pairt of the thiftious steilling, conceilling, refletting, and away-taking of tua horfe, furth of the landis of Kerle, &c. &c.

VERDICT. Fylet, culpable, and convict, conforme to thair awin Judiciall Confeffiones.—SENTENCE. To be tane to the Caftell-hill of Edinburgh, and thair to be hangit quhill thai be deid; and all thair moveabill guidis to be efcheit, &c.

Theft of Title-deeds, &c.

May 20.—PATRIK EVIOT, fone to Finlay Eviot in Mwretoun, and sumtyme fervand to Patrik Eviote of Mwretoun.

Dilaitit, acufit, and perfewit be Sir William Oliphant, &c. and Johne Mathow of Ballhoufly, of the crymes following.

DITTAY againſt the Pannell.

FORSAMEKILL as Johnne Mathow of Ballhoufly, in the moneth of Apryle, the zeir of God I^m. fex hundreth threttene zeiris, haifing repairit towardis the Citie of St Androis, to haif procuret Confirmation of certane his landis, baldin be him of je Proveit of je Auld College pairof; and haifing tane his evidents⁴ with him to that effect, lyke as, vpon the 26 day of the faid moneth of Apryle, being the Senzie-fair-day⁵ of St Androis, the faid Johnne Mathow, being within je faid burgh, in his cuming alongis the Hie freit pairof, accompaneit only with Alexander Blair, than his fervand, quha than had cayreing vnder his airme the faid Johnne Mathow his wallet, quhairin thair was ane grit number of his evidents and writtis, with tua pair of filk fchankis,⁶ ane pair of worfet fchankis, ane pair of fyne filk gairtaues, with ane certane quantitie of gray veluet, and vther fmall neceffaris pertening to him, all bund vp togidder within the faid wallet; and at pair cunning foranent Robert Ruffell his ftable, quhair je faid Johnne Mathowis horfe was ftablet for je tyme, the faid Alexander Blair, his fervand, haifing than paft in to the faid ftabletis houfe, to geve the saidis Johnne Mathowis horfe fun corne; and in this meane tyme, haifing laid down je faid wallet, with the saidis evidents and vtheris foirfaidis being pairin, vpon je buird,⁷ it is of verritie, that je faid Patrik Eviote, feivand to the faid Patrik Eviote of Myretoun, of the fpecial caufeing, directioun, hounding out, and command, reflett, affiftance, and ratilabitioun of his faid mafter, being for the fpace of tua or thre dayis offbeoir, ever attending and following adreich⁸ vpon the faid Johnne Mathow and his boy, in all pairtis of je faid Citie of St An-

¹ A crop-eared stoned horse, mouse-coloured and dock-tailed. ² A sorrel-coloured mare, marked with white on her face. ³ Alnwick. ⁴ Title-deeds. ⁵ Synod-fair. ⁶ Stockings. ⁷ Table. ⁸ Dodging, and following at a little distance.

drois quhairvnto thay maid ony repair: And haifing perfauet the said Alexander Blair pas fra his maisteris bak, and to enter within þe said Robert Ruffellis duelling-hous, and pair to haif laid down þe said wallet vpon the burd-heid pairof, in maner foirfaid; in maist thiftious maner, he convoyed him self within þe said Robert Ruffellis hous, as the said Alexander Blair was in geving corne to his maisteris horse, and thiftioussie past vp, slaw, conceillit, resset, and away-tuik furth pairof, the said wallet, with the evidentis, silk schankis, worset schankis, silk gairtenis, gray veluet, and vperis his necefaris pertening to him, being all bund vp togidder pairintill, had and tranfpoiritit the samyn away with him to sic pairtis and places as he pleisit, nevir making ony resitutioun nor redelyuerance pairof to the said Johnne Mathow, just awner of the samyn, to his grit hurt and perrell of þe securitie of his landis, be abstracting and withholding of þe saidis evidentis pairof. AND selyk, for the thiftious steilling and away-taking of ane pair of blankettis, pertening to the Lady Balhouffie; and of ane pair of fyue marillit¹ plaidis, pertening to Roife of Cragie. And for cowmone Thift, and Resset of thift, &c.

VERDICT. Fylet, culpable, and convict of the hail thiftious crymes aboue specifreit.

THE JUSTICE Continewis the pronunceatioun of Dome to the morne: And Ordanit the pannell to be committit to waird, in the meane tyme.

May 21.—SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair to be hangit vpon ane gibbet, quhill he be deid: And all his moveabill guidis to be efcheit, &c.

Taking Captive — Slaughter.

JUN. 1.—WILLIAME M^cINTOSCHE of Effie; Martene M^cewin V^cewir; and Lauchlane M^cconell V^clauchlane in Bancher, (and others).

Dilaitit for the taking of Colene Campbell of Clwnes captiue and prissoner; And for the slaughter of vniq^{le} Donald M^cintailzeour, and vtheris crymes.

Colene Campbell of Clwnes producet the Letteris, be the quhilkis thay ar denuncet rebellis, and put to the horne, for nocht finding caution to haif compeirit, &c. And producet lykwayis ane Warrant, subferyuit be my Lord Chancellor, Secreter, and Thesaurer, for deserting the saidis Letteris aganis *Duncane M^cintoshche of Aberairdour*, Williame M^clauchlane V^cwilliame M^cintoshche, Angus Ros, seruant to Williame M^cintoshche in Boirlum, and Williame Bayne M^cconell V^callaister Vayne, in Delnavert.

Consulting with Witches — Poisoning — Treasonable Murder.

[THE Editor begs to refer the reader to a short introductory Notice prefixed to the Trial of ROBERT ERSKINE,² the brother of the pannels, whose crimes form the subject of the following Trial. It only seems necessary in addition to state, that he has been so fortunate as to obtain the following authentic memorials³ of the proceedings against these unhappy victims of ungoverned passions, and of base and unbridled avarice. Their fate is written in letters so legible, that he who runs may read.

(Dec. 16, 1613).—“THE tua fiteris of the deceasid ROBERT ERSKYNE, who iustly sufferid

¹ Variegated; mottled; marbled; or chequered.

² See Dec. 1, 1613.

³ From *Dennyhe MSS.*

Adv. Library, “Minutes of Privy Council Proceedings.” See also *Balfour's Annals*, II., 53.

death, for the practyse of Witchcraft and Poyson vsed be him agaiust his twa nephewes, the breecherine of THE HOUSE OF DYNNE, are brought to this Toun; and being examined, are obdured in a constant denyall of all that mater, nochtwithstanding that there late brother putt constantlye to death, with avowing that detestable cryme vpon thame, as being the first devyfares therof, the motionaris therof to him, and the executoures therof in there own persones. They are to be confronted with on who assited thame in consell and executioun of that deede; and thairefter, in caise of there perfeveerance in there denyall, they are to be pute to the Torture."¹—(Jun. 22, 1614.) "THE xxij day of Junij next is appoyntit for the Tryell of HELENE and ISSOBELL ERSKENIS, for the Poyfoning of the twa brether of the Hous of Dynne; and directioun is gevin to the Justice and his Maiteis Advoocat to proceid in the persute, tryall, and punishment of that mater accordingle."²—(Jun. 23.) "THE thrie susteris of the Houffe of Dinne wes this day pannelled, accoofed, and convicted of the Poyfoning of there two coofinges, the brether of Dinne; and Sentence is geven aganes thame to lose there heades; whilk wilbe execute vpon the xxiiij of this instant."]

JUN. 22.—HELENE ERSKINE, Illöbell Erskine, and Annas Erskyne, Susteris to vniq^{le} Robert Erskyne, brother to the Laird of Dwn, and dochteris lauchfull to vniq^{le} Johnne Erskine, appeirand of Dwn, callit Johnne of Logie.

Dilaitit of airt and pairt of the Poyfoning of vniq^{le} Johnne Erskine, thair brother-son,² be ministrating to him and to Alexander Erskine, his brother, of ane poyfonceable drink; of the quhilk the said vniq^{le} Johnne Erskine depairtit this lyfe; committit about Witsonday, in anno 1610 yeiris.³

PERSEWAR, Sir Williame Olyphant of Newton, kny^t, Advoocat to our Souerane lord. PRELOCOUTOURIS in defence, Mr Thomas Wilfone, and Mr Laurence McGill, (Advocates,) Mr Johnne Erskine, Minister,³ Mr Williame Keith, Patrik Bruce.

Mr Thomas Wilfoun and Laurence McGill, Advocatis, produces ane WARRANT of the Lordis of Secreit Counsall, be the quhilk thair war charget to compeir for the thre susteris on pannell, in thair defence; and in respect of the schortenes of tyme quhairpoun thair ar charget, and of the wechtines of the caus quhairpoun the pannell is dilaitit, desyres my lord Justice to grant ane continuatioun to fry-day next, that in the meyne tyme they may haif lasure to advyse with the pairtie in the caus.—The Advoocat answæris, that na continuatioun can be grantit, in respect the persones on pannell was charget vpon fyftene dayis wairuing; and ane autentik coppie of thair Dittay was delyuerit to thame, at the geving of the said charge.

THE JUSTICE Ordanis proces; and the Summondis to be red.

It is allegit be the pannell and thair prelocoutouris, that the Dittay is nawayis relevant, in thre severall poyntis, viz. *ffirch*, in the allegit consulting with Jonet Irwing, Witche, nocht condiscending vpon the woirdis of consultatioun, or quhat

¹ The Editor has found no satisfactory evidence to establish that the Torture was actually put in force, in this Case.

² Their Nephew, who was the heir-apparent of David Erskine, their eldest brother.

³ The 'Dittay' is a mere echo of their brother Robert's, and is therefore unnecessary to be inserted here. See Dec. 3, 1613.

⁴ At St Ceres Kirk.

refponfe was gevin to the pannell be the Witche. *Secundo*, anent the allegit reffauing of the vennemous or poyfoneable herbis, for the vfe contenit in the Dittay, *non relevat*, except the perfewar war fpecial vpon the names of the herbis, and qualitie thairof. *Tertio*, as to the allegit iniunctiones gevin for vfeing of the faidis herbis, *non relevat*, except the perticuler woirdis of iniunctionoun war fpeciallie fet down in the Dittay.—To the quhilk it is anfuert, that the allegiance aucht to be repellit, in refpect of the lybell, quhilk he vfes *coniunctim* in the haill pointis, as is qualifeit, viz. that the pannell paf and confultit with ane Witche, fra quhome thay reffaut the poyfoneable herbis, with iniunctiones how to vfe the famyn, for the away-taking and diftruction of thair brother-fones,¹ in maner fpecifeit in the Dittay; in refpect quhairof, the Dittay fould pas to the knowlege of ane Affyfe.

THE JUSTICE findis the Dittay relevant, *coniunctim*; and nochtwithftanding of the allegiance, Remittis the famyn to ane Affyfe. Qubairvpcne the Aduocat afkit instrumentis.

ASSISA.

James Douglas of Todhoillis,	Adame Cunninghame of Chapel,	Mr Robert Stratoun, in Strathe,
Mr Joseph Hadden,	William Somervell of Pole,	Mr Robert Purves, in Ballache,
Thomas Craingelt of that Ilk,	Johnne Norie, in Brechin,	Johnne Moncur, in Blacok-mure,
Thomas Inglis of Eiffecheill,	Mr Thomas Ramfay, thair,	Johnne Barclay, in Baluakellie,
James Somervell of Spittel,	Robert Barclay, at Marie Kirk,	Johnne Barclay of Johnnftoun.

The Aduocat, for verificatioun of the Dittay, produces ane Letter writtin be Mr Airthour Erskine, the pannellis father-brother,² thair Confessioun of the cryme lybellit, and thair penitence for the fame; with a defyre of his lordfchipis fupplie and help, to tranfport thame furth of the cuntrie.

The faid Letter being presentit to Johnne Erkin, Miniſter, now Tutour of Dwn, and being inquyret gif the famyn was the faid Mr Airthouris hand-writ or nocht, Declairit that the famyn was everie woird the hand-writ of the faid Mr Airthour. Qubairvpcne the Aduocat afkit instrumentis.

Thaireftir my lord Aduocat product the Depofitiones maid be vng^{le} Robert Erskine, thair brother, quha paf to the deid at the Mercat-croce of Ed², that the pannell war the only firft proponeris of that wicket fact to him; and that the famyn was committit and done be the perfones on pannell, in maner fpecifeit in the Dittay.—Repeittis the affirmatioun maid judiciallie be *David Blewhous* of his former Depofitiones; quhilk my lord Aduocat caufet reid ouer to Blewhous. Product lykways the Depofitiones maid be *Gilbert Campbell*, and *Johnne Kirk*, in the faid matter; and defyret the Affyfe to cognoſce thairvpcne; And profteftit for Wilfull Error, in caice thai acquit the pannell of the faidis crymes.

VERDICT. The Affyfe, be pluralitie of voittis, fand, pronouncet, and declairit

¹ Nephews.

² Paternal uncle.

³ Death.

the faidis Ifobell, Helene, and Annas Erfkynis to be ffylet, culpable, and convict of the haill crymes fpecificit in the faid Dittay; and that be the repoint and Declarationn of the faid Thomas Craigingelt of that Ilk, chancellor.

SENTENCE. To be tane to the Mercat-croce of Ed', and thair thair heidis to be ftrukin frome thair bodyeis: And all thair moveabill guidis to be efcheit, &c.

DOME OF BANISCHEMENT *vpone Helene Erfkine.*

(Mar. 22, 1615.)—Helene Erfkine, ane of the thre lauchfull dochteris of vni^q Johnne Erfkine, appearand of Dwne, callit *Johnne of Logie*, being brocht furth of waird, out of the Tollbuith of Ed', quhairin fcho had remanit fen her laft convictioun, and prefentit vpone pannell, to heir DOME of new agane pronuncet aganis hir, as fcho that was convict and the dome of daith pronuncet aganis hir, &c. Ane ACT of *Secret Counfall* was prefentit, and delyuerit to the Justice; quhairof the tennour followis.

APUD ED^B, *decimo sexto die mensis Marcij, anno Domini millesimo sexcentesimo decimo quinto.* FORSAMKILL AS, by the executioun to the daith of *Robert Erfkine* and his tuo siteris, the impoyfoning of the tuo bretherene of Dwne is fufficientlie pwnfeiched: And whearas, thair remaneth 3 it, in fure custodie, for the fame offence, HELENE ERSKINE, who being moir penitent, thogh les gultie, than the rell, doith mereit the moir commiferatioun: HIS MAIESTIE is thairfoir gracioullie pleadit to fpar hir lyfe, 3 it fo as fcho fall nocht efchape the pwnfeichment of hir pairt of the faid offence; bot pat fcho be BANISCHE out of this kingdome, during hir lyfytyme. THAIRFOIR, the Lordis of Secret Counfall, according to the Kingis Maiefteis will, plesour, and directioun, fend vnto thame in this matter, Ordanis and commandis his Maiefteis Justice, Justice clerk, and pair deputis, to appoint and fet ane new Justice Court, to be haldin be thame in the Tollbuith of Ed', at fuch tyme as thay pleis (to) affix; and pair to call the faid *Helene* befoir thame, and to pronounce new sentence and dome aganis hir; ordaning hir to be BANISCHE this kingdome, and nevir to returne agane within the fame during hir lyfytyme, without his Maiefteis Licence had and obtainit to pat effect; and to depart furth of this realme, within the fpace of fourtie dayis eftir pe pronouncing of the faid new dome, vnder the pane of deid: With certificationn to hir, and¹ fcho failzie, and depart nocht furth of this realme, within the terme foirfaid preferyuit vnto hir; and being departit furth of jis realme, yf fcho returne agane within the fame, without his Maiefteis Licence had and obtainit to that effect, that the pane of deid falbe execute against hir, without fanour or mercie.

EXTRACTUM de Libris Actorum Secreti Consilij f. d. n. regis, per me, Jacobum Prymrois, clericum ejusdem, sub meis signo et subscriptione manualibus. *JACOBUS PRYMROIS.*

THE JUSTICE, for obedience of the will and ordinance thairin contentit, be the mouth of Johnne Dow, dempfter of Court, Ordanit, nochtwithstanding of the former dome of daith first pronuncet, the faid Helene Erfkine to be BANISCHE, &c.²

Child-Murder.

JUN. 25.—JONET BROUN, dochter to Johnne Broun in Bigger.

Dilaitit, fforfamekill as Johnne Stewinfone in Bigger, haifing this last yeir

¹ An; if; in case.

² The terms of the Warrant are repeated, *verbatim*, in the Record.

gottin ane bairne with hir, in the filthie cryme of ffornicatioun, fcho, for avoid-
ing the felander and pwneifchment, conceillit the faid bairne, fua that nane of
the parochin knew hir to haif bene thairwith ; and about the moneth of Marche,
or thairby, laft, being cum to the tyme of hir delyuerie, fcho paff furth of hir
fatheris duelling-hous to the feildis, neir to the faid town of Bigger ; and without
feiking of ane meidwyfe, or vther ordiner help, fcho travellit, and was delyuerit of
ane quik madin-bairne ; quhilk chyld fcho strangillit immediatlie, and tuik the
fame to ane dyk-fyde outwith the faid town of Bigger, and coverit the famyn
with ane number of turves : And fa, be neglecting the ordiner meanis in hir
birth, fcho crewallie mordreift and flew the faid bairne.

The pannell denyis the Murthour of the bairne ; and fayis that the bairne
deit fchortlie efter the beiring, being ane lafs-bairne ; and being deid, fcho eirdit¹
the famyn in the grund of ane truff ftak,² in maner fpecificit in the Dittay.

VERDICT. The Affyfe, be the mouth of Williame Flemyng of Periflandis,
chancellor, fland, pronuncet, and declairit the faid Jonet to be flylet, culpable,
and convict of the Murthour and diftrucioun of hir faid infant bairne, conforme
to hir Dittay.—SENTENCE. To be tane to the Caftell-hill of Ed', and thair to
be hangit quhill fcho be deid : And hir moveable guidis to be efcheit, &c.

Thrift.

Jun. 25.—ANDRO GULE, borne in Clermond, vnder the Laird of Dairfie.

Dilaitit and accufet for the fteilling and away-taking of tua pair of fcheittis,
ane pair of blankettis, ane littill panne, and ane fuord, pertening to Williame
Perfone, in the Hill of Bathe.—Grantit the famyn to be of verritie, and cravet
God mercie thairfoir ; and offerit him felf in our fouerane lordis will, and his
hienes Juftice will, for the faidis crymes : Quhome the Juftice reffaut.

SENTENCE. To be SCURGET throw the burgh of Ed', and to be BANISCHET
furth thairof for enir : And gif euer he war apprehendit for Thift heireftir, fould
be hangit to the deid, but fauour.

Cattlr-ftealing—Slaughter.

Jul. 15.—GILBERT JOHNNESTOUN, brother to Gawin Johnneftoun in
Annand-holme.

Dilaitit, accufet, and perfewit, be Hew Douglais of Dalwein, as fone, Sir
Robert Dowglais of Carfchogill, as neir kinfman, of vmq¹⁶ Hew Dowglais of Dal-
wein, for airt and pairt of the thifteous Steilling, conceilling, and away-taking,
vnder filence and clud of nycht, furth of the landis and Mames of Dalwein, of
threttie fax heid of ky and oxin, pertening to the faid vmq¹⁶ Hew and his ten-

¹ Earthed ; buried.

² Peat or turf stack.

nentis; committit be him, and vtheris his complices, cowmone and notorious thevis, rebellis, and fugitiues, vpone the xxvij day of August, I^m.V^c. fourfeoir fevintene yeiris: AND fielyk, ffor airt and pairt of the crewall Murthour and flaughter of the said vmq^{le} Hew Douglas of Dalvene, in the following and redding of the said guidis, at the tyme foirfaid; vpoun fet purpois, prowifioun, and foirthocht felonie.

ASSISA.

Johnne Lyndfay of Auchinkeoch,
Robert Johnnestoun of Vamphra,
James Greir of Pitfillan,
Capitane James Hunter, burges of Ed^r,

Mr Samuel Kirkpatrik of Auchinlek,
Williamie Johnnestoun of Lokerbie,
James M^r Math of Schaw,
Johnne Bell, burges of Edinburghe.¹

VERDICT. Fylit, culpable, and convict.—Sentence continewit quhill the Justice war advyset with the Lordis of his Maicsteis Previe Counfall thairament.

Jul. 16.—SENTENCE. The Justice, ffor obedience of ane WARRANT, direct to him be the Lordis of Secreit Counfall, subseryuit be my Lord President, my Lord of Roxburgh, my Lord of Bynning, Secretar, my Lord of Blantyre, and be my Lord of Kildrummye, be the mouth of Johnne Dow, dempster, decernit and ordanit the said Gilbert to be tane to the Castell-hill of Ed^r, and thair to be hangit vpoun ane gibbet, quhill he be deid; and all his moveabill guidis to be efcheit, &c.

Slaughter.

Dec. 9.—SIR PATRIK HEPBURNE of Vachtoune, kny^t; James Ker, Patrik Dikfoun, Daud Allan (Ellem), Patrik Mortoun stewart, Andro Gyller cuik, George Quhyt horfkeipar, Diones Smart huntifinan, Williamie Carfrae scheiphird, Williamie Drummond, all feruitouris to the said Sir Patrik.

Dilaitit for airt and pairt of the flaughter of vmq^{le} Robert Broun, feruitour to Mr Richart Dowglais of Brokhollis.

Patrik Dowglais, baxter, burges of Ed^r, producit the Letteris, dewlie execute and indorfat, purchest be Johnne and George Brounes, as brether, and the said Mr Richart, as maister and neir kynfinan of the said vmq^{le} Robert, and our foerane lordis Advocat, and protestit for releif of his cautionerie; the quhillk the Justice admittit.—Mr John Hepburne of Gilmertoun, as cautioner for the saidis Sir Patrik, for his releif of the said cautionerie, producit the Counfallis Warrant, ordanung this dyet to be defert, &c.

JUSTICE, Justice clerk, and 3our deputtis: fforfamekill as the nynt day of December instant is appointit to Sir Patrik Hepburne of Vachtoun, kny^t, James Ker, Patrik Dickfone, Daud Ellem, and vtheris, his feruitouris, for thair compeirance befor 3ow in the Tolbuth of Ed^r, to vnderly our lawis for the flaughter of vmq^{le} Ro^t Broun, feruitour to Mr Richart Dowglais: And feing pe pairteis ar now

¹ The rest were burghesses of Edinburgh.

agreit, and hes chopin¹ handis, in prefrence of diueris of our Nobilitie and of his Maiefties Counfall: Theis ar thairfoir, in his Maiefties name, to command 50w to defert the said dyet, and forbeir all forder proceeding pairintill: Quhairanent þir presentis falbe 50ur Warrant. AT ED^o, the fewint day of December, 1^m.Vj^o. and fourtein 5eiris.

AL. CANCELL^r. AL. MAR. R. CAITHNES. LYNLY^rGOW. KINGORNE. LOTHANE.

High Treason—Assisting the King's Lieutenant and his Forces —Rebellion in Orkney, &c.

[THE proceedings which were adopted against PATRICK EARL OF ORKNEY, in the years 1610 and 1611, have already been noticed in a former part of this Collection;² and as THE REBELLION IN ORKNEY, as a matter of history, has been recorded in almost every History of Scotland, it is unnecessary here to enter into any minute detail or recapitulation. Owing to the relationship which existed between the Earl of Orkney and the King, and the high favour in which that Nobleman had long stood with his Majesty, every device appears to have been resorted to, on the part of the Privy Council and the Lord Advocate, for the purpose of enabling the Earl to prove his innocence of the former accusations of cruel Oppression and Tyranny, which had been brought against him by the wretched inhabitants of Orkney and Shetland, after they had submitted, as long as was consistent with human nature, to endure such barbarous treatment. The Earl was accordingly confined in Edinburgh Castle; and in the meantime, the Privy Council deputed the Bishop of Orkney to enquire into the truth of these serious charges, and to report to them within a reasonable time.

Owing to his attempts to escape from ward in Edinburgh Castle, the Earl of Orkney was conveyed, as a state prisoner, to the Castle of Dumbarton; where it was considered he would be in more sure custody, and would, besides, be farther removed from the intrigues in which it had long been conjectured he was busily engaged. Notwithstanding of the vigilance of his keepers, he contrived to instruct his 'befe son,' ROBERT STEWART, one of the subjects of the following Trial, to proceed to Orkney, under the pretence of uplifting the rents which were due by his tenants, but, in reality, his design was to seize upon the Castle of Kirkwall and other strengths in Orkney, which had been confided to the custody of the Bishop, the Sheriff, &c., to raise the standard of Rebellion, and, finally, to throw off his allegiance to the Crown of Scotland. The Earl had anticipated that, by means of the money to be thus raised, he would easily overcome the fidelity of his keepers, or otherwise provide the means of his own escape. Having ordered ammunition and other supplies to be procured from Norway, he calculated, that in those remote regions, which were rendered almost inaccessible during many months in the year, at that period, when the art of navigation was at so low an ebb, he might assume the despotic rule of these Islands, as an independent Prince.

The successful termination of the Earl of Caithness's Commission of Lieutenantcy, the capture of the Castle of Kirkwall, and all his remaining strongholds, the capitulation and unconditional surrender of Robert Stewart and the other rebels, together with the subsequent execution of the ringleaders in this Rebellion, for ever dispelled the absurd reveries and the wicked plots of this guilty man, who was doomed, in February 1615, to forfeit his life upon the scaffold. Reference is here generally made to his two Trials, for the sake of brevity.

It only remains to state, that *Caldewood*, in his MS. Church History,³ preserves the following notice of the Execution of these unhappy and deluded criminals.—(Jan. 6, 1615.) 'ROBERT STEWART, fone naturall to the Erle of Orkney, with other five of his complices, convicted of treasonable taking, keeping, and defending of the Cattle of Kirkwall and the strenghts in Orkney, were hangd at the market croffe of Edinburgh, and died penitent. The said Robert confessed his father, the Earle, who

¹ Struck: shaken hands.

² Vol. III., p. 81, &c.

³ *Caldewood's Church Hist.*, MS. Adv. Library.

then was wardit in the Cattle of Edinburgh, commandit him to doe that which he did ; but granted he gave him a contrare-mand, before he entered in executione. The Gentleman, not exceeding 22 years of age, was pitied of the people, for his tall stature and comely countenance.'

As the details of this Rebellion are entirely unknown to the public, the Editor has the pleasure of laying before his readers a mass of Original State Papers, Dispatches, Examinations, Confessions, and other interesting Documents, which he has appended to this Trial, and to that of the Earl of Orkney, Feb. 1, 1615. As usual, the sources from which these Illustrations have been procured are noted; and it is hoped, that the whole will be considered as an acceptable addition to the history of that period.]

JAN. 5, 1615.—ROBERT STEWART, bafe sone to Patrik, lait Erle of Orkney; ¹ Thomas Blak, alias Dowglas, sumtyme Chalmerlane and Bailjje to the said Erle; Archibald Murray, wricht in Birfay; Andro Mairtene, sumtyme fervand and secretar to the said lait Erle; Alexander Layng, also his fervand; and Thomas Layng, indueller in Kirkwall.

Dilailit of the Treffonable taking and furprifing of his Maiefteis CASTELL OF KIRKWALL, KIRK, and STEIPLE OF KIRKWALL; treffonable refisting of THE ERLE OF CAITHNES, his Maiefteis Lieutenant; and vtheris treffonabill crymes, contenit in thair Dittayis following.

DITTAY *against Robert Stewart and others.*

FORSAMEKILL AS, albeit it was mair nor nottour and manifest to 5ow, that our fouerane lord the Kingis Maieftie, and Lordis of his hienes Previe Counfall of his Kingdome, had depute and authorizet *Sir James Stewart of Killeith*, kny^t, to be Chalmerlane of the Erledome of Orkney and Lordship of 5eitland; quha, be reffone of þe said office, nocht only became in posseffioun, in vplifting to his Maiefteis vse of þe haill rentis, casualties, and duties of the said Erledome, lordship, and leving þairof, bot lykwayis, be him self, his fervandis, and substitutis, obtenit the charge, custodie, and keeping of þe haill Palices, Houffis, Castellis, and frenthis within the samyn; speciallie, þe Castell of Kirkwall, the Hous and Pallice of Birfay, and remanent houffis sumtyme pertening to þe said *Patrik, lait Erle of Orkney*. As also, 5e, þe said *Robert Stewart*, being bundin, vpone 5our grit aithe, nocht to haif repairit to þe boundis of þe said entrie of Orkney and 5eitland, nor with his Maiefteis Licence, grantit to 5ow for that effect; nochtwithstanding quhairof, it is of verritie, that 5e, the said *Robert Stewart*, being oft tymes thraitnet and minasset be the said lait Erle 5our father, vpone a miscontentment confauct be him aganis 5ow, ffor 5our supposet overgeving of þe said Castell of Kirkwall and vtheris Houffis tane and keipit be 5ow, maist treffonabillie schaiking af 5our allegiance and obedience to our fouerane lord, and preferring the vnhappie plott and counfall of 5our said flather to the dew reuerence and regard of his Maiefteis autoritie and lawis, and thairwith making schip-

¹ See Trials of Patrick, Earl of Orkney, Aug. 2, 1610; and Feb. 1, 1615.

wrak of 5our faith, honour, and credeit, quhairin 5e fluid bund vpon 5our grit and folemne aith, as said is : Off the speciall causeing, sending, bounding out, command, counfall, devyfe, and directioun of the said lait Patrik, lait Erle of Orknay, 5our ffather, in the moneth of Maij lastbypast, or pairby, exprellie aganis 5our former faith and former promeis, adreffit 5our selff furth of thir partis to the said cuntrie of Orknay ; quhair 5e, togidder with *Patrik Halero*, quha also was employit and directit be 5our said ffather to affist 5ow in 5our intendit Rebellioun, convenit to 5our selffis the saidis *Archibald Murray, Thomas Blak, Andro Mairtene, Alexander Leggat*, and *Thomas Layng*, with dyuerse vtheris mwtinous and evill dispoſet perſones, 5our affociatis, plotteris, and practizeris with 5ow, in 5our haill rebellious and treflonabill courſes following : AND *ffirſt*, be 5our craftie and ſubteill meanis, convoyit and poſſeſſit 5our selff and 5our affociatis within þe Palice of Birſay, and violentlie expellit furth þairof Barnard Stewart, Keiper of the famyn ; drew in to 5our selff, within the said hous, to the number of threttie perſones, bodin with hagbutis, muſcatis, poulder, leid, and vther maner of weirlyk preparatioun : Lykas, the taking of the said Hous and manning þairof, in maner foirſaid, be 5ow and 5our rebellious affociatis being maid knawin to *Mr Johme Fynlayſone*, Schereff depute ; and he, in regard of his office, and for preventing of 5our intendit Rebellioun, haifing affemblit ane grit number of the beſt affectionat gentilhmen and cowmonis of þe cuntrie, in the said moneth of Maij, or pairby, laſtbypast, cuming fordwardis to the said Hous of Birſay, tane and keipit be 5ow and 5our rebellious affociatis, as said is ; and haifing, at his cuming þairto, be found of trumpet, in our ſouerane lordis name and authoritie, cauſit charge 5ow to cum furth of his Maieſteis Hous, and to rander þe ſamyn to him, as Judge and Magiſtrat of þe cuntrie, vnder his Maieſtie, without forder trouble to follow þairupoun, under þe pane of Trefſone ; 5e, with 5our affociatis, nocht only maiſt treflonabillie and contemptuouſlie diſobeyit þe said charge (and) reſuiſet altogidder to rander the said Hous, but ſchote furth þairof dyuerſe ſchotis of hagbutis and muſcatis at þe said Schereff and his companie, than cled¹ with our ſouerane lordis authoritie, in þe execution of his office, and geving of þe former charge : At quhilk tyme, the said Schereff and his cumpany being vnwilling to encounter with 5ow, be way of deid, than left 5ow with 5our rebellious companie, within the said Hous, and returnet to Kirkwall, of intentionne to haif ſtayit 5our Rebellioun fra haifing ony forder courſe. Bot 5e, altogidder myndet to pas fordwardis þairintill, eftir þe Schereffis departing fra the said Hous, convocat 5our rebellious companie togidder, and be the ſpace of ane moneth togidder, keiping 5our daylie conſultationes and meitingis with vther,² 5e þair plottit, devyſet, and concludit the treflonabill intaking and man-

¹ Clothed.² One another; each other.

ning of the Kirk and Steiple of Kirkwall, the Castell pair of, and Place of the 5airdis, the slauchter and ruiting out of þe Schereff, þe Commiffar, and sic as wald tak pairt with thame aganis 5ow; and for this effect, convocat to 5ow þe hail parochineris and cuntrie people about, pat 5our self with thame in airmes, and at tua feuerall tymes maid 5our mufteris and wappone-fchawingis, and mufterit togidder the number of nynefeoir perfones, furneit and airmet, for þe maift pairt, with corlettis, hagbuttis, poulder, leid, lances, and vther weirlyk preparatioune: Quhilkis perfones, fa convocat be 5ow, 5e brocht altogidder within the faid Hous of Birfay and vperis houffis pairabout, quhair thay war feiftit and bankettit be 5ow: 5our Captanes and Commanderis war than chofin, and mony promiseffis and vowis maid, that na bak-starting fould be, fra 5our intendit Rebellioun, be ony of 5ow, at ony tyme thaireftir, bot to tak eafald¹ pairt with vther to² þe tyme þe lait ERLE OF ORKNAY war repoffeffit to his ancient and former government in that cuntrie. At quhilk tyme, ffor 5our gritter affurance of þe faidis vowis and promiseffis, ane BAND was plottit, maid, and devyfet be 5ow and 5our rebellious affociattis, all writtin be þe faid Andro Martenis hand; quhilk being prefentit and producet to 5our hail rebellious company be 5ow, the faid Band (eftir grit aithes maid vpoun 5our fuoirdis³) was fubferyvit be fa mony of 5ow and 5our company as could wryte; and fa mony as could nocht wryte put to pair markis, and gaif pair folemne aithes to abyde pairat to pair lyves end; quhairin thay war bund to die and leue with 5ow, and to tak eafald pairt with 5ow, in all 5our treffonabill courfes, aganis all perfones quhatfumevir, his Maieftie, our gracious fouerane, nocht being exceptit, nor his royall authoritie fet apairt; committing thairthrow oppin and manifelt Treffone. LYK AS 5e, ffor bringing to pas of 5our former Rebellioun and devillifch conclufioun, about ane moneth or pairby pairteftir, vnderftanding that þe Schereff and Commiffar war in fecuritie within the Toun of Kirkwall, nocht expecting ony fuddane perfute, refolveing with 5our felffis to haif þe Schereff in 5our power, either deid or quik, 5e, the faid Robert Stewart, accompaneit with the faid Archibald Murray, Thomas Blak, Andro Mairtene, Alexander Leggat, Thomas Layng, and vperis, 5our rebellious affociattis, to the number of threttie perfones, all bodin with hagbutis, mufcatis, poulder, leid, and all vther weirlyk pronifoun, vpone the xvij day of Julij laft-by-paft, come frome the faid Place of Birfay towardis þe faid Toun of Kirkwall, of intentione to haif allailzeit þe faid Schereff within his ludgeing, and haifing rankit 5our companie at þe Bowa-croce, 5e pair reflaut adverteifment of þe Schereffis being within the Castell; and pairthrow, finding 5our felffis difapointit of 5our expectatioun, 5e pair difcharget 5our volie of mufcattis, and enterit within

¹ Literally, *one-fold*; steadfast; true, &c. ² Until. ³ An ordinary form of military oath, on such occasions; which was borrowed from times of the remotest antiquity.

the Toun, quhair 5e abaid all that nycht, quhill¹ the morne pãireftir ; att quhilk tyme 5e, with Patrik Traill, Williame Paterfone, and vtheris 5our affociattis, come to the duelling hous of Bernard Stewart, within the Toun of Kirkwall, about the brek of day, in the moirning, pryfet vp his bak 5et,² enterit within his clofe, dang at his hall dur with ane garroun ;³ and nocht getting entrie, went about þe faid hous to the hall window, quhair efter vp-dinging of þe faid window, the faid Archibald Murray, in gripping of Bernardis hagbute, was hurt be him with ane rapper⁴ in the hand. Eftir the quhilk tyme, 5e, haifing reteirit 5our felfis bak agane to Birfay, and finding with 5our felfis that 5our rebellious courfes had tane bot littil or na effect ; 5e, to haif the famyn brocht to ane finall poynt, convenit 5our haill forces togidder, and eftir deliberatioun tane be 5ow, the faid Patrik Halcro, with þe faidis Thomas Blak, Archibald Murray, togidder with tuentie perfones of 5our rebellious number, of þe speciall directioun of 5ow, þe faid Robert, pafit all, bodin in feir of weir, with muscattis, hagbuttis, poulder, leid, and vther weirlyk furnitour, to the faid Toun of Kirkwall, and þair, vnder nycht, furpryfet and tuik in þe Kirk and Steiple þairof, quhilk 5e furneift with men, munitioun, poulder, bullet, and vþer neceffer prouifioun for halding and keiping of the faid Steiple : And vpone þe mornè pãireftir, 5e, þe faid Robert, vnderftanding of þe guid fucces had be Halcro and his companie, in þe wynnig and taking in of þe faid Kirk and Steiple, 5e, accompaneit with the faid Thomas Layng, Andro Mairtene, Alex^r Leggat, and vþeris 5our rebellious affociattis, to the number of threfcoir fouldiouris and men of weir, come forwardis to þe faid Toun of Kirkwall, in oppin and arrayit battell, with founding of trumpetis, ftreking of drumis, fchuiting of muscatis, in figne of triumph and victorie, and all vþer weirlyk advancement : the faid Patrik Halcro and his affociattis of 5our rebellious troupe being than within the Steiple, fchuteing out þairof at all perfones that durft kithle in 5our contrair,⁵ and founding vp þair horne to 5ow, for 5our forder incurragement to proceid in 5our trefsonabill attemptis. AND being enterit within the faid Toun, maift trefsonabillie affaget the faid Caftell, and compellit þe Keiperis þairof to rander the famyn, thay being bot of a few number, and nocht able to withftand 5our violent affault ; quhilk being tane in be 5ow, 5e immediatlie pãireftir cuttit the brig⁶ þairof for 5our gritter furetie : At quhilk tyme, 5e lykwayis trefsonabillie tuik, be force, þe Houfe and Place of þe 5airdis, with the Victuall-hous, and feafit vpone þe haill furnitour of meill, malt, and vther prouifioun for keiping þairof : At quhilk tyme, 5e trefsonabillie pat handis in the perfone of þe faid Mr Johme Fynlafoun, Scheref, being than within þe faid Caftell ; as also, come to the duelling hous of the faid Barnard Stewart,

¹ Until.² Forced up his back-gate by means of a lever.³ Beat at his hall or front door with a beam, used as a battering ram, to shatter the door to pieces, or to start it from its hinges.⁴ Rapier, or small sword.⁵ Come forward to take part against you.⁶ Drawbridge.

vnder filence and chud of nycht, brak vp his durris, and tuik him violentlie and aganis his will furth of his bed, led him captiue and priffoner to þe said Castell of Kirkwall, quhair he and the said Schereff war keipit in strait firmance and captiuitie be the space of fyve dayis togidder; and þaireftir war cayreit and tranfpoirtit, as captiues and priffoneris, to certane crawis or schipis, to be brocht fouth to sic places as 5e had appointit; thay being his Maieftis loyall and faithfull subiectis, doing quhat in þame lay to haif stayit the courfe of 5our former Rebellioun. THE VERRITIE and trew report of the quhilkis 5our treflonabill and detestabill villaneis cuming to the eiris of HIS MAIESTIE and Lordis of his hienes PREVIE COUNSALL of this kingdome, and thay, for the mair spedic slaying and repressing of the saidis enormities, haifing burdenit and imployit GEORGE ERLE OF CAITHNES, as Leutenment and Commiffioner for his Maieftie to pas over with forces to the said cuntrie of Orkney; and for that effect, ane grit number of fouldiouris and men of weir being wadget and liftit, vpoun his Maieftis charges; as also, certane peces of ordinance, poulder, bullet, and vper furnitour for battering of þe saidis strenthis and holdis surpryfet and keipit be 5ow; togidder with tua schipis and ane pynnadge, being also frauchtit, allweill for tranfpoirting of þe said Leutenmant and his companie, with þair furnitour and vther victuallis be sea, as convoying and overtaking of þe said Ordinance, poulder, and bullet towardis the said cuntrie of Orkney, for paciefing of 5our former Rebellioun, and trubillis raifit be 5ow þairintill: 5e, making littill or na accompt þairof, nor of þe pernicious example gevin be 5ow to vtheris his Maieftis guid and peceable subiectis, in vtheris pairtis of his dominionis, in plane contempt of his Maieftie and of his royall authoritie, vpone knowlege gevin to 5ow of the said Leutenmentis over-cuming, in maner foirsaid; 5e maist treflonabillie convenit and mufterit 5our hail forces and cumpaneis togidder; and for augmenting of 5our number, drew in dyueris of þe cuntrie people, quhilkis war prest and forcet, be 5our tyranie and oppreffioun, to tak part with 5ow in 5our former Rebellioun, making vp in number ane airmie of ffyve hundreth men, airmit for 5our guaird and defence, in so dampnable ane caus. With the quhilk number of airmet fouldiouris, 5e marchet furth in battel array, out of þe said Toun of Kirkwall, towardis the Carnes, dyuerse dayis of þe moneth of August last, of purpois þair to haif withstod and resistit þe said Leutenment and his schipis landing: LYK AS, eftir þe said Leutenment and his cumpanie war landit, 5e, accompaneit with the number aboue writtin, being all bodin in feir of weir, with hagbuttis, muscattis, poulder, leid, ensignes displayit, and founding of drummis, rankit 5our selfis in battel array, at the Baw-feild, ane littill fra the said Toun of Kirkwall, quhair 5e, be schuiting of 5our muscattis, maist treflonabillie maid resistance to the said Leutenment and

his companie, in pair forward-cuming to the said Toun, thay being cled with his Maieftes authoritie and Commiffioun to repres 5our Rebellioun: And vpon the tuentie foure day of þe said moneth of Auguft, *Robert Wynrahame*, ane of his Maieftes Herauldís,¹ cled with his hienes difplayit coit of airnes, accompaneit with Johnne Johnneftoun, trumpetour, Mr Williame Moffet, Gilbert Dundas, and Johnne Moffet, as witneffes, accoirding to the directioun of his Maieftie and Counfall, and of þe said Erle of Caithnes, his Maieftes Leutenent, being repairing to the Mercat-croce of Kirkwall, thair to haif charget 5ow, in his Maieftes name and authoritie, be found of trumpet, to haif randerit the said Caftell, Place of the 5airdis, Kirk, and Steiple, and vtheris houffis and ftrenthes keipit and haldin be 5ow and 5our rebellious affociattis, 5e, and 5our airnet fouldiouris and men of weir, nocht only treflonabillie ftayit and maid refiftance to the said Robert Wynrahame, his Maieftes Herald, in nocht fuffering him to repair to þe said Croce, for difcharge of his Meffage, bot maift prefumptiounlie pat violent handis on his perfone, tuik him, with the said trumpetour and witneffis, as captiues and priffoneris, and cayreit him to the said Place of þe 5airdis, quhair thay war keipit and detenit be 5ow as priffoneris be þe fpace of nyne houris, or pairby, ane pairt of þe said Herauldís coit was revin; and efter delyuerie of the said charge be him to 5ow, þe said Robert Stewart, for randerit of the saidis Houffis, his Maieftes letteris and charges was tane be 5ow frome him, quhilkis ar keipit be 5ow as 5it: And nochtwithftanding pairof, þe saidis Houffis and Caftell was maift treflonabillie keipit and haldin be 5ow. Vpon the fordward-cuming of the quhilk Leutenent, with his forces, towardis the said Toun, 5e finding 5our felfis vnhabable² to keip the feildis, or to hald him out of the Toun, 5e maid 5our flicht and retreit to þe saidis Kirk and fteiple, and to the said Caftell and Place of the 5airdis: And dyuerfe fehotes of ordinance being fehote at þe said Caftell, Steiple, and vþeris Houffis fortefeit and keipit be 5ow, with dyuerfe meffages fend to 5ow for þe peceable overgeving pairof, 5e neurþeles maift rebelliouslie diffobeyit the saidis meffages and charges, and treflonabillie fehote furthe agane at the said Leutenent and his companie, and flew with the saidis fhottis, Williame Irwing, lauchfull fone to vmq¹⁰ Williame Irwing of Saba,³ James Riebefoun, Andro Adamefoun, William Robertfoun; and hurt and woundit James Kneilland, Andro Purves, Williame Flemyng, and Alexander Sudderland, thay being his Maieftes fervandis and faithfull fubiectis, than in feruice with the said Leutenent; treflonabillie keipit and held the said Steiple the fpace of fourtie aucht houris pairfeitir, or pairby; and held and keipit the said Caftell be the fpace of ffyve oulkis, or pairby; nochtwithftanding of fevin feoir fehote of ordinance fehote pairat, and that ane grit pairt pairof was

¹ He was 'Yla' or Islay Herald.² Lat. *inhabilis*.³ Elsewhere called of Cava.

batterit and dung down with the force of the said cannone. OFF THE QUHILKIS Treffonabill crymes aboue writtin, viz. the Treffonable disobeying of the chairge gevin be þe said Scherell, in his Maiesteis name and authoritie, ffor randerig of the said Houfe and Palice of Birlay, eftir þe intaking þairof; the Treffonable convocatioun and raising of men of weir, and mustering of thame in airmes, to þe number foirsaid, and cuning forwardis with a pairt of thame in battell-aray to þe said Bowa-croce, for the slauchter of the said Scherell; the Treffonabill forgeing, making, and subferyveing of the foirsaid Band, for taking pairt with the said Robert, in his former treffonabill courtes; and causinge the subferyveris, and vperis þair aideris and affisteris, be solemne aithes, to fueir to die and leve with him, aganis all maner of persones, his Maiesteie our sacred fuerane nocht being exceptit; the Treffonabill taking and surprising of þe said Castell of Kirk-wall, Kirk, and Steiple þairof, Place of the 5airdis, and vtheris houffis, mannit and keipit as said is; the Treffonabill taking of þe said Mr Johne Fynlafoun, Scherell, and Barnard Stewart, captiues and priffoneris, being his Maiesteis frie and faithfull subiectis; the Treffonable resisting of the said Erle of Caitlmes, his Maiesteis Leutennent and Commiffioner, in vseing of his said Commiffiounne, with his cumpanie and men of weir, and slauchter of his Maiesteis faithfull subiectis, being in his Maiesteis seruice; and beiring out of the said assault maid be the said Leutennent, to the saidis Castell, Kirk, and Steiple; the Treffonabill taking of þe said Robert Winrahame, his Maiesteis Herald, being directit be his Maiesteie and Counfall, with his Maiesteis displayit coit of airmes, to charge the said Robert and his companie, to rander the saidis Houffis and strenthis, be vertew of his Maiesteis Letteris direct for þat effect; and Treffonabill disobeying of the said charge, and taking of the letteris and charges fra þe said Herald, and keiping þairof, in maner foirsaid; 3e, the said Robert Stewart, Andro Mairtene, Thomas Blak, Archibald Murray, Alexander Legget, and Thomas Layng, and ilk ane of 5ow. ar airt, pairt, red (*advice*), and counfell; att the leift, of ane or vther of the saidis Treffonabill crymes, committit be 5ow and 5our rebellious affociattis aboue writtin; off the special causinge, sending, hounding out, airt, pairt, counfell and devyse of the said PATRIK, lait ERLE OF ORKNAY; quhilk is notourlie knawin. LYK AS, 3e haif Confessit the samyn, be 5our Depositiones.—FOR the quhilkis 3e aucht and fould be pwneift and denuncet as Tratouris; to þe terrour and exampill of vperis to attempt the lyk Rebellioun heireftir.

MY LORD ADUOCAT productet ane WARRANT of the Counfell, direct to his Lordschip, anent the formeing of the Dittay aganes the persones on pannell, and thair perfute for the crymes contenit in the Depositiones; quhilk Warrant is daitit the 28 December, 1614. My Lord Justice and Justice Clerk productet, also, ane Warrant, direct be the Counfall to thair Lordschipis, for holding of Court,

and ministrating of Justice vpon the perfones on pannell. My lord Aduocat producet the Dittay; and conforme to the Counfallis Warrant, and for obedience thairof, declairit, he was reddie to infist in the pannellis perfute, for the crymes thairin contenit; and thairupon askit instrumentis.

The pannell being askit, Gif thai had ony prelocoutouris for thame to defend; or gif thay had ony thing to allege, quhy the Dittay producet be my lord Aduocat fould nocht pas to the knowlege of ane Affyse? For anfuier thairto, Robert Stewart declairit, that thai wald vfe na prelocoutouris, bot God, in this matter.

ASSISA.

Mr Robert Henderfoun of North Rannaldfay,	Andro Anderfoun, also his fervand,	William Sinclair of Tullope,
Eduard Scola, fumtyme Scheref of Orknay,	Henri Sinclair, also his fervand,	Andro Purves, indueller in Ed;
George Mowat of Sewnane,	James Hamiltoun, wrycht,	William Robiefoun, thair,
James Irwing, fervand to my lord (Erle of Caithnes),	James Workman, paynter, burges of Edinburgh,	Clement Kincaid, thair,
	Johnne Gubhyte, wricht, burges of the Cannogait,	George Redik of,
		Robert Keith, mercheand burges of Edinburgh.

It is allegit be Thomas Layng, ane of the perfones on pannell, that George Mowat, James Irwing, (and) Andro Anderfoun ar fervandis to my lord of Caithnes; and thairfoir, hai nor nane of his lordschipis fervandis can pas vpon the pannellis Affyse; in respect, that the said Erle and his fervandis war perfewaris of the pannell within the Toum of Kirkwall, Kirk, Steiple, and Castell thairof; and thay war tane and apprehendit be him (the Erle), and (thay) behavet thame felis as partie, in thair perfute of thair lyves.—It is anfuierit be my lord Aduocat, that the allegiance aucht to be repellit; in respect my lord of Caithnes and his fervandis had na particular¹ of his awin aganis the pannell; bot only was imployit as Commiffioner and Leutenent for his Maieftie to pas to Orknay, and thair, in his Maiefties name and autoritie, to apprehend the perfones on pannell, for thair Rebellioun, and halding and furpryfeing of his Maiefties Castellis and Houffis thair: for how fall the pannellis giltines of the crymes contenit in thair Dittay be tryit,² bot be sic as best knawis the verritie of the factis mentionat thairintill? And thairfoir, nochtwithstanding of the said allegiance maid aganis the Erle of Caithnes fervandis, they aucht to be admittit vpon this Affyse.³

THE JUSTICE Admittis THE ERLE OF CAITHNES, *fervandis* vponne the Affyse, nochtwithstanding of the allegiance; and that, in respect of my lord Aduocatis anfuier maid thairto.

¹ Quarrel; feud. ² Proved; established. This forcibly illustrates the remarks which have frequently been made, in various parts of this work, regarding the anomalous character of a Juryman; who was generally selected, as personally knowing the facts of the case; and was *therefore* considered as best qualified to return a true verdict, being in fact a witness in the Trial; and accordingly, deciding on his previous knowledge, whereby he was liable to be biassed by his prejudices.

[PRIVILEGE of his Majesty's Servants in THE CASTLE OF EDINBURGH, as being exempted from passing upon Assizes.]

JAMES Hammiltoun, wricht, and James Workman, for thame selfis, and in name of the remanent ordiner fervandis of his Maiestie CASTELL OF EDINBURGH, summond to pas vpon this Assyse, declairit, in respect thair war ordiner fervandis to his Maiestie within the said Castell, and thairfor war, be the Law and daylie praktik, exemit¹ fra all maner of Assyses, defyret, according to thair privilege, thair fould nocht pas vpon this Assyse.—My Lord Aduocat declairit, that thair passing vpon this Assyse fould nawayis preiudge thame of thair Privilege: And thairfor, séing this persute is a matter that concernis his Maiestie him self, for Rebellioun committit aganis his royall authoritie, he thairfor defyret my Lord Justice, that thair fould be admittit vpon the said Assyse, vnder protestatioun, that thair Privilege be nawayis hurt or preindget heireftir.

QUHILK Protestatioun maid be my Lord Aduocat, in fauouris of the ordiner fervandis of the Castell, the Justice Admittis; and Ordanis thame to be Assyfouris at this tyme, but² preiudice of thair Privilege.

My Lord Aduocat takis instrumentis of the sweiring of the Assyse; and eftir reiding of the Dittay, and the pannellis accusatioun, be vertew thair of, of the tressonabill crymes mentionet thairintill; for verificatioun thair of, product my lord of Caithnes Commiission of Leutenendrie, grantit to him, to the effect thairin contenit, of the dait the saxt day of August, 1614 last; the pannellis hail Depositiones, maid be thame in prefens of the lordis of his hienes Previc Counfell; and thair Confessiounes, mentionet thairintill; togidder with Robert Wynerahame, Herald, his Execution³ and deforcement, with the forme and maner thair of, at lenth insert in the said Execution, subscryuit and stampit be him; all ratifeit and approvyn (be his grit aith Judicillie tane be the Justice) to be of verritie, in prefens of the pannell: Quhilk Declaratioun his lordship reptis to the Assyse, with the Judicill Confessioun maid in thair prefens be the said *Robert (Stewart)*, of his giltines of the hail Dittay; and be *Andro Martene*, of the wryting of the Band, and being within the Castell with Robert the tyme of the Assault maid thairto be my Lord of Caithnes; the Judicill Confessioun maid be *Thomas Blak*, of his taking and halding of the Steiple; the Judicill Confessioun maid be *Archibald Murray*, of his being in the said Steiple, and cuming with Robert to the Castell, at the intaking thair of, and cutting of the brig; the Judicill Confessioun maid be *Thomas Layng*, of his being with Thomas Blak

¹ *Excedet*, exempted. ² Without. ³ An official attestation by Heralds and Messengers-at-arms, that they had *executed* the duty entrusted to them. After the rough usage of Islay Herald, already related, and his subsequent '*Execution*,' it is startling enough to the mere English reader, to be informed of his appearance before the Justice, and his making oath, and so forth.

and Patrik Halcro, at the taking of the Steiple; and the Judicial Confeffion maid be *Alexander Legget*, of his keeping of the Houfe of the 5airdis vnder the faid Robert and his compaoneis aganis the Leutenent: And in respect of the premisses, proteffis for Wilful Errour aganis the Assyse, gif thai Acquit.

ROBERT STEWART offeris him self in his Maieftis will, ffor the hail crymes content in his Dittay.—ARCHIBALD MURRAY offeris him self in his Maieftis will, ffor being in company with Robert, at the cutting of the brig of the Castell, eftir furpryfeing thair of.

SPECIAL VERDICT of the Assyse.

THE ASSYSE, all in ane voice, be ye mouth of ye faid Mr Robert Henderfoun, chancellor, fhand, pronunct, and declairit the foirmact perfonen on pannell to be GILTIE and convict of the particuler crymes following, to wit: THE faid *Robert Stewart*, bafe sone to ye faid Patrick, lait Erle of Orkney, to be Giltie, culpable, and convict of the trefonabill disobeying of the charge gevin be ye faid Mr Johnne Fynlafone, Schereff Depute, in his Maieftis name and autoritie, for randerig of ye Hous of Birlay, eftir his craftie taking and furpryfeing thair of: OFF the trefonabill convocating and raising of men of weir, and mustering of thame in aimes, to the number of nyne fcoir perfonen, and cuming fordwardis with a pairt of thame, in battell aray, to the Bowa-croce, of intencion to haif flane the Schereff: OFF the trefonabill fforgeing, making, and subferyveing of ane Band, for taking pairt with the faid Robert in all his trefonabill courfes, and in caufing the subferyveris and vtheris pair aidaris and afliteris, be pairt folemne aithes to fauir to die and leve with him aganis all maner of perfonen, his Maieftie our facred fouerane nocht being exceptit: OFF the trefonabill taking and furpryfeing of ye faid Castell of Kirkwall, Kirk and Steiple of ye faid Toun, with the Place of the 5airdis, and vtheris Houffis pertaining to his Maieftie within the faid Toun: OFF airt and pairt of ye trefonable taking of ye faid Mr Johnne Fynlafoun, Schereff depute, and of Barnard Stewart, captiues and prifoneris, thay being his Maieftis frie and faithfull subiectis: OFF the trefonable refifting of ye Erle of Caithnes, his Maieftis Leutenent and Commiffioner, with his companie of men of weir, in execution of his Commiffion; and of the flauchter of dyuerfe of his Maieftis faithfull subiectis, being in his Maieftis fervice with the faid Leutenent. AND in the trefonabill beiring out of ye faid Assault maid be the Leutenent aganis ye Steiple, Castell, and vtheris ftrethis kept be him within the faid Toun of Kirkwall: OFF airt, pairt, red, and counfell of the trefonable taking of Robert Wynrahame his Maieftis Herald, cled with his Maieftis coit of aimes, being directit be his Maieftie and Counfell to charge ye faid Robert Stewart and his rebellious affociatis to rander ye faidis Houffis and ftrethis, be vertue of his Maieftis Letteris to that effect: AND of the trefonabill disobeying of the charges, and taking fra the faid Herald of his Maieftis Letteris and charges, and keeping pairt, in maner fpecifeit in his Dittay: AND that, conforme to ye faid Robert and his complices Depofitions; and of his Judicial acknowledgment of his giltines of ye faidis crymes, and of his Judicial offer of becoming in his Maieftis Will, as giltie and culpable pairt. THE faid *Thomas Blok, alias Douglas*, to be flylet, culpable, and convict of the trefonable furpryfeing and taking in of the faid Kirk and Steiple of Kirkwall, and holding the famyn aganis ye Erle of Caithnes, his Maieftis Leutenent: AND for cuming fordwardis with ye faid Robert Stewart, in oppin and arrayit battell, aganis ye Leutenent at ye Baw-ley; and withstanding of him and his companie, a littill after his landing, and repairing towards the Toun of Kirkwall for difcharge of his Commiffion: AND for the trefonabill affifting of ye faid Robert Stewart, in all his trefonabill interpryfes aganis ye faid Leutenent and his companie, fra his intaking of ye faid Kirk and Steiple, to ye tyme of ye randerig pairt to ye faid Leutenent. THE faid *Archibald Murray*, to be Giltie and convict of the trefonabill plotting, and being vpon the counfell with the faid Robert Stewart, within the Palice of Birlay, of ye taking and furpryfeing of ye

Kirk and Steiple, and of þe faid Castell; and þaireftir, accordiing þairto, for þe treflonabill cumiing with Patrik Halero, Thomas Blak, and vtheris, and taking and furpryfiing of the faid Steiple: AND in the treflonabill affitiing of þe faid Robert in taking and furpryfiing of the faid Castell, and cutiing of þe brig þairof, eftir þai war maifteris of þe fame: AND of the treflonabill keipiing of þe Houfe and Palice of Birlay vnder Robert, as Maifter þairof, to the tyme he was charget be the Leutenent to rander the samyn. THE faid *Andro Marten*, to be Giltie and convict of the treflonabill making of þe Band fpeciteit in the Dittay, and deuyfiing þairof: AND of his treflonabill being within the faid Castell with Robert, and haldiing þairof aganis the Leutenent: AND of airt, pairt, red, and counfall with þe faid Robert Stewart, in his hail Rebellion in Orkney, in maner contenit in his Dittay. THE faid *Thomas Layng*, to be Giltie, culpable, and convict of his treflonabill being in companie with Robert at his cumiing with difplayit benner, in battell aray, to the Bowa-croce, of intention to haif flane þe Schereff: AND of the treflonabill taking and furpryfiing of þe Kirk and Steiple of Kirkwall: AND of his treflonabill being in companie with Robert, at his cumiing with fyve hundreth men in armes to the Baw-Ley, aganis the Leutenent: AND for his cumiing bak to the Place of the 5airdis, and remainiing þair with Robert till a littill befor þe randeriing of the Hous þairof; conforme to his Depofitiones. AND the faid *Alexander Legget*, to be Giltie, culpable, and convict of the treflonabill affitiing and being in companie with the faid Robert, with difplayit benner, at þe Bowa-croce: AND for being in companie with Robert, and affitiing him aganis the Leutenent, in keipiing of þe Houfe and Place of þe 5airdis: AND for the treflonable affitiing and taking pairt with the faid Robert, and being in companie with him at the Carnefs, in refitiing þe Leutenent þair; conforme to his Depofitioun.

Vpone the quhilk determinatioun of the faid Affyfe, my lord Advocat askit instrumentis.

SENTENCE. In regard of the quhilk convictioun, my Lord JUSTICE, be the mouth of Johnne Dow, dempfter of Court, Ordanit the faidis perfones on pannell to be tane to the Mercat-croce of Ediuburgh, and thair to be Hangit vpon ane gibbet, quhill thay be deid: And all thair landis, heritages, takis, fteidingis, rowmes, poffeffiones, guidis and geir to be fforfalt and efcheit to his hiens vfe, as Giltie and Convict of the faidis treflonabill crymes.

APPENDIX OF ORIGINAL DOCUMENTS,

ILLUSTRATIVE OF THE TRIAL OF ROBERT STEWART AND OTHERS.

I. MINUTES OF THE PROCEEDINGS OF THE PRIVY COUNCIL OF SCOTLAND.

(1.) Jan. 14, 1614.—ROBERT STEWART, bafe fone to THE ERLE OF ORKNEY, being brocht befor the COUNSELL, for giviing of furtiie not to repair to thefe boundis, without HIS MAJ^{TIES} Licence; THE BISCHOP OF ORKNEY hes gevin his word and promeis for him; and the Counfell hes tane his awin aithe and promeis, that he fall not repair to the faidis boundis. And this courfe is tane be the Bifchopis advyfe and fpeciall procurement.

(2.) Jun. 28, 1614.—THE ERLE OF ORKNAYIS bafe fone having latlie gone to Orkney, aganis his faith and promife maid to the Counfall in the contrair; and he having tane with him fome fouldiouris, and furpryit the Place of *Birwall* (Birlay) in Orkney, THE COUNSALL, vpon the firft informatione maid to thame thairof, directed charges aganis him for randeriing of the Houfe; and with that, thair wes ane Proclamatioun direct, prohibiting all his MAJ^{TIES} fubiectis to fupplie him with onie needf-

fairis, or to mak payment to him of any of the dewtyis of *Orkney* or *Zetland*. The chaarges for rander-
 ing of the Houfe being execute aganis him, he immediatlie caufes found his trumpet vpon the heid
 of the Houfe, and difchaarges xxx or xl fchote of muscat at the Officer and witnesles, as wes this day
 affirmit in prefens of the Counfall be *Sir James Stewart of Killith*.¹ Whairvpon THE COUNSALL
 has exped ane Commiffiōne to him, in ample forme, for perfute and affadging of the Houfe, with all
 kynd of force and wearilyngyne.

(3.) Jul. 28, 1614.—THE ERLE OF ORKNAY his bafe ſone, accompanyeed with three or four ſcore
 of perſones, doeth yett continue there fooliſche courſes in Orkney, and ſtill keeps the *Houſe of Bir-
 fay*. There hes beene ſome conference in THE COUNSALL anent the ſuppreſſing of his ſolenceis;
 and it is thocht be the moſt parte of the Counſale, that *Sir James Stewart*, in reſpect he is Schieref,
 Judge, and Chalmerlane of the countrie, ſhould be employed in that buſynes. The queſtion ſtandes
 anent the forme, how *Sir James* ſhall go there, and how he ſhalbe accompanied? Some ar of oppi-
 nion that the forces of the countrie ar ſufficient to ſuppreſſe this REBELLIOUS, althocht the authoris
 wer ten tymes mo in number. Others ar of oppinion, that it is hard for *Sir James Stewarte*
 to hazard him ſelf with the countrie people; and that it is expedient that he have three ſcore men, vnder
 wages, to attend vpon him. THE COUNSALE, at there nixt meeting, ar to tak ſome courſe in this
 buſynes.

(4.) Jul. 29, 1614.—SENCE the wrytting of the Notes aboue written, there is ſure aduerteiſment
 come from ORKNAY, that the ſaide Erle his bafe ſone hes ſurpryfed the *Church and Steple of Kirk-
 wall*, and the *Girnal-houſe*. (whiche ar places of gryte ſtrength,) and that the *Scheref-depute* hes
 retereed him ſelf to the *Caſtle*. where he is incloſed be the *Baſtard*; and that there is a publick and
 oppen REBELLIOUS profefled and avowed in that countrie. THE COUNSALE, being enforced heer-
 of, this morning aſurie (the 29 of this inſtant) thay convened in the Over Counſale-hous; and *Sir
 James Stewart* being at lengthe hard anent his reſolution and purpoſe in this buſynes, he hes nder-
 tane to go there in perſone, and to adventur and hazard his owne lyff in the ſuppreſſing of this RE-
 BELLIOUS. He hes gotten a Commiffiōne to tak vp fyve hundrethe men, vnder wages, and he is verie
 buſye to amaſſe this companye togidder, at the leaſt ſa mony as vpon the fuddane he may gett; and
 both be found of trumpett and ſtryking of drwm, warning is geven to all ſuche as will ſerue to
 adreaſſe thame ſelves to him, to inroll there names and reſaue there pay. He is of oppinion that within
 three or four dayes he ſhall have iij ſhouldiours in reddynes, whome he entendes to ſend away be
 ſea with the firſt ocaſion. He is to go him ſelue, be land, accompanyeed with ſuch voluntaires of his
 kin, frendſhip, and acquaintance, as he may enduce to go with him; of whome he is of oppinion to mak
 vp a companye of three or four hundrethe men. The *Lord Locat* hes promeſed him the aſſiſtance
 of two or three hundreth hable footemen, well furniſhed in all thinges neceſſar. There is a ample
 Commiffiōn of Lieutenandrie and Juſticiaire exped vnto him, for the perfute of the lymmaris, with
 fyre and ſworde. PROCLAMATIONES ar exped againes all betweene ſextie and ſaxteine yeres, within
 the boundes off *Caitlues*, *Sutherland*, and *Orkney*, to go fordwart with *Sir James*, and to aſſiſt him
 in this ſerueice; and a other Proclamatione, prohibiteing the reſſatt, ſupplee, or furniſhing of thir Re-
 belles with any thing comfortable or neceſſar vnto thame; with a promeſe of pardoun to ſuche of thir
 Rebelles (who ar not cheef), that will leave the *Baſtard*, adreſſe thame ſelves to *Sir James*, and do
 ſerueice worthe of favour.

All ſchippes and retelles bowne to *Orkney* ar ſtayed, till *Sir James* and his companie be imbarked
 and away.

Sir James will, God willing, have his whole forces togidder to ſett fordwart, him ſelf be land, and
 his footemen be ſea, within fyve or ſax dayes; and aduerteiſment ſhalbe fra tyme to tyme ſend vpe,
 of the progres of his proceedings, and of his ſuceſſe in his ſerueice.

¹ Afterwards Lord Ochiltree.

(5.) Jul. 7, 1614.—INFORMATION being maid to fume of THE COUNSALL, that ane poit-boy was cum frome *Orkney* with Lettres to the lait *ERLE OF ORKNEY*, and that he was to returne agane with ane anfuier to theis Lettres, directioun was gevin for the feircheing of him : Lyikas, he was apprehendit vpon the fyft of this infant within this Burgh, and producet befor the *Counfall*, with ane number of Letteris, the moit part of thame direct to *Caitnes* men. Becaus the poit-boy was to go towards *Orkney*, that way, he was verie straitlie examinat vpon many particulairis; whois DEPOSITION, with the copie of that Letter send be the *Erle* to his sone *Robert*,¹ is heir incloist, immediatlie vpon his examinatioun. Thrie of the *Gaird* was directed to *Dumbartane* to mak feirche for the *Erle* his wryttis; and to bring frome thence one *Scharp*, the *Erle* his seruant, by whome his Letteris is writtin. They departed from this Burgh vpon Twyfsday the fyft of this instant, about ten of the klok at night, and come to the *Castell of Dumbartane* the morne thairefter, about fyve of the klok in the efternone, bot could not have entrie; being antherit be sum servandis from the wall-heid, that the *Conjabbill* was in *Edinburgh*, and that one *Robert Knok*, wha had the chairge of the Hous vnder the *Conjabbill*, was in the *Town of Dumbartane*; and whill his return the zettis could not be oppined. The *Gaird*, vpon this refusall, going to the *Town*, they forgadered,² in the mid-way betuix the *Castell* and the *Town*, with the said *Robert Knok*; vnto whome they haveing impaired their Co.. miffioun and warrant, he tauld thame plainlie, that thair was no entrie to be had, that night, within the *Castell*; and appoynted thame the morne, at awght of the klok. They haveing preecellie keipit that tyme, and come to the *Castell-zett*, thair was many idill ceremonies vsed, befor they could haue entrie; and at last, being refluawd within the *Castell*, *Sharp* was amiffing, and had etkaiped; and feirche being maid for the Letteris and wryttes, thair was ane number of comptis and wryttes gottin, bot seruing nothing to the purposis.

Thair is an ampill COMMISSION past and exped to *Sir James Stewart*, *Shercff of Orkney*, and his deputtis, for the perufe and assaidgeing of the *Houfe of Birfay*, with fyre and fword, and for apprehending *Robert Stewart*, and exhibitioun of him befor THE COUNSALL.

(6.) Aug. 3, 1614.—COMMISSIONS being past and exped to *Sir James Stewart of Killcith*, for fuppreffing of THE REBELLIONE IN ORKNEY; and he being in the preparatioun of his forces to haue gone thair for that eirand; and promise being maid to him, be the *Lord Lovatt*, of sum thrie or four hundreth *Hiland-men*, to haue assilid him in that seruice; sum Gentlemen of the Cuntrey of *Orkney*, being heir, and feiring that such a number of peple as wald accompany *Sir James* wald be a greit burdyn to the pure cuntrey, and that they wald appeale the cuntrey peple at thair pleasure, they thairfore delt with *Robert Monteith of Eglefchaw* to mak ane ouerture to THE COUNSALL, for doing of this seruice, with les chairges to HIS MA^{TIE} and greittare ease to the cuntrey nor polliblie could be done be *Sir James*. ROBERT MONTEITH being admitit to audience, he hes offerit and vnderstane, in respect of the freindschipe and assurance whilk he will find in the cuntrey, to do this seruice, with the fupplie of threecore fouldiouris allanerlie,³ and ane *Herald* and *Tranpou*, at HIS MA^{TIES} charges, with ane ship to transport, he hes vnderstane to recover the hail Houfes and ftrenthes tane and hauldin in that cuntrey aganis HIS MA^{TIE}; and outher to apprehend the Rebellis, or then to put thame of the cuntrey: He hes vnderstane, yf ony Honfes or ftrenthes he assaidged, to raise the seage within forty-aucht houris aftir his cumming in the cuntrey. And for the performance of thir his OFFERIS, he hes offered the *Erle of Caitnes* and *James Sincler of Marchill* cautionouris.

Sir James Stewart being hard vpon the Offeris maid be *Robert Monteith*, he hes willinglie aggreit that the chairge of the feirche be committit vnto him. Whilk accordingly is done; and he is to imbarck with his forces betuix and the tent of this instant; and he hes presentlie fend away sum of the Gentlemen of the cuntrey, to haue the hail cuntrey in reddines to attend⁴ his landing.

¹ See this Appendix, No. (20.)

² Rencountered; met with.

³ Only.

⁴ Await.

(7.) Aug. 24, 1614.—THE EARLE OF CAITHNES,¹ with two shippes well provyded with all warre-lyk prouision, made sale towards ORKNAY, vpon the xx of this instant, having the wynd ryer faurable; and it is looked that he was in *Orknay* vpon the 22 of this instant, in the morning. How sone ony aduertisement shall come from him, or ony others in that countrey, HIS MAIESTIE shall gett notice thereof, with all convenient diligence.

(8.) Oct. 5, 1614.—DIRECTION is geuen to the Captane of the Guarde, to send twelf of his company to Dumbartane, and to bring frome thence, to this burgh, THE EARLE OF ORKNAY. And direction is gevin to the Shiref of Dumbartane to assist the convoy of the Earle from Dumbartane to the Falkirk, where the Shireff of Linlithgow is to receaue him, and to mak his convoy frome thence to this burgh.

(9.) Nov. 17, 1614.—THE ERLE OF CAITHNES, having left THE LAIRD OF RATTER, his brother, as depute for him, in the Officeis of JUSTICIARIE and SHEREFSHIP OF ORKNAY; and having gevin directioun to him to demolishe the *Castell of Kirkwall*, conforme to the Warrant of the *Counsell* fend to him for that effect, the said *Laird of Ratter*, by his Petitioun, gevin in this day to THE COUNSALL, meant him self,² that he was a Gentleman of small moyene,³ having nouthre landis nor rentis in *Orknay*; and that his remaining thair vnder the burdeyne and charge of the saidis Officeis, wald draw him, in thorte tyme, to spend all his rentes, to his greit hurt and inconvenient; beydes the neglect of his awin affaires and busynes, at home. And thairfoir, his desyre was, that he might vnderstand, vpon what conditione he sould remaine in that countrey, and vpon whose chargeis and expensfis the House sould be dimolished? His Petitioun being hard and deulie considerit, THE LORDS hes allowit vnto him ane hundredre markes monethlie, dureing his aboade in that countrey, for his charges and expensfis. And touching the dimolisching of the House, thay haue ordanit him to do the turne, and the expensfis that he fall bestow thairvpon, according as the same salbe verified and testified he the *Bishop of Orknay*, vnder his hand, salbe repayit vnto him be the *Thefourre Depute*.⁴ And whereas, the remaining of the *Laird of Ratter* in that countrey, wilbe chargeable to HIS MAIESTIE, the countrey being now reasonable weele satled, without appeirance of ony new commotioun or trouble; thairfoir, his Maieitie wold be pleisit to resolue vpon some course, auent the Gouernament of that countrey, and whom his Maieitie will putt in the trust of that charge; to the effect that, vpon the signification of his Maieities pleafour thairanent, the *Counsell* may tak ordour, and gif directioun thairin accordinglie.

II. DISPATCHES FROM THE EARL OF CAITHNESS, &c. TO THE KING AND SECRETARY OF STATE,⁵ &c.

(10.) LETTER, the *Earl of Caithness* to *Lord Binning*. (Aug. 25, 1614.)⁶

RIGHT HONORABIL MY VERIE GOODE LORD,

PLEIS your lo. We arryved at Castell Sincleir vpon the 22 of this instant; whair I stait that night, and aduertised the Caithnes men to be reddie to follow me to Orknay, when I suld command theme. I imbarked with me about threttie of theme, and cam to Selwik, within twu myles to Kirkwall, vpon the 23, about sex efir none.

The 24 I sent the Herald with Notairis, Messingeris, and Witnesfes to mak proclamationne at Kirk-

¹ The procrastinating conduct and vacillation of the PRIVY COUNCIL, in a matter which bore such a formidable aspect at its commencement, says very little for their ability or zeal, in the discharge of their important trust. The only apology which can be framed for them, is the circumstance of their subserviency to the KING, who was resident at so great a distance, and without whose *fiat* they dared not take any important step. ² Made supplication and complaint; humbly remonstrated. ³ Means; fortune. From Fr. *moyen*. ⁴ In the Books of the Accounts of the *Lord High Treasurer of Scotland*, Gen. Register House, the following entry occurs, under date April, 1615.

⁵ IERS, to one Poist passand to Edr. to my Lord Chancellor, at Dunfermling, to subserve ane Commissionn for Walter Richie, for demolishing of the CASTELL OF KIRK WALL, xxliij s. ⁶ Thomas Lord Binning, afterwards Earl of Melrose, &c.; which last title he afterwards exchanged for the Earldom of Haddington. ⁷ From the Original in the *Dennyhe Coll.* of MSS. Adv. Library.

wall; who was presentlie taikin, as he entered the Towne, most iniurioullie and dyspytfullie abused, bothe in word and deed; the Letters taikin frome him be Robert; and him self, with ane Minister, and all otheris that accompanied him, kepit in diuerse houfes, all that day, till the evening; to whiche they, the same day, did ad this also, that to the number of thrie hundreth menne, with displayed enigne, did fort¹ out of the Towne, and maid pronouacione to me, whair I lay vpoun the ship-board. For that the Proclamations (were) thus impedit, I was forced vpoun the 25 to writt diuerse Letteres, and send throuche the cuntrey, to aduerteis and command the Gentlemen and vtheris to resort to me; in whome, for the most part, I did not find that reddie willingnes whiche I expected; so that I wes forcit to fend to Caithnes, for supplie of my owne menne; who, cuming to me vpoun the 26, and having then assembled about two hundreth of the cuntrey menne, we tuik land; and at the same tyme, about ten houris, we landit the battering peice with hir careage, whiche, by great force of men, and some difficulties throuche the deynes of the foyll, wes presentlie, and with all possibill diligence, drawin neir tuo myles, towardis the Towne; and the same day, about thrie aftirnone, planted at Weyland, within ane half quarter of myle to the Castell. We merched in good ordour, with colouris displayed; and as we approached, the Rebellis fort¹ed out,¹ boasting that they wold fight with ws, thought we had bein twentie to one; and having their Ordinance in reddines to haue played vpoun ws from the Castell, Stepill, and Tour of the 5eardis, and dischaireging one or tuo of the same against ws, so soone as we cam vnder their sight, I commandit the Cannoners² to flute at the Castell; who did their part so weil, that be the secund schott one of the turrettis vpone the heade of the Houfe wes pearfed and almoit beaten down, to the great terrour of the Traitouris; and other thrie being shot, one aftir another, did all hit, bot not hurt so muche.

In the meantyme the Rebellis being provoking and braking ws vpoun the Ball-ley, to the number of sex foir men, our Captanes and fouldiouris went directlie, and with goode courage, toward theme—and without any resistance or hurt did compel theme to retreat scbamefullie. In whiche flight, about fyve of pressed poore menne of the cuntrey did abandon theme.

The Captanes, fouldiouris, and Gentlemen of the cuntrey, with thair menne, did presentlie follow theme at their heillis, entered the towne the same night about sex houris, inclosed theme in their holdis, and now possesies the Towne. That night I ludged about the Ordinance, and guardit it and our selfis with the rest of our menne.

This day we ar busie about the landing of the great Peice of Ordinance, that we may batter bothe the Castell and the other Houfes, which annoyes ws and our men in the Towne; and mak our seruice the schorter.

The Rebellis ar most obstinate, and malicionlie resolued to hold out to the deathe, thought I have sent Ministeris and their owne freindis to instruct, admonish, and threatin theme.

Their is heir no bread, nor drink, nor vther victuallis to be had for pryce, prayer, or command; so that I must ather seik present relief of some victuall from Caithnes, or suffer the fouldiouris to starue for want. And if they fall endure and continew in thair obstinacie, as they haue wowed to do, thair will not be ponder, leid, billettis, nor matche to serue for this seruice; in the which I see great dangeris, and manie more difficulties then I culd soirre.

In respect whairof, I will intreat your goode lo. to acquent my Lord Thesaurer and remanent Counfallouris; and with all cair and diligence prouyde, betyme, that money, pouder, pillettis, and chieffie sum reasonabill quantitie of victuall, whiche can not be had heir, may be sent to be dispensed and sold to the fouldiouris and vtheris that haue neid, vpoun reasonabill pryce; whairby our great necessitities may be supplied, with litle or no hurt to his Maties money.

As thingis fallis out, so fall your lo. be aduertised from tyme to tyme. And now, after the trew

¹ Fr. made a *sortie*.

² Artillery-men.

narratione of our proceedingis and present effait, I refer the confideratione and cair of all to your lo. wifdome, and fall euer rest,

Your lo. euer to be commanded,

CAITHNES.

To the right honorabill my verie goode lord, MY LORD OF BINNING, his
Maicsteis SECRETARE OF SCOTLAND.

(11.) *The Erl of Caithnes* LETTER to my Lord Thesaurar Depute.¹

MY VERREY GUD LORD AND COUSING,

I HAUE restant findrie of 5our ll. moit kynd Letteris, and 5our ll. greit cair in fending all thingis necessar for ending of this seruice. I can not gif 5our l. dew thankis; bot I will account it euer to procede of þe lufe þat 5e beir to HIS MA^{TIE} and lufe 5e caryit to me as 5our kynnisman, quhome 5our l. fall euer haue pouer to command me, so long as I braith. It hes pleast God, of his mercie, the penult of þis instant, to mak ane finale end of þis seruice in my handis. The forme, maner, and all þat hes hapnit, I haue writtin at greit lenth to my gud Lord Secretar. I haue directit þe Pinage home and þe Bark² þat come last; and hes dischargit the Captane, Officeris, and fouldaris, þe last of þis instant. I grant þis seruice hes bene expensiu to his Ma^{TIE}; bot quhat hes bene wairit,³ I hoip at my cunning to put it all vp agane, be myntioun, to þe *Castell of Edr.* I hop to bring with me more then twentie thousand merks worth of brain ordinance.⁴ As for my panis, hazard, and travellis, I will remit that to his moit sacred MA^{TIE}. This,⁵ leving to falsche⁶ 5our ll. with mony woirdis, I end, willing 5our ll. euer to esteime of me as ane kynnisman þat 5our ll. fall haue euer pour to command, according to my pithe. This taking my leif, I commit 5our ll. to God, and I fall euer rest

5our ll. couling, euer reddie to be commandit,

CAITHNES.

AT KIRK WALL CASTELL, þe last of September, 1614.

(12.) *The Erle of Cuthnes* LETTER to the Secretar;⁷ ressaued 10 Oct. 1614.

MY VERRIE SPECIALL GOOD LORD,

IN respect 5our Letter, daitit from Edr the fyfte of September, and come in my hands the fourtenth of this instante, declaring 5our lo. diligence for expeding of all necessars for this seruice, qulich I haif more nor neid for daylie, I and all that is heir with me hes hote seruice with thir moit bluidie and barbarous Rebeles and Traitouris. They haue killed four, and the last is ane Willeam Irvine, ane Orkney Gentleman,⁸ one quho, since his deathe, I have hard was ane inoyenour, and ane greit freind to the Traitour. God is iust in his judgementis, for amongs ws all standing by him he is schote dead, vponne the nyntene of this month, at twa houres in the efter none; ane cuntry man of myne schote throughe the arme; and ane fouldiert schott behind beneth the bak; and one flaine in the Castell. All this is done this last dayis skirmishe. Thair is not one day that I am idle, except the Sabothe. My lord, I will asbire 5our lo. thay ar moit desperat and cruell Tratours, and (this) is ane verrie strong hold, and nothing can do to thame except the cannone.

Quhair 5our lo. hes sett doune in 5our Letter of his Ma^{TIES} advyce, that I fould be spairing to grant pardone to notorious Rebellis and malefactoures, my lord, God forbid þat I fould tak vpon me to grante ony pardone to ony quho hes so heighlie offendit his sacred Ma^{TIE}. Befoir his Ma^{TIE} were not repairit, to his honour, be all the lyfkes of thir bluidie Tratoures that is within this diuilfich Castle, I (wald) rather be buried. Heirfoir, my lord, I will be plane with 5our lo. as to ane faithfull counsellour

¹ From the Original, *Dennygne MSS.* ² Two vessels which had been sent with supplies and dispatches to this Expedition, which were known by the name of the Pinnace and the Barque. ³ Expended. ⁴ See Notice to the Trial of the Earl of Orkney. ⁵ Thus. ⁶ Fr.; trouble. ⁷ From a copy preserved in the *Dennygne Collection* of MSS. Adv. Library. ⁸ In this siege the Lieutenant lost four men only; namely, William Irwyn, son to William Irwyn of Saba, James Richardson, Andrew Adamson, and William Robinson; who were killed all by shots from the Castle. Many were wounded and hurt, but thereof recovered.—*Spotswood's Hist.* p. 520.

to his Maieſtie. I find none bot the name of *Sinclar* in all this land bot hes bene in counfell of this Reb-
bellioune, or eles airt and pairt; for thair is ANE BAND, ſubferyuit be SEVIN HUNDRED of this cuntrie
people, to *Robert Stewart* and Patrik Halero, to die and leue with thame. This REBELLIOUS was
deuyſit in Ed^e Caſtell in Winter laſt; and giue God grant me that gud fortune to get on lyne *Robert*
Stewart or *Patrik Halero*, his Maieſtie will hear of good ſpote. I haue *Andro Martine*, quhome I
mynd, quhen I find occaſioun be Sea, to fend him to be examined by your lo. of his Ma^{ties} moſt ho-
nourable PRIUE COUNSALL. I haue cauſit him ſubferyne his awin Depoſitioune, vponne the quhilke
your lo. will get mater eneuiche to gar him ſpeak Scottis, giue he lyk to blot his maifter to be the
hounder out of his ſone to do all that he hes done.

I cannot nor may not flop the Inhabitantes of this Toune from ſpeiking with the Traiteurs, geving
of thame meit and drink, making thame advertiſit quhat I am doing, and making daylie and nightlie
advertiſmentes of all that thay can aither heir or ſie. I will intreat your lo. to mak me advertiſit, with
diligence, of THE COUNSELS mynd quhat I fall do to thame, both men and wemen? I have takin
nyne or ten men of Birſay, quho was with *Robert*, and was platters with him in this REBELLIOUS,
and ſpeciall keiparis of the Houſ of Birſay, quhom I mynd to put to ane Aſſyſe; and giue thay be con-
uict, to hang thame, for ane exemple to vthers.

My lord, this ſeruce is not lyk to have ſo haillie ane end as I would. Your lo. knawis my Com-
miſſiounne grantit to me is no longer than two moneth; of the quhilkis thair is fyue weikis and more
outgone: And, giue it will pleas your lo. of his Maieſties Priue Counfell hould me heir, till it pleas
God that I putt ane finall end to this miſchante REBELLIOUS, I would haue ane new Commiſſiounne,
with all priuilege neidfull, to¹ the ſeruce he endit; for I proteſt to God I neur, nor nevir fall, cum to
ane cuntrie that may be compairit in falſett to this cuntrie people! I vſe thame both with lenitie and
fair formes, as *the Biſchope* will informe your lo.; and for all þat I can do, thay haue thair ſecret moyen
and traffeche with the Traiteurs. And as for *Mr Johne Findyſounne*,² thair is no remaneing heir to
him, giue³ I ver once out of this cuntrie; for man, wyffe, and bairne haits him to the deathe. Thay
haue mynit⁴ twyfe to kill him, ſince his comeing heir with me, war not I;⁵ bot now, ſeing thay ſie me
to tak plaine pairte with him, thay ar begune to behauld him.

Since the beginning of this Letter, I haue ſtayit to wryte to your lo., hoping evir vponne better
news. The Bark and poill came heir the twentie twa or tuentie thrie,⁶ with all permiſſiounne neceſſar
for the ſeruce: And efter thair arryvall, I ſent to thame in the Caſtell, if thay wold cum out and put
thameſelſis in HIS MAIESTIS will, *ſimpliciter*, I wald lett thame cum out.

The penult of this inſtante, it hes pleaſit God, of his mercie, to end this ſeruce in my hands. The
Houſe is myne, *Robert* in my hands, and all cumed to me except *Patrik Halero*, quhom as yit I haue
not ſeine. All is cumd to his Ma^{ties} honour, praift be God. I haue fex ſlaine to me; many hurte.
The ſouldier I wraite was hurte is dead. I will aſſure your lo. it is one of the ſtrongett Houſes in
Breitane; for I will bring with me to your lo. cannone billetes, both brokkin lyk goulte balls vponne
the Caſtelle, and clovin in twa halfis. I could not till now enter witle extremitie with the followars
of *Robert*, till I was maifter of the Houſe, for fear of making more adoe, ſeing the Houſe was ſo ſtrong;
bot now I fall not be ſlaw to puneiſch ſeuereſlie, to mak exemple to vthers to play the lyk. Prefentlie,
I am going to drink his Ma^{ties} good healtie vponne the Caſtell heid. *Mr Johne Findyſounne* would
haue the Caſtle in keeping, bot I will not till I heir from HIS MA^{TIE} and your lo., ſeing it hes coſte
his Ma^{tie} ſo deare, and I and myne the dangeour of our lyfles. I will not geiue it him quho ſo beſittie
gaue it ouer for four ſchote of muſcate. Always,⁷ quhat your lo^s of his Ma^{ties} Priue Counfell will
command me, vponne your advertiſment, I will follow, and geiue the Houſe to quhome your lo^s pleaſis.

¹ Until. ² The Sheriff Depute, whose oppressive cruelties made him to be detested by the inhabitants of Ork-
ney. ³ If. ⁴ Attempted; aimed. ⁵ Had it not been for me. ⁶ The 22d or 23d of September.
⁷ Nevertheless.

I am to exped the Bark and Pinnage to your lo. with all diligence, and this day to discharge the Capitane, Officers, and soldiers, the last of this moneth.

My plead by your lo. good care of me, it hes pleaid his Maie^{ties} to graunte me ane Remissionne, and, to honour me of that I am vnworthie, to prefer me to be one of his Ma^{ties} most honourable Priuie Counsell. I cannot say more but this much, I fall preife to my deathe to fryue, with inuye, for loyaltie and obedience; and hopes in my Saviour to do his Ma^{tie} more better seruice nor this, or then to die; for I proteit to God, I craue no grittar honour in this earthe then, by my death in his Ma^{ties} seruice, my treuth and loyaltie may be knawin at my end.

As to your lo. manifold good will, and prouises I haue euir had of your lo. fauour, vnmeritit be me, your lo. fall haue this assurance of me, I fall euir be your lo^s, and¹ ye fall neuir speak or do any thing to me bot as ane trew and faithfull seruand to his Ma^{tie}, and one pat fall euir please, so far as lysis in me, to be anferable to his Ma^{ties} lawis. Thus, craving your lo. pardone that I am fo longsum,² I most humble tak my leuie, committing your lo. to the tuitiounne of the Almychtie; and I fall euir rest and remaine
Your lo. euir bund to serue yo^r lo. [CAITHNES.]

AT KIRK WALL CASTELL, the laste of September, 1614.

QUHAT cair and quhat panes and haifard I haue beine in since my comeing heir, I will remitt to vthers to declair; bot befoir it had not procedit as it hath done, I rather I had bene buried heir. I assure your lo. the Cannonar hes don his dewtie in this seruice.

(13.) LETTER, *the Earl of Caithness to the KING.*³

PLEIS YOUR MOST SACRED MAIESTIE,

I HAIFE taikine this boldnes to wryt thir lynes, sins it pleist your most grauis Maie^{ties} to honour me fo far as to mak schole of me before many thousandis of your subiectis of grytter vourthe, and of more vaillour and visdome then I, to vndergo this seruice of THE ORCADS, quliche, praisit be to God, is edit now. This last of September, the Castell is in my handis. THE REBELLS for the most pairt talkin, to dispoise vponne at your Maie^{ties} pleasure; and all the countray maid pessibille. And now, I haif no more ado heire, bot to do vther directionns, gifine me be directionns and command, be your Maie^{ties} most honorabile Counsell. And quhan I haife maide ane accunt to thame, couforme to my employment, I mynd, if it wille pleis your Maie^{ties} that I cum to your lo., to haife that honour as ane kife of your Maie^{ties} most grauis hand; hoping in God to do your Maie^{ties} more exspectabile seruice then this, and⁴ euer your Maie^{ties} haif ado, or thene to lose my lyfe; for I proteit to God, I craife no grytter honour in this eird nor to die in your Maie^{ties} seruice, that be my end your Maie^{ties} may knaw my effectiounne and trouthe. Thus, most humble taiking my liue, my seruice euer remembered, I end, committing your Maie^{ties} to the tuitiounne of the Almightie. I fall euer remane

Your Maie^{ties} most humble and obedient denoted seruand, to the deithe,

KIRK WALLE CASTLE, the 1 October, 1614.

CAITHNES.

(14.) LETTER, *the Bishop of Orkney to Lord Binning, Secretary of State.*

(“ Resiaued 15 Oct. 1614.”)⁵

RIGHT HONOURABLE MY VERY GOOD LORD,

IT WAS nather of carelesnes, negligence, nor oblauiounne, that my lord and I did not wryte so frequentlie; bot our instante cair and diligence to bring the seruice to sum happie end, did hauld ws from wryting, till we did sie the expectit fruit of labours, which we knewe would not be vnpleasing to HIS MA^{ties} and your honouris. I hoip my Letters with the last poist, *James Gairdner*, and *Robert Winram*, relative to the former, fall prevent thir and geiue satisfiounne to your lo. in all anent the end-

¹ If.

² Prolix; tedious.

³ From the Original, *Dennyhne MS. Collections*, Adv. Lib.

⁴ If.

⁵ From Copy, preserved in *Dennyhne Coll.* of MSS. Adv. Library.

ing of this actioun, quhairin thair is nothing promefit nor done, quhilk is not agreable to his Ma^{ties} pleafour and your lo. defyre. *Robert (Stewart)* and *Patrick Halero*, ar tranfportit this day to be exhibite to your lo. The reit ar keipit prifoners in the Caftle; and my lord and I (efter that *Roberte* and *Patrick Halero* be difpatchit with *Yang May*,¹ and ane fufficient number of hable men to guaird thame) ar prefentlie going to examine enrie one; and the next day, God willing, thay fall fuffer judgement and condigne punefiment. The winds, hailes, fnaws, raines, ar fo extraordinary in thir places, that all had bene done and accomplifhed befor this day, giue² it had bene poffible. *Andro Martine*, quho was fent with *Robert Winrahame*, would be weill examined be your lo. I hoipe to cum by THE BAND ite-elf, quhairof I fent the coppie with his Depofitiounes. Thair is one *Margaret Biechane*,³ fpous to *Simone Stewart*, and now Adulteres to *Patrick Halero*, quho hes revealit and confellit to me more then any other. If your lo. think that hir Depofitiounes or prefence falbe neceffar, direct me, and it fall be obeyit; for I purpofe to put hir oute of this cantrie, for hir Adulteric. Anent the Articles fent in my laft Letters to your lo., I befeik you to advyle, and advertife. And fince your lo. hes gevin me affurance of the paffing of my rites, (for the quhilkes I fall enrie be cairfull to expref my thankfulnes, in all dewtie and fervice,) I fall be difpofed at your lo. pleafour, either to come South with the *Earle*, or ftay heir a litle efter, for my awin buffines, or ony fervice fall be committit or commandit to me. As for other things, your lo. will knaw thame be my Letters writtin to *my Lord Theofurar*. So praying God euir to fanour, profper, and preferve your lo., I ref

Your lo. awin affured and obliged in all dewtie,

KIRK WALL, 6 Oct., 1614.

[JA. B. OF ORCADS.]

(15.) LETTER, *the Earl of Cathness to Lord Binning*.⁴

(“Retraüed 15 Oct. 1614.”)

MY MOST SPECIALL GOOD LORD,

I RESSAUT 30UR Letter, datit at Edinburgh the twentie, &c. and cam in my handis the fourte of October. Befoir the reflett of your lo. Letter, I wrait greit lenth of the hail proceedingis heir, and of the ending of this fervice that God of his mercy hes maid to come, vtherways nor any man expectit. My lord, war not I vfed the mater fo cannelie,⁵ and maid *Patrick Halero* to fail thame that was thair in the Caftell, it wald haue bene ane longftum faidje; for I proteft to God the Hous hes neur bene biggit by⁶ the confente of the Diuill; for it is one of the ftrongeft holds in Britane, without fellow. I fie be HIS MA^{TIES} Letter direct vnto your lo^s of his intentione to *Robert Stewart*, quhilk I thank God I haue nather fend to him, bot this, and vpoune that condition he cam out: Qualk conditionne was in this forme, gif he wald come furth and put himfelf *fimpliciter* in his Ma^{ties} will, to difpone vpoune him at his Ma^{ties} pleafour, I fould keip and preferve him from enerie danger of my folkis, till his Ma^{ties} pleafour and will wer knawin. He defyrit that I wald promife vpoune my honour to preferve him, till I brocht him to his Ma^{tie}. That I plainlie refufit; for I fald I could not promeife that my fellie might haue acces to his Ma^{tie}, without the fpecial licence of the Lordis of his Ma^{ties} moft honourable PRIVE COUNSELL. To conclud, he plainlie fubmittit him felf to his Ma^{ties} will. Bot befor he did this, *Patrick Halero* had left him, and fald plainlie to him, in the Caftle, ‘he wald geive it over.’ Quhich maid him come out, vpoune the foirfaidis conditiones, and no vtherways. As I fall anfwer to God, *Robert Stewart* hes no farder of me; for I fpak with him, and finellit that he wald neur geiv over that Hous to be Tarterit, and to be compellit to reveill vpoune his father, to be his wrak. I finding this, I defyrit, gif he wald let *Patrick Halero* cum oute and fpiek with me, vpoune that fam plaidge that was in for him. He plainlie refufit. I feing it fo, I maid me to be weill contentit with his anfweir, and fald, ‘I wald go fordwart with the fiedje.’ He pat to the Caftell; and in his companie I put in fecret woord to *Patrick Halero*, to fie giue the morne he wald

¹ Sinclair of May.

² If.

³ Buchanan. See her Deposition, Nov. 1, 1614.

⁴ From a copy in

Dennyhe MSS. Adv. Library.

⁵ Had not I handled (or managed) the matter so cautiously.

⁶ Without.

cum out and speik with me, in the Kirk, vpoune plaidges: quho grantit, and cam furth to me. And efter four houres conferses, he and I hand to hand, I maid him to 5eild, that he wald giue it ouer and mak the Hous to be in my handis, vpoune conditione I fould promise him his lyffe—quhilk I did. Then he willit me to caus ane *Minister* come in and preiche to thame, quhilk he fould (vfe) meanis that the rest fould be contentit to heir; and fo, he fould mak the mater fo that he fould be out of fufpitione, to¹ the grittest pairte of thame war out of the Castell; and as they cam out, to geiue thame fair countenance. And fo, be thir meanis, *Patrik Halero* maid the Hous and all thefe that war thair to be in my handis.

The Proceedingis and Ceremoneis tuik mekle of aucht dayes, quhilk was the occasion that your lo. was fo long of getting word; quhairfoir I crame your guid lo. to hane me appardonit; for praitit be God, albeit the word hes bene long of comeing, it is good quhen it comes!

I luik pat my word and promeis gevin to *Patrik Halero* fall not be fulfillit. Befoir it wer, I rather be in my grave.² As to the rest I haue in my handis, except *Robert Stewart*, (they) falbe hinged within twa dayis at the Castell yett,³ with fundrie vtheris of the cuntry men that war ring-leaders to *Robert*, to the exemple of vtheris. The number that fall hang, that was in the Castell, is twelue. I haue sent *Robert Stewart* and *Patrick Halero* to CASTELL SINCLAIR, to be fuirlic keptit thair, till I haue done all that your lo. hes gevin me Commiffioun: For now, since the seruice is done, I haue no pleafour to byd heir, for the wedder is both euill and varient, and fo is the people; for he that wald rewle heir hes both neid of wit and manneheid, and manie earis and eis. Quhair your lo. willes me to conforme all my actiounes to HIS MAESTIES mynd, I hoipe in my Saniour neur to do, fay, nor think that fall be offenfue to his Ma^{tie}. Befoir, willingelie, I did any thing that war offenfue to his Ma^{tie}, I rather be buried quik. As to this peece of finall seruice, I think it bot ane beginning; bot give his Ma^{tie} haue ony seruice of grittar impertance, I houpe ather to die, or giue his Ma^{tie} ane grittar prouffe of my affectionne and luife. Thanking your guid lo. for the grit cair your lo. hes had that I fould want nothing that fould furder this seruice, in my panes, I can render your lo. no farther than the affiurance and contineuance of my seruice, as I fall euir remane,

Your awin

KIRKWALL, 7 Oct., 1614.

[CAITHNES.]

(16.) *The ARTICLES sent be THE EARLE OF CAITHNES to THE SECRETAR, to be refolued be THE COUNSALL.*

(“Reffaued 10 Oct. 1614.”)

I. PLEAS your Honorable lo. to refolue and direct, quhat fall be done with the CASTELL, which is now in my custodie? Whither it falbe repaired or demolifhed? Thocht it be ane ornament for the towne of *Kirkwall*, and may be etemed ane place of refuge and securitie for the holl cuntry, in tyme of forrane Inuafions, if any fould happin to be, zit since it is nather needefare for any ordinarie seruice of his Ma^{tie}, nor ane Hous fit for the habitation of his Ma^{ties} Officiaris, and may be mor easilie takin be forrane foes, in cais they fould inueid, then recovered agane from them; I remit it to your lo. wifdome, to consider what falbe done with it.

II. Pleas your lo. to giue some directioun for government of thir people. The present Officer, the *Shereff-deput*,⁴ is hated, to the death, be all fortis of men; is of no sufficient qualities for fuch a place and office; and by his former euill demanor, is fo contemned of the basest, that he fall neur, by all apparence, recouer credit, authoritie, and regard heir; zie,⁵ iff he remane heir after me, he is in danger of his lyff, and some new broyl may arryfe.

¹ Until. ² Such cold-blooded and perfidious treachery has seldom been equalled. A King's Lieutenant binding himself by the most solemn engagements to a Rebel on giving up a stronghold, without loss of blood, that a free pardon shall be granted to him—and yet, in his Dispatches, strenuously recommending that his pledge shall be recalled, and that the repentant Rebel shall be put to death, without mercy! ³ Gate. ⁴ Mr John Finlayson. ⁵ Yea.

III. Thocht ther be great fpyoll and lolk of horfe, cattell, fchep, boatis, and now of armour which belonged to HIS MATIE, your lo. wald be plesed to give direction quhat falbe done with that which remains, and may be recovered from vniuit detainers, that his MATIE be not defrauded and hurt.

IV. For BIRSAV, which was the place whence the troubles did spring, your lo. may be plesed to consider, whither it falbe demolished or kept, with some allowance; and be whome?

V. The Ordinance, which is in the Castell and 5eardis, in number 8 of brafe and fax of irone, falbe, God willing, transported vpon the schippis, with all the armour whiche can be had.

VI. *Robert Stewart* and *Patrik Halero* falbe kept and brocht with my self.

CAITHNES.

(17.) LETTER, *Lord Binning* to his brother *Mr Patrick Hamilton*.¹

BROTHER,

THIS morning, *John Stewart* is arryued from *Orkney*; and hes broght in his ship, be direction of the *Erle of Caithnes*, foure of his Prisoners, with thair Depositions; whom I have re-examined this forenone, and have fend to yow the copies of thair Depositions sent from *Orkney*, and of my examination of thame this day; together with the copie of the Letter which the *Bisshop of Orkney* sent with thame. Thay ar now in the *Towbuth*, in the *frne-houfe*,² becaus the *Chancelar* and *Counfall* will be in this *Towne* this night. I will advyse with thame, whether it be more fit to execute thame to-morrow, or to delay thair Execution for sum dayis, leaif thair suddane death might mak the detainers of the *Castell* of *Kirkwall* more desperat and obtinat.

The ERLE OF CAITHNES, with great dexteritie, hes maid himself mailler of the *Steples* and *Howfes* of the *Yairdis*. He has no lolk, prayfed be God, bot of two of his men slayne and aue hurt. We ar perswaded, that all the promissions which thay requyre, be thair Letter, wer in *Orkney* before thair Letter came to my handis. I have this day fend to Leith two hundredth bullets for the canon and batard,³ and am provyding all vther necessaris, which fall be reddie this night and imbarcked to-morrow, God willing, to the effect the ship make faile the morne, if God grant thame prosperous wind.

This I have thocht fit to wryte to yow, to be signified to HIS MATIE and my Lord Chamberlane; thinking that the copie of the *Bisshop's* Letter, and the prisoners' Depositions, ar the best information I can give yow.

I pray yow recommend to his Matie and my Lord Chamberlane the favorable and spiedie expedition of the *Erle of Caithnes* and *Bisshop of Orkney's* busines; and vse all possible haill in the return of HIS MATIES commandments. So, in haill, I commit yow to God. ED^S, this 13. Sep. (1614.)

Your loving brother,

BINNING.

I HAVE fend for the *Justice-depute* and *Justice-Clerk*, and aduertised my *Lord Chancelar*, who came yesternight to *Pinkie*, and will be heir this efternone.

To my beloned brother, *Majisier Patrik Hamilton*, at COURT.

III. (18.) BAND OF ASSOCIATION SUBSCRIVIT BY THE REBELLIS IN
ORKNEY.⁴

BE IT KEND till all men by thir presentis, Vs, the GENTLEMEN OF ORKNEY, after subscrivand: Forfameikle as, by the frequent intransis of extraniers in this countrie, the estate of the commonwealth is in danger, and like to perishe, throw the corruption of the Lawes, partialitie of Judges, the greid of Officeris, and Opprellion of Magistratis; quhilk dwanger⁵ the poor ones vnder the yock of ferve-

¹ Mr Patrick Hamilton was the fourth son of Thomas Hamilton of Priestfield; and was appointed Under-Secretary of State to his brother. He usually resided at Court, for dispatch of Scottish affairs; and tended, in no small measure, towards elevating his brother's fortunes to the almost unprecedented station and offices which he successively held.

² The *Iron-house*, or *Cape* as it was termed, was constructed for the safer custody of desperate offenders, in the Tolbooth of Edinburgh, whence they were easily conducted to the Court-room, and to execution, without the danger of rescue.

³ Petard; battering piece.

⁴ From a collation of two Copies, preserved amongst the *Dennyne Coll. of MSS.* Adv. Library.

⁵ Dings, drives.

tude and flaverie; confuming his Maties rentis in their own adoes, but¹ vtilitie or good service to his Matie. QUHILK to prevent, by affiance of God, and favour of his most excellent Matie our foverane Lord, WE, be the faith and truth of our bodies, now touching the Evangel of onre Saviour Jhesus Christ, Bindis and Obleiffis vs, coniuuetlie and feuerallie, as neid requires, to be in readines by our persons, with onre fervaandis, kin, freindis, and dependares, in armour, to repreffe all oppreffions and iniquities quhilik fall happin to be intendit aganis the commonwealth of this countrie, at any tyme hereafter; swa that better order may be establiched, whereby God eternalle may be pleased, and our Soueraine lord obeyed and served, according to onre dewty, in all respectis. And that this may be the better effectuat, WEE Bind and Obleiffe vs and our afoirfaidis, to concur, attend, and depend vpon ROBERT STEWART, fone naturall to onre native Lord and Maister PATRIK ERLE OF ORKNAY, as our Heade and Commander, during the absence of his father, and to mentyne and defend him be our bodies, goodis, and geir, in execution of the premiffes, and all other lawful actions and affaires quilkis he shall have to do at any tyme hereafter, vnder the payne of Periuire and everlastig defame: BECAUSE the said Robert Stewart is reciproquallie bundin and obleift to vs, that he shall take no weightie matter in hand, without consent and assent of vs, at least any two of vs, under the same payne, BE this present, subferyved with onre handis, as followis, At the day, the yeare of God J^m. Vj^r. fourtene yeares.²

R. STEWARD.

PAT. GORDON, with my hand.

THOMAS LOWAT, to þe dei^t.

ROBERT MOWAT, with þe hart and handis.

JOHNE REID,³

R. SALETER, to þe dethe; Belie of Birfay.

WILLAME KERKTOUNE, to the dethe.

R. I., in Gerfettar, to the dethe.

R. S., in Nilfobous, in Marwick, to þe dethe.

PA. HALCRO, to the dethe.

THOMAS DOUGLAS, to death.

GILBERT GRAY, to þe dethe, with my hand.

WILLAME SINCLARE, to the dethe.

O. S., in Swrie, in Marwick, to the dethe.

O. Q., in Marwick, to þe dethe.

ROBERT GRAY, to the dethe.

T. ST., in Marwick, to the dethe.

IV. EXAMINATIONS AND DEPOSITIONS OF THE REBELS, &c.

(19.) DEPOSITION of *Duncan Mitchel*, 'Poiji-boy in *Edinburgh*.⁴

At Edinburgh, the fift day of July, 1614. In presence of the Lordes of Binning, Secretary, the President, Thefaurair-depute, Clerk of Register, Advocate, Sir Alexander Drummond, and Sir Andro Ker.

DUNCANE MITCHELL, Poijt in Edinburgh, sworne and examinat, deponis, that quhen the *Erll of Orkney* was caryed from this Towne towards *Dunbartane*, the *Erll* directit the Depoumer with a Letter to his fone *Robert*, who wes in ORKNAY for the tyme; and the depoumer past with the Letter to *Orkney*, and delyverit the same to the said *Robert*, fra whome he resiauit ane answer, in wryte, to the *Erll*; and brocht the same heir with him to this burgh of *Edinburgh*: And after he had stayit heir twa dayis, he past with the Letter to *Dunbartane*, and delyverit it to the *Erll*.

Deponis, quhen he delyverit the Letter to *Robert*, the said *Robert* wes in *Birfay*; and fayis, that he had a verball directioun and messaige from the *Erll* to *Robert*, that yf he had the *Houfe of Birfay* in his keeping, that he fould keepe the same to the *Erllis* vse; for the *Erll* saw litle apeirance of releif.⁵ And yf the *Houfe* were not in his keeping, that he fould vse the best meanes he could to come be it; and that he fould lift from the *Tennentis* so much of thair mailles and dewyteis as he could gett; and that he fould keepe the *Houfe*, in maner soifaid.

Deponis, when the depoumer come to *Birfay*, *Burnard Steuartis* wyffe had the keeping of the

¹ Without. ² The various dates are not preserved in the copy of this Bond. It is asserted that no less than SEVEN HUNDRED persons signed it. See p. 289. ³ A rude attempt at the shape of a heart follows this person's subscription.

⁴ From a transcript preserved among the State Papers in *The Dennyne Coll. of MSS.* Adv. Library. ⁵ From imprisonment.

Houfe, and that *Robert Stewart* had onlie fyve perfones with him in the Houfe: And the yett was kept, as the depouner thought, he one of *Robertis* feruandis. And the depouner staid in *Birfay* fouretene nightis: And in the mean tyme of his being thair, *Robert* fend to *Kirkwall*, for some ma company, and for muscattis, poulder, and leade; and fayis that xvij perfonis, or thairby, armed with muscattis, come to *Birfay*; and at thair coming, thay then avowit the keeping of the Houfe; and tooke and brocht in some of *Barnard Stewartis* goodis to victuall the Houfe, and payit not for thame.

Deponis, that afoir the depouner come away, *the Sherif-depute*, accompanyit with thre or fourefcoir perfonis, come and lay aboute the Houfe, and fend in Mellage to *Robert Stewart*, desyryng him to come oute, and he wald gif him libertie for xiiij dayis to remayne in the cuntrye, to vplift the Tak-maillis¹ whilk he alledgeit wes dew to his fader, for auld byrnis:² And that *Robert* refusit to come furthe. Quhairpoun, *the Sherif* caufit charge the Houfe to be randerit; quhilk wes refusit be *Robert*, with found of trumpett, and discharge of some muscattis out of the Houfe. Lyke as, *the Sherif-depute* schoit in at the Houfe, with the schoit quhairof one Downye Lyell wes hurte. And the depouner staid bot ane night, after the Houfe was chargeit. And fayis, that *Robert* caufit prepar ane boit to transporte the depouner, be water, to *Cuthnes*; and he fend with him a Letter to *the Erll*, and by tung bad him inquire, quhat *the Councill* wes doing in his busynes—and quhat wes *the Erllis* will that the said *Robert* fould do in Orkney? Denyis, that he brocht ony mellage from *Robert*, to ony perfonis within this burgh.

Deponis, that vpon Thursday, the last of Junij, aboute tua of the cloke in the efter noone, the depouner come to *Dunbartane*, and fand *the Erll* walking in the cloife; and he delyuerit *Robertis* Letter to *the Erll*. And when the depouner tauld *the Erll* that the Houfe of *Birfay* wes tane, *the Erll* ansuerit, ‘The Devill rick him! He might haif tane ane better Houfe!’ And forder, deponis, that *the Erll* said, ‘The Devill rick his foolis head!’ (meaneing be *Robert*;) ‘He might haif wellit with *the Scherif-depute*—and yf he had maid him quyte of him, he wald haif had lesse ado!’ And forder, deponis, that *the Erll* said to him, Yf his sone had althait *the Cytifell of Kirkwall*, the Keeparis thairof wald haif delyuerit the fame to him, becaus they wer *the Erllis* auld feruandis! And deponis, that *the Erll* desyrit the depouner to commend him to those who assistit *Robert* in the Houfe. And fayis, that vpon the morne *the Erll* caufit his man, *Shairp*, write ane Letter to his sone; whilk wes insubscriuit be *the Erll*, and had no directioun on the bak. And the depouner ressaunt lykeways ane Letter from *Shairp* to *Robert Stewart*, without subfcription or directioun on the bak, faul onlie ane corse,³ that it might be knowne from the other Letter. And quhen the depouner come away, *the Erll* desyrit him to will *Robert* ‘to keepe the Houfe; and in no caise to rander the fame: And, or⁴ he war tane, it wer better for him to dee with honour—for he wald be putt in perpetual ward, yf he wer tane!’ Deponis, that *the Erll* inquirit, ‘quhat fauour *Robert* had of the Commis, and yf thay refortit vnto him?’ And desyrit *Robert* ‘to fend him money, of that quhilk he fould gett frome the Tak-men, for auld restis.’ And fayis, that nane wer present, quhen *the Erllis* Letter wes writtin, bot *the Erll*, his man *Shairp*, and the depouner.

DUNCANE MITCHELL.

(20.) COPIE of the *Erle his Letter to his Sone*.

(Appended to Duncan Mitchell's Deposition.)

ROBERT,

I HAVE red and considderit your Letter. Yow haue done verie weill in wrytting of your Letter in pe forme se do; bot I feir it fall do littill goode. Always,⁵ se fall do the best with it, gif we haue ado with it; bot it may be we haue no thing ado with it; for thair is vper materis heir to think vpon nor suche thingis, as that I beleive HIS MAJESTIE thinkis littill of theis materis. Tak tent that your Holy flaper betray zow not, as he did befoir. The berar fayis, se gaif him bot fax pundis. Trewlie

¹ Rents of possessions let upon Lease. ² Arrears. ³ Cross or mark. ⁴ Ere; rather than. ⁵ Nevertheless.

it is littill aneugh to cum and go. Gif yow cum in this cuntrie vpon onie condition, *the Tolbuith* will be your heir; for quhat conditionu beis promiseit zow be onie in ORKNAY, thay bot thorne zow; for *the Coungfall* will not kenne¹ quhat conditionu thay mak to zow. Seing ze haue proceedit fo far as zow haue done, thair is no being heir for zow. War not² *Kinlevin* and *pe Bishop*, my Lord had not feine *Dumbartone*, at this tyme. This berar fayis, he will venture to fetche fuche money heir as yow will gif him; bot yow fend Joⁿ Prence with it; for heir he is ane honest man to zow. Tak his Baad, and fend it with *pe beirar*, for that that zow delyuer vnto him; for my lord hes more than mistare³ of it. Restis, the last of Junij, 1614.

POSTSCRIPT. Caus gif the berar ane coitt,⁴ for he is wirth⁵ it; and latt him haif his hail waidges; for I will haue mane to gif him, when he cumis heir. His wadges is fyftene pundis. Hailt *pe berar* heir agane, for we will get no more silwer frome the Thesaurer. Lat him not stay xxiiij hours.

(21.) DEPOSITION of *Barnard Stewart*.⁶

AT EDINBURGHE, the 21 of August, 1614. In presence of my Lordis Binning, President, The-saurer-depute, and Advocat.

BARNARD STEUART, sworne and examinat, deponis, that *Robert Halero of Cara* tauld to the depouner, that he saw a Letter directit be *the Erll of Orknay* to his sone *Robert*; quhairby, *the Erll* willit *Robert* to tak the depouneris lyffe. Demandit, yf he wes persuadit or delt with, be *the Erll*, to joyne with his sone *Robert*, in the present REBELLIOUN IN ORKNAY? Deponis, that he being informit that *the Erll* had gevin ane Commissioun to his sone *Robert*, to intromett with certane dewytcie of *Orknay*; the depouner past to *the Erll*, and demandit of him, yf he had gevin ony fuche Commissioun to *Robert*, becaus he feirit that *Robert*, vnder cullour of that Commissioun, wald mell with the depouneris geir? And that *the Erll* anfuertit, 'Yf *Robert* be gone to *Orknay*, THE KING nor yow will be able to mend it—and it is your best to beholde him!'

The said *Barnard Stewart*, for explaining his former depositions, deponis, that he haueing said to *the Erll*, that seeing *the Duke of Lennox* and *the Erll of Marr* had intreatet HIS MAJESTIE in his fauour, that thairfoir, he had done verie happelie, in directing *Robert* to *Orknay*. And *the Erll*, seeming to be in a choler and anger at thir speecheis, thrawing⁷ his bearde with his hand, said to the depouner, 'Yf *Robert* be gone to *Orknay*, THE KING and yow will not mend it—and your best wilbe to beholde him!'

The said *Barnard* being demandit, at quhat tyme he gatt knowlege of the Letter directit be *the Erll* to his sone *Robert*, to take the depouneris lyffe? Deponis, that after *Robert* had bene in *Birsay* fyftene dayis, and behavit him selfe somequhat civille; and thairefter, had maid him self, publiclie and be force, maister of *Birsay*, and expellit the depouner furthe thairof, and detenit his wyffe aganis hir will, the said *Barnard* directit *Robert Halero of Cara* to persuade *Robert* to putt his wyffe to libertie; and after conference had be *Robert Halero* with *Robert Stewart*, for that purpos, at *Robert Halerois* bak-coming from *Birsay*, he declairit to the depouner, that *Robert Stewart* had thowae him a Letter of *the Erll of Orknayis* to his sone, commanding him to tak the said *Barnardis* lyffe.

BARNARD STEUART.

(22.) DEPOSITIONS of *Thomas Black*, *Thomas Layng*, *Archibald Murray*, and *Alexander Leggatt*.

AT EDINBURGHE, the xiiij day of September, 1614. In presence of the Lord Binning, Secretar.

THOMAS BLAK, borne in the Meris, and one of the Baillies and Chalmerlaine to *Patrick, laite Erll of Orknay*, examinat, deponis, that quhen *Robert Stewart* tooke the Castell of *Kirkwall*, this depouner

¹ Recognise. ² Had it not been for the interference of *Kinlevin* and the *Bishop*, &c. ³ Necessity; need. ⁴ Coat. ⁵ Worthy; deserving. ⁶ From transcript in *Dennyline Coll. of MSS.* Adv. Library. ⁷ Twisting.

was in the Steple of Kirkwall, and xii persones with him. The said Thomas, being desir'd to declair the simple trouth of all his part in THE REBELLION OF ORKNAY, deponis, that, when Robert Stewart had tane the Houfe of Birsay, the Schereff past, and causit the houfe to be randerit, quhilk wes refusit, and this depouner past with the Shereff to assist him, and brocht with him twa hundred men, and staid ane night with the Shereff, and vpon the morne the depouner come bak with the Shereff, and sayis, that aboute tentie dayis thairefter *Robert Stewart* fend *Patrik Halcro* and *William Paterfoun* to the depouner, to will him to come to Robert, to mak and perfyte his comptis of the restis, whilkis he was awand to his fader¹; and the depouner, according to thair desyre, past voluntarlie to Robert, to the Place of Birsay, and staid thair with him ane night, and come bak agane to his awne houfe, and provydit xvij lb. to pay Robert, quhilk he caried bak to him the next day. Quhilk all wes done after that the depouner had bene present with the Shereff and forceis of the cuntrey, at the chargeing of the said Robert and his complices, to delyver to him, as his Ma^{ties} Commiffioner, the Houfe of Birsay, vnder the pane of Treffoun: And that the said Robert had not onlie disobeyit the charge, but schoit some muscat sfoitis at the Shereff and his company.

Thairefter the depouner come to the Steple of Kirkwall, the day befor the Castell was assidgedt be Robert, and enterit thairin with *Patrik Halcro*, *Archibald Murray*, *Thomas Layng*, and some otheris, to the number of ten personis. And how sone Robert and his company come in fight of the Town of Kirkwall, he causit found his trumpettis, and the depouneris company, within the Steple, blew thair horne. And sa sone as Robert come and tooke the Castell, *Patrik Halcro*, *Archibald Murray*, and *Thome Layng* past oute of the Steple to Robert; and thair staid onlie three or foure in the Steple with the depouner ane night or twa. And howsone the Castell wes assur'd in Robertis possession, he fend in some otheris to the depouner, and maid his number to be twelf personis, with whome the depouner kept the Steple till the *Erll of Caithnes* his cominge to Orkney. The depouner grantis that *Archibald Murray* and *Alexander Leggatt* wer at the taking of the *Cajell*.

Deponis, that he agreit with the *Erll of Caithnes*, for him self, and in name of the rest of his companie, anent the randering of the steple; and he procurit leve of the Erl to carye out of the steple his victuallis, armour, and quhat els he had in the steple pertening to him self or his company; and grantis that he wes Captane of the companie, being within the Stepill, and maid appointment with the Erl, in maner foirsaid. And declairis, that *Patrik Halcro*, *Archibald Murray*, *Gilbert Gray*, *Johne Guild*, and *Andro Martine*, wer farrell vponn Robertis counceill of ouy in the hail company. Grantis, that every man within the Steple had a muscat, and thay had onlie sax pund of poulder amang thame. Grantis, that he boght some trunfcheour plattis,² and aue pott, with some linning cloathe for thair furnishing in the Steple. And sayis, that Robert fend him in ane fedder bed. And the depouner had ane boy of his awne with him all this tyme.

THE SAID THOMAS BLAK, being deplie sworne, and demandit, yf he askit of Robert, quhat wes his purpos or drift in this REBELLION; or by what meanes he wald beare it onte? Deponis, he nevir askit any suche questioun of him. Grantis, that the *Erll of Caithnes* had the Steple maid suir vnto him or³ it wes renderit; and that *Johne Guild* had delt with the Erl in that mater. And this depouner, how soone the *Erll* fend vnto him, randerit and come furthe to him; and maid appointment, for him self and his foundiouris, to rander the steple to the said *Erll*; who, be his moyen, formarie maid with *Johne Guild*, had the Steple in his pouer, befor the depouner returnt vnto it.

Deponis, that thair was no bloode spilt be thame within the Steple, except that one of thame schoit *Robert Chalmers* throughe the hand, the tyme that the *Commiffair of Orkney* wes incloist within the Place of the Yairdis: And the said *Robert Chalmers* wes assisting the Commiffair in defence thairof.

THOMAS LAYNG, sworne and examinat, deponis, that, at his laite being in *England*, quhen he wes comeing home, *Thomas Davette* gaif in the depouner tua Letteris, in Skairtburgh,⁴ to bring home to

¹ The arrears of rent, &c., which he was owing to his father.

² Trenchers.

³ Ere; before.

⁴ Scarborough.

the Erll of Orknay, quhilk he delynerit to *the Erll*. And deponis, that he being one of the Keeparis of *the Castell of Kirkwall*, vnder *Sir James Steuart*, thair fell oute some differenee and variance betuix the Shereff and the depouner, anent his pairt of the contentation¹ quhilk he fould haif had for taking of the *Pirott Schip*; wheruppon the depouner fled from *the Town of Kirkwall* to *Robert Steuart*, and stayit with him thair ten or tuelf days, befor his coming to *Kirkwall*. And the depouner wes with *Robert* quhen he come with displayit banner and trumpet to the *Bow-Croce*, accompanied with ane hundreth men in armes, or yairby.

Grantis, that he wes one of these who surprisit the Kirk and Steple of *Kirkwall*, and that he stayed in the Steple with *Patrik Halero* and *Thomas Blak* tua dayis.

Grantis, that he wes with the Shereff quhen he chargeit *Robert* to rander *the Houfe of Birfay*, quhilk *Robert* disobeyit, and thoit some thois oute of the Houfe at the Shereff. And grantis, that ane moneth efter this, the depouner past to *Robert Steuart*, and joynd with him.

Deponis, quhen *the Castell* wes tane, the depouner wes in the Steple, and after *the Castell* wes randerit to *Robert*, the depouner left the Steple and went to *Robert*, and remanit with him in the Place of the Yairdis, quhill the *Erll of Caithnes* come in the cuntrey. Deponis, that he accompanyit *Robert*, quhen *Robert*, with fyve hundreth men, went to the feildis aganis *the Erll of Caithnes*, his Ma^{ties} Lieutenant; and that *Robert* mufterit aganis *the Erll*, at the *Bal-feild*, and vtheris pairtis about *Kirkwall*.

ARCHIBALD MURRAY, in *Birfay*, solemnelie sworne, and demandit, quhen he spak first with *Robert Steuart* after his coming to *Orknay*? Deponis, he spak first with him in *Kirkwall*, bot denyis that *Robert* impairted vnto him ony mater of this REBELLION at that tyme.

Deponis, that the interprise of the taking of the *Castle* and Steple of *Kirkwall* wes maid first in *Birfay*, and that *Patrik Halero*, *Andro Martyn*, *Thomas Blak*, *Gilbert Gray*, *Alexander Leggatt*, *Thomas Layng*, and the depouner him self, wer all vpon the conference, counsaill, and plott of the taking of the *Castell* and Steple of *Kirkwall*, and the mater wes plotted twentie dayis afor it wes putt in execution. And sayis, that *Robert Steuart* maid the depouner and the rest to vnderstand that his fader wes in mising, and oute of *the Castell of Dunbartane*; and that he wes to come to *Orknay*, and sitt down *Erll* agane. The belieif quhairof maid thame to follow *Robert* in his interprisiss.

Deponis, that *Alexander Leggatt* was with *Robert Steuart* the first tyme quhen the depouner mett with *Robert*; and that thair wes no speecheis betuix the depouner and *Robert*, bot chopping of handis at that tyme.

Demandit, yf thair wes ony purpois amangis thame in *Birfay* aganis the Shereff? Grantis, that *Robert Steuart*, *Patrik Halero*, and *Thomas Blak*, had speecheis and conferance in *Birfay* anent the taking of the Shereffis lyffe; and when thay come to the Steple, the mater wes commuicat to the depouner: And then *Thomas Blak* past frome it. And deponis, thay had thoit the Shereff in the Kirk at that tyme, yf he had not bene gangand with the *Commiffair*.

Deponis, that quhen the Steple wes tane, the Keeparis held thame quiet quhill *Robert* come to *the Bow-Croce*; and then *Robert* foundit his trumpet, and they within the Steple blew ane horne; and the depouner stayed bot ane nicht in the steple. And sayis, that *Patrik Halero* was commandair of the Steple quhen *Robert Chalmers* wes hurte: And efter that, *Thomas Blak* commandit within the Steple; and that *Thomas* assistit *Robert* in all fuche thingis as he commandit. And deponis, that the Steple wes fault² be *Johne Guild*, twa dayis befor it wes randerit be *Thomas Blak*.

Deponis, that after he left the Steple, he adressit him self to *Robert Steuart*, and stayed with him all the tyme, till within aucht dayis afor *the Erll of Caithnes* coming thair.

Deponis, that he wes with *Robert* at the perseute and taking of *the Castell*. And that the Shereff wes kept prisounair fyve dayes after he wes tane.

Grantis, that he was commandit be *Robert* to go to *Birfay* and to keepe *the Houfe*, whilk he did;

¹ Remuneration; *salvage*.

² Sold; betrayed.

and keep the fame till *the Erll of Caithnes* come and causit charge the Houfe; quhilk charge the depouner obeyit, and come to *the Erll*.

Deponis, that *William Giddell* come furthe of the Castell, and randerit him self to *the Erll of Caithnes* the day befor the depouner wes fend from Orknay; and that it is commounlie reportit that the said *William* affermis, that *Patrik Halero* hes *the Erll of Orknayis* Warrant for taking *the Cuffell* of Kirkwall.

ALEXANDER LEGGATT, feroand to *Patrik* sometyme *Erll of Orknay*, fworne, and demandit, how soone he spak with *Robert Steuart* after his coming to Orknay? Deponis, he spak not with him quhill twentie dayis after he come to Orknay.

Grantis, that he wes in this cuntrey at Beltane last, and that he mett twyfe with *the Erll of Orknay*, and spak with him and his sone *Robert* in the Castell of Edinburgh. He denyis that *the Erll* or his sone *Robert* had ony conference with the depouner aent *THE REBELLION IN ORKNEY*.

Denyis, that he was in *Birjuy* with *Robert* quhen the Houfe wes chargeit.

Grantis, that he wes with *Robert* twentie dayis afor *Robert* tooke *the Cuffell*; and that he wes with *Robert* quhen he mufterit at the *Bow-Croce*.

Deponis, how soone the Castell wes tane, the depouner stayit with *Robert Steuart* in *the Place of the Yairdis*, quhill he hard of *the Erle of Caithnes* coneing.

Grantis, that he wes with *Robert* quhen *Robert* mufterit at the Caiones, afor *the Erll of Caithnes* landit; and that he wes in *the Yairdis* quhen *Robert* mufterit at the Bal-fleild aganis *the Erll of Caithnes*; and that the depouner had the charge of the keeping of *the Place of the Yairdis* fourtene dayis.

Deponis, that he come furthe afor the cannoun shoite, being desirit be *the Erll of Caithnes* to come furthe afor the shoiting of the cannoun. And the depouner randerit *the Place of the Yairdis* to *the Erll*.

Deponis, that *Robert Steuart*, sone to *Alexander Steuart of Flutt*, had the principall charge of the keeping of the said Houfe, and that thay wer aboute the number of fourty men, appointit be *Robert Steuart*, bafe son to *the Erll*, to keep the Houfe to his behoofe.

ALEXANDER LEGGATT re-examinat, and deiplie fworne, and demandit, vpon quhat occasioun he went to *the Erll*, quhen he mett with him in the Castell of Edinburgh, about Beltane last? Deponis, that he being in warde, and haueing ane penioun of victuall and siltuer of *the Erll*, he passit to *the Erll*, and desyrit of him ane precept and warrant to the Chalmerlanis or Takkifmen to mak him payment of the biganes¹ of his penioun. And that *the Erll* refusit to gif ane precept, and said, he fould 'gif directioun to his sone *Robert* to anfer him.' And *Robert* tauld to the depouner, that he had ane directioun from his fader in the depouneris favour.

Deponis, that *Thomas Blak*, *Archie Murray*, *Robert Schaitter*, *Gilbert Gray*, and *Robert Mowatt of Gersfittair*, were moit familiar with *Robert Steuart*, and farrell vponne his secreitis.

Deponis, that *Duncane Mitchell*, the poitl, caryed Letteris from *Robert Steuart*, efter the taking of *Birjuy*, to *the Erll* his fader.

Demandit, quhat Gentilmen of the cuntrey come voluntarilie in to *Robert*, after the taking of *the Cuffell*? Deponis, that numberis of people of all rankis come in to him, as namelie, *the Laird of Halero*, *Frances Mudie*, *the Laird of Grynfsayis* sone; and deponis, that *Frances Mudie* said to *Robert*, that xxiiij Rebellis wald mak five hundreth men. The depouner knawis nocht yf thir men come in to *Robert* to assist him in his REBELLION; bot thay eate and drank with him. Deponis, that *George Traill* furneit theep to *Robert*.

THOMAS BLAK, re-examinat, and deiplie fworne, deponis, that efter *the Sherriff* had been at *Birjuy*, and gevin charge to *Robert Steuart* to delyner the Houfe, the depouner being in companie with *the Sherriff*, that the depouner resortit findrie tymes to *Birjuy* to *Robert*, and passit and come at his plefour.

Deponis, that he knawis no thing of *Thomas Layng* or *Alexander Leggatt*, concerning their coun-

¹ Bygones; arrears.

faill gevin to *Robert Stewart*; bot the depouner suspectis that *Archibald Murray* wes familiar and prouie¹ with him.

THOMAS LAYNG, re-examinat, and f'worne, deponis, that the tyme that he wes in *the Steple*, he wes kept aganis his will be *Thomas Blak* and his companye; and deponis, that all thefe who joynd *Robert*, outler² subf'cryvit, or, yf thay could not subf'cryve, f'woir to die and leive with *Robert*. And *Thomas Blak* wes one of thefe who subf'cryvit; and the depouner hard the Roll read, wherin the subf'cryvaris wer contenit, whose names wer *Thomas Blak, Gilbert Gray, Johne Reid, Andro Martine*, and some vtheris whome he remembers not.

Deponis, that after the first taking of *the Steple*, *Patrik Halero* wes Capitane; and when *the Cuffell* wes tane, *Thomas Blak* wes Capitane; and that the haill company, that come from *Birjey* to tak *the Steple*, come freele and willinglie for that earand; and that thair wes no violence or force vfit aganis ony of thame to compell thame to go to that earand; and the depouner come all the way fra *Birjey* to *the Steple*, and saw no man forceit be the way.

Deponis, that he hard that *Pettie*³ *Murray*, who went in the Ship with *the Shereff* and the depouner to *Orkway*, caryed ane Letter frome the Erll to his sone, *Robert*, being in *Birjey*.

Thomas Blak, re-examinat, and demandit, yf he knawis that *Robert Stewart* tooke ane Band or Oathe of thefe who joynd with him, that thay fould die and live with him? Deponis, that he knawis no fuche thing.

Thairefter, the said *Thomas* grantis, that he subf'cryuit the Band to die and live with *Robert*, and that thefe who could not subf'cryve did fweir vpon thair s'werdis; and that the effect of their Band and Oathe wes, that thay fould efaullie⁴ tak pairt with *Robert*, and die and live in the caus. And that *Patrik Halero, Gilbert Gray, Johne* and *Patrik Gordoun, Johne Guild*, and the depouner, with *Andro Martine*, subf'cryvit the Band. And rememberis not yf *Alexander Leggat* subf'cryvit the Band.

The depouner knawis not quhat Gentilmen of the cuntry affilit *Robert* with poulder, bullett, victuallis, or counfaillis.

Deponis, that *Johne Guild* and *Patrik Traill* wer the takaris of *the Kingis Herauld*, being accompaniyt with a number of thair affociatis; and the depouner come furthe of *the Steple* with his companie to *the Place of the Yairdis*, and diid freindship to *the Herauld*.

ARCHIBALD MURRAY, re-examinat, and demandit, yf he wes f'worne be *Robert* to affit him? Deponis, that *Robert* vrgeit no fuche Oathe of the depouner, becaus he wes his faderis auld seruand, and knew that he neidit not to tak ony fuche Oathe of him. And grantis, that he tooke the subf'criptionis and oathis of vtheris, who wer not his faderis auld seruandis.

Denyis, that thair wes ony violence or force vfit aganis *Thomas Blak*, in his going to *the Steple*; bot that *Thomas* wes als fordwart, and past als willinglie thair, as ony of the companie.

THOMAS LAYNG, re-examinat, grantis that *Robert Stewart*, being informit be some who saw *the Herauld* going to the Croce, that he wes to mak some Proclamatiou or chargeis, the depouner hard *Robert Stewart* gif directiou to some of the fouldiouris in *the Cuffell* and *Steple*, as namelie, *Johne Guild*, to go and tak *the Herauld*, and not fuffer him vfe his Letteris and chargeis; and that conforme thairto, *Johne Guild* tooke him, and brought him in to the Place of the Yairdis; and the depouner hard that *Johne Guild* tooke him be the Coate of Armes, and preasl to haif tane it af him; bot he knawis not yf the Coat wes revin.⁵

ALEXANDER LEGGATT, re-examinat, deponis, that *Thomas Blak* and his fouldiouris wer the takaris of *the Herauld*; and the depouner hard *Robert Stewart* gif directiou to the fouldiouris, to go and stay *the Herauld* fra vfeing of his Letteris and chargeis, and to bring him in to *the Place*; whilk directiou wes performit be *Thomas Blak* and *Johne Guild*.

¹ Privy; in his confidence. ² Either. ³ *Patie*; Patrick. ⁴ Sincerely; heartily. *Efauld*, or *ae-fald*, literally one-fold; upright, without *duplicity*. A double and deceitful character was then termed *two-fauld*. ⁵ Torn

Denyis, that he subferyuit or faw the Band; bot knawis that thair wes ane Band subferyuit, and Oathis gevin to die and live with *Robert* in the caus; and siche as could not subferyve the Band, patt thair markis to it.

(23.) ANDRO MAIRTENIS *Confession*.

AT KIRK WALL, the xiiij day of September, 1614, I, ANDRO MAIRTINE, being examined by my *Lord Lieutenant*,¹ and my *Lord Bischop of Orkney*,² anent my intelligence of the causis quly *Robert Stewart*, sone naturall to *Patrik Erle of Orkney*, come to Orkney in this last somer?—Be quhais directioun he came heir?—And for quhat purpose?—Hes answered as followis:

FIRST, that quhen I spak with him in Birfay, he schew to me ane Commiission, subferyuit be his father, to mak compt with all the Tak-men of the cuntry, and reslaue payments of all restis,³ and debtis justlie awand to his father be thame, of the crope sex hundreth and ten (1610), and all yeiris preceding the coming of my *Lord Bischop* to Orkney; with powar also to medle and intromett with all his father's bestiall and moveables, and to dispone thairon. I speirit gif he had ony vther thing ado?—and he said, 'Yis'—bot he wald not tell me. ITEM, I saw ane Letter that came frae his father to him, be *Patrik Murray*, beirar, haueand this clause in it—'That gif he sped not weill heir, that he fould addres himself to Murkle, to remane quhill tyme seruit better;' bot I remember not of the rest of the contentes. ITEM, anent any conditione betuixt him and *Patrik Halero*, throw his fatheris directioun, I am na way vpoune that secret; bot it appeiris thair be sum wrettin conditione amangs thame; becaus I saw gritt anger, with a fear betuixt thame, for wanting of ane Letter that was a milling among hands, and *Patrik* fend out ane boy to the Toune to mak inquisitione for it; bot quither thay gat it or not, I know not. And I saw thame ryue⁴ my Lords subscriptione from ane Letter, and thay cait the body of it in the fyre, and kept the subscriptione. ITEM, about the . . . day of September efter, as the Cannone was twyfe schott in the night at the ryue yett, it patt ane greit feir in thair hartes. Then *Robert* speirit at me on the morne, quhat I thocht of it? And I said, that 'all was lyk to go wrong.'—'This is a fair matter,' said he. (speikand of his father,) 'thair was neur thing lukkit weill yit quhill he deuyfit—God gif I had neur kend his turnis!' ITEM, quhan the commounaris wer tranelland for peax, I aduysit *Robert* to offer cautione for his personal comperance befor the *Lordis of Counsell*, gif the *Lieutenant* wald geife him libertie to go to Edinburgh. He answered to me, and said, that 'he wald not do so—for the Counsell wold vse him with Tortouris, quhill he reveillit his fatheris interesse in this mater—and that wold he neur doe!' Heiryppoun, I collectit, that all quhill this yung man hes done, wes be the counsell of his father; quhillk is a great pitie, except it pleas God and his Ma^{tie} to be mercifull to him. And as for my being with him, I wold neur hane bene a nycht in his companie, giue I could hane had meit and drink any vther way, as all the cuntry knawis quhat necessitie and miserie I wes reductit vnto, be pouertie. ITEM, I remember that a great number of this cuntry men hundert him till folies, and maid ANE BAND of Concurrence and Assitance to him, quhillk he causit me to wryte; and a gritt number subferyuit the same, quhen I was not with him; bot the contents of the Band and subscriptiones ar in his awin keeping, and my memorie cannot ferue me to remember on the particulars; bot the writt will declare.

A. MARTYNE.

(24.) DEPOSITIONS of *JOHNE BURNE*, laying feik and like to die; taikin vp by *JAMES*, *BISCHOP* OF *ORKNEY*, in the said *Johne* his chulmer, vpon the thrid of *October*, 1614.

IMPRIMIS, the said *JOHNE* deponit and confest, that the *EARLE OF ORKNEY* sent him over with

¹ George, Earl of Caithness. ² James Law, formerly Minister of Kirkliston, was promoted to the See of Orkney, in anno 1606; where he remained till he was translated to Glasgow, 1616. ³ Arrears. ⁴ Tear.

his sone *Robert*, to affist him to collect and receave some debitis resting vnpayed by diuerfe Takifmen of the crop 1609 and 1610 yeares; and promiffed to allow him ane Thousand markis therof, for his fles. SECONDLIE, when he askit of the said *Earle*, 'Why he would fend the said *Robert* to ORKNAY, being he wes ane young man who appeirandlie wald trouble the countrie?' Deponit, that *the Earle* answered, that 'it wes not ane matter to him to know'—and that he wold 'heare other newes or it wes long!' THIRDLIE, being asked, yf he knew any direction given by the said *Earle* to *Robert* for taking of the Houfes and intronneting with the Rentis? Deponit, that he saw ane Letter wes brocht from *the Earle* be *Patrik Murray* in Kirkwall, in the quhilk the said *Earle* wrote to *Robert*, that 'yf he and *Patrik Halero* could not at that tyme find opportunity to take the Houfes, that they should go over quietlie to *Murhell*, and remayue ther vntill they fand fit tyme and occasion, and all thingis wer made readye for talking of the saidis Houffis. FERDLIE, being asked, why *Robert*, at his first coming to *Kirkwall*, did not take the Castle, being, by his own confession, he might have had it deliuered vnto him be the souldiers? Answerit, that it was becaufe he thought not the tyme fit; and thingis wer not prepared.

JOHNE BURNE. JA. B. OF ORCADS.

RO. COLTART, Notar publict, witness.

(25.) DEPOSITION of ANDRO MARTINE, *ferritor to the Earl of Orkney.*

AT EDINBURGHE, the tenth day of October, 1614. In presence of my Lordis Secretair, *Preuie Scale, Thefaurair depute, and Advocat.*

ANDRO MARTINE, seruitour to *Patrik*, sometyme *Erll of Orkney*, demandit, who wryte that copie of ane Band, whilk wes presentit and showne vnto him? Deponis, that he acknowlegeis the Band to be his awin hand-wryte.

Demandit, quhair and quhen the Band wes subferyvit? Deponis, that he knowis no thing of the subferyveing thairof.

The said *Andro*, being examinat vpoun his grite and solemne oathe, and demandit, who wryte the principall Band? Deponis, that, in his opinioun, he thiukis that he write the principall Band, quhair of the copie wes producet.

Demandit, yf he subferynit the Band? Denys the subferyveing thairof, or that he wes present quhen ony manne subferyvit it.

Demandit, yf he saw ony mannis subfcriptionn at the Band? Denys, that evir he saw the Band vnfaultit, at ony tyme, sen he wryte it; and he saw no mannis subfcriptionn at it.

Grantis, that *Robert Stewart*, bafe sone to *the Erll*, tauld to the depouner, that *Gilbert Gray* and *Robert Mowatt* subferynit the Band, and that *Robert Schlaüter*, *Baillie of Birfay*, markit the Band.

Denys, that he hard or saw ony man fweir that they fould keepe the conditionnis of the Band.

Demandit, quhair he saw the Letteris that *Patrik Murray* brocht from *the Erll* to his sone *Robert*? Grantis, that he saw it in *Birfay*, in the hinder-end of July last.

Demandit, quhat conference he had with *Robert* anent that Letter? Deponis, he hard *Robert* fay in ane anger, that he wald not go to *the Laird of Muirkill*, as he wes desirte be the Letteris, bot that he wald remane in the countrie.

Demandit, yf he saw *Robert Stewart* and *Patrik Halero* ryve the subfcriptionn from ane Letter of *the Erll of Orkney*? Deponis, that he saw thame ryve it in *the Cassell of Kirkwall*, the day after *the Erll of Caithnes* had tane *the Place of the Yairdis*. And grantis, that thay wer in a grite anger, for ane other Letter of *the Erlis* that wes in missing; and that thay fend ane boy oute of the Cassell to *Margaret Buquhannanis* houfe to seeke the Letter; bot the depouner knawis not yf thay gatt the Letter. And the depouner knawis not quhat wes the contentis of the Letter quhairfra the subfcriptionn wes revin.

Deponis, that the boy, who wes fend for the Letter, wes towed¹ over the *Cyfell wall* be the depouer, and that he come back agane; but the depouer knawis not yf he gatt the Letter.

Demandit, vpon quhat hoipsis *Robert* held the *Cyfell*; and by quhat meanis he thocht to worke his releif? Deponis, that the depouer being weyreit in the *Cyfell*, and desyrous to be oute of it, becaus he midlykit the purposis, he write ane Letter, with² one *Paterjon*, to *William Bellenden*, craving his adyvice and counsell quhat he should do; to whome *William Bellenden* fend answere, desyring the depouer to come oute, by what meanis he could best. And the depouer having importid this to *Robert Stewart*, and craving libertie of him to go oute, becaus he could serve him, for no purposis, within the Houfe; at the first, *Robert* dissuadit him to go oute, for feir of the *Erll of Cathnes* crueltie: And the depouer having said to *Robert*, that 'this interprise wes not lyke to frame weele;—*Robert* answereit, that 'they wald be able aneugh to halde oute, flor mony alterationis wald occur, quhairby they might keepe the *Cyfell*, as namelie, the coming of THE SPANZERDIS, the practises of PAPISTS, and the truble whairin THE COUNT PALLATYNE wes?' Quhillis alterationis wald procure thame releif, as *Robert* said to the depouer.

Demandit, who of the cuntry people fleirit vp *Robert* and assilit him in this *Rebellion*? Depones, that *Gilbert Gray*, *Robert Mowatt*, *Robert Schaitter*, *Baillie of Birfay*, *William Sinclair* of *Lye*, *Gilbert Grayis* sone, and his goude-sone *Gerjitter*,³ wer the principallis who fleirit him vp.

Demandit, quhat conference he had with *Alexander Leyggutt* concerning ony directioun he brocht from the *Erll* to his sone *Robert*? Deponis, that he rememberis not quhat conference wes betuix thame thairanent.

Demandit, yf he wes in *Birfay* when *Robert Stewart* fend Letteris to his fader with *Duncan Mitchell*, the poit? Grants, that he wes in *Birfay* at that tyme; and that the depouer, be *Robertis* directioun and informatioun, write ane Letter, in his name, to the *Erll* his fader; quhill Letter *Robert* rave;⁴ and wryte over ane Letter him self. Deponis, that the contentis of the Letter written be the depouer wes, to tell the *Erll*, that *Robert* wes come to *Orkney* to tak vp his debtis; and that he wes troublit be the *Sheriff*,⁵ and fore-it to leave the *Town of Kirkwall*—and that he had tane him self to *Birfay*—and that the *Sheriff* had conuenit the cuntry, and come to *Birfay* and persewit him; and had hurte ane man, and thrayn ane doig in at the windois; but he wes myndit to halde oute aganis the *Sheriff*.

The depouer denyis that he knewe the contentis of the Letter written be *Robert* him self to the *Erll*.

(26.) ANDRO MARTINIS *Letter to the Secretar.*

MY LORD,

SINCE your lo. examined me so sickerlie vponne my intelligence concerning the grund of THE REBELLIOUSE begun in ORKNEY be *Robert Stewart* and *Patrick Huleo*, and gart me swear to be plaine, your lo. will excuse me that forget this: Quhen *Robert* and I was in conference, on a tyme, he said, that 'Gif his father had bene wiling, and vfit the counsell of vtheris, quhen he was in *Edinburge Castle*, he might haue cumd away; for thair was men anew offerit to haue cumd or sente men with him to *Orkney*; but he wold not cum away, becaus he durite not brek waierd.' I speirit: 'How many he might haue gottin to haue cumd with him?' He answereit, 'Four or fyne Thowfand, giue⁵ he had pleidit.' Bot he tauld me not quhat men they war. Of this I thocht good to mak your lo. aduertisement, for faistie of my aithe; and hopes that your lo. will interceid for me, pat, be his MA^{TIES} clemencie, I may be remittit for being with *Robert* in companie, at this vnhappie tyme of miserie; I beand aged and depauperat, able⁶ to die of hungar, giue I had not gottin helpe be him in meit and drink. Bot I nevir buire airmes, maid musters, nor watched against HIS MA^{TIES} *Lieutenant*, efter I hard of his purpose. This I referre to your lo. gud discretioun; and gif ony vther things fall cum to my memorie,

¹ Let down by a tow, or rope.

² By.

³ Robert Mowatt. See p. 299, &c.

⁴ Tore.

⁵ If.

⁶ Lat. *habilis*.

quilkis ar omittit at the present, I fall aquent your lo. thairwith. He said also, that quhen they spak with *Sir James Conneill*,¹ that *Sir James* wiffit him selfe to be at hame, and the *Erle of Orkney* to haue bein in Orkney, to do for thame felues; the one in the West, and the vther in the North. So, confiding in HIS MAJESTIES clemencie, and your lo. affection toward me, I rest, &c.

EDINBURGHE, in waird, the tent of October, 1614.

(27.) THE DEPOSITIONS of MARGARITE BUCHANAN, taken vp the first day of November, 1614, before *Johne Sincler of Ratter, James, Bishop of Orkney, and Johne Buchanan.*

FIRST, the said *Margarite* depones and confessis, that *Patrik Halero* had an coffer standing in his motheris chalmere, in Kirkwall. SECONDLIE, deponis and confessis, that, vpon the Sunday efter that the *Erle of Cathenes* come to the Yairdis in Kirkwall, the said *Patrik* sent downe to hir the key of the said coffer, and desired hir to bring vnto him the writtis and Letters whilk wer lockit vp in the same, of whilk writtis thee had ane Warrant of the *Erle of Orkney*, whereof none did know but him self. THIRDLIE, thee deponit and confest, that when thee had receaved the key of the said coffer, thee went and oppened the same, and fand two writtis only in the same, whilk thee red presentlie, and baith of them wer subscribed by the Earle of Orkney. FOURTLIE, deponit and confest, that the one of them wes ane BAND and WARRANT for the said *Patrik*, for to take and keipe the CASTLE OF KIRK WALL, wherfoever he might most convenientlie; allowing vnto him therefore, the double of the allowance quhilke the Constables and Keipar of the Castle had ordinarlie of before. FIFTLIE, deponit and confest, that the other writt contened the names of sic as should be affociatis and assistis vnto him in the said interprise; as namelie, *Thomas Laing, Alexander Legatt, Helias Kueland*, and vthers whose names thee can not remember. SIXTLIE, deponit, and confest, that presentlie after thee had red and considered these two Writtis, thee brocht them, hir self, to the Castell, and delivered them to *Patrik Halero* out of hir owne hand. SEVENTLIE, deponit, that when *Patrik* had red the said BAND, he gave it in like manner to *Robert Stewart* to reid; who, after that he had red itt, rave² it with his handis in suall peices, and trampitt it vnder his feitt. AUGHTLIE, deponit, that *Patrik Halero* wes not content with the rying³ of it, as the perceaved by his countenance and gestur; and when thee sayed vnto Robert, ‘ Fye vpon yow, Sir! Why have yee done that? It had bene better to have kepte it!’ Deponit, that baith *Robert* and *Patrik* said, ‘ that that BAND should not do hurte in tyme coming’—and that ‘ *The Earle of Orkney* should not want his head for it!’ NYNTLIE, Deponet, that *Patrik Halero* wes reiding the other writt, wherein the names wer contened, when *Robert* rave the BAND—and that thee knaves not certainlie what became of that writt; but that, in hir judgement, it wes riven⁴ also.

JA. B. of Orcads, J. SINCLER of Ratter, JOHNE BUCANANE.

THEIR former Depositions were writtin be me, *Robert Stewart*, Minister at Hoy, at direction of *James B. of Orkney.* ROBERT STEWART, Minister, with my hand.

(28.) DEPOSITION of JOHN SHARPE, servant to the *Earle of Orkney.*

AT EDINBURGH, the first of November, 1614, in presence of my Lordes Chanceller, Secretar, President, *Previe Seall, Theysaurar depute, Clerk of Regijster, and Advocaat.*

JOHNE SHARPE, servand to the *Earle of Orkney*, fsworne, and demanded when he entered in feruice with the said Earle? Depones, that he entered in feruice with him in the moneth of Junij, or Julij, 1613.

Demanded, what he knowes concerning THE REBELLION in ORKNEY? Depones, that he remembers that within sex weeks after he come to the *Earle*, the *Earle* caused the deponer write a Me-

¹ *Sir James Mahoneill.* See his Trial, III. I, &c.

² Tore.

³ Tearing.

⁴ Torn.

moriall in thir teames, ' Yow thall go to Orkney ; yow thall fett Takkes, and reule the countrey, as yow did before. Yow thall fend shippes to Norroway, for such thinges as yow miiter,¹ especiallie, for poulder.' And this Memoriall wes written in *the Cjfile of Dunbartane*. Depones, that *Robert Stewart*, the Earles bafe sone, wes not in Dunbartane when this Memoriall wes written, but came there within xiiijth dayes thereafter. Depones, that *the Earle* patt this Memoriall in his pocquett ; and the deponer neuer saw it thereafter. And knows not what come of it. And sayes, that this Memoriall wes written by my Lordes own dyteing.²

Depones, that thereafter, when my lord wes in *the Cjfile of Edinburgh*, the deponer, by my lordes dyteing, wrote a new Memorandum, agreeable in subltance to the former ; with this addition, ' Yow thall put furth of the countrey of Orknay, suche as hes no thing to do in it.'

Demanded, yf he hard ony conference betuix *the Earle* and *Robert* anent THE REBELLIOUN IN ORKNAY ? Depones, that he hes hard *the Earle* findrye tymes invey againes *Roberte*, for geveing over the Houfe of Kirkwall to *the Bishope of Orknay*, calling him ' a feeble beaft !' And he hard *Robert* say, ' Yf he had the Houfe againe, he wald keep it better !' And *the Earle* answered, that ' he trowed he wald do no better.' And he hes findrie tymes hard *the Earle* delyre *Robert* to ' prove a prettie³ maune yf the Houfe come againe in his handis ; for it wald stand him to his lyff !'

Depones, that after *Robert* went to Orknay, the deponer wrotte a new Memorandum, by *the Earles* dytment, to *Robert*, bidding him choose new Takmen,⁴ and tak vp his restes.⁵ And the remanent of this Memorandum, in subltance, wes agreeable to the former Memorandums. And this Memorandum wes written in *the Cjfile of Edinburgh*.

Thereafter, when *Robert* wes gone to Orknay, the deponer, by *the Earles* dyteing, wrote a Missiue from *the Earle* to his sone *Robert*, oute of *the Cjfile of Edinburgh*, willing him to follow his Memoriall, in all thinges. And depones, that *the Earle* wold not subferyue this Letter, for fear of interception by the way ; and the direction, on the bak of the Letter, wes in thir wordes—' *For Robert*.'

Depones, there wes a vther Letter written by the deponer for *the Earle*, in the tyme of his beeing in *Edinburgh Cjfile*, bearing, ' Yow thall speak the countrey menne, and try yf thill will tak your pairte ; and yf the countrey men will tak your pairte, yow shall reter your self to Caitlnes, and stay there, and proceede no thing whill I fend yow worde.' And depones, that *Duncane Mitchell*, the Poast, caryed the one of thir Letteres, and *Patrik Murray* caryed the other Letter : And that this laist Letter wes not subferyued, wanted date, and had direction one the bak, ' *For Robert*.' And all thir Letteres and Memorandums were dyted by my Lord him selue.

Denyes that euer he hade conference or speatche with *Robert* anent the REBELLIOUN. Depones, that *the Earle* had copies of all the Memorandums and Letters written be him, and keepd thame in his pocquett.

Depones, that *Duncane Mitchell*, the Poast, broght a Letter from *Robert* oute of Orknay to *the Earle*, beareing, ' It will please your lo. to tell *the Counsall* in my name, that I am come to Orknay, and am going thorough the countrey to tak vp your lo. debtes ; and that I wes perfewed by *the Shiref*, and wes constrained, for faultete of my lyff, to tak *the Place of Birjay* for my refudge.' The deponer is of oppinion, that this Letter wes written for an excufe of *Robertes* proceedings.

Depones, that *the Earle* caused wrote a Letter to *Robert*, in the deponeres owne name, sheweing *Robert*, that ' yf he come in this countrey, he wold be hanged.'

Denyes that he hard ony speatche betuix *the Earle* and *Mitchell*, the Poast, when he broght *Robertis* Letteres to him.

Demanded, who wer present, at the wroiteing of *the Earles* laist Letteres fend with *Mitchell*, the

¹ Want ; stand in need of. ² Enditing ; dictation. ³ Gallant ; brave. ⁴ That is, to recall the whole of the Leases granted by the Bishop or other administrators under the new regime ; and to give the Lands to new tenants, who would be subservient to the Earl. ⁵ Arrears of rent.

Poast? Depones, that none were present but *the Earle* and the deponer. And that *Mitchell*, the Poast, stood by but had nothing.

Depones, that *Mitchell*, the Poast, tauld the deponer, that *Robert* had taken *BIRSAV*; and that one *Mudge* come from *Kirkwall* to *Birfay* with *Robert*; and that one *Gray* assisted *Robert* in keeping of the *Houfe*; and that *the Shiref* come and perfewed the *Houfe*; and that there was shooting in and shootinge oute; and that one *Downy Lyell* wes hurt, and one *Doig* slayne.

Depones fordar, that after *the Guard* come to seek the deponer, *the Earle* directed the deponer to *Orknay*; and bad him awaite vpon his sone, and do as he wold command him. And the deponer, asking of *the Earle*, yf he wold wrote a Letter with him, *the Earle* answered, that 'he wold not wrotte, ffor he feared the deponer wold be taken by the way'; and he saide forder to the deponer, that *Robert* wold not let him want.

JOHN SHARPE.

(29.) DEPOSITION of ROBERT STEWART, 'bafè sone' to the Earl of Orkney.

AT EDINBURGH, the xiiij day of Nouember, 1614. In presence of my Lord Chancelour, the Erll of Caithnes, the Lordis Secretair, Previe Scale, Thesaurair depute, and Aduocat.

ROBERT STEUART, bafè sone to *Patrik Erll of Orknay*, humblit on his knees, and deplie sworne; and demandit, vpon what occasioun, and by whose instigatioun he maid THE REBELLION IN ORKNAY? Deponis, that he being in grite neede and necessitie, and vnable to keepe this Toun for dett, he past to *Orknay* to tak vp some of his faderis auld restis, quhairwith he thought to mak his furnishinge oute of this cuntrey. Depones, that his fader haueing coulaet ane grite offence aganis him, becaus that he, at the first taking of *the Castell of Kirkwall*, renderit the same bak agane to *the Bisshop*; his fader, for that caus, wald ikairlie kenne¹ him, or gif him ony maintenance. And deponis, that his fader directit him to *Orknay*, with Commissioun to mell² with his restis, and to introuett with his goodis in the cuntrey; and that his fader aduifit and counfallit him to repair the ourfright and wrang he had committit by delinering of the Castell to *the Bischope*; and if by ony meanes he could come be this Castell, to tak it agane. And deponis, that his fader gaif him some Memoriallis, in wryte, quhilkis wer writtin be the deponer him self, to his faderis directioun; and the Memoriallis boore, that yf *the Castell* come in his handis, he sould send a Schip to *Noroway*, for poulder, bullett, and sache other necessar prouisioun as wer fitte for keeping of the *Houfe*.

Grantis, that in this tyme of his being in *Orknay*, he ressaüt tua or three Letteris from his fader; whairof one wes delyuerit to the depouner be *Patrik Murray*, the contentis whairof wes, that he wes informit *the Houfe of Birfay* wes tane; and he aduifit the depouner, yf he wes not able to keepe the *Houfe*, that he sould reter him self with *Patrik Halero* to *Caithnes*.

Grantis, that he ressaüt ane other Letter from his fader, send with *Duncane Mitchell*, the Poist, and that the substance of that Letter wes, for taking and keeping of the *Houffes*, yf the depouner could come be thame.

Grantis, that his fader, findrie tymes, said to him, that he wald eschaip oute of warde, and come to *Orknay*.

Deponis, that he acquetit not *Patrik Halero* with his intentioun to tak *the Castell*, quhill *the Shereff* perfewit the depouner at *Birfay*. And grantis, that at that tyme he commnicat to *Patrik Halero* the contentis of his faderis Letter send to him with *Duncane Mitchell*, the Poist; and that *Patrik* willinglie yeildit to joyne with him in this REBELLION.

Denyis, that *Patrik Halero* ressaüt any Letteris fra the depouneris fader.

Deponis, that his fader vsed all the meanis he could to haif gottin money, to haif send with the depouner to *Orknay*, to haif furneish him in thingis necessar for this interprise; but he could gett nane.

Grantis, that he write to his fader with *Duncane Mitchell*, the Poist, schaweing how the Schereff

¹ Recognise; countenance.

² Literally, meddle; uplift the arrears of rent, &c.

had procedit aganis him in perfute of him at *Birfay*, and quhat had fallen oute among thame in that actiounn.

Demandit, what hoipis he had of affiſtance frome ony cuntrey people heir? Deponis, he had no hoipis of affiſtance from this cuntrey people.

Deponis, that his fader verie oft, in publick audience, wald invey aganis the depouner, and quarrell him for randerin of *the Cajicell to the Biſhop*. R. STEWART.

(30.) DEPOSITION of PATRICK HALCRO.

PATRICK HALCRO ſolemnlic ſworne and demandit, quhat he knawis concernin the beginning of THE REBELLIOUN IN ORKNAY? Deponis, that in Somer, bigane a year, the depouner paſt to *Dunbartene* to viſite *the Erle of Orknay*; and that *the Erle*, in a priuat conference betuix thame twa, aſkit of the depouner, 'Yif, he ony meanes, he could come be his Houſis agane in Orknay?' To whome the depouner anſwerit, 'Your lo. hes been over lang in ſtaring. Your lo. had done weele, yf yow had cauſt keepe thame better, quhen your lo. had thame!' And the Erll replyt, 'That can not now be mendit. Is it not yitt poſſible to gett the Houſis agane?' And the depouner anſwerit, 'It wilbe hard for your lo. to gett that done, vales your lo. haif affiſtance of the cuntrey people to ſtand be yow and aſſiſt yow.' And then the Erll ſaid, 'Thay ar a companie of fals people, I can not lippin¹ in one of thame; bot I mynd to fend my ſone thair, quha wilbe your pairt. Will yow aſſiſt and tak pairt with my ſone?' And the depouner at the firſt planelic reſuſit to follow his ſone in that earand, ſaying, 'he wes over feble a Capitane to follow, in ſuche a purpois!' Bot the Erle haveing delt forder with him, to follow his ſone at his comeing to Orknay, the depouner, in end, promeit to follow him, and to tak parte with him at his comeing to Orknay.

Deponis, that after *Robert* come to Orknay, he ſlew to the depouner, in *Birfay*, the Letter writtin be *the Erll* his fader to him; willing him, yf he wes not able to keepe the Houſe of *Birfay*, to reter him with the depouner to *Caithnes*. And grantis, that at that ſame tyme he promeit his affiſtance to *Robert*, and to tak pairt with him.

Grantis, that accordin to ane other Memoriall, directit be *the Erll to Robert*, for ſending to *Noroway* for poulder, they ſend ane ſhip to *Noroway* for poulder, bot the Caſtell was randerit or the poulder come home: And the depounair heiris that threefoir barreillis of this poulder come in *the Erll of Cathnis* handis.

Deponis, that at the firſt playing of the cannoun, *Robert* being in his bed, the depouner come to him, and aſkit of him 'quhy he wes lyand in his bed, ſeing the cannoun had diſchargeit ſax ſchoit?' And he demandit *Robert*, 'How he thocht this mater wald leiſt?' And tauld him, 'he wald not be able to hald onte. It wer gude for him to tak him to the Sea!' To whome *Robert* anſwerit, 'I will not tak me to the Sea; my fader will then ſay, I haif feble gevin ouer his Houſe! I will rather hald oute quhill the Houſe be dung downe abone my heade, or² I rander my ſelf to *the Erll of Caithnes*, or yitt to *the Counſill*, to be tortourit, quhill³ I confes aganis my fader, the thing that may be his wrack and myne!'

Deponis, that *Robert* ſaid to the depouner, that 'his fader wald come to the cuntrey, and thay wer n expectationn that *the Erll* wald brek warde.' P. HALCRO.

[*Mr Alexander Coluile, Juſtice-Depute.*]

Reſetting of Egyptians—'Johnnie Faw.'

Jan. 25.—WILLIAME AUCHTERLONY of Cairny.

Dilaitit for contravening the Actis of Parliament in reſetting of Egiptianis;

¹ Rely; truſt.

² Before; ere.

³ Until.

ſpeciallie of Johnne Fall,¹ a ne notorious Egiptian and Chiftane of that vnhappy foirt² of people.

Mr James Oliphant, Aduocat, ſubſtitute to Sir William Oliphant, his father, Aduocat to our ſouerane lord, producet the Letteris deulie execute, &c.—Compeirit David Lyndſay of Balgaweis, *excufatorio nomine* for the ſaid William, and declairit that the ſaid William was lyand bedfaft and deidlie feik, nocht habill to travell to keip this dyet, and offerit him ſelf caution for the ſaid William his compeirance, befor my Lord Juſtice, the thrid day of the nixt Juſtice-air of the Sherefdom quhairin he dwellis, or ſoner, vpon fyftene dayis wairning.—Quhilk excuſe the Juſtice, with conſent of the perſewar, admittit, &c.

Rebellion in Orkney—Tyranny and Oppreſſion—High Treason, &c.

[PATRICK EARL OF ORKNEY, the infatuated and ambitious individual, whoſe guilty life at length terminated ignominiouſly upon the ſcaffold, was nearly related to King James VI., and at one period ſtood high in favour with his priace. As the particulars of the crimes for which his life was forfeited to the offended Laws of his country are rehearſed in his former Trial,³ and in that of his natural ſon, ROBERT STEWART,⁴ reference is made to theſe Caſes, and to the illuſtrative Papers appended to them. The various Hiſtories of Scotland may alſo be conſulted, in which the fact of THE REBELLION IN ORKNEY is very briefly noticed, owing to the want of proper materials.

Altho' his crimes were of a very remarkable deſcription, and indicative of a cruel and blood-thirſty diſpoſition, it muſt not be ſuppoſed that this Nobleman was a rude and unpoliſhed barbarian, wholly unſkilled in the modes of civilized life. On the contrary, much of his earlier life had been ſpent at Court; and his daring crimes and overweening ambition alone prevented him from riſing to the higheſt eminence, as a Courtier. Like many other unlucky Courtiers of that age, he ſeems to have been obſcured by the prevailing ſtar of that corrupt and worthleſs favourite, Kerr or Carr, Earl of Somereſet, who ſecretly undermined him, and embraced every opportunity of blaſting his character and fame, in the King's eſtimation. Having thus fallen into diſgrace at Court, the Earl of Orkney appears to have commenced a reckless warfare againſt all civilized ſociety, and to have formed the mad project of eſtabliſhing himſelf as an independent and deſpotic Prince, in his Iſland Kingdoms of Orkney and Shetland; and in due time he had alſo reſolved upon entirely ſhaking off the yoke of allegiance to the Crown of Scotland.

Having retired to Orkney, he committed ſuch exceſſes, that, within a very few years after the acceſſion of King James VI. to the Engliſh throne, the oppreſſed people of Orkney preſented numerous ſupplications for redreſs, and loudly complained of their intolerable grievances. Theſe complaints were directed to the Privy Council, (who appear to have been unable to afford any formidable check to his deſpotic cruelty,) as well as to the King himſelf. Sharp remonſtrances were at firſt uſed, but with little effect; and at length the Earl's oppreſſions became ſo formidable in their character and degree, that the Lord Advocate found it neceſſary, in order to quiet the clamours of the people, to bring him to public Trial. Still, however, it appears to have been thought poſſible that he might be reclaimed; and the King uſed every means to delay matters coming to fatal extremities. Contrary to general expectation, the effects of long imprifonment ſeemed only to aggravate the rancour of his cruel diſpoſition. He employed all his time in meditating projects for his eſcape from confinement, ſo that he might wreſt

¹ The celebrated Johnnie 'Faw.'

² Claſs; ſociety.

³ Aug. 2, 1610, II. 61.

⁴ Jan. 5, 1615, III. 273.

his Castles out of the hands of the constituted authorities; and then boldly to defy the King and the Privy Council of Scotland, after having declared his independence of the kingdom of Great Britain.

The most effectual check which was given to these mad projects, was the sequestration of his revenues, and the withholding from the Earl all supplies, excepting such as were necessary for his bare maintenance, as a state prisoner. This rigorous step, however, appears to have been carried too far, and to have suggested to the Earl the idea of sending his 'safe fon,' Robert Stewart, to Orkney; where, after he had uplifted his 'bygone rents,' &c., he might secretly convey a considerable portion of them to him, to enable him to bribe his guards. When thus provided, he directed his son to use every endeavour to obtain possession of the Castle of Kirkwall, and of the other strengths formerly belonging to the Earl; leaving it to himself to effect his escape from Dumbarton Castle, to which he had been conveyed for greater security. So jealous were the Privy Council of the machinations of this restless and ambitious Nobleman, that after long petitioning, and causing him to endure great privations, it was not until Jan. 28, 1614, that they allowed him, out of his large revenues, the paltry aliment of '4 lib. Scotts per diem!'

Robert Stewart did, no doubt, succeed in his rash attempt; but in that he was mainly favoured by the accidental circumstance of the high unpopularity of the Sheriff; who, on account of his oppressive conduct and cruel exactions, was detested by the inhabitants so deeply, that, in order to get rid of his thralldom, they even consented to join 'the Baitard' in his treasonable schemes, judging, perhaps, that so long an imprisonment, and such severe discipline in the school of adversity, must necessarily have changed the temper and habits of their natural and rightful lord, whose return they were led by Robert confidently to expect. This feeling was very strongly marked in the 'Band of Association, fabricated by the Rebells in Orkney,' which is given in the Appendix. In that interesting document, 'the frequent entrants of extraniers,'² 'the corruption of the Lawes, partialitie of Judges, the greid of officeris, and oppreffioun of Magiftratis,' are dwelt upon as intolerable grievances.

The expedition of GEORGE, fifth EARL OF CAITHNESS, the King's Lieutenant, eventually succeeded; and the ringleaders in the Rebellion, as has already been seen, were executed by that person, who, it will be remembered, had formerly rendered himself infamous by his treacherously delivering up his kinsman, *John Lord Maxwell*, to government, after having lured him to Castle-Sinclair, under the mask of friendship and protection.³ The reader will find, from Documents preserved in the Appendix, that the Earl of Caithness intruded himself into this Commission, by eagerly volunteering his services to the Privy Council, so as, if possible, to ingratiate himself with his Sovereign, by quelling a Rebellion which had excited the observation and alarm even of the Court of England. It is not a little interesting, among all his specious prettexts, to detect and expose the secret springs which appear to have actuated that selfish and cold-blooded Nobleman in undertaking so repulsive an expedition as that against the Rebels in Orkney. Under the mask of patriotism, zeal for his Majesty's honour, and his pretended desire for restoring the peace of the country, it is not difficult to discover the basest motives of hereditary and personal revenge and deadly feud against the fallen Earl of Orkney; as well as a secret design to procure the whole, or at least, a considerable portion, of his extensive territories, as a reward for his patriotic services. But a little research enables us to perceive, that a rooted hatred had long existed between the Earls of Caithness and Orkney, which had frequently broken out into open strife. As an extraordinary instance of the spirit of wanton cruelty and mischief in which these hostilities were

¹ *Balfour's Annals*, II. 50.

² The natives of Orkney, having long been accustomed to be judged by the laws of Denmark, were peculiarly offended at the introduction of foreign laws, judges, and settlers in their country, which was the policy too suddenly adopted by the Sheriff and other officers to civilize the people. So strongly did they resent these and the other aggressions of the foreigners, that they gladly forwarded the Bastard's views for the expulsion of their hated taskmasters.

³ See this Collection, Vol. III., 33, &c. *Gordon's Hist. of Sutherland*, p. 301.

⁴ THE EARL OF CAITHNESS got a pension of a thousand crowns for his services, and was, shortly after his return, made one of the Lords of the Privy Council of Scotland, and was in a fair way to realize all the objects of his ambition, had not his overreaching spirit led him into a train of iniquities which terminated in the ruin of himself and his family, which for many generations did not recover this shock.

carried on by the former, a quaint, but striking passage may be cited, from the graphic pen of Sir Robert Gordon;¹ who states, that in the year 1608, some of the Earl of Orkney's servants had been forced to land in the country of Caithness, 'by a contrarie wind and vehement forme of weather. First, the *Earl of Cattynes* maid them drunk; then, in a mocking iest, he caufed theave the one fyd of their beards and one fyd of their heads; last of all, he conftrayned them to tak their wethell, and to goe to sea in that stormie tempest! The poor men, fearing his farther crueltie, did choyfe rather to commit themselves to the mercie of the fenefele elements and raging waves of the sea, then abyd his furie. So they entered the stormie Seas of *Pentlay-Firth* (a fearfull and dangerous arme of Sea between *Cattynes* and *Orknay*), whence they escaped the furie thereof, by the providence and assistance of God, who had compaffion on them, in this lamentable and desperat case, and directed ther course; so that they landed saiffie in *Orknay*. This affront and indignitie wes highlie taken (not without just reason) by the *Earle of Orknay*, who complained therof to THE KING and his *Counsell*. His MAJESTIE did write to the *Councell of Scotland* to punish the *Earle of Cattynes* fesevillie, after dew tryall, as having committed a fact against his authoritie. But when both the *Earles of Cattynes* and *Orknay* came to Edinburge, readie to informe one against another, they agreed all their privat quarrells, by the mediation of freinds, *leaff they should reveile too much of either's doings!* So this controverfie was past over with filence; and fome acknowledgement was maid by the *Earle of Cattynes* to the *Earle of Orknay*, as a satisfaction for abusing his servants,' &c.

The intriguing Earl of Caithness at length brought ruin upon himself and his family, by endeavouring 'to mak the Lord Forbes wearie of his landis in Cattynes.' This benevolent purpose he tried to effect by constant oppression of his tenants and servants, in virtue of his office of Sheriffship, which he had obtained from the Earl of Huntlie, on his marriage with Lady Jean Gordon, his sister. He secretly caused incendiaries burn all the corns standing in the corn yards of Sansett, in November 1615; and, to remove suspicion from himself, industriously rumoured abroad, that the Fire-raising had been done by Mackay's tenants, with whom the Forbesees were then at feud. The matter, however, having soon been disclosed by the actual perpetrators, the Earl was closely prosecuted; and he only obtained his Remission² after a long interval, 1st, By engaging to satisfy his numerous creditors; 2dly, by resigning into the King's hands the Sheriffship and Justiciary of Caithness; 3dly, by engaging to present to justice the malefactors whom he had employed to burn the corns; and, lastly, to resign to the Bishop of Caithness the House of Strabister, with certain Feu-lands of that Bishopric, amounting to the yearly value of 2000 merkis Scots, in augmentation of the Bishop's scanty revenues. His son, *Lord Berriedale*, was imprisoned for these debts for above five years; but the Earl himself obtained a '*superse-dere*,' or protection from legal 'diligence,' from the Privy Council. The creditors, however, 'apprized,' or sequestered, all his lands. He was denounced Rebel in 1621, and his own son, Lord Berriedale, applied for and obtained a Commission to pursue his father! After five years' imprisonment, he was released for that purpose, on finding due caution to return to ward after having executed his Commission. In September 1623, Lord Berriedale and Sir Robert Gordon, the King's Commissioners, having taken the field against the Earl of Caithness, he precipitately fled to Orkney, intending to go thence to Norway and Denmark. Castle Sinclair, and his other Castles of Aerigell and Keasse, were immediately taken possession of in the King's name; and the Commissioners succeeded in pacifying the country of Caithness.

George, *fifth* Earl of Caithness, after having passed a miserable life, died, a victim of disappointed ambition, and in comparative obscurity, in Caithness, in the month of February, 1643, at the advanced age of 78.

¹ *Hist. of the Family of Sutherland*, p. 258. ² The author of the *History of King James the Sixth*, p. 391, says he became in the King's will, who deemed thus: to pay to the party offended 2000 merkis; to renounce his pension of 1000 crowns; to renounce his Sheriffship; and that he 'sould caus the Bishop be answerit of his spiritual dewtie ther; and sould redres all quarrels and faultis to peax.'

But to return from this digression, the only person among the Rebels, whose life was saved, was PATRICK HALCRO. He had been instrumental in bringing about a surrender of the Castle of Kirkwall, and had proved the means of preventing much bloodshed, which otherwise must have been occasioned, had the Rebels persisted in their Treason.¹ The advisers of the Crown, therefore, recommended him as a fit object of mercy; and more especially on account of the terms which he had proposed to the King's Lieutenant, at the time of the surrender.

It has formerly been observed, in reference to THE EARL OF ORKNEY, that he had originally been in high favour with the King; and that, in point of exterior, he was a person of courtly manners and polished address. So anxious was the King for his release, that certain Lords of the Secret Council were empowered to offer him the keepership and profits of either of the Royal Palaces of Holyroodhouse, Linlithgow, Stirling, or Falkland, with Ten Thousand pounds of rent, on condition that he should renounce all right to the Earldom of Orkney, and resign the same in the King's hands. But so infatuated and blindly perverse was the Earl, and so intent was he on accomplishing the objects of his visionary ambition, that he absolutely refused these conditions; having, previously to that time, instructed his son to hazard the mad attempt for which they both forfeited their lives. An anonymous author,² already quoted, has given a most faithful and remarkable portrait of the princely habits and lavish expenditure of *Patrick Earl of Orkney*, when he resided in his own territories, surrounded by his vassals and dependents. His sketch cannot fail to be generally interesting. "He had a princelie and royall reuenev; and indeid behavit himself ther with fik foueraintie, and geve³ I durst say the playne veritie, rather tyrancallic, be the shaddow of Dence Lawis,⁴ different and more rigorous nor⁵ the Municipall or Criminall Lawis of the reit of Scotland; wherby, no man of rent or purfe mycht enjoy his propertie in Orknay, without his speciall favour; and the fame deir boght. Wherby it followit, that titchit and forgeit faultis was fo devyfit aganis manie of them, that they wer compellit, be emprefonnment and small rewardit, to refigne ther heritable tytlis unto him; and geve he had a fteve⁶ purfe and no rent, then was fum cryme devyfit aganis him, wherby he was compellit to lofe ather half or haill therof, geve not lyf and all beyfd! And his pomp was fo great ther, as he went never from his Castell to the Kirk, nor abrod utherways, without the convoy of fiftie musceters and uthir gentilmen of convoy and gaird. And ficlyk, before denner and supper, ther wer thrie trumpeters that foundit still till the meat of the furst service was fet at table; and ficlyk, at the secoud service; and consequentlie, efter the grace. He had also his ships directit to the Sea, to intercept Pirats, and collect tribut of uncouth fishers,⁷ that came yearlie to these Seyis. Wherby he maid fik collection of gret gunnis and uthir weapons for weare, as no Houis, Palice, or Castell, yea all in Scotland wer not furneist with the lyk; and yit all this provisioun was spul;eit, in his awen tyme, be the violent hand of the Erle of Caithnes."

It only remains to the Editor to state, that this baughty Earl, according to *Archbishop Spotswood*,⁸ 'took his Sentence impatiently;' on which account, 'some Preachers were desired to confer with him, and to dispose his minde towards death. But they, finding him irresolute, intreated for a delay of the Execution; which was granted to the sixth day of February. At which time, he was brought unto the Scaffold, guarded by the Magistrates of the City, and in the sight of many people beheaded.' *Calderswood*⁹ gives a fuller account of his death, in these terms. (Feb. 1, 1615.) 'PATRIK EARLE OF ORKNEY was arraigned in the Tolbooth of Edinburgh; and be ane Inqueit of the Nobles and Barroues, was convict of Treafone, for the late REBELLION IN ORKNAY. It was thought, that if he had not,

¹ Sir Robert Gordon says, 'This Patrik Haero was afterward in great favour with Earle George (Caithness), and well interteyned by him for this service.'—*Hist. of Sutherland*, p. 301.

² THE HISTORIE AND LIFE OF KING JAMES THE SIXT, printed for the Bannatyne Club, 1825, Quarto, p. 386.

³ If.

⁴ Orkney was

then governed by Danish Law, which was most iniquitously applied by the Earl and his deputies.

⁵ Than.

⁶ Stiff; well fed.

⁷ Fishers who came from Holland and other foreign countries.

⁸ Spotswood's *Hist.*

Fol. Lond. 1668, p. 520.

⁹ *Cald. MS. Charch Hist. Advocate's Library.*

20 dayes before, confessed, that he was the author of the said Rebellion, and come in the King's Will for the same, that hardly he could have been convicted, be any Law. The wifer and elder fort of the Nobilitie with-drew themselves from his Assise. He had sent to the Court to obtaine favour; but no appearance of returning ane answer. The Ministers, finding him soe ignorant, that he could skarse rehearse the Lord's prayer, intreated the Counsell to delay his Executione some few dayes, till he were better informed, and received the Lord's Supper. Their Petitione was assifted with the requite of some Noblemen, and granted. Soe he communicate upon the Lord's day, the 5th of February; and was beheaded, at the Market-croffe of Edinburgh, upon Monday the 6 of Februar; when Sir Robert Ker, Earle of Rochester, was decourted. The King laid the blame of his death on him; but late, as his custome was, when matters was past remedie! It was observed that this moneth is fatal to the King's blood.'

The reader is once more referred, for details, to the Appendix of ILLUSTRATIVE DOCUMENTS annexed to the Trial of ROBERT STEWART and others, Jan. 5, 1615; and to the Papers annexed to the present Trial.]

[*Dominus Willielmus Heart de Prestoun, miles Justiciarius.*]

ASSESSOURIS TO THE JUSTICE.

ALEX ^R ERLE OF DUNFERMELING, Chancellor,	SIR JOHNNE COKBURNE of Ormeftoun,
THOMAS LORD OF BYNNING, Secretar,	SIR ALEXANDER HAY of Qubithburgh,
MR JOHNNE PRESTOUN of Pennycuik, President,	SIR WILLIAME LEVINGSTOUN of Killithe,
SIR GEDIONE MURRAY of Elibank, Thefaurer-depute,	SIR ALEXANDER DRUMMOND of Meidhope;
SIR RICHARD COKBURNE of Clerkingtoun,	all SENATOURIS OF THE COLLEGE OF JUSTICE.

Feb. 1.—PATRIK ERLE OF ORKNAY, &c.

Dilaitit, accuset, and perfewit be Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord for his hienes intereis, of the fenerall crymes of Trefone and Lefe-Maieftie, at lenth spacificit and fet down in the Dittay following.

DITTAY against the Earl of Orkney.

PATRIK ERLE OF ORKNAY, &c. 5e ar Indytit and accuset, fforflamekill as, certane and fure informatioun being gevin to our fonerane lord, the Kingis most excellent Maieftie, and to þe Lordis of his hienes Previe Counfall of this Kingdome, of the manyfold Iniureis, Tyranneis, and haynous Oppressiounes, practisjet be 5ow vpon dyuerse his Maiefteis peceable and guid subiectis, duelland within the boundis of Orkney and 5eitland: Lyk as, for the better stay of the quhilkis, 5our former Tirranie and Oppressioun fra haifing forder courfe, and for the mair exact and substantious tryell of 5our giltines þairof, 5e, be his Maiefteis spECIALl directioun, being committit to waird, within the Castell of Dumbarten, to haif remanit þairin, quhill ordour had bene tane with 5ow, as appertent: It is of verritie, that 5e, vppone occasioun of the refrtante of 5our former libertie, freitting in 5our awin mynd þairat, nocht only during the tyme of 5our wairding, devyfet all indirect and vnlawful meanis and moyane for 5our brek and escaipe furth of þe said waird, albeit skarrit and hindreit, throw the fidelitie of 5our keiperis fra doing þairof; bot lykwayis, maist tressoneabillie and vndewtiffullie schaikand af 5our allegiance and dew obedience to our said fouerane lord,

to quhais bountiefull clemencie 5e war fa gritlie bund, 5e maift treflonabillie plottit, devyset, and concludit the lait treflonabill Rebellioun, Vproir, and Infurrectioun, profecute and followit furth be 5our devyfe and directioun within the said cuntrie of Orknay; in suafar as vmq^{le} Robert Stewart, 5our bafe sone, eftir mouy thraitungis and minatorie speiches vtterit be 5ow aganis him, for his simplicitie in raudering and overgeving of his Maiefteis Castell of Kirkwall to James Bifehope of Orknay, quha than had Commiffioun of his Maieftie to command all Castellis, Houffis, and ftrethis within the boundis of Orknay and 5eitland, and quha, be vertew of the fame Commiffioun, acqyret poffeffioun of the said Castell of Kirkwall and remanent Houffis and Palices within the bounds aboue writtin: AS ALSO, eftir þe said Robert his reconciliatioun with 5ow agame, vpone condition that he fould vndertak quhatfoeur desperat courle 5e fould command him to follow, off 5our fpeciall caufeing, fending, hounding out, command, counfell, devyfe, and only directioun, quhome 5e alfo furneift with perticuler iniunctiones, fet down be 5ow in writ, how he fould carie and behave him self in that 5our treflonabill intendit interpryfe, he, in the moneth of Maij, or pairby, laft-bypaft, pafit furth of þir pairtis to þe cuntrie of Orknay, and pair, haifing forgadderit with Patrik Halero, quha alfo was fpeciallie employit and directit be 5ow, to aid and affist him in that vnhappy buffines, and to quhome 5e gaif ane securitie, in writ, of certane landis, rowmes, and fteidngis, vpone condition that he fould tak pairt with the said Robert, 5our sone, pairintill: FIRST, accordiung to 5our directioun with the affiftance of vmq^{le} Thomas Blak, Archibald Murray, Andro Mairtene, Thomas Layng, Alexander Legget, and dyuerse vtheris pair rebellious affociatis, the Houfe and Place of Birlfay was treflonabillie furpryfet and tane in þe thame. &c.¹ THE making of the quhilk treflonabill Vproir and Rebellioun within the said cuntrie of Orknay: the Treflonabill Surpryfeing and taking in of the said Place of Birlfay, Place of the 5airdis, Castell of Kirkwall, Kirk and Steiple pairfof, and remanent his Maiefteis Houffis within þe said cuntrie of Orknay, keiping and holding of the famyn, in maner foirfaid, and haill treflonable practizes following pairpoune, war hailllie plottit, devyset, forget, and concludit be 5ow, and the famyn war maift treflonabillie put in executionne be the said vmq^{le} Robert, 5our bafe sone, and his rebellious companie; off 5our fpeciall caufeing, fending, hounding out, airt, pairt-taking, counfall, devyfe, and only directioun: LYK AS, dyuerse Letteris and mellages pafit betuix 5ow and þe said Robert, 5our sone, eftir 5our treflonabill taking of þe said Place of Birlfay, incurraing him pairby to keip the saidis Houffis, and to follow furth þe rest of your iniunctiones gevin to him in that 5our treflonable interpryfe: LYK AS, þe said vmq^{le} Robert,

¹ Here the whole particulars of the treasonable transactions detailed in Robert Stewart's Trial are rehearsed, which it is unnecessary to repeat in this place. *Vol. Jan. 5, 1615.*

your sone, and dyuerse vtheris his affociatis, being examinat vpon þe verritie of þe premisses, in prefens of the Lordis of his Maiesteis Previe Counfall, be pair Depositiones, hes grantit and confessit, that þe said Rebellioun was first intendit¹ be your, and profecute and followit furth be your speciall directioun and command, gevin to the said Robert, your sone, and Patrik Halcro, to aid and assist him pairintill: AND siclyk, be the Depositiones of James Lyoun, Johnne Scherp, Duncane Mitchell, the said Patrik Halcro, and dyuerse vtheris perfones examinat in that matter, your giltines of the said Rebellioun is cleirly verifeit and provin: LYK AS, the said vmq^{le} Robert, your sone, the day that he was accufet and perfewit for the tressonabill crymes aboue writtin, befor he was presentit vpon pannell, being re-examinat, of new, in prefens of dyuerse Lordis of his Maiesteis Previe Counfall, nocht only maist constantlie abaid at all his former Depositiones maid be him, concerning that Rebellioun, bot also eikit² pairto, that 3e gaif to him self ane perticuler Warrant, in writt, to pas to the said interpryse, and to recover the said Castell agane vnder his power; as also, that 3e delyuerit to the said Patrik Halcro ane securitie, in writt, of certane landis and rowmes, vpon condition that he sould interpryse the recoverie of the said Castell, and assist Robert pairintill: Quhilkis Confessiones and Declarationes was also ratifeit and renevit be the said Robert, vpon pannell, in prefens of the Justice and Assytouris afoir his Convictioun, and vpon the scaffold, in prefens of the haill people, immediatlie befor his execution. LYK AS, the said Robert, your sone, and his affociatis, was convict and execute to the daith, for the haill tressonable crymes aboue specifit, as done and committit of your speciall causeing, counsell, and directioun; as the proces of pair convictioun, heirwith producet, beiris. AND FINALLIE, your lordschepis self being presentit, vpon the tuelff day of Januar last, in prefens of dyuerse Lordis of his Maiesteis maist honourabill Previe Counfall of this kingdome, 3e pair, be your Deposition, subseryuit with your hand, acknowlegit and confessit the geving of the directioun be your to your vmq^{le} sone Robert, and vtheris his affociatis, for þe surpryseing, taking, and detening of the said Castell of Kirkwall, craveing God and his Maiesteis pardoun for that your offence, and in all humilitie and submissioun offerit your self in his Maiesteis Will for þe samyn: As your Deposition, heirwith producet, mair cleirly testifeis: QUHAIRIN, 3e, as the principall devyser, fortifiear, and steirar vp of þe said vmq^{le} Robert, your sone, to the practizeing of the former Rebellioun, hes committit oppin and manifest Tressone aganis our souerane lord, the Kingis most sacred Maiestie, and his royall authoritie: AND 3e ar airt, pairt, red, and counsalour of the haill tressonabill practizes aboue writtin: for the quhilk, 3e aucht

¹ Contrived; purposed; set on foot.² Added.

and fould be demanit¹ and puneifk as ane *Tratour*; to the terrour and example of vtheris to abstene fra the lyk heireftir.

PERSEWAR, Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord, for his hienes intereis.
PRELOCOUTOURIS in defence,

Mr Alexander King, Mr Thomas Nicolfoun, Mr Alexander Peiblis, James King, Aduocattis.

Mr Alexander King, Aduocat, producet ane *WARRANT* of the Lordis of *Sereit Counfell*, for himself and the remanent prelocoutouris, to compeir this day, in defence of the Erle of Orknay, for the crymes contenit in his *Dittay*.—The foirfaidis *ASSESSOURIS*, nominat to concour with the Justice in this proces, war fuorne: Aganis quhome na oppofitioun was maid be the pannell: Quhairupoun my Lord Aduocat askit instrumentis.

My Lord Aduocat producet the *DITTAY*, and defyret proces aganis the pannell for the treflonable crymes thairin contenit.

The *Dittay*, be command of my Lord Justice and his *Affeffouris*, being red, and the pannell accuset, be vertew thairof, of the feuerall poyntis of *Treflone* and *Lefe-Maieftie* thairintill, it is allegit, be my Lord of Orknay and his prelocoutouris, that feing thair ar meny grit and haynous poyntis contenit in the *Dittay*, and that the famyn war nocht knawin quhill² now to the pannell, and na coppie thairof was gevin to him, quhairvpoune the pannell and his prelocoutouris mycht haif consultit, quhilk aucht to haif bene done; defyret, thairfoir, ane tyme to be grantit to the faidis Prelocoutouris, that thay mycht advyfe with my Lord of Orknay thairupoun.—It is anfuerit, be my Lord Aduocat, that the pannell is brocht fra the Kingis *Waird* to the bar, and accuset of crymes committit aganis his *Maieftie*s authoritie, quhairof he is nawayis ignorant: Na coppie of his *Dittay* fould haif bene gevin to him, nor na delay fould be grantit, in *Tryell* thair-of; bot, conforme to the daylie practik of this Judgement, quhair ane persone challenget and committit to waird for *Treflone*, and brocht to his *Tryell*, the *Dittay* quhairupoun he is accuset is summerlie discussit, without delay or continuatioun.—It is allegit be the pannell, that he was nocht wairdit for this cryme, speicifit in his *Dittay*, bot for vther crymes; and this *Treflone*, quhairupoun he is now dilait and accuset, is committit during the tyme of his impriffonement: And feing, the only caus quhy his prelocoutouris craves this delay to be grantit, is allanerlie³ to confer with his lordfchip, anent the verritie of the factis lybellit, quhidder he may plead giltie or innocent thairof: Defyres, as offeioir, ane convenient tyme to be grantit to thame to confer with the Erle thairupoune.

My Lord Aduocat takis instrumentis of the pannellis declaratioun, that he was wairdit for vther crymes; and that the crymes lybellit was committit fen his wairding: And as to the continuatioun cravet be his prelocoutouris for ane

¹ Treated.

² Until.

³ Alone; only.

convenient space, na delay fould be grantit, in respect his lordship can pretend na ignorance of the crymes contenit in his Dittay, feing he hes bene dyuerse tymes examinat thairupoun be the Lordis of Secreit Counfall, vpon the verritie thairof.

THE JUSTICE, with advyfe of the Assessoris, Repellis the pannellis allegiance ; bot, *ex gratia*, Grantis ane half hour to the pannel and his prelocoutouris to be advyfit thairupoun.—Quhairupoun my Lord Adnocat askit instrumentis.

The pannel, with his prelocoutouris, haifing ressaunt vp the Dittay, and removet thame selfis apairt to the Counfall-hous to be advyset thairupoun, retumet within the space grantit to thame for that effect ; and Declairit, that thai wald naways impunge or dispute aganis the relevancie of the Dittay : And as to the verritie of the crymes contenit thairintill, speciallie the directiones allegit gevin to hes vniq^e sone, Robert, to practice the Rebellioun lybellit, denyis any sic direction : And gif any command may be inferrit gevin to his sone, it was naways to commit any fact or deid to the offence of his Maiestie, or his heines authoritie ; bot to pas over to Orknay, and to tak intromissioun with his Houffis, guidis, and geir being thairintill, vpon mere ignorance and simplicitie ; naways thinking that ony sic command fould infer Treffone, or ony vther cryme or offence aganis his gracious Souerane. And, thairfoir, fleing fra all forder defence of his awin innocencie, hes his refuge to his Maiefties grace and mercie : And, as of befoir, craves God and his Maieftie pardoun for his oversight and negligence on this poynt ; and in all humilitie and submissioun cumis in (his) hienes Will for the samyn : And ratifeis his former Depositionn, in everie point.

THE JUSTICE referrit the said Dittay to the tryell of the honourabill perfones of Assyfe vnder writtyn, quha war lauchfullie summond to that effect.

ASSISA.

JAMES, ERLE OF GLENCAIRNE,	DAVID, LORD SCONE,	WILLIAME, LORD KILMAWERIS,
GEORGE, ERLE OF WENTOUN,	WILLIAME, LORD SINCLAIR,	JOHNE GRANT OF Freuchie,
JOHNE, ERLE OF PERTHE,	JOHNE, LORD HERES,	SIR PATRIK HERBERNE of Wauchtonne,
ROBERT, ERLE OF LOUTHANE,	JAMES, LORD TORPHICHENE,	ROBERT ARNOTE of Fairry,
WILLIAME, ERLE OF TILLIEMARSH,	HEW, LORD SEMMILL,	SIR HARIE LINDSAY, elder of Kyufawnes.

My Lord Adnocat takis instrumentis of the fueiring of the Assyfe : And for verificatioun of the Dittay, vses the hail Depositiones of the Witnesfes product ; pairtie subscriuit be the parteis, and pairtie be the Lordis Examinatouris ; speciallie, the Depositiones of the Witnesfes mentionat in the Dittay : Produces the Letter of Tak¹ grantit be his Maieftie to Sir James Stewart, contening the Commissioun of Schereffship : Repeitis the notoriemie of Mr Johnne Fynlafones office of Schereff deuptrie : Repeitis the Commissioun product, grantit to my Lord Bifehope of Orknay ; and lykwayis, my Lord of Caitlmes Commissioun ;

¹ Lease.

with the thre feuerall Letteris direct to Robert Wynrahame, Yla Herauld, and executiones thairof: Repeitis the Criminall proces led and deducet aganis vmq^{le} Robert Stewart, and remanent perfones his complices; with the Sentence and dome pronouncet aganis thame, beirand that the hail crymes thairin contentit war done and committit be thame and thair complices, of my Lord Orknayis fpeciall directioun and command: Repeitis the tua Miiffiues, writtin be Johnne Scherpp, at my lordis command, as he affirmes, quhilkes war gottin vponne Duncane Mitchell: Repeitis the Warrant direct be my lord, to eftablifche the keep- ing of the Caftell of Kirkwall in the perfone of Patrik Halcro: Repeitis the Depofitioun of Patrik Halcro and the faid vmq^{le} Robert thairanent: Produces the Band fubferyuit be the cuntrie people, for taking eafald pairt with Robert, in the former Rebellioun practizet be him in Orknay: Produces ane Charter, grantit be my lord (Earl of Orknay) in fauoures of Patrik Halcro, fubferyuit at the Caftell of Dumbarten, of certane landis in Orknay, for taking pairt with the faid Robert Stewart in the faid Rebellioun, albeit that caufe be nocht expreffit in the faid Charter: Repeitis the Judiciall Confefsioun maid be my lord, vponne the tuelf day of Januar laft, quhairin he hes Confefsit, that the Caftell was fur- pryit be Robert, his foue, be his directioun: And the faid Erles cuning in (his Majefty's) will for the famyn: Repeitis the haill Depofitiones maid be Robert, befor he was pannellit; his Depofitioun maid the famyn day that he was pannellit; his Judiciall Declaratioun vponne pannell; and his Declaratioun vponne the Scaffold: With the Depofitiones of Patrik Halcro, James Lyoun, Johnne Scherpp, Duncane Mitchell, Duncane Mcclaren, Barnard Stewart, Mr Michell Mair: And in fpeciall, thair Depofitiones maid to the Lordis of Secretit Counfell, being confrontit with the Erle: Repeitis his lordfchipis cuning in Will, this day; and fpeciallie, his ratificatioun of his former cuning in Will, vponne the tuelf of Januar. And thairupoun afkit instrumentis: And Proteftis for Wilfull Errour aganis the perfones of Affyfe; and that thai fall incur the lyk cryme and punifchment of Treafone quhairvponne the pannell is accufet, gif thai acquit him thairof.

VERDICT. The Affyfe, all in ane voce, be the mouth of James, Erle of Glen- cairne, chancellor, fand, pronuncet, and declairit the faid PATRIK, ERLE OF ORKNAY to be GILTIE, culpable, and convict of the treffonable Rebellioun com- mittit be vmq^{le} Robert Stewart, his bafe fone, and his rebellious affociatis, with- in the cuntrie of Orknay: Quhilk was done and committit be the faid Robert and his complices, of the fpeciall caufing, command, devyfe, and directioun of the faid Patrik, Erle of Orknay, his ffather; in forme and maner fpecifeit in the Dittay and Depofitiones producet be our faid fouerane lordis Aduocat, for veri- ficatioun thairof; fpeciallie, conforme to the faid Erle of Orknay his awin Depo-

fitioun producet and subferyuit with his awin hand, and this day ratifeit and renewit be him in judgement; ffor the quhilk he is cum in his Maiefteis will.

SENTENCE. The Justice, be the mouth of Johnne Dow, dempfter of Court, Ordanit the said Patrik, Erle of Orknay, to be tane to the Mercat-croce of the burgh of Ed', and thair, vpon Fryday nixt, the thrid of this instant, betuix tua and thre houris eftir none, his heid to be strukkin from his body: And all his landis, lordfchipis, leving, heritages, takis, fteidingis, rowmes, poffeffiones, offices, digniteis, rentis, guidis, and geir, to be fforfalt and efcheit to our fouerane lordis vsé, as culpable and couvict of the saidis trefonabill crymes.

[It has been thought proper to preserve the following entries. The absence of so many ASSISORS, on such an important occasion, must doubtless have been occasioned by the "grit storme and feafone of the 5eir." It is proper, however, to remind the reader, that Calderwood asserts that they '*withdrew themselves from his Assise.*'¹]

COMPEIRIT Hew Dunbar, wryter, *excufatorio nomine* for HEW LORD LOWDOWN, and declairit to þe Justice, that þe said Lord of Lowdown was past þe age of thre feoir 5eiris, visitit with dyuerse bodiellie infirmitis, speciallie ane grit doulour,² and fairnes in his richt leg; quhairthrow, in þis grit storme and feafone of the 5eir, he is nocht hable to travell to the keeping of this Justice Court, to haif past vpon þe Erle of Orknayis Assyse, conforme to charge gevin to him for þat effect, without the grit haizaird of his lyfe: And producet ane Testimoniall þairupoun, subfcryuet be James Greg, Minister at Lowdown, Mr George Walker, Minister at the Kirk of Auchinleck, and Mr Alexander Wallace, Minister at Galitoun. Quhilk Testimoniall, and excufe mentionat pairintill, the Justice admittit. Quhairupoun the said Hew Dunbar skit instrumētis; and protestit that þe said Lord of Lowdown fould be fied and releuit of his vnlaw.

Compeirit lykwayis Mr James Oliphant, Aduocat, *excufatorio nomine* for THOMAS ABERCROMBY OF THAT ILK, and declairit, that he was hevelie diseasit of ane fall; and pairthrow vnable to travell to this dyet, to pas vpon the Erle of Orknayis Assyse, without grit hazard; and producet, for cleiring þe veritie pairof, ane Testimoniall subferyuit be Mr Williame Glas, Minister at Dunkeld, and be dynerfe of the Eldris of that parochin. Quhilk Testimoniall and excufe þe Justice admittit, &c.

Compeirit þe said day, Thomas Fallafdaill, Proceit of Dumbarten, *excufatorio nomine* for ALEXANDER COLQUHOUN OF LUSE, and declairit that he was visitit with ane grit feiknes, and nocht hable to travell to the keeping of this dyet, being summonsd to pas vpon the said Erle of Orknayis Assyse; and þairupoun producet ane Testimoniall, subferyvit be Mr Walter Stewart, Minister at Kilpatrik. Quhilk the Justice admittit, &c.

The quhilk day JAMES MARQUEIS OF HAMMILTOUN, WILLIAME ERLE OF ANGUS, JOHNNE ERLE OF MONTROIS, JAMES ERLE OF MURRAY, PATRIK ERLE OF KINGHORNE, ALEXANDER ERLE OF HOME, ALEXANDER GORDOUN of *Chenick*, SIR ALEXANDER FALCONER of *Halkertoun*, SIR ROBERT BRUCE of *Clackmannane*, JAMES HADDENE of *Glennageis*, SIR WILLIAME STEWART of *Gairnetullie*, JOHNNE BUCHANNANE of *that Ilk*, SIR ROBERT GORDOUN of *Lochinvar*, and WILLIAME DOUGLAS *apperaid of Drumlarig*, being oft tymes callit, &c. and nocht compeirand, thay, and ilk ane of thame, for þair non-compeirance, war unlawit, and amerciat in the panes contenit in the Actis of Parliament.

¹ See this Coll. III. 312, &c.

² Pain; trouble; disease.

APPENDIX OF ORIGINAL DOCUMENTS,
ILLUSTRATIVE OF THE TRIAL OF PATRICK, EARL OF ORKNAY.¹

(1.) LETTER, THE KING *to the Privy Council of Scotland, 'anent the oppressed People of Orknay.'*²

RIGHT truittie and weilbeloveitt cofines and counfallouris, We greitt 5ow weell. HAVING red that 5our Lettre, fent with þe COMMISSIOUNE defyreit by thofe oppreffit peopill, complemantis vponne THE ERLL OF ORKNAY; houfevier, the fame is groundit only vponne civil Horningis, and that the Commiffiounne conteanes leveying of menne, befeiging of houffis, reading of flyre, and difpenfatiounne for Slaughtur in the vfeing of it, togidder with a WARRANT of concurrence for the cuntry peopill of CAITHNES, which is thoct man³ breid a farther wnquyetnes; and that the lyk Commiffiounnes hes not bene grantit, except quhair the REBELLIOUN wes for a criminall caus: 5IT, having dewlie confidderit the miserie of the poore distreffit peopill, whofe hard fameithing estait is worfe than death; the numberis of thame, which is a great prefumptiounne that fame of thame hes over iuit caus; thair continowall outcryis and exclamatiounnes heir, to the gritt scandell of our kingdome and COUNSELL thair, as if Oppreffioun wer tollerated thairin, and that the Counfall wer cairles to remedy it: And then, THE ERLL OF ORKNAYIS awin contemptuous Rebellioun, nevir preadling aither to fatisfie the partie, or relax him felf fra the horne: The contenance of whiche difobediante, albeit for a civeill caus, can have na better constructiounne of ws, than that it is becum of the natur of a criminall. WE, vponne the refpectis foirfaidis, being loath that the distreffid fould not have the benefit of our releiff, and the proud and rebellious not feill the weight of our iuit wreath and indignatioun, have concludit to grant the faid Commiffioun, in forme as it is defyrit, and hes signed and fent heirwith wnto 5ow: Bot, as We have evir bene unwilling to condem ony partie wnlard, and jairwith loth to cut off a member quhair jair is any hope of recoverie jair, We have thoct meit to will 5ow, by oppin Proclamatioun, charge THE ERLL OF ORKNAY to compeir befor 5ow the fecond day of Marche nixtocum, for to give all dew and reifonable fatisfactioun that may be iustlie demandit of him be ony who prefently ar complemantis one him, fo as We be no farder troubleid and impertuned with thair Petitiounes;⁴ with certificatioun to him and⁵ he faill of his appearence that day, that not only the foirfaid Commiffiounne falbe grantit to thofe quho prefentlie defyres the fame, in fuche forme as it is foct, bot thay, in the executiounne jair, falbe affifted with our power and autoritie, both be fea and land, for the punifhing of his Rebelliounne. AND if he do cum jair, at the day foirfaid, 5ow fall tak fun good ordour that he may be furtlicummand,⁶ wntil fuch tyme that he have aither cleirit or fatisfeit all compleanares aganes him. AND in cais of his not compeirance, 5ow fall thane expcid this prefent Commiffiounne, and delvyer it to the pairteis futtareis;⁷ and 5ow fall give wntill thame fuche Warrands for concurrence of the cuntry, or quhatevir ellis may furder the profequitting of the Commiffiounne. For doeing quhair, thir prefentis falbe 5our fufficient Warrant. And willing 5ow to be cairfull in the fpedic directiounne of this Proclamatiounne, as 5ow wald efchew our reprooff, for ony neglect of tyme jairin, WE bid 5ow fairwell. FROME our COURT AT CHETFOORDE, the 6 of December, 1608.

[JAMES R.]

To our rycht truittie and weilbeloveitt cofines and counfallouris, the Erl of Dumfermling, our Chancellor, and remanent lordis and wtheris of our PRIVIE COUNSALL OF SCOTLAND.

¹ Reference is particularly made to the large COLLECTION OF PAPERS appended to the Trial of *Robert Stewart* and others, for their Rebellion in Orkney, which all relate to this present Case. See this Collection, Vol. III. p. 283, &c.

² From a Copy preserved by *Lord Haddington* in his MS. Collection of State Papers. ³ Must. ⁴ The number of Applications and complaints from the PEOPLE OF ORKNEY to the KING himself was very great: but he delayed taking any step until impertuned to grant this Commission; which, though at length he subscribed, was clogged with the additional delay of ordering the *Privy Council* to charge the *Earl of Orkney*, of new, to appear before them; so as, if possible, to divert the *Earl* from his criminal courses. But he had long contemned the Proclamations and charges of the *Council*; and this new charge would merely appear to him as a fresh proof of their imbecility; and as he could 'call the King his cousin,' so he hoped that the *Council* would not dare to molest him in his Island Kingdom. ⁵ If. ⁶ Forthcoming. ⁷ Suitors; petitioners.

(2.) NOTE OF THE CONFERENCE *had be the Secretare and Aduocat¹ with the Erle of Orkney.*²

My Lord Aduocat and I repaired to the Castell of Ed^r to THE ERLE OF ORKNEY, and declaired to him that We had commandment from HIS MA^{TIE} to examine him, vpon the causes of THE REBELLION OF ORKNEY. He declaired, that he wes innocent and ignorant thairof. That *Sir James Stewart*³ came to the Castell of Ed^r to him, and felwe that his sone *Robert* wes gone to Orkney, whoes actiones thair might breid offence to HIS MA^{TIE} and danger to *the Erle*; who answered, that want of meanes had forced *Robert* to gang thair, to vplift sum rellis⁴ of the Tennantis dewties auchtand to *the Erle*, to help to supplie *the Erles* wantis and his owne. That since it wes evill tane, he wald wryte to *Robert*, that he might retire furth of Orkney, desyryng that *Sir James* wald cause convoy his Letter to his sone, and command his dooris to giue ouersight to *Robert* to transport him self to *Caitheues*. That he neuer wrait any vther Letter to *Robert* since he went to Orkney.

It being replied be ws, that efter *Robert* had tane *BIRSA*, and disobeyed the charge vsed be *the Sheriff-depute* to rander that Honfe, vnder the payne of Treason, he had writin to *the Erle*, who, having reffused his Letter from *Duncan Mitchell*, Poist, he had writin bak to him with the said Poist. He denyed the wryting of any such Letter to his sone; and when he saw his seruand, *John Schairp*, of mynd to wryte to *Robert* with that Poist, he had dischaarged him to wryte; and that *Schairp* had desyred him not to find fault, that he might fend his owne privat Letter, answering to that which he had reffused from *Robert*; bot that nather *Schairp* nor *Mitchell*, being broght to his prefrence, wald fay any thing to the contrarie of this his declaration: Which is the subftance of all that he wald fay to ws in that poynt; adding, that no thing proceeding from him had occasioned THE REBELLION; bot that the extreame rignon vsed be *Mr John Finlayson* to the cuntrie people, and the wrong intended be *Mr John* to the cuntriemen, who, with great haifard of thair lyves, had forced THE PIRATES,⁵ and tane thame and thair schip, had disposed thame to REBELLION. And that thay had perswaded *Robert* to assist thame aganis *Mr John Finlayson*, and to be head to thame in thair interpyfes.

Being demanded, what condicon he had made to *Patrik Halero*, for his joyning in this Rebellion? Denyed that he knew him familiarlie, or even had to do with him; and that no thing had moved *Halero* to mell in these turnes bot his great affection borne to *Robert*, his sone. Farder, we could not induce him to grant, in ony circumstance, of the proceedingis of his sone in his Rebellion. We declaired to him, that what he concealed of the cairage of this interpyfe wald be detected be his sone *Robert*, *John Schairp*, and *Mitchell*, who wer all in handis. He answered, that he wes confident that thay could fay no farder nor he had declaired to ws.

(3.) EXAMINATION of *Patrick Earl of Orkney*, and Re-Examination of *John Schairp* and *Duncan Mitchell*.

AT EDINBURGH, the second day of November, 1614. In prefrence of my Lord Chancellour, eccretair, President, Previe Seale, Thejanrair-depute, Clerk of Register, Aduocat, and Melcoper.

PATRIK, ERLE OF ORKNEY, fworne and demandit, yf he knawis *Thomas Layng*? Deponis that he knawis him, and that he wes some tyme his seruand; and rememberis not yf *Thomas Layng* broght ony Letteris to him oute of England.

Demandit, yf euer he had ony purpois or intention to haif brokin warde? Deponis that he had nevir ony suche purpoise or intention to haif brokin warde.

Demandit, yf he gaf ony directioun or warrand to his bafe sone *Robert*, anent this REBELLIOUS IN

¹ Sir William Oliphant of Newton.

² From the Original, in the *Dennhaue Coll. of MSS.* Adv. Library, holograph of Lord Binning, afterwards Earl of Haddington, &c.

³ Of Killeith, afterwards Lord Ochiltree.

⁴ Arrear of rent and duties, &c.

⁵ See this Collection, Vol. III. &c.

ORKNAY, and for taking of the *Houffis* of *Birsay* and *Kirkwall*? Deponis, he never gaif ony fuche directioun to his sone.

Demandit, yf he write ane Letter to his sone with *Patrik Murray*? Grantis, that he write fuche ane Letter, and that the contentis thairof wes onlie to desire his sone to leave the cuntrey of Orknay, and to reter him self to Caithnes to the *Laird of Murkill*.

Demandit, yf he write ane Letter to his sone *Robert*, with *Duncane Mitchell*, poill, and what wes the contentis of the Letter? Deponis, that he rememberis that he causit wryte ane Letter to *Robert* with the said *Duncane Mitchell*, when the Deponner wes carryed fra the *Cajfell of Edinburgh* to *Dunbartane*, bot he rememberis not of the contentis of the Letter; nather knawis he yf he subscryuit the Letter, or how it wes directit on the bak.

Demandit, quhat verball directioun he gaif to *Duncane Mitchell*, the poill, to cary to his sone *Robert* at that tyme? Denyis that he gaif him ony verball directioun, bot onlie to desyre his sone to gett him money.

Grantis, that *Duncane Mitchell* brocht him ane ansuer fra *Robert*, bearing, that he had tane the *Houff* of *Birsay*, becaus the *Schereff* persewit him. And that he had no other place of refuge to keepe him in; and that his man *Downy Lyell* wes hurt.

Denyis, that he fend ony directioun to his sone with *Duncane Mitchell* anent the taking of *Birsay*, or that he had ony conference with *Mitchell* at his bak-coming fra Orknay, anent *Robertis* taking of *Birsay*, or anent the persute of the *Schereff*.

Demaadit, yf he wryte to *Patrik Halero* to tak *Barnard Steuarts*¹ lyffe? Denyis the same.

Grantis, that *Patrik Halero* come to *Dunbartane*, and the Deponnair mett with him thair. And denyis, that thair wes ony speeche or conference with thame, bot generall wordis; and fayis, that he nevir spak fax wordis to *Patrik Halero*.

Demandit, yf he had ony conference with *Barnard Steuarte*, anent his sone *Robertis* going to Orknay? Deponis, he nevir conferrit with him vpon that subiect.

Demandit, yf he causit his man *Johanne Schairp* wryte ony Memoriallis to his sone *Robert*? or yf the Memoriallis contenit a directioun to his sone to fend to *Norroyay* for poulder? Denyis, that ony fuch Memoriallis wer writtin be him, or at his directioun; and the depouner rememberis not of ony Memoriallis writtin be him to *Robert*.

Demandit, yf he had ony conference with his sone *Robert*, at ony tyme, for geving ouer of the *Cyftell* of *Kirkwall* to the *Bischope*? Deponis, that he fand fault with his sone that he had gevin ouer the Houfe, without taking Inventair, vnder the *Bischopis* hand, of the goodis within the Houfe. And he had no other caus of offence aganis his sone, for that erand.

Denyis, that eur he had ony conference with his sone, after the geving ouer of this Houfe to the *Bischope*, anent the taking of the Houfe agane; or that he had his sone prove any prettye man, yf the Houfe come in his handis agane.

Demandit, yf he gaif ony directioun to *Johanne Schairp* to wryte ane Letter to his sone *Robert*, willing him to follow his Memoriallis? The depouner rememberis not of ony fuche Letter.

Demandit, yf he wryte ane Letter to his sone *Robert*, willing him to trye the cuntrey people, yf thay wald tak his parte? Denyis the writting of ony fuche Letter.

Demandit, quhat directioun he gaif to *Johanne Schairp* to carye to Orknay? Deponis, that he directit him not to Orknay, bot fend and directit him heir to his *Mairjeis* *Counsell*, with Letteris to the *Erll of Glencairne*, to do² for him at the *Counsellis* handis. And fayis, planelie, that the said *Johanne Schairp* had no directioun from the depouner to go to Orknay; and that the said *Johanne* being coming to this burgh, and getting information at the *Cowde-bridge* that *Duncane Mitchell* wes

¹ Keeper of the Castle of Birsay, who had been appointed by Sir James Stewart of Killeith, the new Chamberlain and Sheriff-principal of Orknay, under the King. ² To act or procure for him.

tane, and that the said *Johne* wald be tortourit yf he come to the *Counsell*, the said *Johne* thairypoun tooke occasioun to efchew.¹

Demandit, yf he caufit mak ane bed for his sone *Robert*, in his awne chalmer, within the *Cyffell of Edinburgh*, tua nightis afor his going to Orkney? Deponis, that he caufit to mak his bed in his chalmer, becaus the wyfe of the Houfe quhair he lay, in the Castell, wes grite with childe and at the poynte of hir delyuerye.

Denyis, that he gaif directioun to *Johne Schairp* to write ane Letter in his awin name to *Robert Stewart*, to slaw him, yf he come heir that he wald be hangit.

Demandit, quhat he meaned be that pairt of his Letter writtin to his sone *Robert*, quhilk Letter wes gottin vpon *Duncane Mitchell*, quhairby he allowit of the forme and tennour of *Robertis* Letter writtin to him? Deponis, that he meaned no thing, bot allowit that *Robert* had writtin the simple treuthe.

Demandit, quhat wes his meaning in the other poynte of the Letter, bearing, 'thair is other materis heir to think vpon nor sache things as thay. I beleve HIS MAESTIE thinkis litle of these materis?' Deponis, that the deathe of the Prince,² and the trouble quhairin the Counte Palatyne³ wes lyke to be, through the invasioun of the Spaniard, maid the depouner to beleve that his Maiestie had other thingis to think vpon nor⁴ Orkney. And tuicheing that poynte of the Letter, beareing, that 'yf his sone come heir, the Tolbuthe wald be his best,' the depouner meaned no thing, bot that he wald be wardit, bothe for his debt and taking of the Houfe. And grantis, that the Letter bearing thir headis wes all writtin be the depouneris directioun.

Denyis, that euer he had conference with *Patrik Halcro*, or send ony worde or message to him conteneing a promeis of rewarde, yf he wald assit *Robert*, his bafe sone, in his REEBELLION.

JOHNE SCHAIRP, re-examinat, deponis, that afor he come oute of *Dunbartane*, he knew that the *Gaird* wes feikand him; and the *Erll of Orkney* tauld to the depouner, that the *Gaird* wes feikand him. And deponis, that the *Erll*, in plane termes, directit him to go to *Orkney*; and fayis, that the *Erll* gaif to the depouner ane Letter, directit to the *Erll of Glencairne*, purpoillie to hail thowne the fame to the fouldiouris of the *Cyffell of Dunbartane*, yf he had bene flayit be thame, and to mak thame to vnderstand that the *Erll of Orkney* had directit him heir to the *Counsell*. And fayis, that the *Erll of Orkney* forbad the depouner, in ony cause, to gang to *Edinburgh*; bot to gang to *Dundee*, and sva to *Orkney*.

THE ERLL OF ORKNAY, being confrontit with *Johne Schairp*, vpon that poynte of his Deposition, tuicheing the directioun gevin to *Schairp* to go to *Orkney*, and tuicheing the occasioun of the Letter writtin to the *Erll of Glencairne*, the *Erll* is direct contrair to *Schairp*, in that poynte; and *Schairp* abydis constantlie be his Deposition.

THE SAID JOHNE SCHAIRP his formair Deposition, maid in presence of the *Counsell* yisterday, the first of this infant, being red, in the audience of the said *Erll of Orkney*, the said *Johne Schairp* abydis constantlie be it, as a trew Deposition; and the said *Erll* denyis the fame, except in so far as he hes confest be his awne Deposition.

DUNCANE MITCHELL, poif, his Deposition, maid in presence of the *Counsell* vpon the fyft day of Julij 1614, being red, in the audience of the *Erll of Orkney*, the said *Duncane Mitchell* floode to it, as ane trew Deposition; and the said *Erll* denyit the fame.

(4.) EXAMINATION of the *Earl of Orkney*, *Patrik Halcro*, and *Robert Stewart*.

AT EDINBURGHE, the xv day of November, 1614. In presence of my Lord Chancelour, the *Erllis of Cuffillis and Caithnes*, the *Lordis Secretair*, *President*, *Prevaie Seale*, *Thejarair-depute*, *Juf-tice Clerk*, *Clerk of Register*, *Advocat*, *Sir Andro Kcr*, and *Sir Alexander Drummond*.

PATRIK ERLE OF ORKNAY examinat and demandit, yf he gaif ony directioun to his sone *Robert*

¹ Escape. ² *Henry, Prince of Wales*, who died in November, 1612, at Saint James's. ³ *The Palgrave*, or *Count Palatine*, whose marriage with *Princess Elizabeth* had been delayed, on account of Prince Henry's death, till the month of February following, 1613. ⁴ Than.

anent the REBELLIOUN in ORKNAY, or for taking of the *Houffis of Kirkwall and Birfay?* Deponis, that he never gairf any fuch directioun to his fone.

Demandit, yf he had any conference with *Patrik Halero*, at his being in *Dunbartane*, anent the taking of the *Houffis of Kirkwall and Birfay?* Deponis, he had no fuche conference with *Patrik*; and that he never delt with *Patrik* to affist his fone, yf he come to Orkney. Denyis alfo, that he fend any directioun to his fone *Robert* or to *Patrik Halero* for fendung to *Noroway* for poulder.

(5.) PATRIK HALERO, re-examinat, humblit on his knees, and deiplie fworne; and his Depofitioun, maid yifternight, being red vnto him, and he demandit vpon the veritie thairof, he, vpon his grite and folemne oathe declairit, that his Depofitioun wes trew; and he ratifeit the fame, and wald fland to it.

(6.) PATRIK ERLL OF ORKNAY, deiplie fworne, and confrontit with *Patrik Halero*, vpon the contentis of his Depofitioun, maid yifternight, in prefence of the *Counfill*; the faid *Erll* denyit the hail contentis of that Depofitioun. And the faid *Patrik Halero* conlantlie affermed and avowit, in the *Erllis* prefence, that the *Erll* directit him to tak the *Caftill of Kirkwall*, and to affist his fone *Robert* in that earand; and that his hail Depofitioun wes trew. Quhilk being red, in the *Erllis* audience, wes denyit be him, faying, he rememberit not that evir he had any fuche conference with *Patrik Halero*, vpon that fubiect.

(7.) ROBERT STEUART being of new presentit befor the Counfall, and his Depofitioun, made yifternight, being red vnto him, and he demandit of new vpon the treuth and veritie thairof, he depouit and declairit, vpon his grite oathe, that the fame wes of veritie.

(8.) PATRIK ERLL OF ORKNAY, confrontit with his fone *Robert*, vpon the contentis of *Roberts* Depofitioun, maid yifternight, as faid is, the faid *Erll* denyit the fame: And the faid *Robert*, in the *Erllis* audience and prefence, affermed and avowit the fame to be of trewth and veritie, as it wes writtin and red in the *Erllis* audience.

(9.) DEPOSITIONS of *James Lyon*, bafe fone to the *Mafter of Glamis*, *Mr Michael Mair*, and *Duncan McClellane*.

AT EDINBURGH, the nyntene day of November, 1614. In prefence of my Lordis Chancelour, *Secretair*, *Clerk of Refigier*, and *Advocat*.

JAMES LYON, bafe fone to the late *Mr of Glamis*,¹ folemnelie fworne and demandit, Yf at any tyme he pait to *Dunbartane* to vifite the *Erll of Orkney?* Deponis, that in fommer bigane two yair, the *Erll of Orkney* fend *Mr Michuall Mair*, then his *Secretarie*, to the depouner, he being in the heade of the *Cannogit* for the tyme, with a *comiffioun*, defyring the depouner to come to him to *Dunbartane*. Whereupon the depouner raid with him to *Dunbartane*. And at his coming thair, the *Erll* layd to his charge, yf he wald affist him to brek warde oute of the *Caftill of Dunbartane?* And at the firft, the depouner refuist to haif any dealing in that mater. Bot being earnillie delt with be the *Erll*, and mony fair promiffes maid by the *Erll* to him, in end the depouner yeidit to do his beft endevoiris to help the *Erll* to efchape, and to convoy him to *Orkney*. And deponis, that the faid *Mr Michael Mair* wes vpon the *Erllis* counfall, in this mater; and propouit the fame to the depouner, in the way, as they wer ryding to *Dunbartane*. And after the depouner had imbraceit this condition, he and the faid *Mr Michuall* had diuers conferences and fpeechis, anent the meanes and poffibilityis to effectuat thair interprife. And deponis, that the faid *Mr Michuall* was employit be the *Erll* to deale with the *Laird of Cluny*, to imbarke him in this interprife. And the faid *Mr Michuall*, with the depouner, had fpeeches with *Cluny* vpon that fubiect, at the *Town of Leithe*, on the *Linkis*; and the

¹ This person was probably son of the Hon. Sir Thomas Lyon of Auldar, second son of John, seventh Lord Glamis. He was styled the *Master of Glamis*, and enjoyed the important office of Lord High Treasurer about the period of ten years, from 1586 to 1595.

Laird promeit to gif his affiutance and furtherance in that mater. And for this effect, they appointit a tryfall and meeting to be at Striuling, vpon the Satterday thairefter, and the depouner and *Mr Michael* mett vpon Satterday, at night, at *Striuling*; and *Cluny* came not quhill Sunday, in the morning, bot fent his man *David Gairdin* thair, vpon the Satterday, to excufe his abfence. And when they mett al togidder vpon the Sunday, they reafouned vpon the meanes how to gett the *Earl* out of the Caftell; and refolued to tak him ouer the wall by a cord, and ane inftument of irne,¹ whiche the depouner caufit mak. And *Mr Michael* promeit to prepar the tow.² And it wes aggreit that when all thingis wer in reddynes for the *Erllis* efchaping, he fould proceed as yf he had fome erand adn in the Houfe, and fend his three Keeparis, one efter another, for difpache of his erandis; and then he fould come away. And they aggreit to bring fome horffis to *Dunbuk-Hill*, to haif convoyit the *Erll* and his companie away; and ane horfe fould haif bene brogth to the Caftell-wall, for the *Erll* him felf; and *Cluny* fould haif brogth thir horffis to *Glafjow*, bot *Cluny* brogth not the horffes with him. And the depouner raid to *Dunbartane*, and the faid *Mr Michael* taudd the *Erll* that the depouner was come, and all thingis wer preparit and in reddynes for his efchaping. And then the *Erll* began to fant; and maid choife, rather to fuborne the *Portair* nor³ to haifard to come over the wall; and fo delt with the *Portair* vpon that fubiect; who reveillit the fame to the *Laird of Buchannane*, who had the charge of the Houfe for the tyme.

Deponis, that at Martymes, in the yeir foirfaid, the faid *Mr Michael Mair* come of new to the depouner, he being in the heade of the *Cannogait* for the tyme, with a commiffioun frome the *Erll* to come Weft to him agane to *Dunbartane*. And the depouner refuifit to go Weft, faying, that ‘ I wald mell no forder with the *Erll*, nor in nane of his courfes.’ To whome *Maifter Michael* anfuierit, ‘ I fee this man (meaneing he the *Earle*) hes not the grace of God in him; I wyl lykewayis haif no forder dealing with him!’

Deponis, that after *Robert Stewart*, bafe fone to the *Erll of Orknay*, wes come out of *Orknay*, and fred of warde for keeping of the *Cuftell of Kirkwall* aganis the *Bifhop of Orknay*, the depouner, in deling with *Robert* in this Toun, delt with him that he wald mak his addrefse to Courte; and thair vie his credite to gett his Maiefties fauour: And fays, that *Robert* wes willing to haif gone to Courte, bot maid his excufe vpon the want of money, and his faderis offence aganis him for geving ouer of the Houfe of *Kirkwall*; and *Robert* intreated the depouner to ryde with him to *Dunbartane*, and to interceid for him with his fader, bothe for his fauour and fome money: And the depouner yeildit to ryde with him, and thay raid togidder to *Dunbartane*, and ftayed thair bot ane night. And the depouner knawis not yf the *Erll* fpak with *Robert* that night. And vpon the morne, the *Erll* directit the depouner with a Letter to the *Erll of Caftillis*,⁴ being in *Carrik* for the tyme, for fome money. And *Robert Stewart* raid with the depouner to *Carrik*. And when thay come bak agane to *Dunbartane*, the *Erll*⁵ wald not looke vpon *Robert*, calling him ‘ Feble vnworthie beaft!’ vfeing mony imprecationis and curffes aganis him for geving over of the Houfe, faying, he ‘ wes the wraick of him and his eftate!’ And the depouner being redly to come away frome *Dunbartane*, the faid *Robert* come to him to the Toun of *Dunbartane*, defiring him to go againe and fpeeke his fader in his fauouris, and to tell him that he wald tak fome disperat courfe, and go oute of the cuntrey, yf he could not procure his fauour. Wherupoun, the depouner went bak agane to the *Caftell*, and eirniillie delt with the *Erll* in Robertis fauour; bot the *Erll* could not with patience heir of him, bot gaif ouer mony inuetiue and diftyrefull fpeecheis aganis him, calling him ‘ Fals, feble beaft,’ for geving ouer of his Houfe. And in

¹ Probably a pulley, having a strong iron to fasten or hook upon the battlements of the Castle, so as to save the necessity of driving in a staple, which would necessarily occasion noise. ² Rope. ³ Than. ⁴ John, fifth Earl of Caftillis, who married Jean, only daughter of James, fourth Lord Fleming, and relict of John Lord Maitland of Thirlestane, Chancellor of Scotland. ⁵ Through her intrigues, he procured the office of Lord High Treasurer, in 1599, for which he was utterly incapable; and retired from it in disgrace, with the loss of 40,000 merks, &c. See *History of the Kennelies*. Quarto, Edin. 1830. ⁶ Of Orknay.

end, the depouner haueing promiseit in Robertis name, that Robert wald do ony thing the Erll wald command him, the Erll thairpoune become to be more calme, and to gif eare to the depouneris speeches in Robertis fauour. Wherupoun, the depouner broghte Robert to the Erle, and tauld to the Erll, that Robert wald do ony thing that the Erll wald bid him; to whome the Erll anfuertit, that Robert had not a spirite nor courage to follow ony interprise; or Robert haueing craved of the Erll his fader, that he might haif a ryght of the landis of Weltraue or Steanehoufe, the Earll wald yeild to gif him no thing, quhill firft he had repairit the wrang he had done, in giving ouer of his Houfe; and by recouering of the fame agane, to play the part of a man. And the Erll haueing desirrit the depouner that he wold gif him his worde and promise, in Robertis name, that Robert fould go to Orknay and recouer the Houffis agane, the depouner refusit to gif his promise or word, faying, 'Robert wald speke and promise for him self!' Whairupoun Robert, in the depouneris audience, promiseit to the Erll to go to Orknay, and to tak in the Houffis agane. And then the Erll acceptit of him, faying, he 'fould want no thing, and that he wald aduance him so far as he might. And so, the depouner haueing aggreit the Erll with Robert, the depouner left thame. And as he wes coming away, *Duncane M^c Clellane*, the Erllis poiff, followit the Depouner to the Toun of Dunbartane, willing him to go bak agane to my Lord; and the depouner refusit to go bak, becaufe he vnderftoode that the purpos of his bak-calling wes to haif delt with him to haif gone with Robert to Orknay. And the depouner meeting at that tyme with *James Annand*, sometyme the Erllis seruand, in Dunbartane Townte, the said James aikit of the depouner, 'yf he had aggreit the fader and the sone?' And the depouner anferit, 'that yew aggreit,' and that 'Robert must neidis go to Orknay, or thair wilbe no lyffe for him!' To whom *James* replyit, 'The Erll is ane vnhappy man! He knowis Robert can do no goode in Orknay. His purpos is to bring him to the scallolde, and to bring the sclander of his bloode vpon the King!' And vpon the morne, the depouner raid fra Dunbartane towards Edinburgh; and *M^c Clellane*, the poiff, come to Edinburgh with him. And within tuentie dayis thairefter, *Robert Stewart* come to Edinburgh, and slichtit at *Henry Raes* houfe, and aikit of him whair the depouner wes? And *Henry Rae* broght *Robert* to the depouner in *George Lafonis* houfe in the heade of *Peblis-wyud*, quhair the depouner hudgeit; and *Robert* tauld to the depouner that he had vnderlirnt the interprise of Orknay, and wes resolut to go thair. And the depouner asking of him, how he wald be proudit and furneit with money? *Robert* tauld him, that he had a Letter from his fader to one *Johne Smith*, his fader's mercheant in S^t Androis, to aduance him iij^o merkis of siluer. Whairupoun *Robert* and the depouner paif to S^t Androis to haif gevin the money, and haueing steyed thair aucht dayis, *Johne Smith* refusit to gif the money, vnles he had a Band vnder the Erllis hand, for the haill moneys he was awand him asoir, including thairin the siluer now to be gevin, with the annuell¹ of the haill. And deponis, that thay onlie ressaunt at that tyme fra *Johne Smith* xx lib. to defray thair chargeis. Deponis forder, that at thair cominge oute of S^t Androis, *M^c Clellane*, the poiff, come to *Robert* with Letteris fra the Erll his fader; and the depouner saw and red ane of the Letteris, whilk wes a lang Memorandum, full of injunctiounes how *Robert* fould carye him self in Orknay, bothe anent the taking of the Houffis, the introniffioun with the Erllis rentis, and what men he fould putt oute of the cuntrey. And the depouner rememberis weele of ane speciall poynte of the Memorandum, to witt, that *Robert* fould fend the Erllis create,² laidnit with beare and salt goodis, to Brein, in *Norrouay*, and thair sell the same, and by poulder³ and bullett with the money that fould be gottin thairfoir. And that, about all thingis, *Robert* fould see that the Houffis wer weele furneit. And *M^c Clellane* come bak with thame to Leithe. And deponis, that then thay raid to Dunbartane, and *Robert* steyed at the smithis houfe outwith the Toun, and the depouner raid fordwart towards the *Casfell*. And the Erll, being aduertit that thay wer come to the smithis houfe, he fend *Johne Burne*, his seruand, to haif steyit thame at the smithis houfe. And the depouner gorradering with *Johne Burne*, in the way betuix the smithis houfe and the *Casfell*,

¹ Annualrent; interest.² A sort of vessel.³ Purchase gunpowder.

Johne Burne delt with the depouner to go bak, faying thay had done evill to come, for *the Counfall* wald be in fufpicionn that thay had fome purpois for thair going to Orknay. And he tauld the depouner, that they wald not gett accets to the Erll, yitt the depouner wald not be itayed, bot come fordwart to *the Cuffell-yett*, and craveing entrie, he wes anfuert ouer the wall be one *Robert Knox*, who had the charge of the Houfe, that he wald not gett entree. Whairuppon, the depouner come bak, and being in ane grite anger, becaufe he could not gett entrie, he faid to *Johne Burne*, that he fould reveill all thair practizeis to *the Counfell*, feeing he could not gett payment of the moneyis addebtit be *the Erll* to him. Deponis, that *Johne Burne* askit of the depouner, yf he had prouidit ony men, in Angus, to tak with him to Orknay? And the depouner maid him to beleve, that he had prouidit fome men in Angus, who wer goode fellowis, to haif gone thair. And the depouner named fome of their names: And he did this purpoillie, to haif gottin payment of his moneyis.

Deponit, that *Johne Burne* haveing flowne to *the Erll* the depouneris difcontentment for the want of his moneyis, and that he had awovit to reveill thair interpriife, the Erll, fearing the reveilling and difcourie thairif, fend to the depouner with the faid *Johne Burne* xx f. Sterling; quihik being refusit be the depouner, *the Erll* fend vther xx f. to him.

Deponis, that when he come bak to the finithis houfe, he faid to *Robert*, ' he perfavit that the Erll had no vther courfe bot to bring him to the fcafold!' And *Robert*, waging his head, with a grite fighe, anfuert, ' I feare it falbe fwa!'

(10.) MAISTER MICHAELL MAIR, feruand to *Mr Johnne Scott*, Directour of the Chancellarie, fworne, and demandit, ' yf he knawis of ony purpois that *the Erll of Orknay* had to brek warde? Deponis, he knawis that thair wes fome fpeeches betuix *the Erll*, *the Laird of Cluny*, and *James Lyon*, vpon that fubiect.

THE DEPOSITION maid be *James Lyon*, in that pairt thairof concerning *the Erll of Orknay* his purpois to brek warde, and the confereneis, meetings, and refolutionis tane thairant, betuix *the Laird of Cluny*, *James Lyon*, and the depouner, being red to the faid *Mr Michael*; and he being demandit, yf the fame wes trew? Deponis, that he acknowledgeit the Depositionn to be trew, as it wes writtin, except in that parte thairof concerning the fuborning of *the Portair*, whairof the depouner knawis no thing. *In ceteris conformis*.

(11.) DUNCANE McCLELLANE, poit to *the Erll of Orknay*, fworne, and demandit yf he knawis ony thing of *the Erll of Orknay* his purpoillis anent THE REBELLIION IN ORKNAY? Deponis, he knawis na thing thairof, and denyis that euir he hard ony conference or fpeeche betuix *the Erll*, *Johne Burne*, *James Lyon*, and *Robert Stewart*, or ony of thame, anent *the Erll* his purpois to brek warde, or anent the fendng of *Robert* to Orknay.

Grantis, that the Erll of Orknay fend the depouner with tna Letteris to *Robert Stewart* and *James Lyon*, and the depouner come to this toun to haif gottin thame heir; and miſſing thame heir, he pait to *S^t Androis*, and forgadderit with thame comeing oute of the Toun, and delyuerit the Letteris to thame. And fays, that *Robert Stewart* and *James Lyon* tauld to the depouner, ' yf thay had gottin filuer in *S^t Androis*, that thay wald haif gone to Orknay; bot feeing thay gatt not filuer, thay could not go.' And the depouner, haueing gone bak to *Dunbartane* with this anſwer, the Erll fell oute in bitter fpeecheis aganis *Robert*, calling him ' Fals, feble knaife!' ' Villaine!' and ' Pultrone!' And ' he fould hang him with his awne hand!'

Deponis, that he hard the conference betuix *Robert Stewart* and *James Lyon* be the way, as thay come frome *S^t Androis*, to witt, yf thay had gottin filuer in *S^t Androis*, that thay wald haif gone to Orknay and tane the Erles Houffis. And the depouner tauld thir fpeecheis to the Erll, when he come bak to *Dunbartane*; wherent the Erll wes heichlie commovit, faying, ' *Robert* was ane feble beaft,'— and ' Or^s he ver not haigit, he fould hang him with his awne hand; becaus vnworthelie he had left his Houffis, and had not grace to win thame agane!'

¹ Ere; rather than.

Deponis, that at this same tyme, *James Lyoun* said to the depouner, ‘Yif we go to Orknay, no man fall haif the credite¹ of carying our Letteris to and fra, bot yow.’

(12.) DEPOSITION, *Robert Stewart, the Earl of Orkney, James Lyoun, and Mr Michael Mair.*

AT EDINBURGHE, the xxij of November, 1614. In presence of my lordis Chancellair, the Erll of Caithnes, the Secretair, Thefaurair-depute, Clerk of Register, and Advocat.

ROBERT STEUART, bafe sone to the Erll of Orknay, sworne, and demandit yf he knowis *James Lyoun*, sone to the lait *Mr of Glamis*? Depones, he knowes him very weele.

The DEPOSITION maid be *James Lyoun*, vpon the xix day of November instant, in that poynte thairof tuitcheing the said *James* his interceding with the Erll of Orknay, in fauouris of his sone *Robert*, the Erllis refusall to accept of him quhill he yeildit and promeit to go to Orknay; and tuitcheing all the speecheis past betuix thame in that mater, being red to the said *Robert Stewart*, and being demandit, yf the fame wes trew? The said *Robert* acknowledgeit the Deposition to be trew, as it is writtin and sett down.

The haill Deposition foirsaid, maid be the said JAMES LYOUN, being red to the said ERLL OF ORKNAY, and he being demandit, yf the fame wes trew? The said Erll deponit, that the same wes noft vntrew. And deponit, that the said *James Lyoun* delt with him findrie tymes to haif brokiu wairde, becaus his lyffe wes in danger; and that he ever refusit to harken to *James*, in that mater. And deponis, that he wes ever in ane anger with his sone *Robert*, becaus he hantit *James Lyounis* company. And sayis, confidently, that he had neur conference nor speeche with *James Lyoun*, anent *Robertis* going to Orknay.

(13.) The ERLL OF ORKNAY, JAMES LYOUN, and MR MICHAELL MAIR, being confrontit, vpon that point tuitcheing the said Erll his purpos of breking of warde, and the confereneeis, speecheis, and messagéis past in that mater, conforme to the Depositionis maid thairanent, the said Erll, vpon his oathe, denyit the same: And the saidis Maister Michael Mair and *James Lyoun*, vpon their grite oathe, avowit and affermed the same to be trew.

(14.) The said ERLL OF ORKNAY, ROBERT STEUART, and JAMES LYOUN, being confrontit, vpon the vther poynte of the said *James Lyounis* Deposition, tuitcheing the Speecheis and Confereneeis betuix thame anent THE REBELLION IN ORKNAY, and how *Robert* wes employit and directit in that earand? The said Erll, vpon his oathe, denyit the same: And the said *James Lyoun* and *Robert Stewart*, vpon their oathe, avowit the same to be trew.

Slaughter.

Feb. 14.—JOHNE MAXWALL, callit *Achilles Johnne*, in Dumfries.

Dilaitit of airt and pairt of the crewall Slauchter of vni^{le} Johnne Makculloch, mercheand burges of Kirkculdbrycht; committit be the said Johnne Maxwell and be vni^{le} Johnne Maxwell, sone natural to vni^{le} Williame Maxwell of Auchinlarie, vpon the landis of the Kirkhous, within ane quarter of a myle to the said burgh of Kirkculdbrycht, in the moneth of November, the 5eir of God Im. fex hundreth and threttene 5eiris, be geving to him of tua deidlie fraikis in

¹ Trust. We shall confide in no one but you, to carry our Letters to and fro.

the heid, togidder with fyftene bludie woundis in his breift and bellie, and vther fyftene bluidie and deidlie ftraikis vpon the bak and fydis ; quhairof he immediatlie deceiffit.

PERSEWARIS, Thomas McCulloche of Barholme, Sir Williame Olyphant of Newtown, kny^t.

PRELOCOUTOUR in defence, Mr Thomas Wilfone, Aduocat.

Eftir reiding of the DITTAY, it was allegit be my lord Aduocat, that na prelocoutour can compeir for defence of the pannell, for the cryme aboue writtin, fpecifeit in the Dittay ; becaus, immediatlie eftir the committing thairof, Letteris war direct, at the inftance of the kyn and freindis of the defunct, aganis the pannell, be the quhilk he was charget to find caution for his compeirance befor the Iuftice or his deputis, at the day thairin contenit, of lang tyme bygane, to haif vnderlyne the law for the faid cryme ; quhilk charge, nocht only he difobeyit and maift contemptiouffie paff to the horne, bot alfo hes remanit fugitiue fra his hienes lawis continuallie fenfyne, for the faid fact : And producet the Hoiring, deulie regiftrat, for verifeing thairof.—To the quhilk it is anfuerit, be the pannell and his prelocoutour, that, nochtwithftanding of the faid allegiance, he aucht to haif prelocoutouris to defend, becaus he is relaxt fra the faid proces of horne ; and producet his Relaxatioun for verificatioun thairof : Quhilk the Iuftice admittit ; and ordanit his prelocoutouris to be admittit to defend : Quhairupoun the pannell afkit instrumentis.

It is allegit be the pannell and his prelocoutour, that the DITTAY producet aganis him come nevir to his knowlege ; and thairfoir, befor ony forder proces be grantit in that matter, he aucht to haif a fyftene dayis grantit to him, to be advyfet thairupoun.—It is anfuerit, that the allegiance aucht to be repellit, in respect he haifing committit the fact, vpon the notorietic quhairof, and for tryell of the pannellis giltines, Letteris war direct, be the quhilk he was charget, vpon a fyftene dayis wairning, to find caution for his compeirance, as faid is, befor my lord Iuftice, at a day contenit in the faidis Letteris ; and for his difobedience was denuncet and put to the horne : And for cleiring thairof, repeitis the faidis Letteris of Hoiring producet.

THE Iuftice Repellit the allegiance, and Ordanis the matter to paff to the tryell of ane Affyfe, vnles the pannell fay forder.

ASSISA.

Robert Vans of Campfurd,	Airthour Kennydie, fervand to	Johnne Turnour, Schereff-Clerk
Patrik Vans of Lybrek,	my Lord of Caffillis,	of Wigtoun,
Peter McDowell of Machirnoir,	Patrik Murdoch of that Ilk,	James Hair, indueller in Ed ^r ,
Patrik Edjer, burges of Wigtoun,	Hew Gordoun of Grange,	Gilbert Agnew of Mureithaith,
Pat. Hammiltoun, burges of Ed ^r ,	Alexander Gordoun of Littill	Alexander Agnew of Trong,
Archibald Stewart of Fintillache,	Mondurk,	R ^t Makknab, burges, Quithorne.

My lord Aduocat takis instrumentis of the fweiring of the Affyfe ; and for

cleiring to thame of the pannellis giltines of the crymes contenit in the Dittay, repeatit the Hoirning producet, beiring him to be fugitiue for the cryme : As also, defyret Mr Robert Glendonyng, Minister at Kirkeuldubrycht, and Eduard Forrefter, Commiffar, thair, thair aithes and declaratioun to be tane, quhat thay knaw anent the pannellis giltines or innocencie, in the said matter, for the Assyse forder informatioun.

It was affirmet be the pannell and his prelocoutour, that the matter now being put in thair handis, thay fould nocht respect the perfewaris informatioun and assertioun in this perfute ; bot atogidder denyit the fact lybellit to be committit be him ; in respect he, at the allegit tyme of the committing thairof, was *alibi*, viz. in the Place of Teilling in Augus, lying deidlie feik, quhilk is ane hundreth myles distant fra Kirkeuldubrycht, quhair the Slauchter was committit : quhilk he wald verifie, be sufficient and famous Witnessès, gif tyme war grantit to him to produce thame.

MR ROBERT GLENDONING, being suorne, Declairit, he could nocht remember that he knew Johnne Maxwell vpon pannell offbeoir ; bot as to the veritie of the fact lybellit, it is of treuth, that vpon ane Fryday, at evin, in the moneth of November and 5eir lybellit, thair come tua litill men to the Toune of Kirkeuldubrycht, with Letteris of Captioun, of purpois, as the deponer was informit, to trable vni^o Johnne McCulloche, quhairof he was maid foirene be ane of the honest nychtbouris of the Toune : And the deponer, vnderstanding quhair Johnne McCulloche was, adverteit him thairof, and defyret him to hald him self out of the way ; quhairvpon McCulloche eschewit that nycht : And vpon the morne thaireftir, being Setterday, the day of his studie,¹ he, heiring of the Slauchter of Johnne McCulloche, come to the boundis quhair it was committit, quhair he saw tua deid men, Johnne McCulloche being mait crevallie strukin with ane quhinger, baith on his breist and bellie, and vpon his bak. And forder knawis nocht.

EDUARD FORRESTER, Commiffar, suorne, and demandit, quhat he knawis anent the veritie of the premiffes ? Declairit, that he saw Johnne Maxwell, presentlie vpon pannell, within the toune of Kirkeuldubrycht, the day of the Slauchter, immediatlie befoir the committing thairof ; quha, togidder with vni^o Johnne Maxwell, his affociat, come vp to the deponeris chalmere, and offerit to agrie with him anent the Confirmatioun of ane Testament ; and within ane schorte space thaireftir, hard of the committing of the said slauchter. And forder knawis nocht.

My lord Aduocat repeatit the Minister and Commiffaris Declaratioun ; and Protestis, in respect thairof, for Wilfull Errour aganis the perfones of Assyse, gif thay acquit.

VERDICT. The Assyse, all in ane voce, be the mouthe of the said Peter McDowell of Machirmoir, chancellor, stand, pronuncet, and declairit the said Johnne Maxwell to be Giltie, culpable, and conviet of airt and pairt of the said slauchter, &c.—SENTENCE. To be tane to the ordiner place of executioun, within the burgh of Ed^o, and thair his heid to be strukin frome his body : And all his moveabill guidis to be escheit, &c.

¹ Viz. the day he studied or prepared his sermons for the following Sabbath.

Errason—Declining the King's Authority—Alleging the Supremacy of the Pope—Hearing and Saying Mass, &c.

Feb. 28.—TRIAL OF JOHN OGILVIE, JESUITE.

[THE proceedings adopted against the ROMAN CATHOLICS and JESUITS, at different periods, after the time of the Reformation of Religion in Scotland, form a prominent part of the Ecclesiastical and Political History of the Country. Owing to the obscure and repulsive appearance of the Criminal Records, much valuable information has necessarily escaped the observation of the historian; but although the subject is one long since forgotten, it appears to the Editor to belong to the duty he imposed upon himself when he undertook the present Collection, to rescue from oblivion all those Trials which have preserved entire the memory of such events.

Among the most remarkable of those persecutions may be reckoned the Case of JOHN OGILVIE, *a Jesuit*, of Scottish extraction, who was a son of Walter Ogilvie of Drum. After an absence of twenty-two years in foreign countries, he returned to Scotland, in the month of May 1615, for the purpose of promoting the growth of the Roman Catholic Religion. There is little doubt that he was one of those enthusiastic individuals, who, at the imminent risk of fortune, and of life itself, scrupled not to lend himself a willing instrument for the accomplishment of some daring, dangerous, and destructive plot, which at that time characterised the whole of the ever-restless and ambitious proceedings of the followers of the Church of Rome, from the date of the formidable, but presumptuous, attempt of the Spanish Armada, and of the Gunpowder Plot, downwards. During the reign of KING JAMES, both before and after his accession to the English throne, seldom did a year pass over without some rumours of fresh attempts of the Jesuits against his life, or against the Religion, as by Law established, in England. There can be no doubt, from a perusal of the State Papers and Histories of this period, that some new attempt on the part of *Spain* and her auxiliaries was about to ripen into action, when the early detection and execution of numerous emissaries of the *Society of Jesus* frustrated its execution.

Without occupying more space, the Editor has merely to mention, that a Special Commission having been granted to THE PROVOST AND BAILIES OF GLASGOW, within whose jurisdiction Ogilvie was taken, his Trial is not recorded in the Books of Adjournal, but was reported by the Commissioners and their Assessors to the Privy Council, from whom their powers directly emanated. There cannot be a doubt that the Report of this Case was drawn up for publication, with the view of being extensively circulated in England. The phraseology is carefully revised, so as to be perfectly intelligible to an English reader; and though imprinted at Edinburgh by Andro Hart, immediately after the Trial took place, it must have been revised by some person skilled in the English Law, and familiar with its technicalities and practice.

The present reprint has been taken from a copy of the valuable Original Edition, in the Library of the Faculty of Advocates, Edinburgh.

Calderswood, a determined enemy to Episcopacy, has preserved the following curious memorials of these events, in his *M.S. History of the Church of Scotland*,¹ which the Editor has thought worthy of being inserted in this place:—

Oct. 1614. 'ABOUT the beginning of October, MR JOHN OGILVIE, *the Jesuit*, was apprehendit in Glasgow. He had seduced sundry young men, and of the better fort of the people; and said Masse, in sundry places, within Toun. When the (ARCH) BISHOP (OF GLASGOW)² challenged him for his hardnesse,³ he answered, that "he hoped to have more freedom, ere it were long." Whereupon, *the Bishop* buffeted him!

¹ About the beginning of November, THE (ARCH) BISHOP OF ST ANDREWS⁴ fone, *Mr Alexander*

¹ From the Adv. Library MS.

² John Spotswood, the well known writer of the Church History. He was translated to the See of St Andrews on the demise of *Archbishop Gladstanes*.

³ Hardihood; effrontery.

⁴ Mr GEORGE GLADSTAINS, BISHOP OF ST ANDREWS, departed this life, in the Castle of St Andrews, on the 2d day of

Gledfanes, apprehended *Moffitt*, a *Messie-Preitl*, at *St Andrewes*; who was presented before the *Lords of Secret Counjell* upon the 10 of December, and was waired in the *Castle of Edinburg*. Some things the *Bishops* behoved to doe against *PAPISTS*, for honesties sake, leaſt they ſhould ſeeme to be advanced to perſecute Miniſters profeſſing purity of Diſcipline and God's worſhip.

Upon the 6 of December, 13 or 14 of the Inhabitants of *Glasgow* were convicted for hearing of *Maſſe*, and Reſetting a *Maſſe-Preitl*, in Court holden be the *Bijhope* and thrie of the (*Council*), who hed gotten *Commiſſione*, at the *King's* directione, to try. The brute¹ went, that they were to be headed, drawin, and quartered; but they were in no danger. *OGILBIE*, the *Jefuit*, was brought in to *Edinburg*, and examined be the *Bijshop* and ſome of the *Lords of Secret Counjell*, to move to confeſſe where he had been reſett, where he had ſaid *Meffe*, &c. He was not fuffered to take ſleep ſome nights and dayes together! His braines being lightſome, ſecrets were drawn out of him, but came not to the knowledge of the people. *Moffitt*, the *Preitl*, was examined be the *Bijshop of St Andrewes* and his affociats.

About the middit of *Januare* (1615), a *Warrant* was ſent from *THE KING* to ſine ſome of the receipters of *OGILBIE* the *Jefuit*, and hearers of *Meffe*, in *Glasgow*; and to baniſhe ſome others of them out of the *King's* dominiones. About the end of *Januar*, *THE KING* ſent down a courſe to be uſed in trying of *JESUITS*, their reſetters, and hearers of *Meffe*. This ſeemed rather a hindrance to the execution of juſtice upon the perſones preſently guiltie, then to mean in earnest the repreſſing of *Papiſts*.

Upon the laſt of *February*, *OGILBIE* the *Jefuit*, one of the *Ogilbies* of the *Howſe of Drummur*, was arraigned and pannalled before the *Proceſſ* and *Bailiffes* of *Glasgow*, the *King's* Judges in that part. At his Examination, before ſome of the *Counjell* and the *Bijshop*, he being aſked, whether *THE KING*, being excommunicat be *THE POPE*, the *Pope* might depoſe him, and looſe his ſubjects from the *Oathe* of allegiance? Answered, and ſubſcribed his anſwers with his hand, that he thought *THE KING* and his *Counjell* no competent Judges to him, in that matter; and therfor, would not directly anſwere them touching it, but before *THE POPE*, his ordinar Judge, and his ſubſtitutes! For this his declinator, he was convicted, in preſence of ſundry *Noblemen*, appointed be *THE KING* to be preſent. He avouched, boldly, that he regarded not the *Acts* of *Parliament* nor *THE KING's* authority, ſoe farre as they were repugnant to *THE POPES* authority! Yett had he ſmall courage when he came to the *ſcaffold*—died heartleſſe and comfortleſſe—could not commend himſelfe to *God*, at the *Miniſter's* dire—bur did it after the deſire of the hangman.

Some interpreted this Executione to have proceeded rather of a care to bleſſe *THE KING's* Governement, then of any ſincere hatred of the *Popiſh* Religion. Some denied that it was done to be a terror to the ſincereſt fort of the *Miniſtry*, not to decline *THE KING's* authority, in any cauſe whatſoever.² He was the firſt *Preſi* or *Jefuit* that was executed, ſince the *Baſſard Bijhop of St Andrewes* was hanged.³

May. Many times before, becauſe his face was diſfigured, he had his night-bonnet drawn down to his noſe, when the miniſters of *St Andrewes* enquired, "If they ſhould pray for him publicly?" he answered, "It was not yett time!" Soe he was never prayed for publicly, but the ſame day that he departed; and that was done without his knowledge. Unwilling was he to die, or to ſuffer any honeſt man of the *Miniſtrie* near him, either to waken his conſcience, or comfort him. At the deſire of his wife and children, he ſubſcribed ſome few lines, wherein he approved the preſent courſe, to procure the *King's* favour to them. His fleſh fell off him in lumps. Notwithſtanding of the great rent of his *Biſhoprick*, he died in the debt of twentie thouſand pounds. This man was both ambitious and covetous. *Papiſts* and hainous offenders were winked at, for bribes given to his ſervants and dependers. In his firſt dioceſian *Synod* of *Fife* he ſat in pomp with his velvet cuſhion before him, and his Clerk, *Mr John Mitchellſonne*, beſide him.—*Mr George Gladſtains*, *Bijshop of St Andrewes*, was buried, upon the ſeventh of *June*, in *St Andrewes*. A cannabie (canopy) of blacke velvet was caried above the coffine, he foure men, and yett the corpes was not in the coffin, but buried ſome after his death. *Mr William Cooper* (*Bijshop of Galloway*) made his funeral-ſermon, full of vile flattery and lyes, and knowne to be ſae be the people, and therfor was he derided. It was reported that *THE KING* beſtowed ten thouſand merkes upon his burriel.—*Caldewood's Church Hiſt.* M.S. Adv. Lib.

¹ Report; Fr. brut.

² This had frequently taken place, as may be ſeen by referring to the former portions of this work.

³ Referring to the celebrated *Archbiſhop John Hamilton*, natural ſon of *James*, firſt *Earl of*

The anonymous author of 'THE HISTORIE OF KING JAMES THE SEXT'¹ shortly, but forcibly, narates these transactions, in the following terms :—' DURING this fame time and year, in the cite of *Glasgow*, ther hapnit a man, callit MR JOHNNE OGILBIE, *Jesuit*, to be apprehendit ther, be the *Archebischop* and his men, becaus he was tryit² sufficientlie to have fayed Melie ther, to sum inhabitants and citizens of that toun; and famonie as wer tryit, wer all empreafonit in the *Castell of Dumbartane*, ther to remayne upoun ther awin expensis; and therfor relaxit, and confynit for a pecuniall soume, for contravening the Act of Parliament; and fand cautionn, under great sowmes of money, ather³ of them, not to commit the lyk fault or cryme agayne. The *Jesuit*, in the meyne tyme, was convoyit to *Edinburgh*, and ther keapit in strait waird, and a gaird of men, be the space of eight dayis, with small sustentatioun; and compellit and withhaldin, perforce, from sleep, to the great perturbatioun of his brayne, and to compell him *ad delirium*!⁴ And being convoyit therfra to *Glasgow* agane, certen temporall questions wer objected unto him, as maynlie, geve⁵ THE KING was heid of THE KIRK, within his awin dominions, or nocht? To the whilk he answered, "No," &c., and so, consequently, to uther thrie. For the whilks, he was put to the cognitioun of a juré, and be them fund giltye of Treafoun and Leze-Majestie; and so was condemnit to be hangit to the death; whilk was also accomplisht.'

The enquiring reader is referred, for farther particulars, illustrative of this singular subject, to the various Collections of State Papers, and to the Histories of Scotland, especially *Spotswood's* History, where the matter is fully discussed by the Archbishop, who, it may be kept in mind, was one of the Assessors, and the leading examiner, in *Ogilvie's* Trial. The Editor appends to this remarkable TRACT the Examinations of all the persons suspected of having joined *Ogilvie*, in the celebration of Mass, &c., including the declinator of the *Jesuit* himself, which he has taken from an attested copy, preserved in the *Denmylne Collection of MSS.*, Advocates' Library.]

A TRUE RELATION OF THE PROCEEDINGS AGAINST

JOHN OGILVIE, A JESUIT,

EXECUTED AT GLASGOW, THE LAST OF FEBRUARIE, ANNO 1615.

Containing sundrie SPEECHES vttered by him at his Arraignment, and others, that assisted the Commissioners deputed for his Trial: with all that passed at his Execution.

- 2 Pet. 2. 10. "Audeas, et sibi placentes, dominatum despiciunt, et non horrent dignitates convitiis inesse."—*Tertul. adversus Hæremo.* "Hærmogenes hæreticus loquacitatem, faciundiam existimat, et impudentiam constantiam deputat, et maledicere singulis officiumbonæ conscientię iudicat."—*Cyprianeduplicimartyrio.* "Non flatum martyr est qui occiditur, occiditur piratæ, et ficarii, supplicium non facit martyrem, sed causâ."

EDINBURGH, printed by Andro Hart, anno 1615.

TO THE READER.

It hath bene thought needfull, that a true and perfect Relation of the whole proceedings against John Ogilvie, a Jesuit, lately executed at Glasgow, should be published; as well for satisfaction of Arrau, who was hangel in Stirling, Apr. 1, 1370. See *Reliquie Divæ Andree*; *Keith's* Catalogue of the Bishops; the works of the *Rev Dr McCrie*, &c.

¹ Printed for THE BANNATYNE CLUB, Edinburgh, 1825. ² Provok. ³ Either; each. ⁴ This barbarous mode of extorting Confession had been prevalent in cases of *Witchcraft*, where the criminals were supposed to be under the direct dominion of Satan. Human nature could not long stand so exquisite a torture. The suspected parties were often driven into a state of *delirium*; and in many instances, they must have been glad to confess any thing which may have been proposed by their examiners, to escape from a life held by such a miserable tenure. ⁵ If.

those, who desire to be informed of his behaviour, during the time of his imprisonment, and at his arraignment and execution, as to obviate the misreports of the enemies of true Religion, who wreat and draw all things, without respect of truth, to their owne advantage. It is knowne within these few yeeres, Henry Garnet and Edward Oldcorne, English Jesuites, being called in question, for that prodigious and damnable Powder-treafon; although it was proved by cleare evidences and their owne confessions, vnder their owne handes, that they were speciall authors and actors in it, and for the same were executed by publicke justice, not in a corner, but in the open cities of London and Worcester; yet (such is the shamelesse impudencie of that sect) by printed apologies they haue bene iustificed; and, which is more, inserted in a Catalogue of their Martyrs, set fourth at Rome, anno 1608, by the licence and permission of their superiours. By which maner of doing, what may be expected, in this particular, at their handes, any man may easilie perceiue. Every thing they are about to doe, (bee it neuer so great a mischief.) they cloake with the mantle of Religion: and if the statutes of the kingdome ouer-take any of them, either for practises against the King, or fowing the seed of rebellion amongst the subiectes, it must bee supposed (forsooth) they suffer all for religion. Now were it so, and that, according to the law, for Masse saying they were punished to the death, they could not glorie in it, nor rightly challenge the crowne of martyrdom, their Masse being a vile and idolatrous seruice, flatly disagreeing with the faith of Christ, and truth of the Gospell. But it is not so; albeit wee haue such statutes, for the restraint of Masse abomination within this kingdome, they are not able to instance any one, who, for the transgressing thereof, to this houre hath suffered. His Majesties proceedings with them haue bene more gentle: where death might haue bene inflicted, milder courses haue bene taken: imprisonment for some short time, and banishment fourth of the realme, haue bene the sharpest punishments; so vnwilling was his Highnesse to force, or once to seeme to force, the consciences of any men whatsoever. And to say that which truth is, if this vnhappy miscreant, who nowe hath his reward, had not discovered his traiterous minde, openly disauowing his Majesties authoritie, and stood to the maintaining of the Popes power, for dethroning kings, and freeing subiects from their oathes of allegiance, hee had felt no harder measure then others, although the circumstances of his fault were much greater; but his peruerse speeches, and insolent carriage beyond all credite, his fowing of doctrines tending to open rebellion, the handle of Justice could not forbear. What was it, in the hearing of multitudes of people to affirme, 'that he would returne or abide in the kingdome, contrary to the lawes, and his Maiesties commandements? to value his Highnesse authoritie with his old hatte, and the Acts of our Parliament with a rotten figge? to say, it was treason to sweare with the oath of allegiance to the King, and that his Maiestie, by vsurping the Popes power, had lost the right of the kingdome?' Yet these, and diuers other more treasonable speeches, he vttered at his arraignment, which are set down in the processe, so far as could be remembered; for all could not be kept in mind. I am perswaded, the honest minded of those of his owne profession will in their hearts condemne, and iudge him iustly to haue suffered; for, praised be God, the Jesuits arte hath not so farre preuailed, in planting such opinions in the hearts of people, but euen amongst the aduersaries themselves, they are many that doe no wise approue their seditious and proditorie doctrines. And here, to all our Catholickes (they will be so called) in this kingdome, if nothing further may be obtained, and that still they wil lye in that superstition, wherein they haue bene nuzled, I with at least so much wisdom, as to beware of Jesuites policies, and not to thinke their practises the cause of the Catholicke Church. It is not religion, as one hath well obserued, they strue for, but souerainitie. It will not content them to haue the Romish faith and ceremonies embraced; the crownes of kings, their scepters and subiects, must all be at the Popes deuotion. This is their speciall worke, and the effect of their blinde obedience, that speciall vowe, I meane, which they, besides the three voves common to other orders, vowe and sweare at their receptions. To this point runs all their seruice, to make the Pope the lord of all the earth; emperours, kings, and princes his dependants; to be remoued, altered, changed, deposed,

and killed, when it pleaseth his holines to giue commiffion. Mariana, a Jesuit, counteth it a wholesome meditation for Kings, to think they may be killed, not only lawfully, but with glory and commendation to the doers. And Cæsar Baroniüs, in his *Annales*,¹ recites a briene of Pope Urban the Second, sent to Godfrey, Bishop of Luca, wherein hee declares, that they are not to be esteemed murderers, who, burning with the zeale of their Catholicke mother, kills excommunicates. The words of the Rescript are these: *Non illis homicidas arbitramur, qui aduersus excommunicatos, zelo catholice matris ardentes, eorum quoslibet trucidasse contigerit.* Bellarmine, that great Doctor, in his controuerfie, *De Romano Pontifice*,² hath these expresse words, *Papa potest mutare regna, et unum auferre atque alteri conferre, tanquam summus princeps spiritualis, si id necessarium fuerit ad animarum salutem.* That is, the Pope, as chiefe spirituall prince, may change kingdomes, and take them away from one, and giue them to another, if it be necessarie for the saueing of soules. But Franciscus Suarius, in his late booke intituled, *Defensio Fidei Catholica*, goes beyond all this, saying, that any, to whom the Pope permits the doing, may kill or expell the King, who is by sentence deprived, or, which is all one, if he be declared to haue committed the crime, which by law deserues that penaltie; and if the Pope neglect to giue power, the lawfull successeur may take the execution to himselfe; and if he faile, the community of the kingdome succedes in that right; to wit, to kill and expell him. His wordes are these: *Post sententiam condemnatoriam regis, de regni priuatione, latam per legitimam potestatem, vel quod perinde est, post sententiam declaratoriam criminis habentis talem poenam ipso iure impositam, potest ille qui sententiam tulit, vel cui ipse commiserit, regem priuare regno, etiam illum interficiendo, si aliter non poterit.* In the same place:³ *Si Papa regem deponat, ab illis tantum poterit expelli, vel interfici quibus ipse id commiserit. Quod, si nulli executionem imperet, pertinet ad legitimum in regno successorem, vel si nullus inuentus fuerit, ad regnum ipsum spectabit.* And that no man should thinke this his priuate opinion, amongst the approbations prefixed to the worke, yee haue, in *cenfura Academicæ Complutenfis*, this faide: *Nihil est in toto hoc opere à nostro omnium sensu discordans, quum de hac re sit omnium nostrum eadem vox, idem animus, eademque sententia.* That is, there is nothing in all this worke, which is not agreeable with our mind, seeing herein we haue all one voice, one opinion, and one iudgement. Nowe if this bee the minde of all, it is high time they were all met with, and that *ecleri pama*, by a present dispatch. The knightes templars, erected, as is thought, by the princes of France, to preferue their conquest in the Holy Land, when, by keeping the rules of their institution in the first yeeres, they had purchased a great reputation of holynesse, and thereby drawne to themselves an infinite wealth, became at last intolerable to kinges, and by one uniforme consent, in the Councell of Vienna, were condemned, and the order abolished. The order was of a longer standing by much then our Jesuites, but to kinges nothing so dangerous. The writers that mention them, do not agree vpon the causes of their generall hatred, and leaue the reader in suspence, whether iustly they merited extermination or not: But posteritie shall haue an aduantage in vnderstanding the doctrine of Jesuites by their printed bookes, and their seditious practises, by the attempts they haue made against the estates and lines of princes. *Secuta hæc rebellis est, et nocens regibus.* A rebellious sect they are, and hurtfull enemies to kinges, cruel assassins, teaching diloyaltie, and plotting the deaths of princes, which all Evrope, and thou, France, by the rest, can testifie. O kinges, when shall ye awake, and take it in your harts to fulfil Gods decree? When shall yee vindicate your crownes from the vniust usurpations of the priest of Rome? Shall the disgrace and violence done to some of your sacred persons for euer thus lye vnauged? We know it shall not: But God hath his day, who will patiently attend. In the meane time, I shall with the Catholikes of this kingdome to consider and looke more deeply in their profession, then they yet haue done. The mysteries of the Romish Religion are not feene at the first. Surely, some of our Papistes doe not know them, especially that principle, which biudes

¹ Tomo 111. page 802.² De Pont. lib. 5. cap. 6.³ Lib. 6. cap. 4. num. 18.

them to obey the Pope against all the world. Suarius¹ hath taught them, that it is to be held as an article of faith, that the Pope hath power to depose kings; and that hee who denies this power to the Pope, denies the Catholike faith. By this is there no meane left to bee a Catholike, and remaine the Kings loyall subiect. To beleene the Popes power is such, is vndenyable treason: To refuse it, is to renounce Catholick religion; which last, I perswade myselve all true and naturall Scots will choofe, and of the choife shall it neuer repent them. I beseech God to open their eyes that are closed, and giue vs all to be contented with the Scriptures of God, which, by themselves, are able to perfect vs vnto enery good worke. Farewell.

A TRUE RELATION of the *Proceedings against IOHN OGILVIE, a Iesuit, especially at his Arraignement and Execution, which was at Glasgour, the last of Februarie, being ou Tuesday, 1615.*

JOHN OGILVIE, alias WATSON, (for, according to the maners of his sect, he was *multivominis*, a man of diuers names,) came into Scotland at Martimes 1613, and making his residence for the most part of that winter in the north parts of Scotland, tooke his journey to England a litle before Easter. Where, giuing out to some of his country-men, that he had a supplication for some wrongs to present to his Majestie, hee attended the Court some two moneths; and falling in acquaintance with a gentleman of the West countrey, after his pretended businesse was done, or the occasion disappointed, he returned into Scotland with the saide gentleman, in the beginning of Iune thereafter. Vpon this familiaritie, and other intelligences giuen him, he came to Glasgou in August following; and finding a kinder receipt by certaine persons in that citie, (who for that crime haue since bene justly condemned,) then either he expected, or became them to haue granted, he made some haunt and resort thither at sundry times, till at last he was detected, and, by the direction of the Archbishop of Glasgou, who at that time kept his residence within the citie, apprehended and committed to prison. It was the fourth of October, a litle after foure of the clocke in the afternoone, when perceaued to bee ouertaken somewhat in company, his examination was differred to the morrow after. There was found with him two or three litle bookes, containing directions for confessioun: his budget being in the house where he kept at night, was conuoyed out of the way by one of his familiars, and presented the next day after, search being made by the magistrates of the citie, therein was found his Masse garments, chalice, altar, and the rest of that stuffe, with letters not fit at this time to bee divulgate. Amongst others, a warrant to dispense with those who possesse church-livings, after this tenor, *quo ad dispensationem de bonis ecclesiasticis poteris dispensare ut retineant que possident, dummodo in pios usus aliquid impendant pro iudicio Confessarii dispensan-*

¹ *Propositio hec, Papa potestatem habet ad deponendos reges hereticos et pertinaces, inter dogmata fidei tenenda et credenda est. Infra: Si abjuratur hec potestas, abjuratur catholica fides. Lib. 6, cap. 8, num. 8.*

tis. Hee had in the famin maile diuerſe Reliques, peeces of wood, bones, and a tuſte of Ignatiuſ hair, the founder of the Ieſuites order, which I thinke was his chiefeſt iewel.

In his examination, which was the next morning, before the Archbiſhop of Glaſgow, the Biſhop of Argyle, the Lords Fleming, Boyde, and Killyth, the Proneſt of the citie of Glaſgow, S. Walter Stewart and S. George Elphingſton, knights, he confeſſed his true name to be Iohn Ogilvie; that he was borne in the North of Scotland, and had bene fourth of the countrey 21 yeeres; that hee liued at Grats, in a colledge of the Ieſuites, and was receiued in their order; that he returned into Scotland by the command of his ſuperiour, and was to ſtay there vntill hee were recalled, if no other impediment ſhould offer. Being required to giue his oath, that he ſhould declare nothing but trueth, in ſuch things as ſhould be demanded; he answered, 'that he would take oath, but with ſome exceptions, namely, if hee were demanded in any thing that touched his eſtate and life, or that might endanger theſe or any of them, he would not anſwere, likewiſe if the ſame tended to the preiudice of others.' And when it was replied, that, his exceptions being admitted, his oath was as good as no oath, ſeeing any queſtions that could be propoſed, would concerne ſome of theſe, he was induced at laſt to giue a ſimple oath, which he did vpon his knees; and riſing vp from the ground, ſaid, 'I will neither lie nor aequiuocate, but what I ſay ſhalbe truth; and what I am aſked, if I find it impertinent for me to anſwere, I will ſay nothing, or declare plainly I will not tel.'

Then being inquired of his coming in Scotland, the time and buſineſſe he came to do, answered, 'his buſineſſe was to ſaue ſoules.' Touching the time when he came into Scotland, answered, 'In the Iune before;' where hee was deprehended to aequiuocate, notwithstanding of his proteſtation; for hee meant of his laſt coming, and was aſked concerning the firſt. But the time at that examination was not vnderſtood. Being inquired of the places where he had bene receiued, denied to tel; and if he had ſaid Maſſe in any place, he answered, 'hee would not ſay any thing that might worke preiudice to himſelfe or others;' and becauſe he had profeſſed that hee would not lie, the reply he commonly made to ſuch queſtions, was, 'I will not tell you.'

The Lordes, finding him thus obſtinate, returned him to a chamber in the Caſtle, which was prepared for him, nothing lacking that was requiſite for one of his qualitie; and there hee was kept to the 8 of December. Now and then conference was giuen him by diuers of the Miniſters, in all which, heate and choler was eſpyed much to ouer-rule him. The ſchole diſtinctions he had in readineſſe, and thereby, when hee could not ſhift the argument, made ſemblance to euade. But of Holy Scripture (as he ſeemed not to be well acquainted there-

with), he made little reckoning, denying it fill, after the Iesuites maner, to bee the onely rule of faith.

The 12 of December, he was presented at Edinburgh, before the Lords Commissioners, appointed by his Maiesties Mislike for his examination and tryall; namely, the Lord of Binning, Secretary, the Lord of Killyth, Sir Gidion Murray, Thefaurer-deputie, and Sir William Oliphant, his Maiefties Attorney-Generall; to whom he answered in al that was proponed, as of before at Glasgou. There, the letters intercepted with him were presented, which he acknowledged to be his; yet being demanded, touching certain particulars contained in them, he denied to giue ther lordships any satisfaction: And howbeit there was no perswasion omitted, that might haue induced any good nature to a better resolution, it auailed not. So as their lordships, perceiuing nothing but a pertinacious refusing in him to answere to points most reasonable, and withall apprehending his stay at Court, in the last summer, to haue bene for some worse seruiue then he could speede in, determined, according to the power giuen them, to extort by torments another confession: which being intimated to him, and he replying that he was ready to suffer what they pleased, it was thought fit to proue him with the most easiest forme of tryall that could be used. And here, it being remembered, that in the tryal of some criminal persons, it was found that nothing helped more to find out the trueth of the faults wherewith they were charged, than the with-holding of their naturall rest; it was aduised, that he should be kept without sleepe for some nights, which was accordingly done: and during which time it was perceiued, that hee remitted much of his former obstinacie, and falling to discouer certaine of his receauers in Edinaburgh, gaue hope, that, by gentle usage, hee would bee drawne to giue their lordships contentment.

In the meane time, Christmasse approaching, at which time there is an ordinarie cessation from the affaires of Counsell and Session, the Archbishop of Glasgou, being to repaire homewards, and vnwilling to discharge himselfe of that prisoner, till hee might at leisure worke him to a better minde, obtained the fauour of their L. to retaine him, in his companie, for a fourth-night after, or till hee should returne himselfe to Edinburgh.

It pleased his Ma. in this time, whilest he was remaining at Glasgou, to send a Commission to the Archbishop of Glasgou, the Lord Bilhop of Argyle, the Lord Fleming, S^r George Elphinston, and Iames Hammliton, Prouest of the citie of Glasgou, for trying the said Iesuit his opinion, touching his Highnesse royall power, and the Popes claimed iurisdiction, maintained by Bellarmine, Suarez, and others of that fort. The questions were these:

1. Whether the Pope be iudge, and haue power, *in spiritualibus*, ouer his Ma-

iestie, and whether that power will reach ouer his Maieftie, euen *in temporalibus*, if it be *in ordine ad spiritualia*, as Bellarmine affirmeth ?

2. Whether the Pope haue power to excommunicate Kings, (especially such as are not of his church,) as his Maieftie ?

3. Whether the Pope haue power to depose Kings, by him excommunicated ; and in particular, Whether he haue power to depose the King his Maiefty ?

4. Whether it be no murther to slay his Maiefty, being so excommunicated and deposed by the Pope ?

5. Whether the Pope haue power to asfoyle subiects from the oath of their borne and natural allegiance to his Maieftie ?

Vpon the 18 day of Ianuarie, the foresaid questions being red distinctly vnto him, and he required to declare his opinion thereabout, answered as followeth :

To the first, ‘ That hee thought the Pope of Rome Iudge to his Maieftie, and to haue power ouer him, *in spiritualibus*, if the King be a Christian :’ and where it is asked, if that power will reach ouer his Maieftie, *in temporalibus* ? hee sayes, ‘ hee is not obliged to declare his opinion therein, except to him that is Iudge in controverfies of religion, which hee acknowledges to be the Pope, or some one hauing authoritie of him.’

To the second hee answereth, ‘ that the Pope hath power to excommunicate his Maieftie :’ and where it is said, that the King is not of the Pope his church, hee saith, ‘ that all who are baptized, are vnder the Popes power.’

To the third, where it is asked, if the Pope haue power to depose his Maieftie, beeing excommunicated ? Answereth, ‘ that hee will not declare his mind, except to him that is Iudge, in controuerfies of religion.’

To the fourth, whether it bee lawfull to slay his Maieftie, being excommunicated and deposed by the Pope ? Answereth, *ut supra*.

To the fift, whether the Pope hath power to asfoile subiects from their borne and naturall allegiance to his Maieftie ? Answereth, *ut supra*.

In all these Articles, he was particularly reformed with by the Archbishop of Glasgow. Mr Robert Boyd, Principal of the Colledge, a man of rare erudition, and Mr Robert Scot, one of the Ministers of the citie ; where it was also signified vnto him, that it concerned him in no lesse then his life, what answer he should make ; if he should stand obstinate in these he had giuen, he might know what fauour was to be expected for his other crimes. Not the lesse, ratifying all that formerly was said, hee added this further, ‘ that hee condemned the oathes of supremacie and allegiance proponed to be sworne in England,’ and would needs haue the writer to insert those wordes ; to all which hee put his hand, subscribing thus,

IOHANNES OGILVEUS, *Societatis Iesu.*

These answeres beeing sent to his Majestie, vnder the testification of the fore-

saide Commiffioners, his highnesse gaue order to the Lordes of the Priuie Counsell, for his triall; which was appointed to be at Glasgou, the last of Februarie. Immediately after, the Archbithop of Glasgou directed the Prouest and Baylies of the citie vnto him, to signifie that Tuesday following was appointed for his arraignment; and that hee would not bee accused for Masse saying, or any thing else that concerned his profession, but for the answers that hee had made to the demands propofed to him by his Maiesties Commiffioners. They declared also, that if hee should, vpon better resolution, recall those answers, and apply himselfe to gine his Maiestie satisfaction, in other points, which of dentie hee was oblihed vnto, the said Archbithop would vse his credite with his highnesse and the Lordes of the Priuie Counsell, for his safetie. His answere was, ' that he thanked his lordship, for the good will and kindnesse offered; but he was so little minded to recall any thing hee had said, as when hee came to the place, hee would make a commentarie vpon his answers.'

The Ministers of Glasgou, accompanied with Maister Williame Struthers, one of the Ministers of Edinburgh, did also visite him, some two dayes before, aduising him to the same purpose, and offering him their best counsell and comfort. His answere was, ' That he had resolved what to doe; and if hee stooode in neede of their comfort, hee shoulde advertise.'

The Earle of Lowthiane, trusting by conference to bring him to a better minde, went vnto him at diuers tymes, using many persuasions to draw him from his obstinate course: but nothing could preuaile with him, as in the proceedings ye shall perceiue.

THE ARAIGNMENT of JOHN OGILVIE, on Tuesday the last of Februarie, in the towne-house of GLASGOW, before James Hamilton, Prouest of Glasgou, James Bell, Coline Campbell, and James Bradwood, Baylies of the citie, Iustices appointed by speciall commission for that busines, by the Lordes of Priuie Counsell. The foresaid IUDGES being assisted by the honourable LORDS there present:—John Archbithop of Glasgou, James Marques of Hamilton, Robert Earle of Lowthiane, William Lord Sanquhar, John Lord Fleming, Robert Lord Boyde, and Sir Walter Stewart, Baylie deputie of the regalitie of Glasgou.

ON Tuesday, the last of Februarie, a litle after 11 of the clocke, in the forenoone, the Court beeing set, Mr William Hay of Baro, Commiffar of Glasgou, deputed by speciall commission from Sir William Oliphant of Newtoun, his Majesties Atturney Generall, produced the Inditement following: together with the citation vsed against those who were to passe vpon the iurie, and the roll of their particular names, subscribed with his hand, according to the custome obserued in those cases.

THE INDITEMENT of JOHN OGILVIE, IESUIT, after the forme of the law of Scotland.—JOHN OGILVIE, by your subscription, a Priest of the late execrable order of IESUITS, you are indited and accused, That, forasmuch as God, the author of all righteous gouernement, hauing established Kings and Magistrats his lieutenants vpon earth, for repressing of violence, oppression, and vice, and the promoting of pietie and iustice, hath, in his particular grace and fauor, blessed this countrey with a more ancient, iust, and permanent descent of lawfull Kings, than any other nation of the world; and extended our felicitie beyond the happines of our antecessors, by the iustice, wisdom, and clemencie of his Maiesties prosperous reigne; and hath not onely rewarded his Maiesties zeale and righteoufnes with wealth and peace, but also honoured and strenghtened him with the accession of the most mightie and flourishing kingdomes of England, France, and Ireland. Which visible fauours, proceeding directly from Gods most bountifull hand, mooued the whole Estates of this kingdome, assembled in the Parliament holden at Perth, the 9 of Iulie, 1606, To acknowledge his Maiesties soveraigne authoritie, princely power, royall prerogatiue, and priuilege of his crowne, ouer all estates, persons, and causes whatsoeuer, within the kingdome: And all in one voice, faithfully promise to maintaine, defend, obey, and aduance the life, safetie, honour, dignitie, soveraigne authoritie, and prerogatiue royall of his sacred Majestie, and priuiledges of his crowne: And to withstand all persons, powers, and estates, who should presume, preasse, or intend any wayes to impugne, hurt, or impair, the same: As also, his Maiestie, with aduise of the whole estates of this kingdome, in the Parliament holden at Edinburgh, the 22 day of May, anno 1584, ratified, approued, and perpetually confirmed, his Majesties royall power and authoritie ouer all estates, as well spirital as temporall, within this realme: And statuted and ordained, that his Highnesse, his heyres and successours, by themselves and their Counsellors, were, and in all times comming should bee, Iudges, competent to all persons, his Highnesse subjectes, of whatsoeuer estate, degree, function, or condition that euer they be of, spirital or temporall, in all matters wherein they or any of them should be apprehended, summoned, or charged to answere vnto such things as should be inquired of them, by our said soveraign Lord and his Counsell: And that none of them, who should be apprehended, called, or summoned, to the effect foresaid, should presume or take in hand to decline the iudgement of his Highnesse, his hayres and successours, or their Counsell, in the premisses, vnder the paine of treason: And likewise, by the 48 Act of King Iames the First his Parliament, and diuers other Parliaments thereafter, it is ordained, that all the King his lieges liue and be gouerned vnder the Kings lawes and statutes, and vnder no lawes of other countries and realmes, vnder the paines of treason, and others; (as is) particularly expresse in the Acts before mentioned,

and other lawes of this kingdome. Notwithstanding whereof, it is of trueth and veritie, that you, hauing renounced your naturall allegiance and deutie to your natine and righteous King, and cast off all reuerence, respect, and obedience to his soueraigne authoritie and lawes, and dedicated your mind and actions to the vnlawfull obedience of forraigne powers, aduerfaries to his Majestie; and resolving, so farre as in you lieth, to seduce his Majesties subiectes from the faith and allegiance due to his Majestie, repaired to his countrey, in the moneth of Inne last past, or thereabout, and by your conferences, intilements, auricular confessions, Masse-saying, and other subtle and craftie meanes, induoured your selfe, not onely to corrupt many of his Maiesties lieges, in religion, but also to peruert them from their duetifull obedience due to his Majestie, till you were discovered and apprehended by the Archbishop of Glasgou; who, with diners his Maiesties Counsellors, and others his good subiectes, used all Chritian and charitable meanes to bring you to the sense of your hainous offences, and desire of amendment thereof: But they, losing all their well-intended labours, were (in respect of your peruerse obstinacie) commaunded by his Majestie, to enter to your examination, and the tryall of your hainous crimes and transgressions. And especially, the saide Archbishop of Glasgou, and many others of good ranke and qualitie adjoined to him, by his Majestie, for your examination, hauing, vpon the 18 day of Ianuarie last, called you before them, to examine you vpon some particular interrogatories, prescribed by his Majestie to be demanded of you, as directly concerning his Majesties moste sacred person, life, crowne, and estate. And chiefly, you being demanded by them, whether the Pope hath power to depose Kings, beeing excommunicated? And in particular, if he haue power to depose the Kings Majestie, our soueraigne, being excommunicated by him? You answered, treasonably, that you woulde not declare your mind, except to him that is iudge in the controuersies of religion, whom (by your answere made to the latter part of the first interrogatorie, demanded of you that day) you declared to be the Pope, or any hauing authoritie from him: Albeit, by the Acts of Parliament, and lawes of this Realme, made in the yeeres of God 1560 and 1567, it is statuted and ordained, that the Bishop of Rome (called the Pope) shall haue no iurisdiction nor authoritie within this Realme, in any time comming: And thereby, not onely declined treasonably his Maiesties iurisdiction, allowing of the Popes iurisdiction, which is discharged by Acts of Parliament, as said is; but hath committed most damnable and high treason, in not acknowledging that the Pope hath no power to depose his Maiestie, who, holding his crowne and authoritie absolutely, souerainly, and immediatly of God, may not be deposed by any earthly person, power, or authoritie. And thereafter, being demanded, If it be lawfull to slay his Majesty, being excommunicated and deposed by the Pope?

you answered, *ut supra*; which was, that you woulde not declare your mind till you were before the Pope, or others hauing authoritie from him: Thereby, not onely declining, treasonably, his Maiesties iurisdiction and authoritie royall; but by your not answering clearly, that it is altogether vnlawfull, damnable, and diabolically, once to thinke that it is lawfull to slay his most sacred Majestie, you haue committed most hainous, pernicious, and vnpardonable treason. And lastly, being demanded, If the Pope had power to affoile his Majesties borne subjectes from their naturall allegiance? you answered, *ut supra*: and thereby, both declined, treasonably, his Highnes iurisdiction and authoritie royall, in refusing to answer before his Maiesties Counsellors and Commisioners foresaid, in one matter, meerey concerning his royal power ouer his people, and their subiection to his Maiestie: and also committed wilfull and detestable treason, in not acknowledging, professedly and presently, that none on earth had power to affoile his Maiesties subiects from their naturall subiection and allegiance to him. But that it may bee knowne that your treason proceeded of forethought felonie and obstinate resolution, you freely and vnrequiredly did adde to your foresaid answeres, this damnable conclusion, that you condemned the oathes of supremacie and allegiance giuen to his Maiestie, by his subiects, in his Dominions; wherby it is apparent, that your errand to this Countrey hath beene, to infect his Highnesse subiects with the poison of your pestilent and treasonable opinion foresaid, to the subuersion of Religion, ouerthrow of his Maiesties authoritie and crown, and destruction of his most sacred person. And albeit, the course of all his Maiesties life and reigne, hath manifested how vnwilling hee hath euer beene to use the seueritie of his Lawes against those who hath said and heard Masse, and otherwise controuened the Acts of Parliament made against idolatrous papistrie, and practisers thereof, within this Kingdome; desiring rather to reclaime them, by instruction, from their errors, to the knowledge and profession of the truth: And when he found them obdurat, and of desperate resolution, relieuing the countrey of the dangerous progresse of their courses, by their imprisonment and banishment, wherof you had such experience, in the persons of your owne complices, condemned for their manifest crimes, as might verie probable haue made you to haue expected the like; if anie memorie of your natie duetie and borne allegiance had possessed your mind: But you, being altogether destitute thereof, by the three last articles of your Depositions aboue written, you haue so plainly discovered, that you professedly approue the meanes, and wish the effect, of the ouer-throwe of his Maiesties estate, the destruction of his Highnesse person, and seduction of his natie subiectes from their subiection and dutifull obedience; that thereby, and by euery one of your foresaid answeres, you haue committed moste hainous, detestable, and vnpardonable treason, and deseruedly

incurred the most rigorous paines therof to be executed vpon your body, lands, and goods, with all extremities, to the terrour of others.

THE Inditement being read, Maister William Hay, substitute for his Maiesties Attorney, opened the same, to the effect following.—Albeit the Inditement of it selfe be cleare enough, and representeth sufficiently to my Lordes Iustices, their honourable Lordships heere assisting, and to your selfe, Iohn Ogilvie, who standes there accused, the weight and gravitie of the crime by you committed, yet I shall resume it to you in few words, that your answers may be the more distinct, and without mistaking.

You are not accused of saying Masse, nor of seducing his Maiesteis subjectes to a contrarie religion, nor of any point touching you in conscience, properly; but for declining his Maiesties authoritie, against the lawes and statutes of the land, and for maintaining treasonable opinions; such as we, of this Realme, haue not heard by any auowed. The statutes, mentioned in your Inditement, make it treason not to answer the Kings Maiestie, or his Counsell, in any matter which shall be demanded: You being examined by my Lord Archbishop of Glasgow, and other honourable persons adioyned to him, by his Maiesties special Commission, refused to answer vnto diuers interrogatories proponed to you by their Lordships; and, at the same time, professedly auouched the Pope of Rome his iurisdiction, which, by the Lawes of the countrie, is many yeeres since plainly discharged: Therefore, haue you incurred the penaltie contained in the statutes, and the same ought and should be executed vpon you.

It is further laid vnto your charge, that you, being demanded in the particulars, namely, Whether the Pope hath power to depose the Kings Maiestie, our soueraigne? Secondly, Whether it be lawfull to slay his Maiestie, being deposed by the Pope? Thirdly, Whether the Pope hath power to assoile his Maiesties subiects from their naturall allegiance, or not? You denied to giue any answer, touching any of these points, except yee were inquired thereof by the Pope, or others hauing authoritie from him; and so not acknowledging that his Maiesties crowne and authoritie is held immediately and souerainely of God, the author of all gouernement; that it is detestable, once to thinke, that his sacred Maiestie may bee lawfully killed; and that no man hath power to assoile his Maiesties subiects from their naturall allegiance to his Highnesse: You haue, in these points, and euery one of them, committed most hainous treason; for the which, what you say in your own defence, I see not. And yet further, that it may be seene, how desperate your resolution is, in al these points, although you were not required concerning the oaths of supremacy and allegiance giuen to his Maiestie by his subiectes, ye freely, and out of your owne motives, condemned these oaths,

as impious and vnlawfull. Thereby hath it appeared, what a wicked and treasonable mind you foster against his Maieftie, our foueraigne. If you should deny it, heere are your answeres, subscribed with your owne hand, which ye cannot but acknowledge; them I desire to bee read, as likewise the feuerall statutes of Parliament, which you are alledged to haue transgressed; and thereafter, since his Maieftie is pleased that the ordinarie course of tryall be kept vnto you, you shall haue libertie to say for your selfe, either against the relevancie of the Inditement, or verification produced, what you thinke best.

Then were read the statutes of Parliament, mentioned in the Inditement, and the said Iohn Ogilvies answeres to the demands proponed vnto him; which he acknowledged for his owne, and the subscription thereto subioyned: after which, hauing licence of the Court to say what he coulde for himselfe, he spake to this effect:—‘ First, vnder protestation that I doe no way acknowledge this iudgement, nor receiue you, that haue that Commission there produced, for my iudges, I deny any point laid against me to be treason: for if it were treason, it would bee treason in all places, and in all kingdomes; but that,’ saith he, ‘ is knowne not to be so. As for your Actes of Parliament, they are made by a number of partiall men, the best of the land not agreeing with them, and of matters not subiect to their forum, or iudicatorie, for which I will not giue a rotten figge!’

‘ Where I am thought an enemie to the Kings Maiefties authoritie, I knowe none other authoritie he hath, but that which he received from his predecessors, who acknowledged the Pope of Rome his iurisdiction. If the King,’ saith he, ‘ will be to me as his predecessors were to mine, I will obey and acknowledge him for my King; but if he doe otherwise and play the runneagate from God, as he and you all doe, I will not acknowledge him, more than this old hatte!’

Heere the Archbishop of Glasgow interrupted his speech, desiring him to deliuer his mind in a greater calme, and with more reuerent speeches of his Maieftie (for he vttered those things in a vehement passion, and as one transported with fury); hee remembered him, that hee was accused vpon his life, before iudges that were authorized by his Maiefties Commission: to decline the iudgement, or raile against his Maiefties authoritie, was bootlesse, and in a man of his profession, being an Ecclesiasticke, very scandalous. He should rather take another course to amend what he had offended in, and recall his former answeres, if they had not proceeded from a deliberate purpose; or if hee were resolute to maintaine them, to doe it with reason, and in a moderate fort; that this were his best, either for iustificyng himselfe, and the opinions he held, or for mouing the Iudges, and their Lordships that were assisting, to commiserat his case: he aduertised him withall, to be more temperate in his speeches concerning his Majestie, otherwise he would not be licenced thus to offend.

‘ To this, Ogilvie made some litle answerè, ‘ That hee would take the advertisement, and speake more colldly:’ howbeit, hee would neuer acknowledge the iudgement, nor thinke they had power to fit on his life, but said, ‘ And for the reverence I doe you, to stand bare-headed before you, I let you know it is, *ad redemptionem vexationis, et non ad agnitionem Iudicii.*

The Advocate here insisted, that seeing all his answeres tended to decline the iudgement, and that hee brought no reason why the Inditement should not goe to a tryall, that the Iurie should be chosen and sworne at the Barre, according to the custome.

THE NAMES OF THE IURIE.

Sir Geo. Elphinston of Blythwood,	Hew Crawford of Jordane-hill,	John Dunlop of Powmilne,
Sir Thomas Boyd of Bonethaw,	Iohn Carshore of that Ilk,	Iohn Stewart, burges of Aire,
Sir J. Edmeston of Dunraith, elder,	Hew Kennedy. prouet of Aire,	Iohn Dunbar, burges there,
James Murehead of Lachope,	William Makarrel of Hill-houfe,	James Iohnston, burges there,
James Robertson of Ernock,	James Blaire, baylie of Aire,	Iohn Cunningham of Raves.

It was allowed the prisoner to challenge any of the fore-named persons, and to oppose vnto their admission: who said, ‘ He had but one exception for them all: they were either enemies to his cause, or friendes; if enemies, they could not bee admitted vpon his trial, and if they were his friends, they should stand prisoners at the Barre with him.’

The Iurie, being knowne to be all discrete and substantial persons, were instantly sworne and admitted.

Then was the Inditement read againe, in the hearing of the Iurie, and the evidences shewed them for verification thereof, which offbefore were produced. And the prisoner, being of new remembered to say what hee would for himselfe, for the better information of the Iurie, spake these things following:

‘ I with these Gentlemen to consider well what they doe. I cannot bee tried nor iudged by them; and whatsoener I suffer here, it is by way of iniurie, and not of iudgment. *Iniuria est, non iudicium.* I am accused of treason, bot haue done none offence, neither will I begge mercy.’

‘ This is strange,’ sayeth the Archbishop, ‘ you haue done none offence, and yet you are come in his Maiesties kingdome, and hath laboured to peruert his Highnesse subjects; both of these are against the law: In this haue ye not offended?’

‘ Not,’ he answereth; ‘ I came by commandement, and if I were even now forth of the kingdome, I should returne: neither doe I repent any thing, but that I haue not been so busie as I should, in that which yee call peruerting. I hope to come to Glasgou againe, and to doe more good in it. If all the haire of mine head were priestes, they should all come into the kingdome.’

‘ And doe you not,’ sayeth the Archbishop, ‘ esteeme it a fault to goe against the King his commandement, especially in this point of discharging you his king-

dom. If a King haue any power within his kingdome, it seemes hee may rid himselfe and his countrey of those with whom he is offended; and it faoures of great rebellion to faye otherwise.'

To this Ogilvie replied, 'I am a subiect as free, as the King is a King: he cannot discharge me, if I be not an offender, which I am not.' And being asked, for what offences he might be discharged by the King? Answered, 'in the cafes of theft and murther.'

'All this while,' said the Archbishop, 'you come not to answere any thing to the points of your Inditement. Why did you decline his Maiesties authoritie, and refused to shew your opinion anent the Pope his power in deposing Kings, and loosing subiects from their oath of allegiance? And when it was asked you, if it were lawfull to slay the King, being deposed and excommunicated by the Pope, which any loyall hearted subiect will abhorre to think of, why did you not simply condemne it as vnlawfull? For in that you doe not condemne it, you shewe your selfe of the opinion of the rest of your sect, who in their bookes maintaine, that it is both lawfull and commendable to slay Kings, if the Popes commission goe forth once for it.'

'For the declining of the Kings authoritie,' sayeth he, 'I will doe it still in matters of religion, for with such matters hee hath nothing to doe; neither haue I done any other thing, but that which the Ministers did at Dundie; they would not acknowledge his Maiesties authoritie, in spirittual matters, more than I; and the best Ministers of the land are still of that minde, and if they be wise, will continue so.'

The Archbishop replied, 'that he was mistaken, both in the place and matter; for it was not at Dundie, but Aberdein, where eight Ministers, meeting to a General Assemblie, contended not against the Kinges authoritie, but that the Assemblie called to that place and time, could not be discharged by his Maiesties Commiſſioner: Neither should the fact of a few, taken at the worst, be esteemed the deed of the whole. These haue bene punished for their offences, and some of them haue confessed their errour, and bene graciously pardoned by his Maiestie: All good Ministers professè otherwise, and our religion teacheth us to acknowledge his Maiestie, our onely supream iudge, in all causes. The King is keeper of both Tables, and his place beares him not onely to the ruling of his subiects in iustice, and preferring equitie amongst them; but euen to maintaine religion and Gods pure worship, of which he should haue principal care. Your lord, the Pope, hath not onely denied this authoritie to Kings, which God gineth them, but usurpeth to himselfe a power of deposing and killing, when he is displeasèd; and it were the lessè to be regarded, if this his usurpation had gone no further then your penes; but you haue entred, by this pretended right, the throats of the

greatest Kings, as your practise vpon the two last Henries of France beares witness. You are not able to lay such imputation vpon vs, nor our profession, which teaches, that, next vnto God Almighty, all men are bound to feare, serue, and honour their Kinges. But what answere you, touching these demandes? Hath the Pope power to depose the King? Or is it not murthier to kill him, being deposed by the Pope?

‘ I refused of before,’ said hee, ‘ to answere such questions, because in answering, I should acknowledge you iudges in controuersies of religion, which I doe not. I will not cast holy things to dogges.’

‘ And is it,’ said the Archbishop, ‘ a point of faith, that the Pope may depose his Maiestie? Or do you think it a controuersie in religion, Whether his Maiestie (whom God saue) may be lawfully killed or not?’

To this Ogilvie replied, ‘ It is a question amongst the Doctors of the Church, and many hold the affirmatiue, not improbably: A Councill hath not yet determined the point; and if it shall be concluded by the Church, that the Pope hath such power, I will giue my life in defence of it, and if I had a thousand liues, I would bestowe them that way, if they will make an article of faith of it.’ Being vrged to declare his owne opinion, especially in that point, whether it were murthier to kill his Maiestie, being deposed by the Pope, he answered, ‘ that he would not say it were vnlawfull, though he should saue his life by it.’ Then going on with a long speech of the Pope his power, affirmed the King to be subject to him, by the vertue of Christs saying to Peter, *Pasce oves meas.* ‘ That if the King offended against the Catholicke Church, the Pope might punish him aswell as a shepheard or the poorest fellow in the country. That in abrogating the Popes authoritie, the estates of Parliament had gone beyond their limites, and that the King, in vsurping the Popes right, had lost his owne. *Nam qui rapit jus alienum;* sayeth hee, ‘ *perdit jus ad suum.*’

Being asked touching the oath of allegiance, why he did condemne it, and the same being read vnto him, he said, ‘ It was a damnable oath, against God and his truth, and that it was treason to sweare it; because it brought the Kings person and state in danger; since this kingdome,’ sayeth he, ‘ was Christian, the Popes supreme power was alwayes acknowledged; this being cast off, (as we see in the Act of your Parliament,) against all reason and conscience, and subiectes forced to sweare to a matter so vnlawfull, what marvell that attempts and dangerous courses be taken against him? *Insuperabilis lex est, ut quae agit aliquis, talia patiatur.* But would the King leaue off his vsurping vpon the Pope, hee might liue without feare, aswell as the King of Spaine, or any other Christian prince:’ And with this hee intermixed some speeches, of his owne seruice, and the seruice of other Iesuits done to his Maiestie, whereof hee saide, ‘ Neither Bishop, nor

Minifter, nor all the Bifhops and Minifters in his Maiefties kingdomes, had done or could doe the like.’

The further hee proceeded in fpeaking, his fpeeches ftill grew to bee the more intollerable; therefore the Archbifhop of Glafgow, willing him to make an end, did clofe all with fome wordes to the Iurie, to this effect. Gentlemen, and others, who are named vpon this Affife, though I minded to haue faide nothing, but fitten heere a witneffe of the proceeding, I haue bene forced, by his proud and impudent fpeeches, fomewhat to replie; and muft, with your patience, lay a little more. It is this fame day, two and twentie weekes paff, that this prifoner fell into mine handes; fince that time hee hath had leifure to thinke enough what courfe was fitteft for himfelf to take, for fatisfying his Maieftie, whome he had offended: neither hath he lacked counfel and aduife, the beft that we could giue him. Befides, hee hath found on our parte nothing but courteous dealing, and better intertainment then (I muft now fay it) hee hath defered. Mine owne hopes were, that hee would haue followed another courfe then I fee hee hath taken, and not ftande to the anfweres which hee made to thofe demandes, which were moued vnto him by his Maiefties Commiffioners, and you haue feene: But if his anfweres at the firft were treafonable, they are nowe fo little bettered, as in all your hearinges, hee hath vttered fpeeches moft deteftable, made a commentarie worfe then the text was, and fhewed himfelfe to carrie the minde of an arrant and desperat tratour. You perceine, he obfcures not his affection towards the Kinges Maieftie, our foueraigne, in all his fpeeches; preferring the Pope to his Maieftie: And, which is more intollerable, affirmeth the Kinges Maieftie to haue loft the right of his kingdome, by vfurping vpon the Pope. Hee will not fay it is vnlawfull to kill his Maieftie; hee fayeth, it is treafon for fubiectes to fwear the oath of allegiance; and meaneth fo much, in his laft wordes, as the Kinges Maiefties life and eftate cannot bee affured, except hee render himfelfe the Popes vaffall.

Thus hath hee left you little to doe: except that his Maiefties pleasure is, the ordinarie forme bee kept with him, you fhoulde neuer neede once to remoue: all his fpeeches haue bene fo ftuffed with treafon, that I am fure the patience of the Noble-men, and others heere prefent, hath bene much pronoked.

In al that he hath faid, I can marke but two things alledged by him, for the Popes authoritie ouer Kinges: the wordes of our Sauour to Saint Peter, *Pafce oves meas*, Feede my fheepe; and the fubjection of Kinges, efppecially of our Kinges, fince the kingdome became Chriftian, to the Pope. For the wordes of our Sauour, howe little they ferue his purpofe, I haue no neede to tell you. To feed the fheepe of Chrif, is not, I hope, to depofe Kinges from their eftates, nor to inflame the heartes of fubiectes againft princes: much leffe to kill and difpatch

them : Wee are better taught then to bee deceiued with fuch glosses. Saint Peter made neuer that sense of those wordes, and teacheth vs a farre other doctrine, in his first Epistle, fift chapter, and second and third verse.

I will not spende time with fuch purpose, onely this I muste saye, that whatsoever was Saint Peters prerogative, the Pope of Rome hath nothing to doe with it : for hee cannot bee Saint Peters successour, that hath forsaken his doctrine, and gone against his practise directly, both in that and other points of Christian faith. And for the antiquitie of his usurped power, I may justly say, that Master Ogilvie is not well seene in antiquitie, or then speaketh against his knowledge, when he saith, that this power of the Pope was euer acknowledged by Christian Kinges : The Bishops of Rome, for many yeeres, made no such claime, neither did Emperours or Kinges euer dreame of such subjection : Long it was ere the Pope of Rome came to the height of commanding Kinges, and not till hee had oppressed the church, vnder the pretext of Saint Peters keyes, bearing downe all the Bishops within Christendome : which hauing done, then hee made his inuasion vpon princes, and that by degrees. The histories of all ages make this plaine, and the resisting hee found by Kinges in their kingdomes, testifieth that they neuer acknowledged his superiortie. Of our owne, howbeit, as wee lye farre from his seat, so had wee lesse businesse, and fewer occasions of contradiction ; yet can I make it seene, in diuers particulars, when any question fell out ament the prouision of Bishops and Archbishops to their places, the Bulles of Rome were so little respected, as the Kinges predecessours haue always preferred and borne out their owne choice, and the interdictions made vpon the realme, by these occasions, not without some imputation of weaknesse to the Sea Apostolicke, haue bene recalled. The superstitions of Rome were amongst vs last embraced, and with the first, by the mercies of God, shaken off : Whatsoever you bragge of your antiquitie, it is false, both in this and all the pointes of your profession else, which I could cleare, if this time or place were fitting. But to you of this Iurie, I haue this only more to say, you are to inquire vpon the veritie of the Inditement, whether such and such things as are alledged to be committed by him, haue bene so or not ? You haue his subscription, which hee acknowledgeth ; you heare him selfe, and how hee hath moste treasonably disauowed his Majesties authoritie : It concernes you onely to pronounce, as you shall find verified by the speeches that you haue heard, and the testimonies produced. For the rest, the Iustices knowe sufficiently what to doe, and will serue God and his Majestie, according to the Commission giuen them.

Maister William Hay, Aduocate for his Majestie, asked instrumentes vpon the prisoners treasonable speeches vttered in the hearing of the Iurie, and his ratification of the former answeres made to his Maiesties Commissioners : Likewise, for

the further clearing of the Inditement, repeated the Actes of Parliament mentioned in the said Inditement, with the Act of Priuie Counsell, made anent his Maiesties supremacie, and the oath of allegiance: And desired the Iurie deeply to weigh and consider the peruerse and diuelish disposition of the partie accused, to the effect they might, without scruple, proceede in his conuiction. And according to his place, protested for Wilfull Errour, if they should acquite him of any point contained in the saide Inditement.

[VERDICT.] The persons named vpon the Iurie remoued to the higher house, which was prepared for them; and hauing elected Sir George Elphinstone chancellor, all in one voice, found the prisoner GUILTY of the whole Treasonable crimes contained in the Inditement.—[SENTENCE.] Which being reported by the saide Sir George Elphinstone, and confirmed by the whole Iurie, then returned into the Court, Judgement was giuen, by direction of the Iustices, That the saide Iohn Ogilvie, for the Treasons by him committed, should be HANGED and QUARTERED.

THE Archbishop of Glasgou demanded, if Ogilvie would say any thing else?

Ogilvie answered, ‘ No, my lord, but I giue your lordship thanks for your kinnesse, and will desire your hand.’

The Archbishop said, ‘ If you shall acknowledge your faulte done to his Maiestie, and craue God and his Highnesse pardon, I will giue you both hand and heart, for I wish you to die a good Christian.’

Then Ogilvie asked, ‘ If he should be licensed to speake vnto the people?’

The Archbishop answered, ‘ If you will declare, that you suffer according to the Law, justly for your offence, and craue his Maiestie pardon for your treasonable speeches, you shall be licensed to say what you please; otherwise you ought not to be permitted.’

Then saide hee, ‘ God haue mercie vpon mee!’ And cryed aloud, ‘ If there be heere anie hidden Catholickes, let them pray for me; but the prayers of hereticks I will not haue.’ And so the Court arose.

[OGILVIE'S *conduct at the time of his EXECUTION.*]

AFTER iudgement was giuen, by the space of some three houres, he remained in the place where he was conuicted, hauing leasure graunted him to prepare himselfe for death. Hee continued a while vpon his knees at prayer, with a colde devotion; and when the houre of execution approached, his handes being tied by the executioner, his spirits were perceiued much to faile him. In going towards the scaffold, the throng of people was great, and he seemed much amazed; and when he was vp, Master Robert Scot and Master William Struthers, Ministers, very grauely and christianly exhorted him to a humble acknowledge-

ment of his offence, and if any thing troubled his mind, to disburthen his conscience. In matters of religion, they saide, they would not then enter, but prayed him to resolute and settle his minde, and seeke mercie and grace from God, through Iesvs Christ, in whom onely saluation is to bee found. Ogilvie answered, 'That he was prepared and resolute.' Once he said, 'That he died for religion;' but vttered this so weakly, as feare he was heard by them that stood by vpon the scaffold. Then addressing himselfe to execution, he kneeled at the ladder foot, and prayed. Master Robert Scot, in that while, declaring to the people, that his suffering was not for any matter of religion, but for haynous treason against his Maiestie, which hee prayed God to forgiue him. Ogilvie, hearing this, saide, 'He doeth me wrong.' One called Iohn Abirerymbie, a man of little wit, replied, 'No matter, Iohn, the moe wrongs the better.' This man was seene to attend him carefully, and was euer heard asking of Ogilvie some token before his death; for which, and other businesse he made with him, he was put off the scaffold.

Ogilvie ending his prayer, arose to goe vp the ladder, but strength and courage, to the admiration of those who had seene him before, did quite forsake him; he trembled and shaked, sayng, he would fall, and could hardly bee helped vp on the top of the ladder: He kissed the hang-man, and said, *Maria, Mater gratiæ, ora pro me; Omnes Angeli, orate pro me; Omnes Sancti, Sanctæque, orate pro me*: but with so low a voice, that they which stood at the ladder foote, had some difficultie to heare him.

The executioner willed him to commend his soule to God, pronouncing these wordes vnto him, 'Say, Iohn, Lord haue mercy on mee! Lord receiue my soule!' which he did, with such feebleness of voice, that scarcely hee could be heard: Then was hee turned off, (his left foot for a space taking holde of the ladder, as a man vnwilling to die,) and hung till hee was dead. His quartering, according to the iudgement giuen, was for some respectes not used, and his body buried in a place that is kept for male-factors.

THIS was the ende of that unhappie man, in whose death, any man that had eyes might see what a gracelesse and comfortlesse religion Poperie is: The power of religion manifesteth it selfe chiefly in the houre of death: The fight of a reconciled God, the assurance and perswasion of fauour through Christ, furnissheth spirite and boldnesse, and maketh a man willing to depart and quite this life: But Popish religion teacheth vncertaintie of saluation, and leadeth a man to other fauours, who can neither helpe nor comfort, in the houre of death. What maruaile, that men, who leane to such rotten and vnprofitable helpes, lacking and disappointed of the assistance they hoped for, shewe a faint and cowardly minde at their last!

This onely I haue further to aduertife, that ſince his execution, wee haue vnderſtood, by ſome perſons who viſited him, at times, during his imprifonment, that, amongſt other his ſpeeches with them, hee ſaid this, ' That if hee had eſcaped his apprehenſion at this time, and liued till Whitſonday next, hee ſhould haue done that which all the Biſhops and Miniſters, both in England and Scotland, ſhoulde neuer haue helped ! And, if hee might haue liued at libertie vnto that time, hee woulde willingly haue bene drawne in peeces with horſes, and haue giuen his bodie to haue bene tormented ! Whereof, what ſhall any man collect, but that this villane was about ſome deſperate enterpriſe ?

God, that in mercie hitherto detected and diſappointed the malicious devices of the wicked againſt his Church, continue with vs his fauour, and giue vs to depend ſtedfaſtly on his prouidence. And to all the enemies of God and the King, let it befall, which wee haue ſeene vpon this wicked and accuſed perſon. Amen.

FINIS.

DEPOSITIONS of the JESUITE and Papiſſ examined at Glaſgow, 5 Oct. 1614.¹

APUD GLASGOW, the fifth day of October, 1614. THIR perſonis, vnderſcryttin, wer examined, in preſens of my Lordis of Glaſgow and Argyll; my Lord Fleming, my Lord Kilgith, my Lord Boyde; the Laird of Mynto, Sir George Elphingſoun; James Hammitoune, Proceſſ; James Bell, James Braidwood, Colin Campbell, Baillies.

ROBERT HEYGAIT, being inquyrit, how lang he hes bene acquent with this *Preiſt*? Anſwerit, that he neuer ſaw him nor ſpak with him bot within þir twa monethis ſyne, or þairby; and þat he come down to him to his awin buithe, and gat ſum paper fra him; and þairefter ſeid with him to *Mr William Stewartis* hous, to get ane chopein of wine, quha callit him ſelf ane hors-cowper, and wes going to *Kyntyre* to by hors;² and employit him to by ane hors. And þairefter, callit him ſelf ane *Preiſt*. Bot of his name he is ignorant; and neuer ſpeirit for it. And being inquyrit, gif he enterit withe him in RELIGIOUN? So confeſt; and þat he brocht him to *Marcoun Walkeris* hous; and ſaw his buikis: And beleivit that he ſpak to him; and þat he contentit him of þe Sacrament of þe body of Chriſt; and þat he is ane Catholik. And being inquyrit, gif he deſyrit him to geive him ane Meſſ? Confeſt he deſyrit þe ſamyn; and hard þe ſamyn at þe ſaid tyme: And þat þair (wes) with him *Marcoun Walker, William Menteithe, Mathow Adam, Thomas Forret, James Forret*. And being ſpeirit, gif þis Preiſt wes gone to *Sir James Clelandis* hous or not? Hard *William Menteithe* ſay, þat he wes gone þair. And being inquyrit, gif þe *Lady Maxwell* wes at ony Meſſ heir, within þis ſchort ſpace, or at ony Meſſ? Denyit þat he euer ſaw hir. Bot he knawis þat þis *Preiſt* ſpak with hir, þe laſt tyme ſcho wes heir, and þat þe ſaid *Preiſt* ſaid to him, þat he wes ane of THE SOCIETIE OF JESUS. And being inquyrit, how þat þe freindſhip and acquaintance of þe ſaid *Preiſt* wes maid with *James Stewart*?³ Confeſt, þat he wes þe bringer of þame togidder to confer; and þat þe ſaid *James* ſtandis ſtill in his former Religioun; and þat þe ſaid *James* wes deſyms to ſpek with þe ſaid *Preiſt*, and he wes ernit to haif þe ſaid *James* of his Religioun, bot he wald not giue his name þairto. And alſo confeſt, þat þair wes ane wper Meſſ ſaid in þe ſaid *Marcoun Walkeris* hous, be þe ſaid *Preiſt*, within tua dayis þairefter; and

¹ From the Original attested copy, in the *Dennistown Coll. of MSS.*, Adv. Library.

² To purchase horses.

³ Stylt *James of Jerusalem*, who figures in this Collection, Vol. III. &c.

pat pair wes present þe said *William Mentwith*, *Mareoun Walker*, *David Maxwell*, brother to *New-Wark*; and pat pair wes ane wþer *Preijf* in þis Toun, quha stayit ane day heir, and went Eist-throw.¹ And knew not his name; bot he callit him self *Ogilbie*. And being inquyrit, gif pair wes ane wþer Mefs said be þis *Preijf*, in his awin hous, or nocht? Confessit pat pair wes ane said pair; and pat he wes Clerk to þe maist of þir Mellis him self; and pat his wyf knew not pair of, bot suspectit þe samyn. And at þat tyme, quhen he fould haue gone to haue bocht þe hors, he raid to *Sir James Cleland*'s hous. And þis he declarit be his great ayth.

ROBERT HEYGAIT.

ANDRO SYMMER, declarit, pat he drank with þis *Preijf* in *James Stewart*'s companie, quha intyft him to his Religiou; bot he wald not grant to him: And pat þai ressonit wþone Religiou togidder.

ANDRO SYMMER.

THE PREIST being inquyrit, quhat his name wes, he nameit him self *JOHNE OGILBIE*, sone to *Waltir Ogilbie of Drum*: and pat he hes bein out of þis cuntraye þir twentye twa ȝearis: And pat he studiet in þe *Colledgis of Olmis and Gratis*; and remanit in *Olmis* twa ȝeir, and in *Gratis* fyve ȝeir; and pat he hes ressaunt þe *Ordour of Preijfhaid in Paris*; and come hame in *Scotland* befor now, and remanit sex oukis, or pairby: And pat he now come hame about May laill, or pairby: And confessit pat þe budget,² product on þe buird befor him, wes his awin. And pat he wes ane of þe ordinar *Jesuitis*: And being alkit, quhidder THE POPIS Jurisdiction extendit our THE KINGIS dominionis, in spreitwall matteris? Affhermit constautlie þe samyn; and wald dye for it.

JOHANNES OGILBEUS, Societatis Jesu.

JAMES FORRET, confessit, be his great ayth, pat he knew not þis *Preijf* all þe tyme pat þe *Erle of Eglington* wes heir. And wes fond for be him, be, fervitrix to *Mareoun Walker*, quho delt with him to come and heir þe Mefs: And for þat effect appointit wþer morne; at quhat tyme he keipit: And þe Mefs wes said be þe said *Preijf*; being present, *Robert Heygait*, *Mathow Adam*, *William Menteithe*, *Mareoun Walker*, *Thomas Forret*, his brother. And declarit, pat he wes neuer at ony Mefs befor or eftir. And pat pair wes ane wþer man, quha callit him self *Davenie*, seducit him to þat Religiou, quhairinto he þan in ane manir agreit: And supponis, pat þe said *Davenie* had directit þis *Preijf* to him, to draw him forder on: quha perswadit him to leive THE KIRK—quhilke he did sen fyne; quhair of he cravit God forgewnes. And confessit, pat, befor he ressaunt þe Messe, þat morning, he maid a Confessioun to þe said *Preijf*, quha gaue him ane absoloutioun, and tuik þe Sacrament.

J. FORRET.

JAMES STEWART, being inquyret, quhen he knew þis *Preijf*? Be his great ayth, declarit, pat he knew him tueinte dayis fyne, or pairby; and pat *Robert Heygait* maid his acquaintance with þe said *Preijf*. And eftir þe drinking of ane choppine of wyne, he went with þe said *Preijf* to þe ȝaird of *Mareoun Walker*, quhair he conferrit with him anent his Religiou, and wald nawayis ȝeid to him. Bot he had ane guid expectatioun of him, and maid him acquent pat he had ane Mefs to say; bot he wald not go to it. As to his name, he knawis not þe sam.

J. STEWART.

WILLIAME MENTEITH, being inquyrit, gif he knew þis *Preijf* or not? Answerit, pat he saw him in þis Toun ane monethe fyne, or pairby; and pat he wes in his companie, in the hous of *Mareoun Walkeris*; and pair hard þis *Preijf* say ae Mefs; and denyit ony mae. And þaireftir, being confrontit with *Robert Heygait*, confessit þan he hard thrie Messis, twa pair of in *Mareoun Walkeris*, and ane wþer in *Robert Heygaitis*; and pat he tuik þe Sacrament. And being inquyrit, quhair he gat his beginning of þat Religiou? He answerit, pat he first wes instructit thairin, being servand to þe *Laird Kers*, sounger, be þe *Lady Angus*, and *Archibald Douglas*, in þe *Place of Mounctoun*, befyde *Air*, ten or twelf ȝearis fyne, or pairby. And declarit, pat *Thomas Forret* tauld him of þis *Preijf*; and pat *Robert Heygait* informit him pat þe said *Thomas* was of þat Religiou. As als, declarit, pat he saw *Johne Wallace of Corsstat* at þe Mefs, in *Robert Heygaitis* hous, said be þe foirfaid *Preijf*.

WM MENTEITH, w^t my hand.¹ Probably to Edinburgh; he went through the town to the eastward.² Portmanteau, or small trunk.

THOMAS FORRET, being inquyrit, quhair he had first acquaintance with his *Preijt*? Declarit, he saw him first in *Marcoun Walkeris* hous, being fetchit in to him be *Robert Heygait*, and efter lytell conference with him anent þe Religioun, he desyrit him to cum to Mefs, quhill he did; and befor þe reffauing pairrof, he maid his Confessioun, and reffauit absolution; and pairrefter tuik þe Sacrament. And þat pair was present at þe said Mefs, *Mr Johne Mayne, Marcoun Walker, Mathow Adam, Robert Heygait, James Forret, William Menteth*; and wes at na Mefs fene syne, feing be þe sycht pairrof he desyrit þat Religioun. And þat þe remanent lykways reffauit þe Sacrament.

THOMAS FORRET.

MATHOW ADAM, being inquyrit, how long he had embracit þe Popisch Religioun? Declarit, þat, about fyve zeiris syne, or þairby, he had his entrie pairto in *Danþkin*; and hes fence reffauit þe Communioun. And þat he had acquaintance with his *Preijt* four oukis syne, or þairby, be þe moyen of *Robert Heygait*. And sicyk, in somer last, wes acquent with ane *Dawnie*, ane *Preijt*, in *Marcoun Walkeris* hous; and þat he wes at thrie Mefs; þat his *Preijt* said ane in *Robert Heygaitis*, and twa in *Marcoun Walkeris* hous. And being alkit, quhat his professioun is presentlie? Answerit, þat he wes of þe Religioun, be þe lawis of þis realme.

MATHOW ADAM.

MR JOHNNE MAYNE, being inquyret, gif he knew þis *Preijt* or not? Declarit, be his ayth, he knew him in *Marcoun Walkeris* hous, to þe quhill he wes brocht be *Robert Heygait*; quhair he confesit him self to þe *Preijt*, reffauit obfolutioun, befor he hard þe Mefs and reffauit þe Sacrament. And þat pair was present *Marcoun Walker, James Forret, Thomas Forret, Robert Heygait, Mathow Adam, William Menteth*. And þat, as zit, he awowis þat Religioun, and professis þe samyn, quhill he be better resolut.

MR J. MAYNE.

JOHNNE WALLACE of *Corsflat*, being inquyrit, gif he wes at a Mefs said be þis *Preijt*, or not, in *Robert Heygaitis* hous? Confesit, þat he wes present pairat, and brocht pairto be þe said *Robert Heygait*.

JOHNNE WALLACE.

THIS is the true copie of þair CONFESSIOUNS.

GLASGOW.

Suborning of Witnesses—Perjury—Slaughter, &c.

MAR. 8.—ROBERT GRAHAM, callit of Langboddome; Robert Dunlope and George Wat, wobsteris¹ in Edin^r; Adame Blaiklok; quhair he confesit and at the West-point of Ed^r; James Boyle, wobster in Edin^r; Johne Hammiltoun, tailzeour thair; Adame Moffet, chopman;² Williame Tok, beltmaker at the Waft-point; James Or, flescheour in Crawmound.

Dilaitit, accuset, and persewit, be Sir Williame Olyphant of Newtoun, kny^t, Aduocat to our souerane lord, for his hienes intreis, off the feuerall crymes vnderwrittin, contenit in thair Dittayis, eftir spēcifeit, viz.

DITTAY against *Robert Grahame for Suborning of Witnesses and Perjury.*

THE said ROBERT GRAHAME: Forfamekill as it is expresse proydyt, itatute, and ordanit, be dyuerse Actis of Parliament, speciallie, be the 80 Act of the sext Parliament of our souerane lordis darrest guidfchir, King James the Fyft, of famous memorie; and be the 22 Act of the fyft Parliament, and 48 Act of the saxt Parliament of our souerane lordis darrest mother, Quene Marie, of worthie memorie, that all sic perones as induces any man to beir fals Witnes, or ar seducearis or corrupteris of Witnessis, induceing pame þairby to depone fialdie, that all sic perones fall be pwneschet in thair perones and guidis, with all rigour, according to the dispositioun of the Cowmone Law, baith the Canone,

¹ Weavers.

² It does not seem clear whether this denotes shopman, or chapman (*pedlar*), a dealer in small wares. The latter, however, is thought most likely.

Cuile, and Statutes of this realme, that is to say, ather be persuing and boiring of pair tungis, confiscatioun of pair moveable guidis, and sic vther pwneifchment to be inflictit vpon thame, according to the discretioun of the Lordis: Nochtwithstanding quhairfof, it is of verritie, that þe said Robert Grahame, being ane fraudulent and fals man, studeing and employing his wittis thir mony geiris bygane, how, be craft and dissait, to suborne and deduce dyuerse perfones to be Witnesis in findrie actiones, allweill depending befor the Lordis of Sessioun as vther Judicatories of this realme: And making vp to him self a plane tred and professioun pairrof, He, for þe manifestatioun of his forder skill and knawlege in the said professioun, vpon hoip and esperance of his expectit gayne, vnderstanding laitle, that pair was ane Actioun of Spuilzie intentit and perfwit befor the Lordis of Sellioun, at the intiance of Mark Gleditanes, indueller in Edr, aganis James Guidlet and vtheris, his complices: the said Robert Grahame, as ane oppin and manifest coofener and disfaiver, with wonderful peartnes and double deilling, first addressit him self to the said Mark Gleditanes, and discoverit to him the hail secretitis of his actioun; declairing to þe said Mark, how he had bene in Mussilburgh, and had conferrit with sum folkis pair, quha had resset sum of þe said Markis guidis and geir, that was spuilzeit frome him be þe said James Guidlet; and that þai war in grit feirleit þe said Markie sould prevaill in his said actioun: At quihilk tyme, lykwayis, the said Robert Grahame, maist fallie and craftillie, declairit to the said Mark, that he wald find out dyuerse men to be Witnesis, quha vnderstuid of the spoliatioun of his guidis; and offerit frelie to him, for gayne and commoditie, to bring thame to him, and to cause thame be Witnesis for preving of his actioun: Lyk as, accordring pairto, the said Robert Grahame, vpon hope of gayne and commoditie, in the letter end of Januar last bypast, or pairby, convenit to himself Adame Moffet, chopman in Edr, Robert Dunlop, wobiter pair, George Wat, wobiter pair, and Williame Tok, beltmaker pair; quihilkis foure perfones he maist fraudulentlie persuadit and inducet to vndertak to be Witnesis, to depone in the said cause, in fauouris of the said Markie Gleditanes, aganis the said James Guidlet, albeit þai knew nathing of the verritie pairrof. LYK AS, þe said Robert, immediatlie eftir his inducing and suborning of the saidis Witnesis, to þe effect soirsaidis, for acqyuring of his forder gayne, past and reverillit þe hail premises to the said James Guidlet, and put him vpon the counsell pairrof: The verritie of the quihilk knaverie and dissaitfull deilling of the said Robert Graham being detectit to the Lordis of Counsell and Sessioun, and þai, vpon diligent examinatioun of þe said Robert, and þe Witnesis soirsaidis, haifing ryppit vp the hail secreit of all pair proceedings; and in end, finding þe said Robert Grahame to be bot ane false and leying lymmer, the saidis Lordis brocht him to this poynt; and, of his awin consent, maid him to bind him self and to be content, that in caice it should be fund be the saidis Lordis, that he ony wayis varrit in his Depositiones pairrestir, *that he should be content to be HANGT but fauour!* Lyk as, þe said Robert, being dyuerse tymes pairrestir solemnie suorne, in presens of the hail Lordis, to declair þe verritie, vpon ane only poynt, viz. quidder or nocht þe said Robert first proponit þe purpos to the said Mark Gleditanes him self, aient the bringing to him of þe saidis Witnesis, for preving to him of his caus, or gif þe said Markie socht him first to that effect; the said Robert, eftir dyuerse examinatiounes and solemne aithes maid be him, haifog conitantly declairit þat the said Mark first come to him and proponit þat matter; in end, þe said Robert, as ane manifest periuret and lieing lymmer, be his posterieur Deposition, acknowlegit and confessit, that he first addressit him self to Mark, and maid the first motioun of þe said matter to him: In the cairfull and exact tryell of the quihilk matter, be the saidis Lordis of Sessioun, thair lordschipis, be pair sentence and decreit, nocht only he ffund and declairit the said Robert Grahame to be ane fraudulent and fals suborner of the saidis Witnesis, seduceing, be craft and dissait, vpon hoip of gayne, thame to depone in the said caus betuix Gleditanes and Guidlet, quha vnderstuid nathing pairintill: Bot lykwayis, be the same sentence, he is fund and declairit to be ane fraudulent and fals suborner of Witnesis, be craft and dissait, in dyuerse vtheris actiones and causis; speciallie, in the fraudulent suborning and seduceing of Witnesis in the caus of spuilzie perfwit be Quintene Braidfute aganis Coupland; and lykwayis, in the caus of Divorcement perfwit be the Lady Torthorrell aganis my lord hir husband, and in dyuerse vtheris

actiones and cauffis, movinge the faidis Witneffes, be his intyfeing and fals Subornatioun, to vndertak vpon thame to beir teftimonie, and to prove and affirme for treuthe, that, quhairof thay of thame felffis war altogidder ignorant. And be the faid Sentence, he is fund be þe faidis Lordis to haif frequentlie hautit that damnable tred of lyfe, with wonderfull peartnes and double deilling, betaix pairteis, fo fynelie proveing þe diffavre, chopping, changeing, and triking at his humour, fra hand to hand, that quhairas þe faid Robert was evin nov, be his inventions and forgerieis of his brane, about þe on-drawing of fum one partie to his defignes, quhilk he wald promeis and avow to mak guid, fo incontinent pairtefir he wald difcover and detect all to the vther partie, quhome lykways, be his falfe farmifes, he wald induce to fum contrarie motioun; in baith, intending nathing bot double and fals deilling, to the preiudice of aither¹ partie. And in end, in the faid Robert his tryell and examinatioun, in prefens of the faidis Lordis, he is fund, be þair faid Decreit, to be dyuerfed,² and many tymes menfuorne, and periuret; as the faid Decreit beiris. AND þairfoir, the faid Robert, as ane manifest feducer and Corrupter of Witneffes, inducing and intyfeing thame, for his awin lucre and gayne, fallie, aganis þair knowlege and confcience, to depone in dyuerfe cauffis, specialie in the cauffis aboue writtin; quhairof he is declairit giltie, be the faidis lordis Decreit, and alfo conforme to his volunter offer aboue fpecificet. quhairby he, of his awin consent, was content to be hangit, in caice he war fund to varie in his Depositiones, and pairthrow menfuorne; and as a falfe and periuret diffavre, aucht and fould vaderly the pwnement of death, in maist exemplarie maner, to þe terour of vtheris.

DITTAY againſt Robert Dunlop, &c. for Perjury and Falſe-witneſſing.

THE faidis ROBERT DUNLOPE, GEORGE WAT, and ADANE BLAICKLOK; fforfamekill as, by dyuerſe Actis of Parliament, it is exprellie provydit, itatute, and ordanit, that all ſic perſones as beiris falſs Teftimonie and Witneſſing, in ony caus quhatfoeuir, falſe pwnemented to the death, according to þe Diſpoſition of þe Cowmone Law, baith Canon, Civile, and Statutes of this realme: And trew it is, that the fornamet perſones, nochtwithſtanding of the faidis Actis, haifing moift wilfullie plunget and fetterit thame felffis in materis of damnable falſetis, and iniuit beiring of Witneſſing, with ſic evidencie of precogitat Periurie, that albeit thay war confcious of þair awin malicious and falſe intentiones, ȝit wald thay rwe heidlongis, and combine and vniformelie agrie togidder to mak merchandice of þair confciences, reſolveing with thame felffis, to beir teftimonie, and effrontellie for veritie to avow, that (howfoeuir in it ſelf) ȝit to thame vnknavin, thay being inducet pairto, nocht ſamekill vpon the hoipis and promeiſſis of expected gayne, as out of thair continual hant and conſuetude of leying, quhilk, throw cuſtome in thame, did turne to nature; quhairin he deegrees, thay haifing atyntit to ſic fynes,³ that gif þair courſe þairin had nocht happelie bene interruptit, the eſtair of ony quhatfoeuir, without exception, mycht haif bene generallie endangerit: And namelie, the foirfaidis perſones, and everie ane of thame, be the convoy and craftie dealling of þe faid *Robert Graham*, callit of *Langbottle*, þair pylet⁴ and leader in þis þair vnconfcionable tred of lyfe, haifing ſauld thame felffis to all maner of miſchief, and making ſchipwraack of all faith and honeſtie, nocht ony vpon reſtant commo-ditie and gayne be thame and everie ane of thame, laillie fra Mark Gledſtanes, indueller in Ed,⁵ offerit thame felffis to depone, as Witneſſis, in ane caus perſewit be him aganis James Guidlet, befor the Lordis of Seſſion, quhairof thay war altogidder ignorant; and quhairin the faidis *Robert Dunlope* and *George Watt* war maist deiplie ſworne to geve trew Teftimonie; albeit, in þair examinatioun, þair fals and damnable proceeding, by þe vigilant panes tane be the faidis Lordis, was maist happilie brocht to licht: Bot lykways, the faidis Robert Dunlope and George Watt, nocht as rafche and rekles ſiearis be officious teftimoneis, bot as Witneſſis deliberately falſs, haifing qnyte baniſhed the feir of God, quha is þe wtnes of confcience. ȝe⁵ aganis⁶ þair knowledge and confcience, being corruptit and feducet be

¹ Each.² Contradictory; varying in his evidence.

It is probable, however, that this infers that he was a

³ *dyvour* or bankrupt, which was considered most infamous.⁴ Refinement. Fr. *finesse*.⁵ Pilot.⁶ Yea.⁶ Against, or contradictory to.

greid of gayne and guid deid, hes gevin fals and vntrew Testimonie, in ane actione and caus perfewit be Williame Cant aganis Thomas Gray, io the quhilk Marioun Crufurd, spous to the said Williame Cant, in absence of hir husband, was speciall doar: And the said *Adame Blakkok* gaif the lyk falsse and vntrew Testimonie, in the actione and caus perfewit be þe said Quintene Braidfute aganis Coupland. As everie ane of þair Depositiones, tane in prefens of the haill lordis, testifeing þair acknowledgement of the soirfaisid falssetis, in þe self beiris. AND þairfoir, the saidis pertones, and ilk ane of thame, as fals and periuret Witneffes, of certane knowlege, and aganis the licht of þair awin consciences, deponeing in the saidis causis, as said is, cleirlic tryit by the saidis Lordis, aucht and fould reftaue þair dew and deseruit pwnschment, to the terrour and example of vtheris.

DITTAY against Johane Hammiltone, &c. for Perjury and Falsse-witneffing.

AS ALSO, the saidis JOHNNE HAMMILTOUN, ADAME MOFFET, and WILLIAME TOK: forsamekill as, albeit, be the soirfaisid Actis of Parliament, it be expresse provydit, statute, and ordanit, that all fals Witneffes, and falses¹ pertones, offering thame selfis, for greid and pertuler gayne, to beir fals Witneffing in ony matter; and all sic as conduces with ony persone, to that end and effect, ar Ordanit to be pwnschet be Banishment, peirring of þair tungis, dismenbring of þair hand, and be vther panes and pwnschmentis provydit be dispositioun of the Cowmone Law; and forder pwnschment to be infliet vpon thame, accordiing to the discretioun of the Lordis of Sessioun: Nochtwithstanding quhairof, it is of veritie, that the saidis *Johne Hammiltoun, Adame Moffet, and Williame Tok*, being corrupt with promeiffes of rewarid, and be resait of guid deid and vtherways, war seducet and intyfet to be fals Witneffis, williglie and wittinglie offering thame selfis, vpon hoip of rewarid, to geve fals Testimonie, in preving of certain actiones, altogidder vnkawin to thame; namelic, the said *Adame Moffet* and *Williame Tok*, conforme to þair Depositiones maid be thame in prefens of the haill Lordis of Sessioun, fault and conduct thame selfis for rewarid, to be fals Witneffis in the Action of Divorcement, perfewit be THE LADY TORTHORRELL aganis THE LORD OF TORTHORRELL, hir husband; as also, in ane action of Spuilzie, perfewit befor the saidis Lordis, at the instauce of *Mark Gledjanes* aganis *Guidet*: And siclyk, the said *Johane Hammiltoun*, conforme to his Deposition, maid in prefens of the saidis Lordis, fault and conduct him self, as ane fals Witnes, to haif deponit in the said action of Divorcement, perfewit be the said Lady Torthorrell aganis hir husband: And albeit the saidis actiones war altogidder vnkawin to thame, zit the soirnameit persones, and ilk ane of thame, aganis thair knowledge and conscience, maill forwardlie and malapairtie, vnderwiik to verifie and preve the samyn; quhilk wikket intentioun thay had nocht failzet, wittinglie and wilfullie, to haif put in practize, gif thay had nocht bene latin,² be the intervening tryell tane be the saidis Lordis of Sessioun, alweill be þair Confessiounes, as vther cleir and euident probatioun tane þairintill: And þairfoir, thay, and ilk ane of thame, as persones seducet and intyfet to beir fals Testimonie, aent the probatioun of the soirfaisid causis, quhairof thay war altogidder ignorant, aucht to reftaue þair dew and deserued pwnschment, to the terrour and example of vtheris.

DITTAY against James Boyle, &c. for Suborning of Witneffes.

IN lyk maner, the said JAMES BOYLE, &c. in the lait tryell and examinatioun, taine of him in prefens of the Lordis of Sessioun, he, conforme to his awin Confessioun and Deposition, and vther probatioun had aganis him, is fund to haif deit with dyuerse Witneffes, suborning and inducing thame to Depone in dyuerse actiones, quhairof the saidis Witneffes war altogidder ignorant; speciallic, in the said action and caus perfewit be þe said *Williame Cant* aganis the said *Thomas Gray*, quhairin, be þe saidis Lordis Sentence and Decreit, he is fund to haif past the boundis of deutie, and nocht a litill to haif overfene him self, haifing fa heichlie transgressit þairintill, that his offence, in that behalfe, requyres

¹ *Sandless*, void of soul and conscience.

² *Lct.* hindered, prevented.

heichlie to be pwneit : And pairfoir, as ane manifest Suborner and seducer of Witneffis, aucht and fould refaue his dew and deserued pwnefchment, to þe terrour and example of vþeris to abstene fra the yk heirefter.

DITTAY against James Or, for Slaughter.

AND last, the said JAMES OR: fforfamekill as, vpone the faxt day of Marche instant, the said James, in his passing furth of þe burgh of Ed^r to Crawmond, haifing forgadderit with *Johne Chirritie* in Crawmond, vpone the Grene þairof, thay haifing past in to the duelling hous of Thomas Matbiesone pair, quhair thay drank togidder ane hour or pairby : And the said James and Johnne haifing pairrestir come furth of þe said hous, certane speiches haifing fallin out betnix thame, and be occasioun of a lie gevin be þe said Johnne Chirritie to the said James Or; he, in his beillie rage and furie, drew ane knyfe or braig, with the quhilik he strak þe said vng^{le} Johnne Chirritie ane crevall and deidlie straik aboute his left pape;¹ off the quhilik straik, he immediatlie, within ane hour pairrestir, departit þis lyfe; and sa, was crewallie and vmerciefullie slane, vnder nycht, be þe said Jame Or: ffor the quhilik, he was tane *in flagrante crimine*, and being examinat pairupoun, hes confessit the premiiffes to be of veritie.

My lord Aduocat productet the DITTAY; and estir reiding thairof, in respect the perfonen on pannell could allege nathing aganis the relevancie thairof, to sttay proces, desyret the samyn to pas to the knowlege of ane Assyse; and productet ane roll of the perfonen lauchfullie fummond to that effect. Quhilkis perfonen of Assyse being chosin, suorne, and admittit, estir accusatioun of the saidis perfonen, be Dittay, of the crymes *respectiue* aboute writtin, quhilkis war verifeit be productionn of the saidis Lordis Decreit, and thair awin Depositiones, maid in prefens of the haill Lordis of Seffion: As also, the said Slauchter was verifeit be the said James Or his awin Confessioun, maid in Judgement, in prefens of the Justice and Assyse.

VERDICT. The Assyse, all in ane voce, be the mouth of James Raulftoun, mercheand burges of Edinburgh, stand, pronuncet, and declairit, conforme to the Depositiones and Decreit productet, and the said Judicial Confessioun maid be the said James Or, the foirnameit haill nyne perfonen vpone pannell to be fylet, culpable, and convict of the feuerall crymes and pointis of Dittay aboute mentionet.

SENTENCE. The said *James Or* to be tane to the Mercat-croce of Edinburgh, and thair his heid to be strukin fra his body; and all his guidis and gear to be escheit, &c.: AND siclyk, the saidis *Robert Grahame*, *Robert Dunlop*, *George Wat*, and *Adame Blaikkok*, to be tane to the said Mercat-croce of Edinburgh, and thair to be Hangit, quhill thay be deid; and all thair moveable guidis to be escheit to his Maieftes vs: THE saidis *James Boyle*, *Johne Hammitton*, and *Adame Maffet*, to be first Scourget throw the burgh of Edinburgh, fra the Castell-hill to the Nether-boll thairof, and Brunt with ane hett irne vpone the cheik, and thairestir Banischet this reaime of Scotland; and nevir to be fund agane within the samyn, without his Maieftes Licence, vnder the pane of deid:

¹ Breast.

AND last, that the said *Williame Tok* be lykwayis Scourget throw the said burgh, and thairefter Banischet this realme; and nevir fluid agane within the famyn, without his Maiesteis Licence, as said is, vnder the pauce foirsaid.

Uttering “ Treasonable, Blasphemous, and Damnable Speeches” against the King.

[THE Trial of JOHN FLEMING, elder, in Cockburnspath, which follows, is so remarkable in its nature, and the Sentence of death pronounced upon the unfortunate pannel, is so frightfully disproportioned to the pretended *crime* for which he stood charged, that, did it not occur in the authentic Records of a Supreme Tribunal, and were it otherwise unvouched, no honourable mind could for an instant admit the probability of its truth. Had mention been made of this fact in any private correspondence of the period, or in contemporary Memoirs or Annals, it would have been at once discredited by all, as an unprincipled libel on the character of our *British Solomon!* Unhappily, however, for the character of King James VI, the event here recorded is too true, and there can be no doubt that it did actually occur. The names of other victims to the same insane ideas of justice, are inscribed, in characters of blood, on the pages of our Criminal Records. It is unnecessary to recapitulate such instances, at any length, in this place. It is enough merely to refer the reader to the Cases of *Dikson*, Aug. 3, 1596; *Tennent*, Oct. 10, 1600;² *Cornwall*, Apr. 25, 1601;³ and *Ross*, executed Sep. 10, 1618.]

May 17.—JOHNE FLEMYNG, elder, in Cokburnepeth.

Dilaitit of dyuerse treffonable, blasphemous, and damnable speiches vtterit be him to Johne Lawder, Miniſter, aganis our ſouerane lordis moſt ſacred perſone, &c. viz. FORSAMEKILL as, Johne Lauder, Miniſter at Cokburnepeth, haifing laittie reprehendit and fund falt with the ſaid Johne Flemyng, becaus his ſoue repairit nocht to the Communiou; ſaying to the ſaid Johne, that ‘albeit he contemnit þe ordour and diſcipline of the Kirk, zit the Kingis moſt gracious Maieſtie, quho is a moſt religious and godlie Prince, and vnder whois bliſſet government the trew Religion and diſcipline of the Kirk is eſtabliſchet and advancet, wald nocht fuffer ſuche contempt and diſſobediencie pas over vnpwneifched:’ the ſaid Johne Flemyng, vpon delyuerie of the ſaidis ſpeiches, ſchaiking af all feir of God, and that reverent reſpect, quhilk in conſcience, beſoir God, and in his deutie and allegance, he aucht⁵ to HIS MAIESTIE, moſt treffonabillie, blaſphemouſlie, and miſchautlie⁶ replyit to þe ſaid Miniſter, in thir woirdis: ‘ſteind nor THE KING ſchoote to deid or þe morne—and that he die of þe falling feiknes!’ And it being demandit of the ſaid Johne, quhat movet him to vtter ſuche blaſphemous and horrible ſpeiches aganis his Maieſtie?—maid this ſcoruefull and diſdaiuſfull anſwer: ‘War nocht⁷ THE KING and his lawis, he had nocht wantit his landis—and pairfoir, he cairt nocht for þe King—for hanging wald be þe worſt of it!’ Be the vttering of the quhilkis damnable and blaſphemous

¹ See this Collection, I. 385. ² *Ibid.* II. 332. ³ *Ibid.* II. 349. ⁴ *Ibid.* III. under the above date. ⁵ Owed. ⁶ Wickedly. O. Fr. *meſchamment*. ⁷ Had it not been for the King, &c.

ſpeiches aganis his Maieſtie, he had committit moſt haynous and vnpardonable Treſſone. Lyk as, he being conuenit and preſentit befor the Lordis of his Maieſteis PREVIE COUNSELL for the ſaidis ſpeiches, the ſaidis Lordis of Secreit Counfell hes tryit the ſamyn to be of verritie; and thairfoir, Ordanit him to be pwneift *exemplarie*, to the terrour of vtheris.

The Dittay being red to the pannell, (he) maift humblie offerit him ſelf in his Maieſteis Will, for the ſaid crymes: Quhairupoun my lord Aduocat aſkit inſtrumentis. Quhilk Dittay was verifeit, be production of the Counfellis Decreit.

VERDICT. The Aſlyſe, all in ane voce, be the mouth of Cutlibert Mure, furriour in Edinburgh, chancellor, ſtand, pronuncet, and declairit the ſaid Johnne Flenyng to be Giltie and convict of the ſaidis Treſſonable Speiches vterit be him, in maner ſpecificit in his Dittay.—SENTENCE. To be tane to the Mercat-croce of Edinburgh, and thair to be hangit quhill he be deid: And all his moveable guidis to be eſcheit, &c.

Slaughter.

May 30.—JOHNNE BRAND, Student in the Colledge of Philoſophie of Ed^l, ſone to vni^q^{le} Johnne Brand, Miniſter at Halyrudhouſ.

Dilaitit of airt and pairt of the fellow and crewall Slauchter of vni^q^{le} Williame King, ſone naturall to James King, Aduocat; committit vpon the xxvij day of Maij infant, vpon St Leonardis Craigis, neir to the ſaid burgh, beſyde the Park-dyke of Halyrudhouſ, be ſtreking of him with ane drawin knyfe, vnder the left pape; quhairof he immediatlie deceffit.

PERSEWARIS, James King, Aduocat, as fader; Mr Alexander King, Aduocat; Mr Adame King, ane of the Commiſſaris of Edinburgh, as fader-brether.

The pannell acknowledges the Dittay to be of verritie, and craves God, and our Souerane lord, and the pairtie, maift humblie, pardoun for the fact: And gif any meanis of fatiſfactioun (reſervand his lyfe) may be acceptit, according to his habitie, is maift willing to fulfill the ſamyn, according to the perſewaris iniunction: Bot gif na vther thing bot his bluid will mitigat the perſewaris wraith, offeris the ſamyn to be pwneift according to the Law; deſyreing the Lord, throw the meritis of the precious bluid of his Sauour Chryſt Jeſus, to be mercifull vnto his faull!

VERDICT. The Aſlyſe, all in ane voce, be the mouth of Johnne Maſoun, mercheand in Ed^l, chancellor, ſtand, pronuncet, and declairit the ſaid Johnne Brand, according to his awin Confeſſioun, to be ſfylt, culpable, and convict of the Slauchter of the ſaid vni^q^{le} Williame King.—SENTENCE. To be tane to the mercat croce of Ed^l, and thair his heid to be ſtrukin frome his body: And all his moveabill guidis to be eſcheit, &c.

Treasonable Fire-raising in Coal-pits.

JUN. 10.—JOHNE HENRIE in Littill Fauſide.

Dilaitit, acenſet, and perſewet, be Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our ſouerane lord, for his hienes intereis, of the crymes vnder-writtin, viz.

FORSAMEKILL AS, albeit be the 146 Act of our Souerane lordis tuelf Parliament, haldin at Ed^r vpon the fyft day of Junij, 1592 ʒeiris, makand mentioun that his Maieſtie and eſtattis, for þe better p̄wneifchment of the wiked cryme of ſetting ſyre in coil-heuches¹ be fun vngodlie perſones, vpon privat revenge and diſpyte, haif pairfoir Statute and Ordanit, be vertew of the ſaid Act of Parliament, that þe committing of the ſaid cryme, in ony tyme pairreſtir, fall be Trefone : and that the committeris of þe ſaid haynous and detefable cryme, being ourdourlie convict pairof, fall ſuffer and vnderly ſic p̄wneifchment in pair bodeyis, landis, and guidis, as is dew be the law in cauſes of Trefone : As in the ſaid Act of Parliament at lenth is contenit. Nochtwithſtanding quhairof, it is of verritie, that þe ſaid John Henrie, being a ſervand and workman within the Coil-heuch of Littill Fauſyde, and pairthrow beſt acquetit with the haill ſecreit paſſages and pairtis of the ſaid heuche, haifung confauct ane deidlie rancour and evill will aganis Mungo M^ccall, now of Littill Fauſyde, becaus þe ſaid Johnne had nocht that libertie and commandment vnder him quhilk he had vnder Johnne Leving-froun, his prediceffour ; in a devillifch diſpyte, and to þe wrak and diftrucioun, nocht only of the ſaid Mungois coil-heuch, bot to þe grit preiudice of þe cuntrie and Cowmounwelthe, in the monethis of februar, March, and Apryle, in the ʒeir of God I^o.V^j^c. and fourtene ʒeiris, at the leift, in ane or vther of the ſaidis monethis, immediatlie eſtir þe ſaid Mungo M^ccall acqyret the rycht and poſſeffioun of the ſaid coilheuch, come, vnder ſilence and clud of nycht, to þe ſaid Coilheuch of Littil Fauſyde, and enterit pairintill be ane previe hoill and paſſadge of his awin, and maift treflonable pat ſyre within the ſaid heuche, of purpois and intention to burne and diftroy þe ſamyn and haill coillis being pairintill : Lyk as, for the gritter ſecrecie and down-halding of the ſaid ſyre, he nychtlie, be þe ſpace of tuentie dayis togidder, reſoirtit to the ſaid heuche in ſecreit maner, ſſed, and nureifchet þe ſaid ſyre, ſtoppit þe haill air and vent hoillis with ſtray,² quhairthrow þe ſaid ſyre ſould nocht be difcoverit : Be reaſone of the quhilk ſyre, and ſtopping of the haill air and vent hoillis, thair arraiſe ſie ane peſtiferous and foule air within the heuche, that nane of þe workmen war able to work pairintill ; quhairvpon, and be þe pulling furth of ane bottel of ſtray furth of ane hoill in the ſaid heuche, quhilk hoill was callit þe ſaid Johnne Henreis vue,³

¹ Coal-pits.

² Straw.

³ Perhaps for view, prospect.

the vehemencie of þe said fyre was difcoverit. Be þe committing of þe quihilk detestable fact, he hes committed maist haynous and vnpardoneable Treflone.

The pannell denyis the Dittay; and takis instrumentis that na pairtie infistis in his perfute bot my lord Aduocat: and that thair is nocht ane fuorne Dittay. My lord Aduocat product Thomas Cochrane, his lordschipis informer, quhais aithe he desyret to be tane, anent the treuth of the Dittay.

Thomas Cochrane, greif¹ at Littill Faufyde, being fuorne vpon the verritie of the Dittay product be my lord Aduocat, declairit that Johnne Henrie was giltie of þe cryme contenit þairintill, bot he wald naways follow nor perfew him for the famyn, in respect he had na intereis; quhairvpon my lord Aduocat askit instrumentis.

The Assyfe being fuorne, my lord Aduocat takis instrumentis of thair fueiring; and protestis for Errour gif thay acquit.

VERDICT. The Assyfe, being ryplie and at lenth advyfet thairwith, togidder with the taikynis² and Depositiones product for instructing thairof, be pluralitie of voitis, stand, pronuncet, and declairit, be the mouthe of Alexander Penman in Lyttill Faufyde, chancellor, the said pannell, to be ffylet, culpable, and convict of the treflonable cryme specifeit in the said Dittay.—SENTENCE. To be tane to the Mercat-croce of Ed^r, and thair to be hangit vpon ane gibbet, quhill he be deid: and his heid thaireftir to be sfrukin frome his body, and put vpon ane prik, fixt and set vp vpon the landis of Littill Faufyde, beyde the said Coilhenche: And all his moveable guidis, gif he ony hes, to be efcheit, &c.

Wamesucken—Slaughter.

Jun. 22.—ALEXANDER DAUIDSON, in Wester Kerfe.

Dilaitit of the crewall and vnnaturall Slanchter of vmquhile George Suord, his sone in law, be streking of him with ane lance-stalf in the bellie, and gorryng his puddingis, within the said George awin duelling hous in Wester Kerfe, vpon the xxix day of Majj last: Off the quihilk fraik he deceifit, vpon the tuelf day of Junij instant: committit vpon set purpois, prouisioun, and foirthocht fiellonie, in hie and manifest contempt of his hienes authoritie and lawis.

PERSEWARIS, Patrik Suoird and Johnne Suoird, as brether.

VERDICT. The Assyfe, being ryplie and at lenth advyfet thairwith, togidder with the said Alex^r his Judiciall Confessioun and acknowledgement of the said haynous cryme to be of verritie, and his penitencie for the famyn, be pluralitie of voitis, stand, pronuncet, and declairit the said Alexander Davidson to be ffylet, culpable, and convict of the said crewall Slanchter.—SENTENCE. To be tane to the Castell-hill of Ed^r, and thair to be heidit; and his hail moveabill guidis to be efcheit, &c.

¹ Grieve; overseer.

² Proofs; tokens; evidence.

Mutilation and Decembration.

Jun. 30.—JOHNNE PITSCOTTIE of Loncardie, Colene Pitfcottie, his eldest sone.

Dilaitit of airt and pairt of the Mutilatioun of Margaret Stewart, spous to Thomas M'duff of Glenelwart, of hir richt airme ; committit vpon the xxix day of August, 1613.

PERSEWARIS, Margaret Stewart, Thomas Duff of Glenelwart, hir spous.

The persewaris passis fra the perfitte of the pannell, for the crymes contenit in the Letteris, *pro loco et tempore*. Quhairvpon the pannell askit instrumentis.

THE Justice continued this case ' to the thrid day of the Air (of Perth) or soner, vpon xv dayis wairming.' Robert Creichtoun, brother to the Laird of Innernytie, became cautioner for their appearance, &c.

High Treason—Taking and Detaining the Castle of Dunnywaig —Resisting King's Lieutenant, &c.

[As the Editor has already entered so fully into the subject of THE REBELLION IN JLAY by *Sir James Macneil*, &c., it is unnecessary to occupy further space here ; more especially as *Mr Gregory's* Historical Researches, already far advanced, are exclusively devoted to the elucidation of such points.¹

The following interesting memorials have been preserved by *Calderswood*, in his MS. Church History,² which the Editor believes will prove an acceptable illustration of this subject. They have been discovered since the former sheets were sent to press. SIR JAMES M'CONNELL escaped out of the *Castile of Edinburgh*, where he had been wairdit the space of eighteen years, upon the 24 of Maij, the day after *Angus Ooge*, his brother, and eight or nine of his complices, were brought to *Edinburgh*. It was thought that he escaped not without the privity of these who had credit. In the beginning of July, he entered in *Illa*, with a number of men of THE ISLES, and, within three or four dayes after his landing, took the *Castile*, slew the *Captain* and other three or four. His forces increasing, he went out of and spoiled the lands belonging to the *Earl of Argyll*, compelled the tenants to pay him their malls and duties, and kepted about him five or six hundreth men. Upon the eight of July, *Angus Ooge*, brother to *Sir James M'connell*, and his complices, were hanged at the Market Crofs of Edinb'. They affirmed that *George Graham* assured them, in the *Chancellours* and *Counfills* name, that they would procure the Kings favour and safety, both of their lives and lands, if they would render the pledges ; and desired them to keep the House till the King's favour were obtained, or els they had not made resistance to the King's Liertenant. Because the said *George* was not troubled by the Counfell or any other, the people thought hard of it.—Aug. 16. The *Earl of Argyll* came to *Edinburgh*, sent from Court be THE KING to passe vpon *Sir James M'Connell*. He had Commissione to warne and raise the Sherifdomes next adjacent, and to wage shouldiers, upon the King's charges. One of THE KING's Ships, and four pinnages, were sent by Sea, with cannon, musket, powder, bullet, pike, and corlett. The *Counfill* gave their directione, upon the thrid of August. About the middelt of September, their forces drawing near to others,³ *Coline Campbell of Kilberrie*, and some with him, were surprisid and taken be *Coll Mackgilespieck* and his followers. *Mr Donald Campbell*, that Gentleman of the *House of Caddell*, accompanied with six or seven hundreth men, went out of *Argyles* Campe, and surprisid, in a suddane, *Col Mackgilespieck* and his company ; killed some, tooke others, and banged sone. *Col* him self and the most part hardlie escaped. *Sir James*, and so many as might flie with him,

¹ See Vol. III. p. 1.

² Advocates' Library.

³ Each other.

fled out of *Kintire* to I.A. All his followers could not flee, because *Mr Donald Campbell* had ceased (*seized*) upon many of the boats. *Argile*, finding it dangerous to remain long in the fields, winter drawing one, for it now was mid-October, and his company dissolving, practised with *Mackgile/pjicke*. *Col* rendered THE CASTLE OF DUNNIVEGE, *Coline Campbell of Kiltberrie*, and himself to the Earle.

A number of ORIGINAL PAPERS are appended to this Trial, which, in addition to those already furnished, afford ample and suitable illustrations of this remarkable passage of History. But for *Mr Gregory's* work, the Editor would have deemed it his duty to have made still further researches. To that gentleman's History, reference is made for the minuter particulars attending that subject, and, in general, for all other topics connected with the Feuds and Insurrections which took place in the Isles and West-Highlands.]

Jul. 3.—ANGUS OIG M'DONALD,¹ Allafter M'allafter, Angus M'allafter, Allafter M'arliche, Johnne M'condochie, Johnne Gair M'moylane.

Dilaitit of the tressonable taking, keiping, and detening of his Maiefties Castell of Donyvage, in Yla, and refitting of the Laird of Caddell, his hienes Leutenent and Commiffioner, &c. ; as in THE DITTAY following:—FORSAEMEKILL AS, thay, accompaneit with *Coill M'gille/pjick* and vperis, pair complices, all rebellis and brokin men,² to the number of ffyftie perfones or pairby, in the moneth of November laft, maift tressonabillie convocat thame felffis in airmes, come forwardis in oppin and arrayit battell to his Maiefties Castell and strentth of Dymnievaig, in Yla : and pair, be craft and policie, tuik in the said Castell, whilk thay stufit³ and furneit with mufcattis, hagbuttis, poulder, leid, and vper weiryk furnitour,⁴ for halding pairof : Qubilkis tressonable practizes, fa interpryfet be thame and thair complices, being maid knawin to the Lordis of his Maiefties Seereit Counfell ; and thay, for redres of the saidis rebellis enormitejs, haiffing directit the Laird of Caddell,⁵ with companeis of wageit men of weir, as Leutenent to his Maieftie, with ane Herauld,⁶ and trumpettar, to charge thame, in his hienes name and autoritie, to rander the said Castell, and to recover the samyn fyrth of pair handis. LYK AS, the said Leutenent with his forces, togidder with the said Herauld and trumpeter, haiffing cum to the said cuntrie of Ilay, to the effect foirlaid, the foirnamet perfones, with pair rebellious associattis, vnderftanding pairof, directit furth ane grit number of pair rebellious cumpany aganis the said Herauld and trumpeter, and maift tressonabillie stayit and interruptit thame fra cuming forwardis to þe said Castell, for gevng of the said charge : quhairthrow, for feir of pair lyfes, thay durft nocht cum forwardis to the said hous : Lyk as, eftir his Maiefties Leutenent had plantit bim self with his forces round about the said Castell, and had saluted the saidis rebellis.

¹ See May 13, 1609, &c., and Note to the Introduction to *Sir James Mackoneill's* Trial, Vol. III. p. 1, &c.—and Vol. I. p. 224, where the Trial of *Angus Mackoneill*, his father, occurs. ² Outlaws, and men attached to no particular Clan, who, for pay and the hope of plunder, would join in any enterprise. ³ Provisioned. ⁴ Furnishing ; provision. ⁵ Campbell of Calder, or Caddell.

⁶ Robert Wyrabame, Albany (Ylay) Herauld.

being pairin, with hyne scoir schottis of ordinance, schote be thame pairat, the saidis perfonen on pannell, nochtwithstanding of þe said Assault maid be þe said Lieutenant to þe said Castell, maist treflonable held out, keipit and detenit þe samyn aganis him, he being cled with his Maiesteis autoritie, as Leutennent and Commiffioner, for releifing pairof; and treflonabilie schote furth agane, out of þe said Castell, at þe said Leutennent and his companie dyuerse schottis of muskettis, and pairwith slew *Capitane Craufurd*, with foure vther of his Maiesteis faithfull seruantis and subiectis, quha war in seruice with the said Leutennent, in the executioun of his Commiffioun. AND the saidis perfonen on pannell, and ilk ane of thame, ar airt and pairt of the saidis treflonable crymes.

My Lord Aduocat product the Dittay, with the roll of the Assyse; and desyret proces.

ASSISA.

Mr Rannald Bayne, burges of Ed^r, Huchoun Fraiser of Kilboig, James Sprewle of Cowden, Andro Meldrum of Dumbrek, Williame Cunningheam of Dolphingoun.¹

The Aduocat, for verificatioun of the Dittay, product the pannellis Depositionis, and takis instrumentis vpon the productioun thair of, &c. And protestis for Wilfull Error, gif thay acquit.

VERDICT. The Assyse, all in ane voce, be the mouthe of the said James Sprewle, chancellor, stand, pronuncet, and declairit the saidis perfonen on pannell, and ilk ane of thame, conforme to thair awin Depositionis, and approbatioun thair of in judgement, to be flylet, culpable, and convict of airt and pairt of the hail treflonable crymes contentit in the Dittay.—SENTENCE. To be tane to the Mercat croce of Ed^r, and thair to be hangit vpon ane gibbet, quhill thay be deid: And all thair moveable guidis to be efcheit and inbrocht: And all thair landis, heritages, and annuelrentis pertening to thame, to be sforfaltit to his Maiesteis vte, &c.

APPENDIX OF DOCUMENTS,

ILLUSTRATIVE OF THE TRIAL OF ANGUS OIG M'DONALD, &c.

- I. OFFERIS to be presentit to our maist graticus souerane and his hienes honourabil Counsell, in the name of Angus M^cDonald of Dicuuaig, his freindis and followeris.

FIRST, with all humelite, I adheir to my former OFFERIS, maid and subseruit with my hand, in prens of THE COUNSALL, at *Glasco*, in the yeir of God I^m.Vj^r. and syf yeir, and delynerit to my Lord of *Shone* to haif bene schawin to HIS MAIESTIE; promeing to performe enery heid of the samin.

Secondlie, I offer my self to abyid the tryell of the lawis of this HIS MAJESTIES realme, twiching my obediens to his hienes and *Counsellis* derectiounes, in all poyntis; and keeping of all dewateis appartenyng to a loyall subiect, ewir fen HIS MAJESTIE pairt to mak residens within his hienes kingdom of ENGLAND.

¹ The remainder 'burgesses of Ed^r.'

Thridlie, feing I haif compleittie payit all bygane males¹ of his hienes propper landis, within IYLA and KYNTYIR, poffetit be me, heirtofoir, and hes obtenit HIS MA^{TIES} *Controllerris* difcharge thairof, I offer, in lyk manir, in all tyme cuning, during my lyftym, to mak thankfull payment of the full Rentall of the faidis landis, wnto the quhilkis I and my foirbeiris hes bene kyndlie tenentis;² and that termelé and yerlé,³ wnder the pane of tynfall⁴ of all kyndis of ryclit, tyttill, or poffeffioun that I can cleame to ony landis within ony pairt of HIS MA^{TIES} dominionis; his hienes refpecting for the prefent *the Waff landis* of IYLA, quhilll thai be pleneifclit and manwrit.⁵

Ferdé, I offer fufficient cautione, within *the Law-landis*, that I falbe obedient to the lawes of this HIS MA^{TIES} contré of SCOTLAND; and to that effect, fall compeir befoir *the Coumfall* of the faid realme, vpon lauchfull premonitione, quhairfoewir the famin fall fit.

Fyfté, I offer to concur with thais quhomvnto it fall feme guid to (his) hines to gif Commiffiounne, with my haill freindis and followaris, and to fet fordwart and adit fic reformatione of the barbarité of thir contrées of THE WAST and NORTH IYLES of this HIS MA^{TIES} Kingdome of SCOTLAND, as it fall pleas his hienes beft to dewyfe. be thir prefentis, fubferyvith with my hand, AT KILNACHTANE, IN IYLA, the aucht of September, 1606.
ANGUS M^CDONALL of Dwnewaig.

II. LETTER, *Angus McDonall of Dwnewaig* to THE KING. Sep. 10, 1606.

PLEIS 5OUR EXCELLENT MA^{TIES},

It is knawin to 5OUR MA^{TIES} honorabill *Coumfale*, within 5OUR hienes realme of *North Britane*, quhat hes bene my behaviour evir fen 5OUR hienes pall out of thir the North pairtis of 5OUR MA^{TIES} dominion; how many futis, and how many offeris of all dewiteis that it become a loyall fubiet to his dred fouerane, I haif maid to pair Lo.; and how that, efter I haid fullie fatifeit and compleittie payit all byrun maillis addebit be me to 5OUR MA^{TIES} *Comptroller*, I obtenit his difcharge pairpoum. I fend with his lo. to haif bene prefentit to 5OUR MA^{TIES} certane fpeciall OFFERIS, fubferyvith with my hand, befoir 5OUR hienes COUNSALE in *Gleffue*, in the moneth of Junij, 1605, of the quhillk I haif as zit receavit na anfer nor⁶ quhat 5OUR MA^{TIES} refoluis and decretis me to do; and being refutit of Licence to haif cum and prefentit my felf perfonalie befoir 5OUR hienes, to haif maid my awin fupplicatioun out of my awin mowth, I am enforceit to mak the famyn be a mediat perfone, *my Lord Bifhop of the Iyles*,⁷ quhome-by I haif gewin eredeit to offer, in my name, to 5OUR MA^{TIES} my lyfe and all pat I may command, to be vfit as it fall pleife 5OUR hienes direct; befeiking 5OUR MA^{TIES}, for the canfe of God, to refpect my aige and pair eltail, and to lat me knaw 5OUR hienes awin mynd, fignet with 5OUR MA^{TIES} awin hand; and gif it mycht pleife 5OUR MA^{TIES} to continue me the poffeffioun of thais kyndlie rowmes,⁸ quhilkis my forbearis⁹ and I hes haid of 5OUR MA^{TIES} and 5OUR hienes royall progenituris, I fall nocht onlie paye the dewiteis and maillis vfit and woumt pairfoir, bot alfo fall find fufficient fouertie for obedience to 5OUR MA^{TIES} lawis, in all poyntis, and in all tyme cuning; or vpairways, that it mycht feim guid to 5OUR MA^{TIES} to let me kend,¹⁰ how and quhairpoum I fall leive; for it falbe knawin, I fall feik na vther refuge bot onlie 5OUR MA^{TIES} clemencie, nor na vther leiving bot that quillk of 5OUR MA^{TIES} princiedie liberalitie it fall pleis 5OUR hines beftow vpon me; as at mair lenth the beirar will informe 5OUR MA^{TIES}. And fua, I befeik God to blifs 5OUR hienes with a long and proferous ring.

5OUR MA^{TIES} maill humbill and obedient fubiet,

IYLAYE, the tent of September, 1606.

ANGUS M^CDONALL of Dwnewaig.

¹ *Maills*, rents, fen-duties, &c. ² Feudal Tenants, termed *kinolly*, from the circumstance of their being *natives*, born on those lands which had been possessed by their ancestors for many generations. Such persons were seldom ejected, so long as they paid the almost nominal rents of those lands, which they were thus permitted to occupy by a sort of hereditary title, after the decease of the former tenant. They were styled *Nativi* in old Charters. ³ Ternally and yearly. ⁴ Loss; forfeiture. ⁵ Stocked and manured. ⁶ Than. ⁷ ANDREW KNOX, of the family of Ramforly, who had been Minister of Lochwinnoch and Paisley, was appointed Bishop of the Isles, Apr. 2, 1606, having been the first Protestant Bishop of that See. Reference may be made to the Trial of Sir James Mackenzie, *Appendix*. ⁸ Possessions held by him as *kyndlie Tenant*. ⁹ Ancestors. ¹⁰ Know; understand.

III. LETTER, *the Privy Council to THE KING.* May 27, 1608.

MOST SACRED SOUERANE,

THIS heiar, *the Bishope of the Ilis*, hauing the occasion to repair to your Maiestie for some materis concerning the seruice in THE ILIS, We haif committit vnto him the relation vnto your sacred MAIESTIE how far we haue procedit in that busynes, and what course is tane for the furtherance and profekution of that seruice, vnto whose sufficiencie remitting all thingis, We pray God to grant vnto your Maietie, efter a long and happy reigne, eternall felicitie. FROM your Maiefties burghie of EDINBURGHE, the 27 of May, 1608.

Your Maiefties moit humble and obedient subiectis and seruitouris,

AL. CANCELLOR. ABERCORNE. J. BALMERINOT. D. SCONE.

BEWLY. HALYRUDHOUS. JO. PRESTOUN.

TO THE KINGIS moit excellent MA^{TIE}.IV. LETTER, *Lord Wchiltrie to THE KING.* May 27, 1608.

MOST SACRED AND GRATIOUS SOUERAN,

I RESSAVID your MA^{TIES} Lettir, with *Mijfer Ogis* Remissionne, and falbe cairfull to gif vnto your MA^{TIE} full contentment and satisfacionne in everie particular of the Letter. I haif retaineit the Remissionne in my handis, quhill I haif ane certaintie of *Mijferis* conformitie; quhairin I expect to find him anfuerable, in some meafour, to that great favour quhill it hes pleit your MA^{TIE} to bestow vpon him. In all wtheris your MA^{TIES} directionis, quhairin it fall pleis your sacred MA^{TIE} to burdene me, I fall haif ane speciall cair and regard to approve my self worthie of that trust quhill your hienes reposis in me; having na wther thing sit to acquyt your hienes ineffimable favouris, bot ane hart disposit, in all sinceritie, to discharge that dewtie quhill your MA^{TIE} expectis, and quhill to my awin credit appertenis, and to sacrifice my lyffe and all that I haiff, in the executione of all your MA^{TIES} royall directionis. And sua, recommending your sacred MA^{TIE}, with your royall progenie, to th^{er} protectionne of God, I rest

50^r Ma^{TIES} moit humbill and obedient seruitour,

EDINBURGH, the xxvij of Majj, 1608.

AL. WCHELTRIE.

TO THE KYNGIS moit excellent MA^{TIE}.V. 'COPY of' THE LIEUTENENTIS LETTER to the Counsell, to be fend to
Courte with Sir Alexander Hayis Letter, &c. Aug. 18, 1608.

PLEIS YOUR LORDSCHIPS,

I CAUSIT wey oure ankeris and depairtit from YLA the 14 of this instant, at efter none, and arryved at *Douart*, in MULE, the 15 of the same monethe; and that with gryte difficultie, in respect of the greatest tempest of wedder and contrarie tyddis, quhairby we wer put in great danger all jay nycht; quhairthrow I sailit downe ane of the mallas of my awne schippe. At oure out-coming from YLA, we mett *the English gally*, with ane vther shipp, that caryis the munitione and ordinance, the quhill gally, yf it haid not pleasit God to haif givin hir that luke¹ to anker in *the Sound of YLA*, tho could not haif eschaupt sail, in respect of the gryte tyddis heir, and hid gait to pas throw, the quhill tho appeiris to be verie vnnemt: And finding hir nawife sufficientlie furneit with victuall, to remane heir to await on this seruice, yf it war bot for the space of aucht dayis; and not being certane of ony victuallis to come heir to furneith hir, bot onlie, at my speciall requellit, *Sir William St Johnne*, HIS MAIESTIES *Admirall* heir, hes tane vpon him, out of his awne furnitour,² to supplie hir with viveris, quhill bak advertisement come from your ll.; and seing we haue no service in thir *Ylandis* that tho is meit for, and knowing hir to be gryte expensilis to HIS MA^{TIE}, vpon the avisement with *the Admirall*

¹ Luck; good fortune.² Provision.

and remanent *Capitaneis* of THE ENGLISH FLEITT, and especialie with him wha is presnt *Governour* of hir, wha be painfull experience knawis, and hes declairit to ws, how difficile it is to keepe hir faiff, vncassin away, lett bee to do ony good office with hir, I haif thoht good to craue your ll. aduise, quhidder sho falbe direct bak agane to ENGLAND, with all expedition, as we think all expedient—or yf sho fall be continewit heir—and to what vse, and how sho falbe furneit—for we knaw not. As to the ship caryare of the batterie and instrumentis appertening thairto, albeit we think not meit to keepe the ship heir, bot remit hir bak with the gally, for hir better preservation, yit, for fundrie causis tending to the forder and finall ending of this service, we think it expedient to keepe the munition with the instrumentis, the quhilik I fall sie to be put in sic furitie, as I falbe answerable to HIS MA^{TIES} and your ll.

Thir thingis I haif thoht good to communicat vnto 50ur ll., imparting vnto 50wr ll. oure opinioun heir, and craving your ll. forder resolutioun in the premiesses, quilk I think, God willing, to follow furth. Vpon the 16 of this instant, I directit Commissiounaris to the *Houfe of Dowart*, quhairin M^CCLAYNE haueing his residence for the tyme, promeit to deluyner the Houfe; the quhilik he did vpon the 17 of this instant. I rellaveing the fame, hes furneit with men and viveris that Houfe to be kept during HIS MA^{TIES} and 50ur ll. pleasour. I haif proclamit Courte to be holdin, the xxij of this instant, in *Arrofe* of MULL, when I think, be Godis grace, to tak ordour with pat Yland, in executioun of pat pairt of my Commissioun, in distroying of lumsfaddis,¹ birlingis,² and Hieland gallyis.

I find this ane gryte difficultye, that in respect of the great number of theis vassellis, quilkis ar intertenyt vpon the mayne-shoir, quilkis ar so offensive to the *Yllijmen*, that onles they keepe the lyk counter with jaue, they can not eschapp thair oppreffioun, nather can I justlie spoilzie jame jairof, viles the lyk ordour be tane with theise that ar vpon the mayne-shoir, oppofith to the NORTH and WEST YLLIS; and thairfoir, yf it wald pleis 50ur ll. to gif me lyk pouer and Commissioun, for the abolishing of sic vassellis vpon the mayne-shoir, as I haue with in THE YLLIS, I fall do accordinglie with both. The quhilik Commissioun I expect, with diligence; into the quhilik Commissioun, I wald desyre your ll. to include the intaking and asfedeing and dimoleifing of all sic Houffis vpon the mayne-shoir, appertening to ony Yllifman, or that may be ayd or relett to ony fugitiue rebell out of THE YLLES.

I will not trouble 50ur ll. with farder Letteris quhill mair occasioun be offerit; bot, requesiting 50ur ll. to haif bak answar, becaus I can not depart out of this Yll, withoute relett of the fame, I rest,
Be 50ur ll. alwise to be commandit,

DOWART, in Mull, 18 August, 1608.

A. VCHILTREIE.

VI. LETTER, the *Privy Council* to THE KING. Oct. 6, 1608.

MOST SACRED SOUERAYNE,

THIS Nobleman, the Lord Vchiltreie, whome it pleast your heynes to prefer to the charge of Leutenandrie of THE YLLIS of this your Maiesteis kingdome, hes, with verie greate cair, pane, and travellis, and with greate hataird of his persone, broght that service to ane goode perfectioun, by the entrie and exhibitioun befor vs of a noumer of the principallis and Chiftanes of THE YLLES; and by his awne promeis and Band, to mak some otheris of thame, whome he hes not presentit, asuerable and obedyent; as mair particularie he will informe your sacred MA^{TIES}. And sua, recommending him to your Maiesteis gracios regard and consideratioun, We pray God to blisse your sacred Maiestie with all happynes, and restis for evir,

Your Maiesteis most humble and obedyent subiectis and seruitouris,

AL. CANCELL^S. ARGYLL. CRAWFORD. BUCKLUGHE. ABERCORNE. BLANTYRE.

EDINBURGH, 6 October, 1608.

TO THE KINGIS most excellent MAIESTIE.

¹ Lymphads.

² A *birlin* is a small sort of vessel, peculiar to the Western Islands of Scotland.

VII. LETTER, *the Privy Council to THE KING.* Oct. 13, 1608.

MOST SACRED SOUERANE,

THE heiar, *the Bishop of the Yllis*, having the ocaſioun to repair towards your ſacred MAIESTIE, we haif thought meit to accompany him with this our tellimonie and approbatioun of his dewtiful cariage and behauiour in your MAIESTEIS ſerueice, in THE YLLIS, wherin he has caryed him ſelff with verie goode credite and reputatioun; and is able, be his counfall and advyſe. (in reſpect of his awne credite and freindthippe among the Yllifinen,) to do vnto your MAIESTIE goode ſerueice thair. And ſua, recommending him vnto your ſacred MAIESTIE, and moſt humilie beſeiking your heynes to heir him, in ſuche thingis as he will propone, anent the proſequitioun of this ſerueice, We pray God to bliſſe your ſacred Maieſtie with all happynes and felicitie, and reſtis for ever,

Your Maieſties moſt humble and obedyent ſubiectis and ſeruitouris,

AL. CANCELL. ROSS. TORPHECHIN. BUKCLUGHE. HALYRUDHous.
CL. REG^{RI}. A. ELPHINSTON. S. T. HAMILTON. JO. PRESTOUN.

EDINBURGH, 13 October, 1608.

TO THE KINGIS moſt excellent MAIESTIE.

VIII. THE COPIE ANGUS OGE's *firſt* LETTER to *Sir Oliver Lambert.* (No date.)

MY HONORABIL GOOD LORD,

I HAVE receavat your Letter, and hes vnderſtand be your meaning, that ye wuld hawe me to rander this Houſe to yow into the KYNGS name. My Lord, as to that, if I had not receavat ane better Warrant frome *my Lord Chaucer and Council of Scotland* to rander thame this HOUS OF DUNYWEGE, I wald obey your lo. or any wper ſubiect, hawing his MAIESTEIS Warrant. My lord, if ye doubt of this, fend me your awin Secretar, or anie wper þat can read, and I ſhall let him ſie my Warrant frome *the Council*, deſyring me to keip this *Copiell*, wnto the tyme that his MAT^{IES} wilbe¹ declairit to me. The quhilk my Warrant fall teſteſie. And if yow will trouble me, efter I have obeyit his highnes will, be yow affurit that I fall complayne to his MAT^{IES} Council. Not troubling your lo. any forder, commits yow to God. FROME DUNYWEGE, the 14 of this iſtant month. And if ye will fend any of your awin men, ye fall hawe frie paſſage to pas and repas to and fro.

Your friend, to your deſerwing,

ANGUS OG MA'DONALL.

IX. EXTRACT from MINUTES of *Privy Council Proceedings.* Apr. 1614.

THE HOUSE OF DUNYVEG, in YLA, being poſſeſſed and kepted be THE BISCHOP OF THE YLES his brother, and two or three ſervantes, the ſame Houſe hes bene of late ſurpryted and tane be one *Ronnald Oig*, allegeand to be Baſtard ſone to vniq^{ue} *Angus M'concell of Denyreg*, whom the ſaid *Angus* did neuer, in his tyme, acknowledge to be his ſone. This *Ronnald*, being a vagabound fellow, without any certane reſidence, come latelie to YLA, and finding the Houſe to be but ſlenderlie kepted, reſolved to ſurpryſe and tak the ſame: And for this effect, he and his complices, being four or fyue in number, retered thame ſelues to ane wood, neare by the Houſe, whair they made ſome laderes, and with thame, one day, airlie in the morning, they clam the vtter wall, kepted thame ſelues obſcure whill the yettes were opined; and then they took the Houſe, and put *the Biſhops* folkes oute thereof. The reporte whereof coming to young *Angus M'concell*, lauffull brother to *Sir James*, who was within ſex myles of the Houſe for the tyme, he immediatlie, according to the cuntrie faſſioun, fend the Fyrecroſe² athorte the cuntry, warning all the cuntry people, who wer affected to his MAIESTEIS obedience, to ryſe, and concur with him in the recouerie of the Houſe. And ſo he, with ſuch aſſiſtance as come to him, incloſed the Houſe. Thay within held good for ſex dayes, being weel prouyded

¹ Probably this ſhould be read, "wnto the tyme that his MAT^{IES} will ſalbe."
Lady of the Lake, and other works of Sir Walter Scott, for illuſtrations of this remarkable cuſtom.

² The Fiery Cross. See the

with pulder, lunt,¹ and bullett, whereof thay fand good flore in the Houfe; and thay wer prodigall enough in bestowing the same vpon the besefagares; bot in end, perceauing that thay war not able to keepe the Houfe, thay in the night eshued² at a bak yett, in a litle boat with sex oares, which lay at the Castell; and took with them such goodes as thay fand in the Houfe.

Angus followed thame, bot what farder has fallen oute, is not as yitt come to the *Counçilles* knowledge. *Sir James Mcconell* is the *Counçilles* informar of all this buiynes; and as he sayes his brother hes offered to deluyner the Houfe bak againe to the *Bishopes* seruandes, who refused to reslau the fame. The *Counçill* haueing hard at lenth *Sir James* discourse, made in this earand, and looking shortlie to heere from the *Erle of Ergyle*, or els from the *Bishope*, the constant and certane truthe of all this mater, thay haue refered all deliberation bearin, till thay heere from the *Bishope* or *Erle*.

X. SIR JAMES McDONALD HIS OFFERIS.

FIRST, I offer, if it might please HIS MAT^{TYE} of his clemencie to give me ILAY, I would pay eight thousand merkis yearlie thairfoir; and find sufficient caution of Lordis and Barrounes for good payment and obedience, be my selfe, and all THE CLANNIS that shall dwell there: And craves but a fewin yeare Tak, to try me.

Secondlie, I offer, if HIS MAT^{TYE} please to hold ILAY in his awin hand, to mak it worth Ten Thousand merkis yearlie to HIS MAT^{TYE}; and to transport my selfe, my brethir, and my kin to IRELAND, or to whatumewir other place HIS MAT^{TYE} will appoynt ws; and his highnes to give ws one yearis duetie or rent of ILAY, to by land with; and in the mein tyme, I shall go with the *Bishop* of THE ILES, and shall, God willing, ather get the Houfe and his pledgis, without any chairgis to HIS MAT^{TYE}, or than returne heir to mynd my owne waird, within fourtie dayis. Provyding, if I get this done, I haue assurance of HIS MAT^{TYE} and COUNSALL, that my self and my brothir shall get leave to go, presentlie thereafter, with my lord *Bishop* to Courte, and get a kiis of HIS MAT^{TYE} hand; and my cautionaris shall remaine bound for me, that I and my brother shall returne bak heir to HIS MAT^{TYES} COUNSALL, to abyid such order as it shall pleas his highnes to inioyne to ws. And I shall leive my sone heir, as pledge for my performance in all, and for satisfactioun to HIS MAT^{TYE} and COUNSALL. I shall bring *Rannald M'allaister*, who first took the Houfe, and *Ronnald M'donald Vallich*, to suffer for their fault; and *Coll M'gillajpie* to be kept in Irnes, during HIS MAT^{TYES} pleasour. My cautioneris salbe the *Erle of Tullibairne*, *Lord Burlic*, *Sir Ronnald M'Sorle*, *Johne Campbell of Cadell*, *Malcum Toghie*,³ and the *Laird of Grant*; every one for Fyve Thousand merkis—and my sone to die if I fail.

And last, I offer, without any condition of land or money, that if it please HIS MAT^{TYE} to give me libertie, vpon such suretie by cautioneris as I am able to performe, or pledgis, I shall transport my self and my brothir and kin out of all HIS MAT^{TYES} dominiounes, having HIS MAT^{TYES} Letter of Recommendation to THE ESTAITTIS of HOLLAND; and libertie to tak vp men, if we be employit; with HIS MAT^{TYES} frie pardoun for all byganis.

Fire-raising—Theft—Reset of Theft.

Jul. 14.—JOHNE M'ALLASTER M'JAMES, in Daill of Rothiemurchus; Andro M'allaister M'JAMES, in Kyueachie; Johnne Dow M'kay, in Duchill.

Dilaitit of airt and pairt of the tressouable Raifeing of ffyre, Burneing and destructioun of the Houffis and bigingis perteuing to vniqth George Dunbar in

¹ Match.

² Escaped; *eschewed*.

³ Probably meaning the *Laird of MacIntosh*.

Clwne; and thiftious Steilling and away-taking of the hail infycht and pleneiffing, guidis and geir, being within the fãidis Houffis, to the avall of ane thowfeand merkis; at the leiff, of the thiftious Refletting of the fãidis guidis and vtheris contenit in the Letteris direct thairuponne, eftir the thiftious fleilling thairof be David McWilliam and his complices; committit in October, 1598 zeiris.

PERSEWAR, Mr Robert Dunbar, fone to the fãid vniq^{le} George Dunbar.

The Justice, with advyfe of my lord Aduocat, continewis this matter to the thrid day of the next Justice-air of the fchereffidome of Innernes, quhairin thay duell, or foner, vpon xv dayis warning, to vnderly the law for the crymes aboue fpecifeit: And ordanis cautioni to be ffund for the defenderis compeirance to that effect; vnder the panes contenit in the Actis of Parliament.

Johnne Roife of Glenbeg, as cautioner for the entrie of the perfones on pameil, tuik instrumentis of thair entrie: and proteftis he may be fred of his cautionrie. Gregour Grant of Gartmoir become fouirtie, that thair and ilk ane of thame fall compeir, &c.

[*Sir Williame Heart, Justice-Depute.*

ASSESSORIS to the Justice, in this cause,—MY LORD ARCHBISHOP OF ST ANDREWS; SIR GERONE MURRAY, Thesaurar-depute; MY LORD CLERK OF REGISTER. (SIR ALEXANDER HAY OF WHITBURGH); MY LORD OF KILSYTHE.]

Treasonable Resetting of Jesuits and Trafficking Papists, &c.

[AFTER the details which have already been given in the Case of OGLIVIE,¹ it seems unnecessary to occupy farther space in attempting to elucidate the present Trial. It must, however, be interesting to the reader that there should be preserved, in this place, some remarks made by *Calderswood*, in his larger MS. History,² which strongly depict the popular feeling, in relation to these State prosecutions against the Jesuits.

⁴ William Sinclare, Robert Wilkie, (and) . . . Cruikthinks were convicted, upon the fourteen of August, for Resetting *the Jesuits* above named, and hearing of Massé. The day following, betwix four and five afternoone, they were brought furth, with their hands bound, to the Scaffold, sett up befide the Croffe, and a gallows in it, according to the custome of Executione. While a great multitude of the people was gazing to see the Executione, there was a Warrant presented to the Magistrats of Edinburgh, to stay the Execution; for they were carried back again to their wards. The people thought this forme of dealing rather mockery then punishment!]

Jul. 14.—WILLIAME SINCLAIR, agent in Edinburgh: Robert Wilkie, browdinster³ in the Cannogait; and Robert Cruikshank, flabiler in Ed⁵.

Dilaitit of the treflonable Resetting of Mr James Moffett, Mr Johnne Ogilvie, and Mr Johnne Campbell, Jesuites and Traffiqueing Papistis, within thair duelling houffis, dyuerse dayis and nychtis, in the monethis of August, September, and October lastbypast, &c. viz.

DITTAY *against the Pannel.*

FORSAMEKILL AS our moost gracious and sacred Souerane lord, furth of Jat godlie zeill ever borne

¹ See his Trial, Vol. III., p. 330, &c.

² Church Hist. MS., Adv. Library.

³ Embroiderer, a lucrative

employment in those times; not *browster*, or brewer.

be his Maieſtie to þe maintenance of the trew RELIGIOUN, preſentlie (to the honour and praife of Almychtie God) profeſſit and eſtabliſchet within this Kingdome, and for the ruteing out of all Papiſticall and Idolatrus Religioun, with the blinded profeſſouris þairof, furth of the famyn; be mony godlie lawis and Actis of Parliament, deulie maid and publicit, allweill in his hienes minoritie, as ſince his acceptation of the government in his awin perſone, hes nocht onlie expreſſie ſtatute and ordanit, that na profeſſit JESUITE, SEMINARIE PREISTIS, nor TRAFFIQUEING PAPISTIS (being all ſuorne enemies to his ſacred Maieſties crow and eſtair) be fund within this his hienes realme, or any part of the famyn, vnder dyuerſe capitall panes mentionat þairintill; bot lykways, be dyuerſe vtheris guid and godlie Lawis, Actis, and conſtitutions of Parliament, ſpeciallie, be the 120 Act of his hienes tuelf Parliament, haldin at Ed^r vpon the fyft day of Junij, 1592 ʒeiris, his Maieſtie and Elrais than convenit, hes, be vertew of the ſaid Act, decretit and declairit, that in tyme þairefter following, the RESETTING of the ſaidis JESUITIS, SEMINARIE PREISTIS, and TRAFFIQUEING PAPISTIS, aganis the Kingis Maieſtie and Religioun, preſentlie profeſſit within this realme, is and ſhall be ane juſt caus to infer the cryme and payne of TRESSONE aganis the ſaid receperis.¹ As the ſaid Act of Parliament, ratifeit and approvyn in dyuerſe his Maieſteis Parliaments, haldin ſenſyne, in the ſelf þeſertis. And albeit it be of verriete, that vni^o Mr *Johne Ogilvie*, alias *Watſone*, Mr *James Moffett*, alias *Halyburtoun*, and Mr *Johne Campbell*, alias *Sinclair*, all profeſſit JESUITES and MESS-PREISTIS, with dyuerſe vtheris of that vnhappie and curlet ſect, war directit frome ROME, this laſt ʒeir, 1614, be THE POPE and his CARDINALIS, to cum to this cuntrie and vtheris pairtis of his Maieſteis dominions, to put in executioun, na dout, ſum feirfull and treſſonabill concluſioun, as perſones maist meit for ſic ane dangerous imployment; and haifing, according to þair commiſſioun, cum to this cuntrie, in the monethis of Junij or Julij, the ʒeir of God foirſaid; quhair, eftir þair cumming þairto, in all pairtis and compaines quhair thay reſortit, ſpeciallie, the ſaid Mr *Johne Ogilvie*, ane vylde and abhominable Tratur, quha iuſtie reſiait his deſeruet pweueſchment, be þair perverſe ſpeiches and inſolent cariages, maist treſſonabillie and oppinlie condampned and diſavowit his Maieſteis ſouerane authoritie, ſetting vp and mainteining, in place þairof, THE POPE OF ROME his vſurpet power for excommunicating, depoſeing, and dethroning KINGIS, and abſoluing ſubiectis from the othe² of þair naturall allegiance; intending na les, be thais þair treſſonabill ſpeiches and informations, nor³ to haif waknit and ſteirit vp ane oppin and feirfull REBELLIOUN. THIR perniceous and vnhappie miſcreantis, ſchakin louſe be þe authoritie of þair Generalis, to put in executioun ſic treſſonabill attemptis, nochtwithſtanding of his Maieſteis Lawis and Actis of Parliament maid aganis the receping of thame and vtheris of þair devillifche ſect, war, in the monethis of Julij, Auguſt, September, and October laſtbypaſt, at the leiſt, in ane or vther of the ſaidis monethis, maist treſſonabillie reſſet, harbourit, and interteneit be ʒow, and everie ane of ʒow, viz. the ſaidis *William Sinclair*, *Robert Wilkie*, and *Robert Cruikſhank*, within þair (ʒour) duelling houſſes, in maner as followis; that is to ſay: THE ſaid Mr *James Moffett*, alias *Halyburtoun*, ane profeſſit JESUITE, a PREIST, and TRAFFIQUEING PAPIST, haifing cum to this burgh of Ed^r, to pervert, be his erroneous doctrine, our ſouerane lordis ſubiectis fra þe trew RELIGIOUN preſentlie profeſſit, was, for that effect, maist treſſonabillie reſſet, harbouret, and interteneit be the ſaid *William Sinclair*, in ane or vther of the ſaidis monethis of Julij, Auguſt, September, and October laſtbypaſt, dyuerſe dayis and nichtis, within his duelling hous in Ed^r; and all neceſſar comforte, releif, and intertenement miniſtrat to him, at all occaſions, as gif he had bene (ane of) his Maieſteis faithfull and loyall ſubiectis and profeſſionaris of þe trew RELIGIOUN; eftir he was knawin to þe ſaid *William Sinclair* and his wyfe to be of the contrair⁴ RELIGIOUN, be þe informationn of ane James Colt, he keptit daylie ſocietie and companie with þe ſaid JESUITE, vpon the ſtretis, keptit trytis and meittingis with him and with the ſaid vni^o *Johne Ogilvie*, ane notorious Tratur, within the duelling houſe of *Robert Wilkie*, in the Cannogait, and duelling hous and ſtable of *Robert Cruikſhank*, and within the Abbay

¹ Receivers; reseters.² Oath.³ Than.⁴ Opposite; adverse.

5airdis, and in dyuerse vtheris partis of this burgh of Edr and suburbis pairrof; committing pairthrow, maill oppin and vnpardonable Tressone, and according to the said Act of Parliament, incurring pairthrow the panes and punefichment expreffit pairintill. LYK AS, the saidis *Mr James Moffet*, *Mr Johanne Campbell*, and *Mr Johanne Ogilvie*, all professit and avowed JESUITES, war, in ane vther of the saidis monethis, tressonabillie reffett, hurdit,¹ keipit close, with thair hoirds and provision, be the said *Robert Cruikshank*, flaubler, within his duelling hous and stable in Edr, be the space of dyuerse dayis and nychtis, war interteneit be him pairintill, and furneit with all maner of conforte, help, and releiff, according to his habitie, committing pairthrow, oppin and manifest TRESSONE, conforme to the said Act of Parliament. AND siclyk, the saidis *Mr James Moffet* and vniql^r *Mr Johanne Ogilvie* war maill tressonabillie reffett, harbouret, and interteneit, in ane or vther of the saidis monethis, be the said *Robert Wilkie*, within his duelling hous in the Cannogait, of certane knowlege that thay war JESUITES, insofar as three feuerall MESSIS² war said be the said *Johanne Ogilvie*, within 5our chaluere, of 5our speciall knowlege; to the quhilkis MESSIS, dyuerse persones maill pair refoirt, and the said Robert keipit the dur, and was quhyles within and quhyles without. BE the wilfall and tressonable Reffetting of the quhilkis JESUITES, SEMINARIE PREISTIS, and TRAFFIQUEING PAPISTIS, professit and avowed enemeis to his Maiestie persone, Crown, and estait, and trew RELIGIOUN presentlie professit, and that within thair duelling houffis, and vtherways, as is aboue declairit, the foirsaidis persones, and ilk ane of thame, according to the tennour of the said Act of Parliament, hes incurret the pane and punefichment of TRESSONE, viz. to be puneit and demanit³ as Tratouris, and pair hail landis and guidis florfast and escheit to his Maiestie vte; to the terrour of vtheris to abtene fra the lyk heireftir.

WILLIAME SINCLAIR, eftir reiding of the Dittay, declairit, that it is of treuth that he hes offendit God and the Kingis Maiestie, by Reffetting of *Mr James Moffet*, Jesuite, in the moneth of October last; quhilk he did only vpone simplicitie:⁴ And denyis the Reflet of *Mr Johanne Ogilvie*, or *Mr Johanne Campbell*, Jesuites, at ony tyme: As also, denyis the Reffetting of the said *Mr James Moffet*, in the monethis of July, August, and September, set down in the Dittay. My lord Aduocat acceptis his Confessioun, in that he acknowledgeg his Reffetting of Moffet, in the moneth of October; and adheris only thairto, aganis Williame Sinclair.

It is allegit be Williame Sinclair, for him self and remanent persones vpone pannel with him, that the Dittay is nocht relevant, nather can the samyn be put to the knowlege of ane Assyse, except it war speciallie condiscendit thairin, that *Mr James Moffet* said Mefs, and was a traffiker aganis the Kingis Maiestie and the Religioun.—It is answert be my lord Aduocat, the allegeance auclit to be repellit, in respect of the Dittay and Act of Parliament, beirand distinctlie, that nocht only the Reffetteris of the Sayeris of Mefs committis Tressone, bot also the Reffetteris of Jesuites, Seminarie Preistis, and Traffiking Papistes aganis the Kingis Maiestie and Religioun, committis Tressone. And trew it is, that the said *Mr James Moffet* is ane notorious Jesuite, and ane traffiker aganis the Religioun professit within this realme, as is confessit be the said Williame Sinclair

¹ Literally, *hoarded*; concealed with extreme caution, as one would a hoard of money. ² Masses.

³ Used; treated.

⁴ Goodnature; without any treasonable intent.

him felf, in his awin Depofitioun, beirand, that Moffet declairit to him, that he was cum to this cuntry to venter his lyfe for the faiftie of faules that war in danger; and fa, was fufficientlie knawin to the faid Williame, that he was ane Jefuite and traffikeing Papift aganis his Maieftie and Religionn: Be receyting of the quhilk Jefuite thaireftir, he has fallin vnder the danger of the faid Act of Parliament.

It is forder allegit be the pannell, that he can nocht pas to ane Affyfe for the Receyting of Jefuites, except, conforme to the Act of Parliament, made in anno 1593, cap. 164, he had reffett thame, *fcienter et prudenter*, be the fpace of thre nychtis togidder, or thre nychtis at feuerall tymes; be the quhilk Act, it is prydydit, that gif it be fa tryit,¹ that the perfone convict for the *firft* falt, his efcheit fall fall; for the *fecund* falt, fall amit² his Lyfrent; and (ffor) the *thrid* falt, fall incur the crymes of Treffone. And thairfore, except the faid Recept be fa tryit, the Dittay is nocht relevant.—It is anfuert, that the allegiance aucht to be repellit, in refpee the faid Act of Parliament nawayis derogattis the Act of Parliament quhairupoun the Dittay is foundit: And thairfoir, nochtwithftanding of the faid allegiance, fould pas to ane Affyfe.

It is forder allegit be the pannell, that be the Act of Parliament maid in anno 1600 5eiris, cap. 18, thair can be na forder exactit of the Recepteris of Jefuites, bot ane pecuniall payne; quhilk he is content to pay, according to the Lordis modificatioune: And thairfoir, the Dittay for Treffone can nocht pas to an Affyfe.—It is anfuert, that the allegiance aucht to be repellit, nochtwithftanding of the faid Act quhairupoun the fanyn is foundit, in refpect the fanyn nawayis derogattis the Act of Parliament maid be his Maieftie and Estaittis, in anno 1592, bot ratifies the faid Act in everie poynt.

It is allegit be the pannell, that he can nawayis pas to ane Affyfe for Reffetting of the faidis Jefuites, nather is the Dittay relevant aganis him, in refpect, be ane Act of Parliament maid at Edinburgh, in anno 1609, cap. *quinto*, it is thair planelie explanet and declairit, that all Actis maid offbefoir aganis the Reffetteris of Jefuites, &c. haif full force, and be put to dew executioun aganis the faid Reffetteris, fa foue as intimatioun and denunciatioun beis maid of the faidis Jefuites, Seminarie Prieffis, and vtheris contenit thairin, at the Mercat-croce of the heid burgh of the fchyre quhair thay duell, and Mercat-croce of Edinburgh;³ bot fa it is, that thair was na intimatioun nor denunciatioun maid at ony Mercat-croce of the faid *Mr James Moffet* his name, befoir his Reffetting within the pannellis hous, to be ather a Jefuite, Seminarie Preift, or of ony vther ordour: And thairfoir, the faid Dittay for his Recept can nocht pas to ane Affyfe.—It is anfuert be my lord Aduocat, that the explanatioun repeitit be the pan-

¹ If it so turns out upon Trial.

² Lose.

³ As the *commune forum*.

nell, fet down in the said laft Act of Parliament, nawayis derogatis or takis away the former Act of Parliament maid aganis the Refletteris, quhairupoun the Dittay is confaueit: bot be the contrair, the said Act is Ratifeit, and ordanit to haif frie ftrength, effect, and executioun, according to the tennour thairof; and the explanatioun of the said Act, in anno 1609, is only in fauouris of sic as Reflettis Papiftis ignorantlie, nocht knawing thame to be Papiftes, or of ane contrair Religioun: Bot it was fufficientlie vnderftuid to the pannell, befoir *Moffettis* Reflet, that he was ane Catholik ffather, and was cunn to venter his body for the Catholik Faith, as is confeffit be his Depofitioun: And thairfoir, the said allegeance aucht to be repellit, and the pannell pas to ane Affyfe.

INTERLOCUTOR *of Relevancy.*

THE JUSTICE, with advyfe of the Affeffouris prefent, Repellis the hail allegeances proponit be the pannell; and fludis the Dittay relevant: And Ordanis the famy to be put to the knowlege of ane Affyfe.

ASSISA.

Thomas Fifcher, mercheand bur- ges of Edinburgh,	Robert Halybruntoun, mercheand thair,	Dauid Williamefone, elder, mer- cheand thair,
Eduard Johnftoun of Ryhill,	Johnne Inglis, fkyner thair,	Capitane James Hunter, burges
Williame Cocherane, mercheand burgis of Edinburgh,	Nicoll Vduard, mercheand thair,	thair,
Dauid Mitchell, mercheand thair,	Williame Nemok, tailzeour thair,	Alexander Broun, elder, mer- cheand thair,
Alexander Speir, mercheand thair,	Thomas Weir, penderer thair,	Jo. Fairlie, younger, burges thair.

My lord Aduocat takis instrumentis of the fuering of the Affyfe: And for VERIFICATIOUN of the Dittay, producet the pannellis Depofitiones, viz. the said William Sinclairis Depofitioun, all writtin and fubferyuit with his hand; and the vther tua Depofitiones maid in prefens of dyuerfe Lordis of his Maiefties Secreit Counfell, confeffing thair particular Refletting of the Jefuites, in maner fpecificit in thair Dittay, and thairupoun aikit instrumentis; and proteftis for Wilfull Error, gif thay Acquit.

VERDICT. The Affyfe, all in ane voce, be the mouth of Dauid Williamefone elder, chancellor, ffand, pronuncet, and declairit the saidis *Williame Sinclair*, *Robert Wilkie*, and *Robert Craik/chank* to be ffylet, culpable, and convict of the treflonable Refletting of the saidis Jefuites, in maner fpecificit in thair Dittay; according to thair awin Depofitiones, producet for verificatioun thairof.

SENTENCE. To be tane to the places of thair Executioun, and thair to be execute to the daith, and vtherwayis demanit as Tratouris: And all thair landis, guidis, and geir to be fforfalt and echeit to his Maiefties vfe.

Aug. 15.—THE quhilk day, THE JUSTICE being fitand in Judgement, ane WARRANT was producet be him, and ordanit to be red, quhilk was direct to him fra his Maieftie, &c. viz.

JAMES R.

TO our truilie and weilbelouit SIR WILLIAME HEART, kny^t, deputy Justice generall, in our kingdome of Scotland. QUIAIR AS, Williame Sinclair, Aduocat, Robert Wilkie, imbroderar, and on Cruikshank, a faibler, ar convicted and condemned of Treaffone, for the Wilfull Receipt and supplying of Moffet the Jesuite: IT is our plesour, that 3e proceed to the finall pronunceationn of the Sentence and Executionn of the pwnschment provydit by our Lawis in the lyk caices against thame, with all convenient expeditioun: For doing quhairof, these presentis fall be 3our sufficient Warrant. GEVIN at Sarilburrie, the 26th of Julie, 1615.

FOR obedience of the quhilk WARRANT, the Justice ordanit the saidis Williame Sinclair, Robert Wilkie, and Robert Cruikshank, to be brocht furth of Waird to the Mercat-croce of Edinburgh; and thair to be Hangit vpon one gibbet, quhill they be deid: And all thair landis, heritageis, guidis, geir, and vtheris pertening to thame, to be sforsalt and escheit to our fouerane lordis vsf, &c.

Eftir the pronunceationn of the quhilk Sentence, the samyn was intimat to thame be Johne McNight, bailzie of Edinburgh, to quhome directioun was gevin be the said Justice, for causing put the samyn to executioun, conforme to the Warrant aboue spcifeit.

Aug. 30.—BEING of new agane brocht furth of Waird, and presentit vpon pannell, be the Bailleis of Edinburgh, as thay quhais dome and executioun thairof, &c. was of our fouerane lordis meir mercie and grace delayit and superceidit, THE JUSTICE, for obedience of his Maiesteis posterieur WARRANT, direct to my lord Archebifchope of St Androis, My Lord of Byming his hienes Secretar, and Sir Gedione Murray his hienes Thesaurer depute, quhairof the tennour followis, pronounced Sentence accordingly.

JAMES R.

WHEARAS, We ar credible informet, that Williame Sinclair, ane Aduocat before 3e Sessioun, Robert Wilkie, browdinstler, and on Cruikshank, ane faibler, is convict of Treaffone, for Resetting of Moffet and Ogilvie the Jesuite: IT is our plesour, that Williame Sinclair and Robert Wilkie, be Banischet our dominiones during our plesour: And that 3e said Cruikshank be Banischet the tonn of Edinburgh during our plesour. GEVIN at Sallberrie, the xxvij day of Julij, 1615.

Quhilk DOME and SENTENCE, the saidis persones, in all humilitie, imbraect and acceptit vpon thame, &c.

[CURIA *Justiciarie, f. d. n. regis tenta in Prætorio civitatis Glasgwen, per D. Will. Hecart.*]

Treasonable Resetting of Jesuits—Hearing of Mass, &c.

Sept. 5.—SIR JAMES CLEILLAND (KNEILLAND) of Monkland, kny^t, Williame Maxwell of Cowglene,¹ Robert Vrie, wryter, burges of Paislay.

Dilaitit of the treasonable Resetting of Mr Johne Ogilvie, Jesuite, within thair duelling houffis: And heiring of dyuersf Messis said be him thairintill;

¹ See their Examinations appended to the Trial of *John Ogilvy*, Vol. III., 330.

contrair the Actis of Parliament ; committet in the monethis of July, August, and September, 1614 yeiris ; at the leift, in ane or vther of the faidis monethis.

PERSEWAR, Sir Williame Oliphant of Newtown, kny^t, Aduocat to our fonerane lord.

PRELOCOUTOURIS in deferece, The Laird of Keir, the Laird of Mufchett, the Laird of Pollok, Johnne Cranfoun, Mr Johnne Halyday, Aduocat, Mr Thomas Pollok, Aduocat.

THE Justice, with advyfe of my Lord of St Androis, my lordis Killythe, Clerk of Register, and his Maiefteis Adnoeat, continewis this matter to the faxt day of December nixt, to be tryit at Edinburghe : And Ordanis the pannell to find Caution for thair entrie that day and place, in the hour of caus, vnder the panes following, viz : The faid Sir James Kneilland, vnder the pane of Ten Thowfeand merkis ; the faid Williame Maxwell, vnder the pane of Fyve Thowfeand merkis ; and the faid Robert Vrie, vnder the pane of Fyve Hundreth merkis money.

The perfones on pannell offeris thame felffis to the Tryell of the Law for the faid cryme, difaffenting to the faid continewatioun ; and thairupoun askit instrumentis : And for obedience of the faid Justice Ordinance, the faid Sir James Kneilland ffind Sir Johnne Home of Huttonehall cautioner for him ; the faid Williame Maxwell ffind Sir Johnne Maxwell of Pollok, kny^t, cautioner for him ; and the faid Robert Vrie ffind Alexander Cocherane of that Ilk, cautioner for him, that thair fall compeir befor the Justice and his Deputis, in the Tolbuth of Edinburghe, the faid faxt day of December nixt, in the hour of caus, and vnderly the Law for the faidis crymes, vnder the feveral panes aboue writtin.

COMPEIRIT Harbert Maxwell, burges of Edinburghe, and producet ane Warrant of the Lordis of Secreit Counfell, anent the deserting of the dyet appointit for tryell this day.

JUSTICE, Justice-clerk, and 5our deputis : 5e fall, vpone the ficht heirof, desert the dyet appointit for Tryell of Sir James Kneilland of Monkland, Williame Maxwell of Cowglen, and Robert Vrie, burges of Paillay, the faxt day of December nixtocum, for the Reflexing of vniq^{le} Mr Johnne Ogilvie, Jefuite : Anent the quhilk, thir presentis falbe 5our Warrant. Subferynit AT EDⁿ, pe xxij day of November, 1615. SANCTANDROIS. Sⁿ J. MURRAY. ALEXⁿ HAY. Sⁿ J. OLIPHANT. KILSYTH.

The pannell difaffentis to all forder continuatioun ; and proteffit, in respect that this is the fecund dayet keipit be thame in this matter, first at Glasgou, and now at Edinburg, that their cautioneris be fred, viz., Sir Johnne Home of Huttonehall for the faid Sir James, and Alex^t Cocherane of that Ilk, for the faid Robert Vrie.

Hearing of Mass, &c.

Sep. 13.—MR JAMES MOFFET, alias HALYBURTOUN, ane Jefuite Preift.

Dilaitit of the Treflonable Hearing of Mass within this cuntry, speciallie within the place of Auchindoun, a tuentie yeir fyne or thairby : And for con-

traveuing the Actis of Parliament in resoirting within this cuntrie, he being ane Jesuïte and Seminarie Preift, directit from Rome, to peruert his Maiesteis subiectis from the trew Religioun; and vtheris crymes contenit in his DITTAY.

DITTAY against Mr James Moffet.

[The preamble is similar to those which precede, and founds upon the Act 29th July, 1587. It then states,]

“THAT 5e, being tranet vp at scoles and Colledges within this Kingdome, and haifing accomplischet 5our course in the Colledge of St Androis, quhair 5e was laureat; and haifing pairesfir applyit 5our mynd to the studie of Theologie, and dyuerse tymes maid 5our privat exerceifis within þe New Colledge pairrof, 5e, in 5our awin fulishe opinioun, playing the rwnigait¹ frome the trew Religioun, first studeit and professit be 5ow within this Kingdome, adressit 5our self to the place of Auchindoun, quhair 5e, aganis the saidis Actis of Parliament, hard ane Mef, and was present at þe Celebratioun pairrof, the Auld Laird of Auchindoun and Mr James Gordoun being present withe 5ow, at the heiring of þe saymo: LYK AS, 5e, haifing schortlie pairesfir past furth of this cuntrie to ROME, in Italie, and haifing pair reslaunt the ordour of a Jesuïte Preift, and haifing remanit furth of þis cuntrie be the space of twentie yeiris togidder, studieing to þe said Roman Religioun, 5e being ane professit Jesuïte, expres contrair the tenour of the soirsaid Act of Parliament, and in manifest contempt pairrof, and of his Maiesteis royall autoritie, in the moneth of Julij, 1614, returnet to this realme, be directioun of CLAUDIUS AQUAVIVA, 5our Generall, off plane purpos and intention to pervert and deduce his Maiesteis subiectis frome the trew Religioun presentlie professit; resoirit in dyuerse pairtis of this cuntrie, speciallie, within the burgh of Edinburghe, Cannongate, and Citie of St Androis, quhair 5e was tane, apprehendit, and brocht to this burgh of Edinburghe, and Tolbuth pairrof, quhairin 5e haif bene detenit prissoner, as ane Jesuïte Preift, and a perverter of þe Kingis Maiesteis subiectis from the trew Religioun, presentlie professit,” &c.

The pannell, efter reiding of the DITTAY and his accusatioun of the crymes mentionet thairintill, offerit him self in his Maiesteis Will for the samyn: Quhairupoun my lord Aduocat askit instrumentis.—Thairefter my lord Aduocat producet the WARRANT following:—

JUSTICE, Justice-clerk, and 5our deputis: 5ow fall appoint a Justice Court to be baldin in the Tolbuth of Ed^t at suche convenient day as 5ow think goode; and pairin 5ow fall put Mr James Moffet, Preift, to the knowlege of ane Assyse for suche crymes as fall be gevin in Dittay againes him, be his Maiesteis Aduocat, and proceid and minister Justice vpon him, conforme to þe lawis of this realme; Bot yf the said Mr James fall happin to cum in his Maiesteis will, 5ow fall pronunce his Maiesteis will as follows, to wit: That the said Mr James fall be Banischet his Maiesteis dominiones, and nevir return agane within the samyn, vnder the pane of deid: And that he act him self, judiciallie, to depart and pas away betuix and suche a day as 5ow fall appoint, and nocht to returne vnder the said payne: And forder, that he find caution actit in the Buiks of Secret Counfall to this same effect, vnder the pane of Thre thousand merkis, to be incurrit be his cautioner, beyde the pane of deid to be execute vpon him self, in caise he failzie in the premisses. And this Dome being pronuncet, and he having actit him self, that 5ow fend him bak agane to his waird, quhill the said caution be fund, and quhill a scelp be in reddines quhairin he may be transpoirit. Quhairanent þir presentis fall be 5our Warrant. AT EDINBUR^t, the xxijij day of August, 1615.

AL. CANCELL^r. SANCTANDROIS. SCONE. BINNING. J. PRESTOUN. AL. DRUMMOND.

¹ Runagate; *renewalo*.

SENTENCE was pronounced accordingly. He was adjudged to ‘depairt and pas away furth of his Maiesteis dominiones, betuix and the tuentie day of October nixtocum, wind and wedder fervand.’

Slaughter.

Nov. 29.—JAMES KING, sumtyme of Barro; Alexander Lummiflene of Clova; Mr Gilbert Arnauld, indueller in Aberdene; and David King in Hoy, in Orkney.

Dilaitit, accufet, and perfewit at the instance of Elizabeth Seatoun, only dochter to vniq^{le} Alexander Seatoun, than fiar of Meldrum, Johnne Vrbuhart of Craig-Fintrie, hir spous, for his intereis, Johnne Seatoun now of Meldrum, &c., off airt and pairt of the Slauchter of the said vniq^{le} Alexander Seatoun, with schottis of hagbuttis and muscattis; committit vpone the landis of Barro, in the hie-way betuix Meldrum and the Kirktoon of Bourtie, vpone the xxviij day of Auguft, 1590: And felyk, ffor beiring and fehutting of Hagbuttis, muscattis, and pistolettis, &c.

Mr Robert Fairlie, feruitour to Mr Alex. King, Aduocat, produceit ane War-rand of his Maiestie, daitit at Newmarket, the fixtenth of November, 1615, anent deferting this dyet. The Diet was deferted accordingly.

Letters of Exemption

IN FAVOUR OF THE PROVOST, BAILIES, COUNCIL, AND COMMUNITY OF
The Burgh of Aberdeen.

Dec. 2.—Compeirit personallie Mr Thomas Nicolfone, Aduocat, in name of the Provost, &c. of Abirdene, and producet to my Lord Justice LETTERS OF EXEMPTIOUN, vnder the Previe feill, quhairof the tennour followis.

JAMES, be the grace of God, King of Scottis: To all and findrie our schereffis, stewartis, Justice, Justice Clerkis, Thesaurer, Aduocat, and all vtheris Judges and ministeris of our Lawis, thair deputis and officeris, present and to cum, legis, and subiectis, quhome it esseiris, to qulais knowlege thir our Letteris fall cum, Grating. Wit 5e ws, vnderstanding that the Provost, bailleis, counfall, and communitie of our burghle of ABERDENE, ar oft tymes attechet and suumondit to pas vpone Inqueitlis and Allysis to our burgh of Ed^r and utheris pairtis outwith pair boundis and Jurisdictiones, in crymes committit far distant fra thame, quhairof thay ar altogidder ignorant; and that thay had ane Exemption to the effect vnderwrittin gevin and grantit to thame be ws, with advyis of vniq^{le} our rycht tres-couing James Erle of Moirtoun, Lord Dalkeith, &c. Regent to ws our realme and legis for the tyme; as the samyn Exemption, of the dait at Aberdene, the thrid day of September, the 5eir of God I^oV^e threfcoir fourtene 5eiris, deulie and ordourlie past and admittit in the Justice Court baldin at our said burgh of Aberdene, immediatlie pairefter, be vniq^{le} Sir Johnne Bellenden, our Justice clerk for the tyme, at mair lenth beirs. AS ALSO, considering, how vpone the occasioun of Commissions of Leutenendries and Justiciareis, grantit in fauouris of the Noblemen of the cuntrie, or to vtheris, for administratioun of Justice passing vpone our Rebellis, and disorderit perones for revenge of privat

quarrellis and contraverfeis betuix pairtie and pairtie; the faidis Proveift, bailleis, counfall, and communitie ar oft tymes drawin furth of pair awin Toun to vtheris pairtis of the cuntry, to the grit hazard of pair lyses and wrak of pair guidis; albeit, that according to the libertie of frie Burgh, quhair with thay and pair predicceffouris ar infest and foundit, thay aucht only to attend vpon our felf, being in the fleildis in proper perfone, or with our Leutenent, in defence of our realme aganis forane nationes. AND haifing confideration, that our faid Burgh of Aberdene lyes within the North pairts of our realme, far diftant fra ws, and of the guid, trew, and thankfull fervice done to ws and our predicceffouris be the Proveift, bailleis, counfall and communitie of our faid Burgh, alweill in tyme of weir as of peace; and of pair reddie and deutiefull obedience towardis ws, quhairfof we haif daylie pruf and experience, and refpecting pair guid mind to continew pairin herefir: THAIRFOIR, we haif gevin and grantit, and be thir our Letteris gevis and grantis to the Proveift, bailzeis, counfall, communitie, burgefis, craftifmen, and induelleris of our faid Burgh of Aberdene, prefent and to cum, fpecial LICENCE to remane and abyde at hame fra all Raidis, Conventions, Oiftis, Affemblis, Airmeis, Gatheringis, Wappon-fchawingis or Weiris, to be maid be ony our Juftices, be Commiffioun of Leutenendrie, Jufticiarie, or vther Commiffioun quhatfumeuir, to be grantit be ws, or meiting of thame in ony pairt within our realme in tyme cuming, except jat aither our felf be prefent in proper perfone, or that our Leutenent, accompaneit with the remaunent of our realme, be vpon the defence of the cuntry, aganis forane nationes, or that our felf pas for repreffing of Rebellis and Traitouris, aganis our perfone within the cuntry: And fra all compereance or paffing vpon ony Affylis or Inqueiftis, in quhatfumeuir crymes or actiones, (except fic crymes as ar committit within our faid burgh, friedome thairof, and tua myles about the famyn.) Exenis¹ and difcharges thame and ilk ane of thame pairfra, during all the dayis of pair lyftymes. And willis and grantis jat jay in doing pairof fail incur na payne, fkyath, cryme, nor danger in pair perfones, landis, or guidis, nor be callet nor accenfet pairfoir criminalle nor civille, be ony maner of way, in tyme cuming, nochtwithftanding ony our Actis, flatutis, ordinance, Letteris, proclamaciones, or charges quhatfumeuir, fpecial or generall, maid or to be maid in the contrair; aneut the quhilkis, and all panes contenit pairintill, We haif difpenfit, and be thir our Letteris difpenfis with the Proveift, bailleis, counfall, communitie, burgefes, craftifmen, and induelleris of our faid burgh, prefent and to cum, for eur. DISCHARGEING heirfoir, zow, all and findrie our Schereffis, Stewartis, Juftices, Juftice clerkis, Thefaurer, Aduocat, and all vtheris Judges and minifteris of our lawis, zour Deputis and officeris, prefent and to cum, off all calling, accufeing, atteiching, arreifting, fummond- ing, wairning, poynding, trubilling, or ony wayis intrometting with the faidis Proveift, bailleis, counfall, communitie, burgefis, craftifmen, and induelleris of our faid Burgh, prefent or to cum, pair landis or guidis, in ony wayis, in tyme cuming, for pair faid remaning and abyding at hame fra our faidis Raidis, Airmeis, and vtheris foirlaidis, and fra all and findrie Inqueiftis and Affylis, to be committit, as faid is; and of zour officeris in jat pairt, be thir our Letteris. GEVIN vnder our Previe Seill, At Dalkeithe, the faxtene day of Maij, the zeir of God I^m. flyve hundreth fourfoir tuelft zeiris, and of our regne the tuentie flyve zeir.

PER Signaturam manibus f. d. n. Regis ac Secretarij fubfcriptam.

[*D. Will. Heart, Jufticiarius-deputatus;*

ASSESSORES Jufticiario, D. Alex. Drummond de Meidhoip, D. Will. Levingftoun de Killythe,
Senatores Collegij Jufticie f. d. n. Regis.]

Barbarous Slaughter and Maiming of Sheep—Oppression, &c.

[THE following Case is altogether unparalleled, even in the annals of Border or Higland revenge. On account of its fingularity, it has been considered neceffary to make some investigation into the

¹ Exempts.

subject, for the information of the curious enquirer. The story is so forcibly told in the proceedings before the Criminal Court, that the Editor shall not weaken its effect by attempting to rehearse the facts in this place. It is enough for the purposes of this Collection, that the reader is informed, that the property of *Hourpaslot*, an esate of one of the most ancient branches of the name of *Scott*, having, by some means, come into the temporary possession¹ of *Sir James Douglas of Drumlanrig*, a powerful Border Baron, who had distinguished himself by the activity with which he aided the suppression of the disturbances on the Marches, *the Lady Hourpaslot* appears to have been roused into fury at the very idea of the domains of her ancestors coming into the hands of a Douglas. She therefore instantly held a council of war in the *Town of Hawick*, of which *Drumlanrig* was the Superior, in the month of April, 1615, at which she and her friend, *Jean Scott of Satchells*, presided. The bravos and ruffians who figure in this Trial, and of whom every Clan had a few to do their worst work, at once undertook to execute the orders of these infuriated females, and, as will be seen by the subsequent proceedings, they succeeded in effectually preventing *Drumlanrig* from 'pleniifing,' or stocking, the farms. These villains greedily engaged to maim and destroy the whole of the sheep which had been brought to the grounds; and this cruel and barbarous act they performed in a manner almost too horrible to be related.

Sir James Douglas did not long survive the perpetration of this atrocious fact, having died Oct. 16, 1615. He was succeeded by his son *Sir William*, who was afterwards created *Viscount of Drumlanrig*, *Lord Douglas* of Hawick and Tibbers, Apr. 1, 1628; and *Earl of Queensberry*, Jun. 13, 1633. *Sir William* actively pursued these heartless ruffians, and was successful in bringing all of them to deserved punishment. In the Appendix to this Trial, the reader will find a characteristic Letter from this Nobleman to his kinsman, *Murray of Lochnaben*, the Original of which the Editor has fortunately discovered in the Advocates' Library.

In an interesting communication from SIR WALTER SCOTT, Bart., on the subject of this Trial, with which the Editor has been favoured, some interesting particulars are detailed, regarding THE SCOTTS of the Border. No apology need be made for enriching these pages with the following extract:—

'OUR Name were very clannish. I have, for the time, in my possession, a BAND or ASSOCIATION between *Sir Walter Scott of Brunxholm, knight, Laird of Buccleuch*, and about fifty of the most important men of his kin and Clan, [dated 3d June, 1589.] It proceeds upon an Association made to the same purpose by SIR WALTER SCOTT, the father of the Chief, and is calculated to secure against any Clansman taking any "room" or possession over the head of another of the Name. Any one who was accused of having done so, bound himself to stand by the award of five men, to be mutually chosen, bearing the Name of Scott. Even if the Chief should encroach upon the possessions of any inferior person of the Name, he declares he will submit the cause, in like manner, to four persons of the Name of Scott; which shows an independence on the part of the Clansmen which I was not prepared for. The BAND is the property of my cousin and relative, *William Scott, Esquire, of Raeburn*. It seems to have been calculated to prevent kinsmen from going to law with each other, and to secure a species of justice within the Clan, to the advancement of the "guid and godlie purposes" of their Chief. The "guid and godlie purpote" of *the Cordiner and the Suchler* seems to have been intended for the same reason. HOWPASLOT was an old inheritance of *the Scotts*, and, on whatever grounds Douglas possessed it, returned to the Name again. *Douglas*, you are aware, was *Lord of Hawick*, to which *Buccleuch* afterwards succeeded.

¹ Of the people mentioned in the Trial, I know little. *Satchells* is probably the place of the name, lying on the *Ale* or *Terriot*, now part of *John Corse Scott of Synton's* property. The individual termed

¹ It is by no means unlikely that *Hourpaslot* was 'conquest' by means of Wadset, Apprising, or other legal 'Diligence'; for it is certain, that it was but a short period in the occupation of *the Laird of Drumlanrig* or his Tenants. The summary mode by which his 'quid's' were disposed of, may have precipitated his bringing these matters to a close, and his accepting of a pecuniary accommodation.

William Scott, called in Satchells, may have been the father of *Walter Scott of Satchells*, the Historian of the Clan, terming himself,

An old Souldier, and no Scholler,
And one that can write name,
But juft the letters of his name.¹

The singular work here quoted by SIR WALTER SCOTT, a copy of which is in the Editor's Collection, is titled, 'A TRUE HISTORY of several honourable FAMILIES of the right honourable NAME OF SCOT in the Shires of Roxburgh and Selkirk, and others adjacent. Gathered out of Ancient Chronicles, Histories, and Traditions of our Fathers, by *Capt. Walter Scot*. EDINBURGH, printed by the Heir of *Andrew Anderfon*, Printer to his most sacred *Majesty*, City, and Colledge, 1688.' It was composed by the author at the very advanced age of *Eighty-eight*! He states that he was fifty-seven years in active service, abroad and in Scotland, having entered the army at the age of twenty-nine. Although he boasts of being illiterate, he seems to have had much of the spirit of a staunch Member of the *Roxburghs, Bannatyne, or Mailland Clubs*—for he concludes his extraordinary work with the following '*L'Envoye*.'

'Therefore be gone my Book, stretch forth thy VVings and fly
Amongst the Nobles and Gentility:
Thou'rt not to fell to Scavengers and Clowns,
But given to worthy persons of Renown!
The Number's few I've printed, in regard
My Charges have been great, and I hope Reward;
I can't d not print many above twelve-score,
And the Printers are engaged that they shall print no more!'

The Editor, thinking that the ORIGINAL CONTRACT or BAND of ASSOCIATION between the heads of the powerful FAMILIES of the NAMES of KER and SCOTT, will prove most acceptable, as preserving the memory of times so powerfully depicted by *Sir Walter Scott* in many of his works, he has, after examining the ancient Records, procured a transcript, which is also appended to the present Trial. So able an abstract of the renewal of this '*Band*' has been given by *Sir Walter Scott*, that it has not been deemed necessary to apply for liberty to present the reader with a copy of it.]

Feb. 20, 1616.—GEORGE SCOTT, cordiner in Hawik, '*the Souter*,' callit
Marion's Geordie; Walter Scott, sone to *Braudis*
Andro; Ingrein Scott, and Jok Scott, callit *the Suckler*.

Dilaitit of the crewall and barbarus Slauchter of threfcoir schein, or thairbir,
pertaining to the Laird of Drumlanrig; committit vpon the Landis of How-
pallot, in the moneth of Apryle last, conform to the Dittay following.

DITTAY *against George, Walter, Ingram, and Jok Scot, alias the Suckler*.

FORSAMEKILL AS, albeit be dyuerse loveabill lawis and Actis of Parliament,
it be expresse provydit, statute, and ordanit, that all Slayers of Horffis, oxin, or
vther cattell and guidis,¹ fall be eftemit and pwneit as Thevis; as the saidis
Lawis and Actis of Parliament in tham fellis proportis: Nochtwithstanding
qubairof, it is of verritie, that sic is the perverse dispositiomm of dyuerse persones,
qula, preferring pair awin privat grudge, and revenge arrynging pairupoun, to

¹ Stock; sheep.

the dew reuerance and obedience of his Maicsteis authoritie and lawis, ceiffis nocht to profecute and follow furthe all godles and indirect meanis to effectuat pair malice, be sic montruons and vuhard of crewaltie, as the lyk quhairof hes nocht bene hard amangist the *nyld Irijch* and favadge people, let be within any reformet and ciuile pairt of his Maicsteis dominionis : And nanelie, the perfones perticulerlie aboue writtin, be the instigatioun, na dout, of sum perfones of gritter qualitie and conditionn nor thame felfis, vpon considerationn, that pe landis and leving of *Houpasslet* war deulie and lawfullie conqueist and acqyret be vniq¹⁶ SIR JAMES DOUGLAS of *Drumlangrig*, *knycht*, and he pairby fetlet in possessionn pairof, be pleniffing of the samyn with his bestiall and guidis ; thay and vtheris of pair vuhappie soeciatie, altogidder dislancing that pe said *Laird of Drumlangrig* fould inioy or possessé ony landis or possessiones within that pairt of this kingdome ; and pairfoir, plotting and devyfyng all godles and vnauchfull meanis how to interupt his peceable possessionn of the saidis Landis, and to lay the samyn waift, and pairby to mak thame vnprofitable to him and his posteritie—in the moneth of Apryle lastbypast, the saidis *George Scott*, *Walter Scott*, *Ingreu Scott*, and *Jok Scott*, callit the *Suckler*, haifing assemblit and convocat to thame felfis *Williame Scott*, callit in *Satchellis*, and vtheris, pair complices, first keipit ane generall meitting within pe *Town of Hawik*, quhair, in pair devillifche counsell, it was concludit and aggreit vnto amangis thame, that, within a fyve or sex dayis pairefter, they fould all meit togidder, vnder nycht, vpon the saidis landis of *Houpasslet*, and pair to slay and distroy the said *Laird of Drumlangrigis* hail bestiall and guidis being pairupoun : LYK AS, according to the foirsaid damnable conclusionn, the said *George Scott*, accompaneit with the said *Williame Scott*, callit of *Satchellis*, vpon the . . . day of pe said moneth of Apryle lastbypast, come, vnder silence and elud of nycht, fra the said *Town of Hawik*, to *Eilrig-burne-fute*, and the said *Williame Scott* being than mussellit ;¹ at the quhilk place, the said *Jok Scott*, callit the *Suckler*, met with thame ; and pairfra, thay thre past vp the watter, be the space of thre quarteris of ane myle, to ane Cleuch,² callit *Birny-cleuche*, betuix *Eilrig* and *Houpasslet* ; quhair, according to pe former appointment, the saidis *Wuttie* and *Ingreu Scottis* met with thame : fra the quhilk place thay foure, accompaneit with the said *Williame Scott*, callit of *Satchellis*, come to the saidis landis of *Houpasslet* ; and pair, being bodin³ with fuordis, bandit stalfis, and vtheris wappones, provydit be thame for pe purposis, in ane Cleuch-fyde, quhair pe said *Laird of Drumlangrig* his scheip war lying in pair lairis,⁴ maift barbarulie and inhumanelie, as favadge and crewall beistis, destitute of naturale

¹ Disguised ; *muffed*. Old Fr. *emmuselé*.

² A rocky ascent, or cliff. It also signifies a cleft or

hollow between precipitous banks, &c.

³ Furnished.

⁴ Beds ; folds.

reafone, with pair drawin fuordis and vtheris wappones foirfaidis, ran throw þe haill flok of fcheip, flew, lamet, and menzet¹ to the number of threfcoir of the faid fcheip, quhairof fouretie or pairby war flane, be freking of² pair heidis, and cutting thame in tua throw pair bakis; and the rest of thame, pair fpaldis³ and legis wer strukin away fra thame in maift barbarous maner, and war fa left fpreuleing in pair deid-thrawis⁴ vpon the grund of the faidis landis; committing pairthrow maift haynous and vnuhard of Crewaltie and Oppreffion: And the faidis perfones aboue complenit vpon, and ilk ane of thame, ar airt and pairt of the faidis crewall, monftruous, and vnuhard of crymes: ffor the quhilk, thay aucht and fould be pwneift be ane exemplarie pwneichment, to the terrour and example of vtheris to commit the lyk heireftir.

THE VERITIE of pair giltines of the quilkis haynous crymes is cleirlye provin, be the TAIKINIS⁵ following, viz. 1. BE the Depofitioun maid be þe faid *Jok Scott*, callit *the Suckler*, quha was fend for be THE LADY HOWPASLET to cum to þe *Town of Hawik*; and at his cuming, haifing met with þe LADY, and with *Jean Scott*, callit of *Satfchellis*, and with þe faid *George Scott*, callit *Muriones Geordie*, at þe *Croce of Hawik*, it was pair concludit amangis thame, that the *Laird of Drumlangrigis* fcheip fould be all flane: AND for that effect, according to þe appointment than maid, a thre dayis paireftir, *Jok the Suckler* come to *Eilrig-burue-fute*, quhair, in the glomeing,⁶ he mett with the faid *Muriones Geordie*, and with *Williame Scott*, callit in *Satfchellis*, quha was with þame in companie; quhilk *Williame Scott* was than muffellit. Lyk as, at þe faid *George Scottis* delyre, the faid *Jok the Suckler* paft with 5ow and the faid *Willie Scott* vp the watter, the fpace of thre quarteris of ane myle, to ane cleuch callit *Birniecleuche*, betuix *Eilrig* and *Howpajlett*, quhair þe faid *Wattie Scott* and *Iugrem Scott* met with thame, the faid *Wattie* and *Iugrem* haifing plaidis and blew bonnettis: fra the quhilk place thay paft togidder to the *lands of Howpajlet*, quhair the faid *Laird of Drumlangrigis* fcheip lay, and pair flew þame, in maner fpecifeit in þe Dittay and þe faid *Jok the Suckleris* Depofitioun.—2. To the taikin lykwayis, the faid *George Scott* perfaveing þat *the Suckler* wald nocht pas forwardis to the committing of the fact, he pairfoir drew his fuord, and pairwith thraitnet *the Suckler*, that gif he paft nocht with him and thair complices to þe deid, he fould hew *the Suckler* pairwith in peces.—3. LYK AS, in regard of the former Depofitioun fa maid be *the Suckler*, the faid *George Scott* being presentit befor my *Lord Justice Clerk*, my *Lord Aduocat*, and my *Lord Justice*, and examinat pairupou; the faid *George* was content to tak the giltines of þe faid cryme vpon him, gif *the Suckler* wald affirme the vereitie pairof, in his face:

¹ Maimed.
death.

² Off.

⁵ Tokens; proofs.

³ Shoulders. O. Fr. *espaule*.

⁶ Twilight; after sunset.

⁴ Struggling in the agonies of

Lyk as, the said *George* and *the Suckler*, being confrontit, he ratifeit and renewit his former Deposition and haill circumstaunces pairof in the said *George* face; and offerit to haif foehin þe Singular Combat with the said *George*, vpon the verritie pairof.—4. To the taikin lykwayis, þe said *George*, haifing ane dog named *Hyde-the-bastard*, he being convenit at dyuerse tymes with his compan-
 zonis, brak out in thir woirdis, saying, ‘ Sa lang as I and my Bastard brother levis (meaning be his dog), *Howpaitet* fall nocht plenifche.’¹—5. To the taikin also, eftir þe slauchter of the said schein, the said *George* being suspectit pairof, and vrget he *James Douglas* to geve ane telt,² quhair he was þat nycht of þe barbarous slaying of thame; becaus he could nocht geve þe said telt and cleir him self pairof, he querrellit the said *James Douglas* pairupoun, within the *Towne of Hawik*, and presentit ane bendit³ pistolet to him, of purposis to haif flane him pairwith; quhilk he wuld half schote, gif he had nocht bene stayit be *James Weymes*, *Johne Scott* callit *Bony Jony*,⁴ and *James Lechen*, quha tuik þe pistolett frome him.—6. To the taikin lyk wayis, the said *George*, being examinat in þe premisses be þe saidis Lordis Examinatouris, vpon the xxviij of December last, and being demandit, quhair he was the tyme of the keeping of the Justice Court of Jedburgh? Declairit, that he come the day of the halding of the said Justice Court to the Town of Jedburgh, quhilk was vpon ane Thurisday; and vpon the Tyfday and Wedinfday of befor, was also in Jedburgh, in maner spacific in his Deposition: Lyk as, the said *George* being remouet for a tyme, and of new re-examinat, he was contrair to his former Deposition, declairing, þat vpon the Sunday, Monunday, Tyfday, and Wedinfday befor the Court, and vpon the Thurisday, the day of halding pairof, he was within the *Town of Hawik*, accompanit with the persones set down in his posterieur Depositione.—7. To the taikin also, the said *Walter Scott*, at his cuming with *Jok the Suckler* to *Birniecleuche*, the said *Jok the Suckler*, haifing refusit to pas forwardis with him to be slaying of þe said schein, the said *Walter*, nochtwithstanding his refusall, earnestlie delt with him to cum forwardis, saying to him, ‘ *JOK*, thow art als giltie alreddie as thow canst be, cum forwardis pairfoir with us to the deid; and paireftir, thou fall gang with us *Northe*, quhair we will be weill trett and interteneit; for we haif ane place preparit for our ressett.’⁵—8. To the taikin lyk wayis, the saidis *Walter* and *Ingram Scottis*, the tyme of pair last apprehending in þe *Northe*, being inquiryet, gif ony of thame knew *Jok the Suckler*? Thay denyit to pair takeris⁶ that evir they knew him: Bot being brocht to waired to þe *Tolbuth of Ed*, quhair þe said *Jok* being presentit to

¹ Shall not be stocked.

² Proof or testimonial.

³ Cocked.

⁴ *Bony*, or handsome,

Johnie. ⁵ Reception and concealment.

⁶ Examiautors.

thame, thay nocht only knew, bot be his name afkit him faying, ‘ Quhat now, *Jok!* How come thow heir—and quhairfoir ar thow wairdit¹ in this hous?’ SA that be þe taikinis aboue written, þe fãidis perfones giltiues of the fãid fact is cleirlye provin.

PERSEWARIS, Williame Douglas of Drumlangrig, Sir Williame Olyphant of Newtown, kny^t, Aduocat.

PRELOCOUTOURIS in defence of George, Wattie, and Ingrem, allenarlie,

Mr Thomas Nicolfoun, Laurence Scott, Adame Cunninghame, Aduocattis.

Efter reiding of the DITTAY fet down in the fummondis, at command of my Lord Justice and Assessoris, it is declairit be Mr Thomas Nicolfoun, as prelocoutour for George, Walter, and Ingrem Scottis, that he acknowledgis the cryme fet down in the Dittay to be haynous and worthie of condigne puneischment; bot as to the Dittay it self (nocht granting the cryme thairin mentionet to be of veritie) againis the pannell, alledgis the samyn is nawayis relevant to pas to the knowlege of ane Assyse; nather can the committing of the fact lybellit infer daithe, becaus the grund and fundatioun thair of is vpone tua Actis of Parliament, the first quhair of is the 100 Act of his Majestis fsevint Parliament, haldin in October 1581, quhilk is only extendit agains the flayeris and hocheris² of horffis, oxin, and vther cattell, the tyme of laubouring the grund; and the vther Act is the 82 Act of his hienes ellevint Parliament, haldin vpone the xxix of July 1587, quhilk is only ane Ratificatioun of the first: Bot the Dittay beiris only the Slauchter and Hocheing of schein, quhilk is nawayis expreffit nor prohibeit be the fãidis Actis: And, thairfoir, the Dittay and Actis of Parliament being difconforme, the samyn can nawayis pas to ane Assyse; speciallie, in respect na penall Statute may be forder extendit nor³ the samyn is fet down *per expreffum*: quhilkis Actis be desyret to be red.

It is anfuert be my Lord Aduocat, that the mynd and intentioun of the lawis, and making thair of, man⁴ be advertit vnto, quhilk is the puneischment of all haynous and detestable crymes, committit be quhatfumeuir way and be quhatfumeuir persone: for, als it is estemit ane haynous cryme, be the fãidis Lawis, to hoche ane ox or ane horse, sa the cryme is far moir haynous to slay and cut af ane hail flock of four or fyve scoir schein, and thairby to displenisse and lay waift ane gentilmannis possessioun and rowme; quhilk the hail lawis and Actis of Parliament, vnder the name of ‘ vther cattell,’ expresselie forbidis, and concludis puneischment agains the committeris: In respect quhair of, the Dittay is maift relevant to pas to ane Assyse, nochtwithstanding of the allegiance aboue writtin.

THE JUSTICE Repellis the allegiance; and ffindis the Dittay relevant to pas to the knowlege of ane Assyse. Quhairupone the Aduocat askit Instrumentis.

¹ Imprisoned.

² Hamstringers.

³ Than.

⁴ Must.

ASSISA.

Thomas Wauche of Schawis,
Johne Coluile in Preilroune,
Gilbert Greirfoun of Beochane,
George Lyell in Spachhouffis,
Malcolme Dalrumpill of Waterfyde,

Robert Hunter in Halywoid,
Rodger Padzeane of Newtoun,
Thomas Greirfoun of Barjarge,
Archibald Menzeis in Enoche,
Patrik Hair in Glenquhirrie,
Rob. Phillope, burges of Dumfreis,

Adame Trumble in Lyntlawis,
Peter Broun in Duritfleir,
Johne Mc'morrane of Glafpene,
James Williamefone in Craufard-
toun.

OBJECTIONS againſt certain Affjors paſſing upon the Inqueſt.

It is allegit aganis *Thomas Wauche*, that he can nocht be reffautt vpon this Affyfe, becaus he duellis nocht within the foure-halſis-about. Anfueries, aucht to be repellit, in reſpect he duellis within the Kingdome of Scotland, and he is fummond to pas vpon the tryall of ane haynous cryme.—The Juſtice admittis him vpon the Affyfe.

It is allegit aganis *Johne Coluile*, that he can nocht pas vpon this Affyfe, becaus he is tennent to *my Lord of Angus*, quha is cum to Ed^r at the deſyre of *the Laird of Drumlangrig* to aſſiſt this perſute. Anfueries, aucht to be repellit, in reſpect the Erle of Angus nocht preſent, nather as perſewer or defender.—Admittis.

It is allegit aganis *Gilbert Greirfoun*, that he can nocht be admittit, becaus he is tennent to *the Laird of Lag*, quha is preſent at the bar, aſſiſting the Laird of Drumlangrig in this perſute. Anfueries, aucht to be repellit, in reſpect he is ane ſewar and na removeable tennent.—The Juſtice, vpon the geving of Gilbert Greirfones ayth, that he is ane ſewar, and that he gaif na partiall counſell, in preiudice of the pannell, admittis him vpon this Affyfe.

It is allegit aganis *Robert Phillope*, that he can nocht pas vpon this Affyfe, becaus he is the Laird of Drumlangrigis penſioner.—The Juſtice, in reſpect of Robert Phillipis ayth, gevin be him, that he is nocht Drumlangrigis penſioner, and that he hes na guid deid of him, bot as ane yther gentilman of the cuntry reſpectis and honouris him, Reſſaues him vpon the Affyfe.

It was, eftir his admiſſioun and reſaueing, allegit be Laurence Scott, in name of the pannell, that *Robert Phillope* can nocht pas vpon this Affyfe, becaus he is Bailzie Clerk to the Laird of Drumlangrigis Regalitie. Anfueries, he can nocht be declyned nor put at the Affyfe, eftir his ayth tane, and purgatioun of partiall counſall; ſpeciallie, ſeing it is vpon tryell of ane cryme, quhilk is *factum obſeurum et clauſinum*.—The Juſtice ordanis him to remane ane Affyfour.

THAIREFTIR, the Dittay being of new red, in preſens and audience of the Affyfe, with the Taikynes producet be the perſewer for verificatioun thairof, it is allegit be Mr Thomas Nicolſone, in name of *George Scott, Walter and Ingrem Scottis*, that the Taikynnys producet and red for cleiring of the Dittay, ſould nawayis be reſpectit be the perſones of Inqueiſt, nather ar the ſaidis Taikynnys concludng argumentis to verifie the Dittay. And *firſt*, the Depoſitioun maid be *Jok Scott*, callit *the Suchler*, ſould nawayis be reſpectit, becaus he being apprehendit for the ſamyn fact, and haifing confeſſit him ſelff to be *ſocius cuiusdem criminis*, his Depoſitioun can nocht work aganis ony honeſt man quha is innocent; and thairfor ſould nocht be reſpectit. *Secundo*, as to the Taikin foundit vpon *George Scottis* dog, albeit the ſamyn be na grund to infer the Slauchter of the ſcheip lybellit, zit he denyis it. *Tertio*, the Taikin for flaying and querrelling of *James Douglas* inferris nathing; becaus he was nocht bund to confeſs or ſchaw him any teſt quhair he was the nycht of the flaying of the

fcheip; and as to the Taikin it self, denyis the samyn. *Quarto*, concerning his Deposition maid be him, quhair he was the tyme of the Justice Court of Jedburgh; the samyn inferis nathing for probatioun of the Dittay; And as to his contrair Deposition, that he was in Hawik, it can nawayis infer him to be culpable of the cryme. And allegis, that the hailf former Taikymis previs na thing aganis *Walter* and *Ingrem Scottis*. *Item*, the last taikin auent *Walter* and *Ingrem*, that thay war tryet the tyme of thair taking, gif thai knew *Jok the Suckler*; thair granting or nocht granting thairof can nawayis infer thame to be giltie of the fact.

THE *Laird of Drumlaurig*, being suorne, and his aithe tane thairof, gif¹ he hes just cause to perfew the pannell for the crymes contenit in the Dittay, as giltie and culpable thairof? Declairit, that this Dittay is suorne to him to be of veritie, be honest and credible men, viz. that *George*, *Walter*, and *Ingrem* war thre of thame that was at the slauchter of his fcheip, in maner specifieit in the Dittay: And thairfoir, be his ayth, declairit that he hes just caus to perfew thame, as doaris of sic ane odious fact. And as to *Jok Scott*, callit *the Suckler*, he hes also hard of his meitting and keiping tryftis with thame in that matter; bot, in respect he is nocht certanelie informet that he was at the doing of the deid, he can nocht perfew him as ane principall committer: And finallie, declairit, that gif he war nocht persuaidit, in his conscience, that the saidis *George*, *Waltie*, and *Ingrem Scottis* war the special slayeris of the fcheip, (be quhais directioun the samyn was done, remittis that to thame selfis.) he wald nocht haif followit thame thairfoir.—Quhairvpon my lord Advocat askit instrumentis.

My Lord Advocat, for preving of the Dittay, repeittis *the Laird of Drumlangrigis* ayth and Declaratioun: Productet the Depositiones of *Jok Scott*, callit *the Suckler*; and repeittis his ratificatioun thairof in judgement, and constant affirmatioun of the veritie thairof in the vtheris thre faces:² And lykways, repeitis the Actis of Parliament red, quhairvpon the Dittay is foundit: And desyres the Assyse to consider the haynounnes of the cryme; and Proteftis for Wilfull Error aganis thame, gif thay Acquit the pannell thairof.

VERDICT. The Assyse, all in ane voce, be the mouthe of the said Thomas Wauche of Schawis, chancellor, stand, pronuncet, and declairit the saidis *George Scott*, *Walter Scott*, and *Ingrem Scott*, to be flylet, culpable, and convict of the actual slaying of the said Laird of Drumlangrigis fcheip, in maner specifieit in the Dittay: AND siclyk, stand, pronuncet, and declairit the said *Jok Scott*, callit *the Suckler*, to be Culpable, flylet, and convict of being vpon the counsell and foirknowledge of the fact aboue writtin, and in keiping of dyuerse tryftis and meattings with the vther thre, conforme to his awin Deposition: And Clengis

¹ If.² When confronted with them.

him of the actual deid, be fleing away fra the doing thairof, befor it was committit.

SENTENCE. The Justice, be the mouth of Johne Dow, dempster of Court, Decernit and Ordanit the saidis *George Scott, Walter Scott, and Ingrem Scott*, to be tane to the Mercat-croce of Edinburgh, and thair to be hangit vpon one gibbet, quhill thay be deid: And all thair moveabill guidis and gear to be efcheit and inbrocht to his Maicsteis vse, as culpable and convict of the crymes aboue specifcit. AND lykwayis, Ordanit the said *Jok Scott*, callit *the Suckler*, to be tane bak to waird, thair to remane vnto the tyme he (the Justice) be advyset with the Lordis of Secret Counfall, ament his dome.¹

APPENDIX ILLUSTRATIVE OF THE PRECEDING TRIAL.

I. LETTER, *the Laird of Drumlawrig to Murray of Lochmaben.*²

RIGHT WORTHIE AND LOWING BROTHER,

SE remember, in on of my former Letteres, I schew 3ow, pat I had gotin sum tryall³ of that uyld and barbarous uillanie quhilk was comitit, in þe slaying of my scheip, quhen I was last at Court; quhairn I did than write þe more spairinglye, being lothe (in respect of 3owr griter affaires) to trubill 3ow with it, till I had brocht it till sum further cleirnes; quhilk now I have done, and hes tuo fallows presentlie in hand pat war actoris in it; þe on callit *Jok Scott the Suckler*, quho hes confesit þe fimpell treuth, in all poyntis, both of his anin pairte, and þe rest þat war with him at þat filthie actioun; to wit, *Geordie Scott the Souter*, callit *Mariounes Geordie, Watt Scott*, callit *Braidis Wattie, Willie Scott*, callit of *Satchelis*, and *Ingrun Scott*. This *Suckler*, in his Confessioun, he condifcendis cleirliche both vpoun þe tyme, place, and forme of thair meiting and pairting, with all wther takinis and circumstanes þat past amongit thame, quhen they war togidder (as his Depositionn beiris.) Nochtwithstanding this vther, callit *Geordie Scott the Souter*, (quhom I have alto in handis,) standis 3it in his denyall, altho they be many grit presumptiounis of his guiltinefs; alwayis⁴ *the Suckler*, being fundry tymes examinat and confrontit with him befor THE LORDIS OF COUNSALL, he abydis constantly at everye poynt of his first Confessioun; and offeris, nocht only to fecht *the Souter* on it, bot all þe rest, everie on of thame efter another, quhensoeuer they can be had, gif it will pleis HIS MAJTYE and THE COUNSALL to suffer him. The vther thrie ar fugitiues for that and vther crymes of Thift and Slauchter; and, as I wuderstand, ar all out of the countray, sum in *Irland*, and sum ellis quhair; vtherwayis, befor this tyme, I think I had fund meanis to haue gotin thame in handis, (3it according till our auld Scottis proverb, 'Ane 3ule feist may be quat at Pale!') Quhen perhapis they may imagin it be forgot.) In the meintyme, let me intreit 3ow, þat 3e will do me that fauour to motioun this maiter to HIS MAJTYE, quhairby I may haue it, by his Letter, recommended to þe Counfall, nocht only for þe exact tryall and punifchment thairof to þe daithe, for þe wrang that is alreid done, bot also to terrifie all other malefactoris from attempting þe lyk heirefter; quhilk, I protest to God, I ponder more in respect of þe preparatiue and consequens þat may follow thairvpoun to þe preiudice of þe comounweill of þe countray, in cais it be lichtlie passit over vnpunifchit, than for any particular of my awin. Now, gif 3e find it expedient, it war nocht amis, feing the *Shanfler*⁵ and *Secretar*⁶ (quha knawis þe

¹ It is likely that the Suckler had been promised his life, when he turned informer; but being a most dangerous character to turn loose on society, the public prosecutor appears to have been instructed by the Council to rake up a few of his former misdeeds, and have him cleverly put out of the way. See the following Case, Jun. 21, 1616.

² From the Original, preserved among the *Denmyth MSS.* Adv. Library. ³ Proof; evidence. ⁴ Nevertheless.

⁵ The Lord Chancellor, Alexander Earl of Dugferline.

⁶ Thomas Earl of Haddington.

hail estate and progress of this business) ar to be with HIS MA^{TIE} at Court, that se fould haue thame neir-hand by, quhen se proponit it to HIS MA^{TIE} at Court, in cais he hapin to desyre thair opinioun in it. And this, I wald besek seow to do with all þe conuenient hailt seow can, þat I may haue seow anfuer with HIS MA^{TIES} Letter befor þe seuinth or aucht of þe nixt month, becaus I do intend, God willing, at þat tyme, to haue thair tuo followis, at leist on of thame, put to the tryall of ane Assyse; at quibilk tyme (if nocht befor thane) I do affuir my self þat God fall mowe þe hart of him quho standis most obstinatlie to his denyall, euin to confes the treuth, as þe othe her done: albeit thair be sum buffie-headit men heir, quhom I will nocht name at this tyme, þat wald wis þe contrair; and ar desiring, be all means possibill, so far as in thame lyes, to þat effect; bot be þe grace of God, and HIS MA^{TIE} fauour, with seow help, I howp to disappoynt þame. As for the rest of my particularis, I trust seow will nocht be forgetfull of thame; and when seow find seowr auin tyme, will let me know, þat I may luik for in þame. So I haue no more to say, bot always efter on¹ I rest,

seowris in quhat I can to serue seow,

EDINBURG, the vi day of
Januar, 1616.

DRUMLANGRIG.

seow will do me þe fauour to present my humbill seruice to seowr lady.
To his muche honoured and worthie broþer JOHN MURRAY of Lochmaben, Grume of his Ma. Bed-chamber, Thes.

II. "CONTRACT BETWIX THE SCOTTIS AND THE KERRIS."

(It has already been noticed, in the Introduction to the present Trial, that the Editor has been fortunate enough to discover the Original BAND or CONTRACT referred to by *Sir Walter Scott*, preserved in Record of Deeds,¹ Mar. 23, 1564. This remarkable and interesting document is preceded by a solemn entry in the Register, in these words. "In presens of the Lordis of Counsaile, compeirit (SIR) WALTER SCOTT of Branzholme, with his Curatouris vnderwrittin, personale, except ane nobill and mychtie lord, James Duke of Chattewaterail, quha compeirit be Maister David Borthuik, his procurat, one that ane pairt; and SIR WALTER KER of Cesfurde, kny, for him self, and takand the burding vpon him for his barnis, and the remanent of his kynd frendis, specifeit and contenit in the Contract vnderwrittin, personale, on that vther pairt; and gaif in the samyn, subscriuit with thair handis, as followis; and desirit the samyn to be insert in the Bukis of Counsaile, and to haue the strench of ane Act and Decreit of the Lordis thairof, and thait to interpone thair auctoritie to the samyn," &c.

It is only necessary, farther, to refer the reader to the valuable annotations of *Sir Walter Scott*, appended to 'The Lay of the Last Minstrel,' for a perfect knowledge of the deadly Feuds which had so long raged between two of the greatest Border Families, the SCOTTIS and KERRIS, to 'staunch' which was the professed object of the present BAND.)

AT EDINBURGHE, þe xxij day of Marche, the seir of God I^m.V^o.lxxiij seiris. It is appointit, aggregit, and final concordit, betwix rycht honorabil menne, SIR WALTER KER OF CESFURDE, KN^Y,² for him self, and takand þe burding vpon him for his barnis,³ and for his bruder Mark Commendater of Newbottle, and his barnis; Johne Heme of Coldenknowis, and his barnis; Andro Ker of Faw-downsyde, his barnis and breder;⁴ Thomas Ker of Marvingtoun, his fader-bruder,⁵ and þair barnis; George Ker of Lyntonne, his barnis, his ovis,⁶ and bruder-barnis;⁷ Richard Ker of Gaitchaw, his barnis and breder; Andro, Williame, and Johne Kerris, brether to Sir Thomas Ker of Pharynhirst, kny⁸; Mark Ker of Kippechaw, and his sone Robert Ker of Bothtowr; Robert Ker elder, burges of Edinburgh; and all vperis þair barnis, brether, kynne, freindis, menne, tenentis and ferdandis, except þe freindis vnder specifeit, nocht comprehendit vnder þis appointment, one þat ane pairt; AND WALTER SCOTT OF BRANZHOLME AND BUCKLEUCH,⁹ with consent and assent of ane rycht nichte

¹ Always after one; steady; unchangeable. ² General Register House, Vol. VII. fol. 131. ³ Ancestor of the Ducal Family of Roxburgh. He married *Isabel*, daughter of *Sir Andrew Kerr of Fernihirst*. ⁴ Children. ⁵ Brothers. ⁶ Uncle. ⁷ Grandchildren. ⁸ Nephews and Nieces. ⁹ He married *Lady Margaret Douglas*, eldest daughter of *David*, seventh *Earl of Angus*, niece of the Regent Morton. This great man died Apr. 17, 1574. It was his son who performed the matchless exploit of relieving *Kinnmont Will*, Apr. 13, 1596, from the Castle of Carlisle, being accompanied with a mere handful—only 200 horse!

and noble lord, *James Duke of Chatteanlarault, Erie of Arane, Lord Hammiltoune*, &c.; *Sir Johane Maxwell of Terreglis, kny¹*; *Sir Johanne Belleudene of Auchnault, kny*, Justice Clerk; *Maister Johne Spens of Condl*, Adoucat to our souerane Lady; *Andro Murray of Blak-Barony, Michell Balfour of Burtlye, Thomas Scott of Haning, and Robert Scott of Thirghiane*, Curatouris to þe said WALTER, for þair interes, for him self, and takand þe burding vponne him for his HAILL SURNAME, and þe Reliet and bairnis of vni² *Sir Walter Scott of Brancholme, kny³*, his gudefehir,³ and als for *William Craufoune of that ilk*, his bairnis and breder, the brether of vniquille þe Laird of *Chijhoue*; *Johanne Glaidfianis of that ilk*, and his bernis; *James Langlandis of that ilk*, and his bairnis; *Walter Vache of Syntoun*, and his barnis; and for *James Ormifoun of that ilk*, conditionally, as followis; and als, for all vperis his kynne, freindis, seruandis, menne, tennentis, allifaris, and pairtakeris, one þat vper pairt; in maner, forme, and effect, as efter followis. THAT IS TO SAY, þe said LARD OF BUCKLEUCHT, nor na vper for quhome he takis burding, as said is, fall ony way perfew þe said LARD OF CESURDE, nor na vper comprehendit vnder þis present appointment, criminalé nor civile, for ony Slauchter or blude committit in tyme bipast, and is content to be perpetuallie secludet pairfra, *per pactum de non petendo*; and fall neuer move actionn, beir hatrent, grudge, or displefour pairfor, bot bury and put þe famyn vnder perpetuale filence and obliouione; and to leif in perfite amité, lufe, and Critiane nyctburheid, in all tymes cuning. PROVIDING alwayis, þat heirly þat þe said LARD OF BUCKLEUCHT, and all vperis quhome he takis burding, be na wayis preiugit anent þair actionis quhatfumeir þat þai laif intentit or may intent aganis *Sir Thomas Ker of Phairneyhirji, kny¹*, *Sir Andro Ker of Hirfell, kny²*, *Robert Ker of Woodheid, Johne Haldane of that ilk, Gilbert Ker of Prymjulloch, James Ker of Torbet, Robert Ker of Grudene, Andro Ker of Hietoune*, þair barnis, brether, and seruandis, and all vperis þat ar nocht comprehendit vnder þis appointment; bot þat þai may perfew and obtene þe famyn as þai think maist expedient, be þe law; and þat becaus þe saidis personis, being requirit be þe said LARD OF CESURDE to cum with him, and to do þair levore, for þair pairt of þis appointment, hes refusit to do þe famyn; and als, becaus þat in þis present appointment, þair is na proflett nowther gevin nor takin, qdhaiby þe said LARD OF BUCKLEUCHT, and his frendis and vperis foirfaisid, ar preiugit anent þair saidis actionis; and þat it is þe expres mynd of all þe pairteis presentlie contractaris, þat þe famyn be fullie referuit: AND siclyk, vponne þe vper pairt, þe said LARD OF CESURDE, nor na vperis quhome-for he takis þe burding, fall in ony wyife perfew þe said LARD OF BUCKLEUCHT, nor na vperis his kynne, freindis, seruandes, menne, tennentes, affilaris, or pairt-takaris, criminalé or civilé, for ony slauchter or blude committit in ony tyme bipast; and is content to be perpetuallie secludet pairfra, *per pactum de non petendo*; and fall nevir move actionn, beir hatrent, grudge, or displefour pairfoir, bot bury and put þe famyn vnder perpetuall filence and obliouione, and to leif in perfite amité, lufe, and Critiane nyctbourheid, in all tyme heirefter. ATTOUR, it is heirly expresse and faythfullie contractit, þat for mair fair removing, flenching,⁴ and away-putting of all inymité, hatrent, and grudge, standand and confavet betuix þe saidis pairteis, throw þe vnhappie slauchter of þe said vni² *Sir Walter Scott of Brancholme, kny³*,³ and for þe better continuance of amité, favour, and freindfchip amangis þame in tyme cuning, the said SIR WALTER KER of *Cesurde, kny¹*, fall, vponne the xxij day of Marche instant, cum to THE PARROCHE KIRK of EDINBURCHT, now commonelie callit SANCT GELLIS KIRK, and þair, befor none, in sycht of þe pepill present for þe tyme, reuerently vponne his kneis ask God mercy of þe slauchter foirfaisid; and siclyk, ask forgevenes of þe same fra þe said LARD OF BUCKLEUCHT, and his freindis, quhilkis fallhappin be þair present; and pairtefer promise, in þe name and feir of God, þat he and his freindis fall trewle kep þair pairt of þis present Contract, and fall stand trew freindis to þe said LARD OF BUCKLEUCHT and his freindis, according heirvnto, in all tyme cuning. THE quhilk þe said LARD

¹ Grandfather.² Staunching; extinguishing.³ This great man was unhappily slain on the streets of Edinburgh, in October, 1552. To pave the way for a lasting reconciliation between the Clans, a Remission was granted to Sir Walter Kerr of Cessford, and to John Kerr of Fernihirst, under the Great Seal.

OF BUCKLEWICHT fall reuerentli accept and refflaue, and promife, in þe feir of God, to remit his grudge, and neuer remember þe fame; bot fall obferue and fulfill his part of þis prefent Contract to þe faid LARD OF CEFURDE, according to þe tennour þairof, ficlyk, in tyme cuning. AND als, *Thomas Ker*, fecond fone to þe faid LARD OF CEFURDE, fall, God willing, folempnizate and compleit þe band of matrimony, in face of Chriflis Congregationne, with *Scott*,¹ fifter to þe faid LARD OF BUCKLEWICHT, betuix þis and þe laft day of Maij nixtoocum, but ony tocher² to be payit be hir faid bruder, or ony vþer freindis with hir: And þe faid LARD OF CEFURDE fall provide þame ane honeft and reffonable fufentatioune and leving, efferand³ to þair eftait and conditionne; and als, fall cauf þe faid be infeft in her virginité, in coniuict-fee or lifrent, with hir faid future fþous, and þair airis lauchfullie gottin or to be gottin betuix þame, quhillk failzeing, þe faid *Thomas* airis quhatfumeuir, in all and haili landis or annualrent of þe avaiil of ane hundreth merkis be zeir, to be haldin of þe Superiour be Refignatioun or Confirmatione, at þe plesour of hir faid bruder; and þaireftir, þe faid to be infeft in coniuict-fee or lyfrent with hir faid future husband, at his and his faid faderis gude will and plesour, in ilk landis and leving as þai pleis mak hir; quhillk is referit in þair will. AND ficlyk, *George Ker*, eldeft fone and apperand air to þe faid *Andro Ker of Fawdownfjrd*, fall, God willing, folempnizeat and compleit þe band of matrimony, in face of Chriflis Congregationne, with *Jonett Scott*, fader-fifter to þe faid LARD OF BUCKLEWICHT, fa fone as þai fall be of perfyte age and habitie for mariage, but payment of ony tocher to be payit be him, or vþer hir freindis with hir. AND gif it fall happin þe faid *George* to deceis, befoir þe compleiting of þe faid mariage, þan and in þat cais, his nixt bruder þat fallhappin to apper or fucceed air to his faid fader or him, fall marie the faid *Jonett*, tocher-fré; and ficlyk, failzeing of hir be deceis, befoir þe faid mariage, þan and (in) þat caife þe faid *George*, and failzeing of him be deceis, his nixt bruder foirfaid, fall folemnizeat and end mariage with hir nixt fifter þat fallhappin þau be alyve, tocher-fré; and fua, falang as þe faid *Andro* fall haif ane fone, and the faid *Jonett* ane fifter, þe ane to marie þe vþer tocher-fré, as faid is; ay and quhill mariage be anis complete amangis þame: AND gif (it) fallhappin þe faid mariage to failze in þe faidis *Georgis* or ony vþer his brederis defalt, þan and in þat cais, þe faid LARD OF CEFURDE, be the tennour heiroy, oblißis him and his airis to pay and deliuer the fowme of ane thoufand merkis to þe faid *Jonett*, or to hir vþer fifter to quhome þe faid mariage fall failzé, within XL dayis nixt eftir þe faid failzé be knawin. ATTOURE, becaus þe faid LARD OF CEFURD hes of befoir requyrit and defyrit, vnder þe forme of iaftrument, *Sir Thomas Ker of Pharyghirfj, kny^t*, *Sir Andro Ker of Hirfjell, kny^t*, and *Gilbert Ker of Prymjfdloch*, for þame and þair freindis to adheir, concur, and affist to him in þis prefent agreeance, and þat þai haif refult þe famin, as is aboue writtin, thairfoir þe faid LARD OF BUCKLEWICHT, nor his airis, fall nocht aggré with þame, or ony of þame, by¹ þe awyfe of þe faid LARD OF CEFURD and his airis; and gif it fallhappin þe faid LARD OF BUCKLEWICHT, or his airis, to aggré with þe faidis *Sir Thomas*, *Sir Andrew*, and *Gilbert*, or ony of þame, by⁴ þe awyfe of þe faid LARD OF CEFURD, befoir þe compleiting of mariage betuix þe faid *George* or ane of his brethir with the faid *Jonett* or ane of hir fifteris, as faid is, without þe faid LARD OF CEFURDE be previe and confent þairto, than and in þat cais, þe faid *George*, nor nane of his brethir, falbe haldin or aftrictit to compleit þe faid mariage, bot falbe fré þairof; nochtwitftanding þis prefent Contract, and ficlyk as gif the famyn had neuir bene maid. AND lik wyife, gif it fallhappin þe faid LARD OF BUCKLEWICHT to aggré with þe faidis perfonis, or ony of þame, eftir þe compleiting of þe faid mariage betuix ony of þe faid *Androis* fonis and þe faid *Jonett*, or ony hir fifteris, by⁴ þe awyfe of þe faid LARD OF CEFURDE, than and in þat caife, þe faid LARD OF BUCKLEWICHT oblißis him, with auife of his Curatouris foirfaidis, to content

¹ JANET, the eldest sister of Sir Walter Scott of Buccleuch, was married to Sir Thomas Kerr of Fernihirst, in anno 1569; 2, MARGARET, to Sir John Johnston of that ilk; 3, ELIZABETH, to 1 the Captain of Crawford, Sir John Carmichael of Meadowhat.—Wood's and Crawford's Peerages. ² Without any dowery or marriage-portion. ³ *Efferre*ing; corresponding. ⁴ Without; contrary to; independent of.

and pay to þe said LARD OF CESFURDE þe soume of ane thousand merkis, as for þe tocher of þe said *Janet*, or ony vþer her siltir þat hapis to be nearell, within XL dayis nixt eftir þe said aggreance, gif it happynis to be maid, as said is; but¹ ony exceptionne or remeid be vertew of þis present Contract, quhairby þe said mariage suld be tocher-fré, as is aboue spēcifeit, to be proponit or alleigit in þe contrar. PROVIDING alwayis, þat gef þe said LARD OF BUCKLEUCHT aggré with þe saidis *Sir Thomas*, *Sir Andro*, and *Gilbert*, or ony of þame, with auise of þe said LARD OF CESFURDE, than and (in) þat cais þe said LARD OF CESFURDE fall not haubour nor desyre þat þair offeris, ellis² offerit, be diminiit, bot rather þat þai be augmentit. AND 5it, mairouer, becaus þair is particularelie dedlie Feid and actionis betuix þe said WALTER KER OF CESFURDE, *knicht*, and þe said *James Ormsfoune of that ilk*, thairfoir þai falbe compromittit³ in *Dauid Spottjwod of that ilk*, and *Thomas Hoppringill of that ilk*, to be chofin for þe pairt of þe said LARD OF CESFURDE; and in *James Langlandis of that ilk*, and *Nicholace Rayerfurd of Huddley, knicht*, to be chofin for þe pairt of þe said *Lard of Ormsfoune*; and in *olmanne and ourmanne*,⁴ in caise of vareance or discord betuix þe saidis Jugis, to be comonele⁵ chofin be bayth þe saidis LARDIS OF CESFURDE and BUCKLEUCHT, anent þe taking, be þe said *Lard of Ormsfoune*, of þe *landis of Nether Ancrome and Baillicie* þairof, in Tak, our þe said LARD OF CESFURDE heid, it being his kyndlie rowme⁶ of befoir, as he allegis; and anent þe slaucher of vniq⁷. . . . *Beff*, seruant to þe said LARD OF CESFURDE: AND als, anent all vþer materis, actiones, querrellis, and debeittis betuix þame; and þai to be bund to abyde at þe decret and sentence of þe saidis Juges and ouermanne, or mailt pairt of þame, deliuerand in þe saidis materis, quhilkis falbe haldin to deliuer þairin, betuix þis and þe first day of August nixtocum; and aue compromit⁷ to be maid þairupone, and extendit in ampill forme, as vse is in sic caissis. AND gif it fallhappin þe said *Lard of Ormsfoune* to reclame fra þe Decreit to be gevin be þe saidis Jugis and ouermanne, or mailt pairt of þame, and nocht to abyde þairat, and fullis his pairt þairof, as he fall be ordanit be þe fame, than aud in þat caise, þe said LARD OF BUCKLEUCHT fall refuse him, and fall nowther manteine, fortife, nor assist him þairrestir, in ony tyme cuning; bot fall tak pairt and fortife, in honest and lesum⁸ maner, with þe said LARD OF CESFURDE, in his contrar. AND gif þe said LARD OF CESFURDE fallhappin to reclame fra þe said Decreit to be gevin as said is, than and in þat caise, þe said LARD OF BUCKLEUCHT fall tak pairt with þe said *Lard of Ormsfoune*. AND finalé, þe saidis þairteis, be þe tennour heiroy, bindis and obllis þame and þair airis, þat þai and personis abouewrittine, for qulame þai hane takin burding, respectiué, for þair awin pairtis as said is, fall in all tyme cuning keip and retene amité, freindschip, lufe, favour, and kyndnes, ilkane to vþeris,⁹ without ony grudge, or occasiounne to be mouit in þe contrar, be þame or ony of þame, to vþeris,¹⁰ be ony maner of way, in tyme cuning. AND gif it fallhappin ony contrarverf or play to fall betuix ony of þe freindis abouewrittin, comprehendit vnder þis present Contract, for taking of vþeris steding or rowme,¹¹ owtther in tyme bigane or tocum, thanne and in þat caise, þe mater falbe first schawin to þe saidis LAIRDIS OF CESFURDE and BUCKLEUCHT, be quhais avise þe saidis þairteis fall cheis¹² foure frendis, with aue ouermanne as þai can aggré one, for ending and deciding of þe said contraverf; and gif þe þairteis can nocht aggré one þe said ouerman, þan and (in) þat cais þe saidis LARDIS OF CESFURDE and BUCKLEUCHT fall cheis aue ouermanne quhame þai can aggré one; quhilk ouermanne being chofin be þame, it fall nocht (be) lesum to þe þairteis to refuse him, bot to approve and chuse him; and gef þe saidis LARDIS can nocht aggré one þe said ouerman, than and in þat cais, þai fall humilé fwrte¹³ and desyre þe QUEENS MAIESTIE and COUNSALE to cheis aue ouermanne; quha being chofin, þe þairteis falbe haldin and bund to stand content with him, and to abyd at his aud þe Arbitratouris deliuerance, or mailt pairt of þame deliuerand; vpon þe contra-

¹ Without, &c.² Already.³ Compromised; referred to the arbitration of.⁴ Umpire and⁵ Overman.⁶ Mutually.⁷ Certain property held by him and his ancestors as *kyndlie tenants*.⁸ Award;⁹ Decreit Arbitral.¹⁰ Lawful.¹¹ To each other; each party to the other.¹² Each other.¹³ For

taking each other's farm-steading or possession.

¹⁴ Elect; choose.¹⁵ Make suit; petition.

verifé pat fallhappin to be debatabill for þe tyme, but¹ ony declaratioune to be maid in þe contrar. AND for obseruing, keeping, and fulfilling of all and findré þe premiſſes, aþer of þe faldis pairteis bindis and obliſſis þame faithfullie to vþeris,² in þe maift ſtrait forme and ſicker file of obligatioune can be dewiſit, but³ fraud or gyle, na remeid nor exceptiounne of law quhatfumeuir to be proponit or allegeit in þe contrar; renunceand þe famin, for þame, þair airis, excucouris, and aſſignais, for now and evir, be þir preſentis. AND for þe mair ſecurité, þai ar content þat þis preſent Contract be inſert and regiſtrat in þe Bukis of Counſale, and decernit to haue þe ſtreth of ane Act and Decreit of þe Lordis þairof; and þat Letteris and executoriallis to be direct þairvponne, for compelling of aþer of þe faldis pairteis to fulfill þe famyn, for þair pairteis, to vþeris, in forme as efferis: AND for acting and regiſtrating heirof, þe faldis parteis makis and conſtitutis, be þir preſentis,⁴ [*Maifter David Borthuik*] thair vndowit and irrevocabill procuratoris, gevand and committand to þame, coniuñctle and generalé, þair full power, expres bidding, and chaigré, to compeir befor þe Lordis of our ſouerane Ladeis Counſale, quhatfumeuir dayis and place lauchfull; and þair deſyir þis preſent Contract to be regiſtrat in þe faldis Bukis of Counſale, and þe faldis Lordis to interpone þair auctorité þairto; promittand⁵ to abyd ferme and ſtabill, &c. IN WITNES of þe quhilk thing, bayth þe faldis pairteis and Curatours abowewritin, for þair intereis, hes ſubſcriuit þis preſent Contract with þair handis; and als DAME JONET BETOUNE,⁶ þe relict of þe ſaid vñq⁷ *Sir Walter*, hes, in ſigne of hir couſent to þe premiſſes, ſubſcriuit þe famin with hir hand, day, zeir, and place foirſaides, befor þir Witneſſis, *Sir James Douglas of Drumlanrig, knycht, Johne Stewart of Trocquair, Patrik Murray of Fallowhill, Murray of Cokpule, and Thomas Sinclair*, Writter to þe Previe Seal, with vþeris diuerſe.

[*Sic ſubſcribitur*] WALTER KER OF CEFURD. WALTER SCOT OF BUCKLEWCH. JANET BETOUNE, LADY OF BUCKLEWCH. JAMES.⁷ THOMAS SCOT OF HANNG. M. JOHNE SPENS, Curatour abowewritin. JOHNE MAXVELL. J. BELENDENE, as Curatour. ROBERT SCOT OF THIRLSTANE,⁸ with my hand at þe pen, led be *David Laudé*, Notare Publict.⁹

III. BAND *ſubſcriuit* at KELSO, be THE BARONIS, &c. of the Schereflomes of BERWIK, &c. 6th April, 1569.

(THE Editor believes that little apology will be deemed requisite for once more encroaching on the limits of this work. In his desire to preserve, in this place, the following remarkable document, the original of which is deposited in the General Register House, Edinburgh. The reader will readily perceive, that it is chiefly from an extensive perusal of such original and authentic Papers, that he can expect to arrive at a minute knowledge of the internal state of Scotland during the darkest periods of our History.)

BE IT KEND till all men be þir preſent letteres, WE THE BARONIS, landit men, Gentilmen, Inhabitantis of THE SCHEREFDOMES of BERWIK, ROXBURGH, SELKIRK, PEBLIS, and Provetſis and Baillies of Burrowis and Townis within þe falds boundis, in name of þe Inhabitantis of þe famyn, vnder-ſubferiand, to be bundin and obleift, and be þe tennour heirof, bindis and obleiſſis ws to þe KINGIS MAIESTIE, oure ſouerane lord, and his deareſt couſing JAMES ERLL OF MURRAY, Lord Abernethie, REGENT to his lienes his realme and lieges, as followis: THAT IS TO SAY, ſforſanekill as my fald

¹ Without. ² Each other. ³ Without. ⁴ In all deeds where a clause for Registration is inserted, a blank is left to insert the name of the Procurators. In the present instance, all the parties appeared personally, with the exception of the Duke, who had granted a procuration to the person whose name is filled up, according to custom, in the Register. ⁵ Promising. ⁶ This able Lady has been rendered immortal by *Sir Walter Scott*, in his *Lay of the Last Minstrel*. She was daughter of *John Beaton of Creich*, and possessed the hereditary abilities of her family to such a degree, that the superstition of the vulgar attributed them to magic. After her husband's murder, she rode at the head of her Clan. ⁷ James Duke of Chastelherault, who uniformly adopted this princely mode of subscribing his name. ⁸ Ancestor of Lord Napier; a better swordsman than an expert clerk. ⁹ It was by no means unusual, at that period, that persons of considerable rank were but indifferently skilled in scholarship. All business of importance was of old transacted by churchmen or notaries; the office of which last was frequently performed by priests, who thereby added considerable emoluments to the revenues of their monastery.

lord Regentis grace hes at all tymes, and specialie fen his acceptatioun of þe regiment of þis realme, takin greit and paynefull travellis in þe quieting of þe bordouris pairfof, and namelie of þe rebellous people Inhabitantis of þe cuntreie of LIDDSDAILL, and vtheris Thevis, AND we having regard to the innumerabill flanchteris, fyre-rafigis, heifschippis, and detelabill enormities, dalie committit be þame vpoun þe peceabill and trew subiectis of þis realme, in tymes bipaft, quhairin þai ar nocht abill to execute þair crueltie, gif we, in þe feir and obedience of God and our fouerane lord, aufauldie¹ concur togidder to refit þame, THAIRFOIR we, and euerie ane of ws, underferivand, be thir present letteres, avowis and declairis our selfis obedient subiectis to THE KINGIS MAESTIE, oure onelic fouerane lord and his authoritie, and professit inymeis to all Thevis, Inhabitantis of THE CUNTRIE OF LIDDSDAILL, ESKDAILL, EWISDAILL, and ANNANDERDAILL; and in speciall, to all perfonis of þe fainames of ARMESTRANG, ELLOT, NIKSOUN, CROSER, LITTILL, BATESOUN, THOMSOUN, IRWING, BELL, JOHNNESTOUN, GLENDONYNG, ROUTLAIGE, HENDERSOUN, and SCOTTIS OF EWISDAILL, and wperis notorious Thevis, quhair cuir þai dwell, and to þair wyffis, bairnis, tenentis, and seruandis; Obliffand ws, þat we nor name of ws at ony tyme heireftir, fall reflet, fupple, or intercommoun with ony of þe faldis Thevis, þair wyffis, bairnis, or seruandis, or gif þame meit, drink, hous, or herbery; or fuffler ony meit, drink, or victuallis to be bocht, had, or cairit to þame, furth or throw our landis, baillieries, townis and boundis, quhair we may lett:² Nor ʒit fall we tryiit or haue intelligence with þame, in previe or apairt, without knowlege and leif of THE WARDANE obtenit to þat effect: Or fuffler þame to refort to Marcattis or tryiitiss, throw oure boundis: Nor ʒit permit þame, þair wyffis, bairnis, tenentis, or seruandis, to dwell, remane, or abyde, or to pasture þair gudis³ vpoun ony landis outwith LIDDSDAILL, except fic⁴ as within viij dayis eftir þe dait heirof, fall find fufficient and reponfall fouerties⁵ to THE WARDENIS OF THE MARCHES and their clerkis, that þai fall reforme all enormities committit be þame in tyme bipaft, and keip gude rewle in tyme cumming, and be obedient to þe Lawis, quhen þai falbe callit vpoun: AND all vtheris not findand þe fald fouertie, within þe fald space, we fall persfwe to þe deid with fyre, fwerd, and all vther kynd of hostilitie, and expone⁶ þame, and all þing in þair poffeffioun, in pray to þe men of weir, as oppin and knowin inymeis to God, THE KING oure fouerane, and this Commoun-weill, without fauour, affurance, or freindschip. Renunceand all kyndnes, Bandis, promeiffis, affurances, and conditionis, þat we or ony of ws hes enterit in with þame, in ony tyme bigane, befor þe dait heirof, as we will anfuer to God, and vpoun our dewtie and allegeance to our fouerane lord his authoritie, and Regent foirfald. AND in caife we failʒie in ony pairt of þe premiffis, or revelis not þe contravenaris of þis BAND, gif we know þame, we ar content to be pveinit pairfoir, according to THE GENERAL BAND, and panis content pairin. AS ALSUA, in caife in þe refiftence or perfute of ony of þe fald Thevis, it fallhappin ony of þame to be flane and brint, or ony of ws and our freinds to be harmit be þame, we fall cuir efteme þe qwerrell and deidlie Feid equal to ws all, and fall nenir aggré with þe fame Thevis, bot togidder, with ane confent and avyfe: And in þe menetye fall tak afauld, trew, and plane pairt, ilk ane with vther, and specialie, fall affist THE LARD OF BUCKLEWCH, and vtheris LARDIS maift ewest⁷ to þe faldis Thevis, at all occasionis convenient. THIS our present BAND quhill þe first day of August nixtoom in full effect and force inviolable to endure, to þe effect a perpetuale

¹ Sincerely; heartily; literally, *one-foldly*, without duplicity. Even to this day, *two-fold*, *two-faced*, &c. are employed to denote *double* or *deceitful* persons.

² Hinder.

³ Flocks of sheep, or cattle.

⁴ Such persons.

⁵ Cautioners.

⁶ Expose; give them up.

⁷ Nearest in point of local situation. It must be

confessed, that this very remarkable Document gives rather an unfavourable view of the state of the *Borders* at the commencement of the reign of King James VI.; but reference to other 'Bands' and State Papers, which are faithfully conveyed to the public in the works of *Sir Walter Scott*, *Redpath's Border History*, and similar sources of information, prove the picture to be correct and unexaggerated. The influence of THE KING and his Lieutenants was but small, when opposed by the more powerful Barons; who could, in an incredibly short space of time, by means of their signal-fires, &c. alarm the country, and gather a prodigious force, with which they could easily overwhelm the royal troops. The usual policy of the Crown, therefore, was to appoint, as WARDENS OF THE MARCHES, the most stirring spirits of the time; who, vain of their 'brief authority,' were cajoled into the measures of the King and Council, and thus preserved 'gaid rewle' on the Border. The private Feuds of the several Clans were also turned by the Government to good account; and by means of such 'Bauds' as the present, the more unruly tribes were kept in check.

and payfte ordour anent þe repreffing of þe faidis Thevis may be takin in þe menetyne. IN WITNES QUHAIROF, we haif subferyuit þe famyn with our handis, as followis, AT KELSO, þe sext day of Aprile, the 3^eir of God I^m.V^c. three fcoir nyne 3^eiris.

S ^r NICHOLAS RUTHERFURD of Hundoley,	ANDRO KER.	ALEX ^r L. HOME. ¹
knytt.	GILBERT KER of Prinsydouch.	WALTER KER of Cesford.
JHONE RUTHERFURD of Hunthill.	JHON EDMESTOUNE of yat Ilk, knytt.	BUCKLEWTH, knytt.
JHONE MOW of yt Ilk.	WILLIAME DOWGLAS of Cavets.	THOMAS KER of Feruhirst.
RICHARD RUTHERFURD, Provost of Jedbur ⁴ .	JHONE HALDANE.	WILLIAME KER.
JAMES SCOTT, Baillie of Selkirk.	THOMAS TRUMBELL of Bederowll.	PATRIK MURRAY of Faulahill.
JAMES GLEDSTANES of Coklaw.	RICHARD RUTHERFURD of Edzerstone.	WALTER KER of Dolphinstone.
WATT SCOTT in Bellhauch.	ALEXANDER COKBURN.	ANDW.
WATT SCOTT of Tuschelaw.	ROBERT SCOT of Edilstane.	ANDRO KER of fra . . .
HECTOR TURNBULL, Tutor of Myrto.	THOMAS MARGOWELL.	T. CRANSTOUNE of yt Ilk.
CYTHBERT CRANSTOUN of Thirlstaneanis.		THOMAS KER of Nether Howdane.
ROBERT SCOTT, Baillie of Hawyke.		

Sheep-stealing—Common Theft and Reset of Theft.

Jun. 21.—JOK SCOTT, alias callit *Jok the Sukler*, sone to Thome Scott in Nether Braidlie.

Dilaitit of airt and pairt of the thiftious Steilling and away-taking fra Adame Alnouse, ane of the Laird of Chifholmes tenmentis, furth of that pairt of the landis of Chifholme callit Moulle, occupyit be the said Adame, floure scheip pertening to him; committit in the moneth of October, 1612. ITEM, off tua scheip, viz. ane 50w² and ane hog,³ pertening to George Scott, callit of Deringstoun, furth of his landis of Castell-hill; in the moneth of Februar, 1613. ITEM, off ane blak 50w, pertening to Rowie Scott, callit *Rowie of Huttkill*, furth of the Lyn befyde Eilbrig; at Mertimes, 1614. ITEM, off fevin 50w scheip, pertening to James Rowie in Raeburne, sfurth of the landis of Raeburne, in Eskdaillmure; in the moneth of October, 1613 yeiris. ITEM, ffor cownone Thift, and cownone Reset of Thift.

PERSEWARIS, Rowie Eatie, callit James Rowie; Rowie Scott, in Vtterfyde; Walter Scott, his sone; informeris to his Maiesteis Advoeat: Sir Williame Oliphant of Newtown, kny^t.

PRELOCUTOR in defence, Mr Vmphra Blindschellis, Advoeat.

The pannell denyis the hail poyntis of Thift contenit in his Dittay.

ASSISA.

Frances Airmestrang, callit of Andro Airmestrang of the Kirk-	Walter Gleditanes of Quhytelaw.
Kymmouthe, ¹ toun,	Robert Wauch of Hoip,
Williame Airmestrang, his sone, Williame Airmestrang in Nether	Robert Scott in Schellifvoid,
in Gryfhaill, Wrae,	Robert Airmestrang, callit <i>Rattas</i> ,
Alexander Airmestrang in Wallis, George Langlandis of that Ilk,	Williame Airmestrang, callit
Johne Ellote of Fallin-afche, Lancie Airmestrang in Quhit-	<i>Bald</i> , ⁵
Thomas Airmestrang in Gingillis, hauch,	Hectour Trumbill of Clarielaw.

VERDICT. The Assyse, having reffonit and voittit vpon the pointis of the

¹ The two principal columns contain autograph subscriptions, the third is all written in the same hand.
² Ewe. ³ A year-old sheep. ⁴ A descendant of *Kinnmont Will*, famous in History and Border Ballad. ⁵ *Bald*, bold; intrepid. Bald-headed was uniformly written and pronounced *beld*.

Dittay, and being ryplie and at lenth advyfet thairwith, togidder with dyuerse Depositiones product be our fonerane lordis Aduocat, for verificatioun of the said *Jok Scott* his giltines of the saidis crymes; as also, vpon confideratioun had be thame to the sweiring of thais tua pointis of Dittay, fuorne in their presens be the saidis thre perfewaris; thay all, in ane voce, be the mouth of the said George Langlandis of that Ilk, chancellor, fland, pronuncet, and declairit the said *Jok Scott*, callit *the Suckler*, to be flylet, culpable, and convict of airt and pairt of the hail poyntis of Thift aboue specifeit; and of cownone Theft, and Reflet of Thift.—SENTENCE. To be tane to the Mercat-croce of Edinburgh, and vpon ane gibbet thair set vp, to be Hangit quhill he be deid: And all his guidis to be efcheit, &c.

Egyptians or Gipsies contemptuously repairing and abiding within the Realm.

[THE following is one of the instances of the persecution of the once formidable race of GIPSIES, whose numbers were so considerable, as to excite the legislature to make various enactments for their banishment and extirpation. Notice of this pursuit has been preserved in the *Dennyline MSS.* Adv. Library, among various Minutes of the Proceedings of the Privy Council of Scotland, in the following brief memorandum. August 28, 1616. “ANENT that mater of EGIPTIANIS, now lyand in the *Tol-buith of Edinburgh*, thay war only convict for contraveining the Act of Parliament, in not departing furth of the Kingdome; and no vther cryme was layed to thair charge, and no cryme is knawin whair-vpone thay may be challengit. *The Counsell*, according to HIS MA^{TIES} direction, hes gewin Warrant for staying the pronouncing of Dome, till HIS MA^{TIES} farder pleafour be knawin.”

The Editor has found no other trace of the fate of these unhappy creatures; but it is hoped that the King contented himself with ordering their banishment from the country, under the usual certification.]

Jul. 19.—JOHNNE FAA, Egiptiane¹; James Faa, his sone; Moyfes Bailzie, Egiptiane; and Helene Broun, spous to Williame Bailzie, Egiptiane.

Dilaitit of contravening of the Act of Parliament, maid in anno 1609 yeiris, in thair contemptuous repairing to this cuntry, being repute and haldin to be Egiptianis, and abiding thairintill, nochtwithstauding thairof, &c. viz.

DITTAY agaynst Johnne Faa, &c.

FORSAMEKILL AS, be Act of Parliament, haldin at Edinburgh, vpon the xxiiij day of Junij, 1^m.Vj^c. and nyne zeiris, it is expresse provydit, statute, and ordanit, that all Vagabundis, Soimeris, and cownone Thevis, cownonlie callit EGIPTIANIS, fould depairt furth of þe kingdome, and remane perpetuallie furth þairof; and nevir to haif returnet agane within the samyn, nor be fund þairintill, eftir þe first day of August þaireftir, in the foirsaid zeir of God 1^m.Vj^c. and nyne zeiris, vnder the pane of deid; and that it fould be liefum to all his Maiesteis

¹ See Jul. 31, 1611.

guid subiectis, or ony ane of thame, to caus tak, apprehend, impriffone, and execute to death, all maner of Egiptianis, allweill men as wemen, as cowmoun, notorious, and condampned Thevis; only, to be tryit be ane Assyfe that thair callit, knawin, repute, and haldin Egiptianis: As the said Act of Parliament at lenth proportis. NOCHTHELES, it is of veritie, that the foirfaidis perfones, being Egiptianis, sua callit, knawin, repute, and haldin, in contempt of þe said Law and Act of Parliament, as Vagabundis, lies lurkit and remanit within this kingdome, sen þe making and publicatioun of the said Act, and nawayis hes past away furth þairrof: At þe leift, aganis þe tennour of þe said Act, hes, sen þe said first day of August, 1609 ʒeiris, repairit within this cuntrie, and ar tane and apprehendit as Vagabundis, and maisterles lymmeris¹ and thevis, reput and haldin, knawin and callit to be Egiptianis; quhairin thay and ilk ane of thame hes contravenit þe tennour of þe said Act of Parliament, and incurrit þe panes and pwneschment mentionet pairintill; quhilk aucht and fould be inflictit vpon þe thame, with all rigour, to þe example of vþeris of þair race and vuhappie Companie to eschew þe lyk heireftir.

PERSEWER, Sir William Oliphant, kny'. PRELOCUTOR in defence, Mr Thomas Willfoun, Aduocat.

It is allegit be the pannell and thair prelocutour, that the Dittay is nawayis relevant to pas to ane Assyfe, in respect it is nocht subfumat thairintill, that the perfones dilaitit was within the cuntrie, the tyme of the making and the publicatioun of the said Act of Parliament, quhilk is the grund of this persute; nather yit is the pannell tane and apprehendit for ony Thift, Soiruing, or Oppressioun, nor accuset thairfoir: Off all quhilkis crymes, thay ar willing to byde ane tryell: And thairfoir, the Dittay, as it is set down aganis the pannell, can nocht pas to ane Assyfe.—It is anfuert be my lord Aduocat, that the allegiance aucht to be repellit, in respect of the Dittay and Act of Parliament.

THE Justice Repellis the allegiance; and Ordanis the pannell to pas to ane Assyfe.

VERDICT. The Assyfe, be the mouth of Thomas Creichtoun, mercheand in Edinburgh, chancellor, stand, pronuncet, and declairit the saidis *Johnne Faa*, *James Faa*, his sone, *Moyfes Bailzie* and *Helene Broun*, all Vagabundis, and repute and haldin to be Egiptianis, to be ffylet, culpable, and convict of contravening the tennour of the said Act of Parliament.

THE Justice Continewit the prouneatioun of Dome vpon the perfones foirfaidis, quhill he be advyfet with the Lordis of Secretit Counfall: And ordanit thame to be returnit to ward, to the Tolbuth of Edinburgh, in the meyne tyme.

JUL. 24.—SENTENCE. The Justice, in respect na cautioun could be stand

¹ In our old Laws, this term was always applied to denote a worthless scoundrel, a professed thief, or *reiver*. At present it is applied solely to females of loose character.

be thame, for thair departour furth of his Maiefteis dominionis, and that thai fould never retorne agane within the famyn during thair lyftymes, ilk ane of thame vnder the pane of ane thowfeand merkis monei; according to ane Ordinance of the Lordis of Secreit Counfall, direct for that effect, vnder my Lord Chancelloris fubfcriptionn, daitit the xxiiij day of Julij instant; be the mouth of Johnne Dow, dempfter of Court, Ordanit the faidis Johnne Faa, James Faa, his fone, Moyfes Bailzie, and Helene Broun, Egiptianis, and fa reput and haldin, tane and apprehendit, to be tane to the Burrow-Mure of Edinburgh, and thair to be HANGIT quhill they be deid; and all thair moveabill guidis to be efcheit, &c.

Quhill was promuncet for Dome; and that, conforme to the Ordinance of the Lordis of Secreit Counfell, of the dait above expremit.

Slaughter.

Jul. 31.—ALEXANDER DUMBAR of Kilboiack, and others.¹

Dilaitit for the Slauchter of vniq^{le} Alexander Dumbar of Waffield.

PERSEWARIS, James and Thomas Dumbaris, as brether.

THE Justice, for cauffis movinge him, specialliche, that the parties war vnder the termes of aggrement, Ordanit the dyet to Defert.

Usurping his Majesties Authority—Conboration of the Lieges—Murder under Colour of Law, &c.

[THE particulars of this very remarkable and keenly contested Case² are so fully narrated in the proceedings which follow, and in the various Histories of the *Family of Gordon and Sutherland*, that it is unnecessary for the Editor to add any thing farther. It only seems proper to give, in this place, the following notice from the MS. Collections of *Sir James Balfour*, preserved in the Library of the Faculty of Advocates; which, though only relating to the preliminary arrangements, forcibly shows the spirit with which such matters were conducted, even before the Supreme Criminal Tribunal of the kingdom, where the parties were connected with noble and powerful families.—August 28, 1616. ‘THIS day being appointit to THE LAIRD OF GEICHT, *Johnne Gordon, Sheref-depute of Aberdein*, and the rest of thair complices, for thair compeirance before the Justice and his deputis, in the Tolbuth of Edinburgh, to vnderly the lawis for the slaughter of vniq^{le} *Frances Hay*; the Sheref-depute, accompanied with fiv Gentilmen of the name of *Gordon*, and vtheris, came to this burgh, with outwarde thow, and apperance to have presented himselff to his tryell; and by his Petition, gewin in this day to the *Counsell*, he craved Lience to fiv Gentilmen of his name to accompany and affist him at the Bar: Which was grantit to sex perfones selected and maid choife of be himselff. *The Erle of Erroll* came lykwayes heir, for perfute of that mater, he havinge procurit ane Lience from the *Counsell*, convent at *Aberdene*, for his cuming heir; with conditionn that he fould keip his lodging, and not come furth thairof, without the *Counsellis* Warrant. He, be Petition gewin in this day to the *Counsell*, cravit Lience that he might go to the bar, to affist the perfute of that mater; bot, in regard he was excommunicat, it was not thought expedient that he fould go in perfone to the bar, becaus it was suspectit

¹ See Jul. 24, 1611. On Jan. 15, 1617, “Sir Williame Hairt, his Maiefteis Justice, Ordanis the dyet to defert.” Whereupon George Duff, writer, protests for relief of the cautioners, &c. ² See also two entries immediately following this; and especially, that of *George Gordon of Geicht*, Feb. 26, to June 27, 1617.

that the excommunication would be obieetit aganiff him, to debar him from proces: And als, becaus HIS MAJESTIES *Advocat* was pairtlie perfewar in the Letteris, who wald profecute that mater, als weill as if the *Erle* war present. The Court being fenfit, the *Jyftice*, *Jyftice Clerk*, with the hail members of the Court, and the pairteis perfewaris being all present, and the *Sheref-depute* being constantlie looked for to compeir, he notwithstanding abfentit him felf; and is thairfoir declarit fugitiue, and his cautioneris vnlawit.]

Aug. 28.—JOHNE GORDOUN of Clubifgoule, Scherref-depute of Aberdene.¹

Dilatit ffor airt and pairt of the Vfurpatioun of our Souerane lordis royall power and autoritie, in the arrogant and prefumptuous cuming, with convocatioun of ane grit number of his Maieftis legis, vpone the xvijj day of December I^m.^o. and fyftene yeiris, to the duelling hous of *Williame Hay of Logyruif*; and without ony lauchfull Warrant, autoritie, or Commiffioun, puting violent handis in the perfone of vni^q^{le} *Frances Hay*, fone to vni^q^{le} *George Hay of Ardlathame*, bringing him perforce and aganis his will furth of the faid hous, cayreing him with ane grit number of men in airmes to the burgh of Aberdene, as ane captiue and priffoner; committing him in priffone, within the ludgeing of *George Gordoun of Geicht*, ane of his principall takeris, callit “*the Bony Wyfes Ime*,” in the Gallowgait of Aberdene, keiping and detening him in maiff ftrait firmanche thairintill, be the fpace of fourtie aucht houris; nocht fuffering any man of his kyu or freindis to haif accels to him, during all that tyme: Committit be the faid *George Gordoun of Geicht*, *Williame Hay*, his fone in law, *Johne* and *Alexander Gordones*, his brether, *James Baird* his feruand, and vtheris thair complices. Off the fpeciall caufeing, fendeng, hounding out, airt, plane pairt-taking, counfelling, devyfeing, command, affiftance and ratilabitoun of the faid *Johne Gordoun Scherref depute of Aberdene*, and quha, during the tyme of the faid *Frances* impriffonement within the faid *Ime*, refoirtit dyuerfe tymes thairto with the faid *Laird of Geicht*, to countenance and affift the vnlauchfull keiping and detentioun of the faid vni^q^{le} *Frances* thairintill: AND ficklyk, the faid *Johne Gordoun of Clubbifgoule*. pretendit Scherreff depute of Abirdene, being giltie in his own confcience, befor God, of parcialitie and preoccupyt opinioun, and knowing weill aneuch that the tyme of his privilege, gif he ony had, was expyrit: notwithstanding thairrof, to the heich offence of Almightie God, contempt of our Souerane lordis princlie power, and to the grit feandall of the *Justice* of this kingdome, ffor his prefumptuous and arrogant vfurpatioun and affumeing to him felf, with ane evill confcience, of the place and office of the *Criminall Judge*, in prefenting him felf in *Judgement*, and fetting down thairintill as *Judge*, fenceing of Court, and calling and accufeing befor him of the faid vni^q^{le} *Frances Hay*, for the allegit Slaughter of vni^q^{le} *Adame Gordoun*, brother germane to the faid

¹ See Feb. 26, 1617, &c.

Laird of Geicht; and for nocht admitting and suffering prelocoutouris to compeir and defend the said vni^{le} Frances, the tyme of the said persute; bot be the contrair, debarring *Mr Williame Barclay, Aduocat*, quha was reddie to compeir in his defence, and quha had mony guid and sufficient exceptiones to haif proponit, to haif stayit¹ his puting to the knowlege of ane Assyse, for the said allegit cryme; be sending of *George Leslie of Kinragie*, with ane commissioun to the said Mr Williame, discharging him, vpon the perrell of his lyfe, to compeir in the said Frances defence; and assureing him, gif he sa did, fra he war anes down the stair,² thair sould be tuentie quhingeris put intil him: And sua, for debarring of the said vni^{le} Frances, and defrauding him of the benefeit of lauchfull defence, quhilk God and nature hes indifferentlie allowit vnto all men: AND for the maist partiall proceeding aganis the said vni^{le} Frances, nochtwithstanding of the premises, in putting him to the knowlege of ane Assyse of ane number of persones selectit and maid chose of be the said *Laird of Geicht*, persewar, and his freindis, and altogidder adictit to thair mynd and directioun; quha, according thairto, convictit him of the said allegit Slauchter: AND for the partiall and wilfull pronouncing vpon the said convictioun, of the Dome and Sentence of daithe aganis the said vni^{le} Frances, to loife his heid: AND for that effect, maist partiallie and vndentifullie, aganis the office of ane Judge, delyuering of the said Frances bak agane to the said *Laird of Geicht* and his complices, the pairtie persewaris, quha tuik him to thair awin privat prissone; and vpon the morne thairefter, caryeit him furth at ane bak zet, to ane hole betuix tua mottis,³ quhair thay crowned thair tragidie with so butcherlie mangling and demaning⁴ the puir gentill-man, be geving to him sex feneral straikis vpon his schouleris, heid, and nek, as the lyk hes nevir or feldome bene hard or sene: AND sa, vnder the pretext and cullour of law, and scandall of Justice, sfor the crewall and barbarus maffacaring and slauchter of the said vni^{le} Frances, be the said *Johne Gordoun*, seheres-depute, his pretendit vsurpeing Judge; quha thairthrow in a heich degrie hes contemptit and abusit his Maiesteis royall name and autoritie, in making it a cloke and cover to the revenge of the perticuler querrell of him self and his freindis. In maner specifreit and sett down in the criminall Letteris direct aganis him thairuponn.

THE Justice, be the mouth of *Thomas Young*,⁵ dempster of Court, Ordanit *Adame Gordoun* of *Boighoill* (as cautioner and fouertie for *Johne Gordon*'s entry) to be vulawet in the pane of fyve hundreth merkis, for the nocht entrie: And that the said *Johne Gordoun* fall be demuncet our souerane lordis rebell, and put to his hienes horne; and all his moveabill guidis to be escheit, &c.

¹ Delayed; prevented.

² By the time he got down stairs.

³ To a hollow betwixt two

moots or fosses; the ground being probably selected, or constructed, so as to prevent a rescue of the unhappy victim of their barbarity.

⁴ Using; treating.

⁵ Who appears in this office for the first time.

Murder under Colour of Law, &c.

Aug. 28.—GEORGE GORDOUN OF GEICHT,¹ Williame Hay, his sone in law; Johnne Alexander, Robert and Patrik Gordones, brether to the said Laird of Geicht; Johnne Gordoun of Clubifgoule, Scheref depute of Aberdene; Williame Gordoun in the Maynes of Geicht, fervand to the said Laird; Johnne Sinclair, brother to the Laird of Achannachie; Andro Nicolfoun, fervand to the said Williame Hay; Patrik Cantlie in Airdifferie, and Andro Mylne, ffalconer.

Dilaitit for the usurpation of our sowerane lordis authoritie, &c.² at the instance of Mariorie Keith the relict of vmq^{le} *George Hay of Ardlethame*, as mother; George Hay, as brother to vmq^{le} Frances Hay, sone to the said vmq^{le} George Hay of Ardlethame; and of Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our sowerane lord, for his hienes intreis. The said Mariorie, &c. producet the Letteris deulie execute and indorfate; vpon the production quhairof, the saidis perfewaris askit instrumentis, and proteflit for releif of thair cautioneris.

Murder under Colour of Law, &c.

Aug. 28.—GEORGE GORDOUN OF GEICHT, and others above mentioned, and James Baird,³ in the Maynes of Geicht, fervand to the Laird of Geicht.

Sir William Oliphant of Newtoun, kny^t, producet his Maiesteis Letteris deulie execute and indorfate, raifit at his lordschipis instance, as Aduocat to his Maiestie, for his hienes intreis allanerlie.⁴

Forcible Abduction and Marriage of a Minor, without having obtained the lawful consent of his Guardians.

Nov. 8.—SIR PATRIK CHIRNESYDE OF EIST NISBET, Alexander Cranftoun of Burncastell, Johnne Cranftoun, brother to Williame Lord Cranftoun, Williame Home of Hardeifmylne, and Williame Moffet, his fervand.

Dilaitit of violent Rape and Raveifching,⁵ taking, and detening of Adame Frenche of Thornydykis, ane young bairne scarce past xiiij 5eiris of age, furth of the Toun of Hadingtoun; and thairfra transpoiring him to Rymmiltoun-law,

¹ See Feb. 26, 1617. ² As in the previous case. ³ This person is omitted (probably by a clerical error) in the former case.

⁴ Alone; solely. ⁵ These terms, in the Ancient Criminal Law of Scotland, as has been frequently noticed in this work, signify merely the act of carrying off by violence, or against the will of the party so abused. The term employed to denote RAPE, as now understood in Scotland and England, was 'FORCEING.' 'Rapt' and 'Raveifching' only inferred what is at present technically termed 'Forcible Abduction.' A stronger illustration of the meaning formerly attached to these phrases could hardly be adduced than the present Trial.

and thairfra, as ane captiue, to Eift Nilbet; and thairfra to Beruik, quhair, but (*without*) content of Sir Johnne Home of North Beruik, Donatour to the Gift of his Waird and Mariage, he was marcit to Jean Chirneyde, dochter to the said Sir Patrik; committit in the moneth of November, 1615 5eiris.

PRELOCOUTOURIS in defence, Mr Alexander Peiblis, Johnne Belis, Mr Robert Fairlie, Aduocatis.

PRELOCOUTOURIS in perſute, Sir George Home of Manderloun, Sir Williame Oliphant of Newtown.

PERSEWARIS, Sir Williame Oliphant of Newtown, kny^t, for his hienes intreis; Sir Johnne Home of North Beruik, kny^t, as Donatour to the Waird of the said Adame French mariage, for his intreis.

The Aduocat, with Sir Johnne Home of North Beruik, kny^t, as perſewaris, produces the ſummondis. Eftir reiding thairof, the Aduocat produces, for Sir Johnne Home of North Beruik his entreis, the Gift of the said Waird and Mariage of Adame Frenche of Thornydykis.

The Pannell, befor farther proces, deſyres my lord Juſtice to heir Adame French of Thornydykis, preſentlie in Judgement, quha is the perſone allegit ravifchet and tane away, to mak his awin Declaratioun of the forme and maner thairof; and thaireftir, thay ſhall cum to thair Defencis in the cauſe.—My lord Aduocat Diſſentis to ony Declaratioun to be maid be the said Adame Frenche, in this matter; and deſyres the pannell to cum to thair awin allegiances, quhy the fact lybellit ſould nocht pas to ane Aſſyſe.

THE Juſtice Ordanis the pannell to propone thair defenſis aganis the lybell and relevancie thairof.

Adame Frenche of Thornydykis, being perſonallie preſent, diſſentis fra this perſute; and thairupoun aſkit inſtrumentis.

It is allegit be my lord Aduocat, that the diſſenting of Adame Frenche ſould nocht be reſpectit, becaus he is neither perſewar nor defender in the cauſe; and the Aduocat, with the perſewar, haifing ſufficient entreis for the King, may perſew.—It is anſwerit, that my Lord Aduocatis anſwer touching the perſute, movet be his lordſchip and Sir Johnne Home, nawayis can flay this young Gentilman to diſſent thairfra, *ſed valeat cum proceſſu quantum valere poteſt*.

It is allegit be the pannell and thair prelocoutouris, that Sir Johnne Home hes na intreis to perſew this cauſe, being criminall; becaus his only intreis is as Donatour to the waird and mariage of Adame Frenche; quhilk Gift, *per ſe*, can geve him na entreis to perſew criminallie, becaus, be the Gift of Waird, he hes nather entreis *in perſonam neque in rem*: *In perſonam*, becaus this young Gentilman, befor the intending of this cauſe, was paſt fourtene yeiris compleit, and lies electit and choſin Curatouris to him, for adminiſtratioun of his perſone: *In rem*, he has na entreis, becaus howbeit it may appeir be the Gift producet, that Sir Johnne Home is Donatour to the Waird of this young Gentilman, yet, *in rei veritate, res aliter ſe habet*, as Sir Johnne Home will nocht deny, and as ſhall be maid cleir to

the Judge ; in ſa far as (at) the tyme of vmq^{le} Robert French deceis, father to this young Gentilman, haifing tua father-brether¹ on lyfe, viz., James and Johnne Frenches ; James haifing ane cair of the bairnes education and ſtanding of the hous, delt for the Gift of the Waird and Mariage, to the vtillitie of the bairne ; bot, becaus he was nocht hable to difcharge that adminiftratioun of the bairne as become him, in reſpect of dyuerſe trubbillis and cummoris² he come vnto, he makis choſe of the ſaid (Sir) *Johnne Home of North Berwik*, as ane truſtie freind to him and the bairne, borrowis his name to the ſaid Gift, and infertis his name thairintill ; nocht that the ſaid Sir Johnne fould rype³ any commoditie thairof, bot vſeing the ſaid Sir Johnnes name, nocht being hable to difcharge the office him ſelf. For cleiring⁴ of this, it is of veritie, that nocht-withſtanding of the inferting of the ſaid Sir Johnnes name in the Gift, the ſaid vmq^{le} James French intronettit with the hail leving pertening to the ſaid bairne, during his lyftyme, keipit the ſaid bairne in his cuſtodie, at leif was in the cuſtodie of his guddeſchir on the mother ſyde,⁵ within the place of Hardies-mylne, and that but⁶ interruption, challenge, or queſtioun made be the ſaid Sir Johnne, anent the cuſtodie of the bairne, or vplifting of the maillis⁷ and deuteis of his leving : For forder qualification of this argument, it is lykwayis of veritie, that eftir the deceis of the ſaid vmq^{le} James Frenche, vmq^{le} Johnne Frenche, younger brother to the ſaid James, being ſervet and retouret air⁸ to the ſaid vmq^{le} James his brother, nocht only intronettit with the ſaid vmq^{le} James his leving, bot lykwayis with the hail rentis of the ſaid bairnes leving, *Tutorio nomine*, the ſaid vmq^{le} Johnne being ſervet and retouret Tutour to him ; quhairby it is cleir that this Gift of Waird of the ſaid minor can gif the ſaid Sir Johnne no intreis to perſew this cauſe, his name being only borrowit to it, as ſaid is. Lyk as, thair is actioun depending at the inſtance of the bairne and his Curatouris befor the Lordis of Seſſioun aganis the ſaid Sir Johnne for his intro-miſſioun with the maillis and deuteis of his landis, and for transferring and tranſlating of the Gift of the Waird in the perſone of the minor, as tane to his awin behuif, and the ſaid Sir Johnnes name only borrowit thairto. And ſa, haifing nather entreis *in perſonam neque in rem minoris*, his Gift can geve him na intreis to perſew this cauſe. *Secondlie*, albeit it war grantit, as it is nocht, that the Gift was tane to the behuif, utilitie, and proffit of the ſaid Sir Johnne, yet the Gift of the Waird can geve the ſaid Sir Johnne na intreis to perſew this cauſe, being ane Criminall perſute, without the expres concurſe, aſſiſtance, and ratihabitoun of the ſaid minor him ſelf, aganis quhome the Rapt lybellit is allegit to be com-

¹ Paternal uncles.

² Literally *cumbers*, encumbrances, difficulties, embarraſſments ; but in

this inſtance it denotes ſtrife, feud, &c., as the word then denoted.

³ Reap.

⁴ Elucidating.

⁵ Maternal grandfather.

⁶ Without.

⁷ Rents.

⁸ Served and retouret heir.

mittit; quha nocht only refusis to concur and assist the said Sir Johnne; bot, be the contrair, compeiris with the defenderis, and assistis thame; affirmeing all that was done be thame, to be lauchfullie done, and quhat was done to him was at his awin desyre, and be his awin special consent.

It is answerit, be my lord Advocat, and the said Sir Johnne Home, that the said Sir Johnnes entreis is sufficientlie qualifeit and instructit for perfute of the actioun lybellit, seeing it is lybellit that he is Donatour to the Waird and marriage of Adame Frenche, aganis quhome the hail wrongis lybellit war committit, being our souerane lordis frie lege; and that the custodie and keiping of minoris, quhais landis fallis in our souerane lordis handis be reffone of Waird, properlie pertenis to the Donatour of the Waird and Mariage: Lyk as, it is expresse qualifeit in the said Summondis, that the said minor was in the said Sir Johnnes possessioun mony yeiris befor the tyme lybellit, furth of quhais possessioun it was nocht lauchfull to the defenderis nor name of thame to mell¹ with him, in maner lybellit, nor tak him furth of his possessioun: Lyk as, complent being made of befor be the said Sir Johnne, befor the Lordis of Secreit Counfell, aganis the special persones his away-takeris, viz. Williame Home and Williame Moffet, the said Sir Johnne was flund to be ane partie compliner to call for exhibitioun of the said bairne; in quhais favour ane sentence was gevin and pronuncet, finding and declaring that the saidis Williame Home and Williame Moffet had committit ane verrie grit offence and ane most pernicious and wicket preparatiue and example, in trayning and taking away the said Adame Frenche out of the said Toun of Hadingtoun. quhair he was placet at the scole be the said Sir Johnne: in respect quhair of, the said Sir Johnne hes indoutit rycht and intreis to persew the actioun lybellit; and speciallie, to informe and concur with our souerane lordis Advocat, quha hes special entreis be him self, in his hienes name, to persew the crymes lybellit. As ffor the impertinent² discourse, that the richt of the Waird was tane to the behove of the bairne be the advyse of vni^{le} James and Johnne Frenches his father-brether, that alledgeance is nather relevant nor instructit; and sa, na respect aucht to be had thairto: And yit, to answer to the first part, anent James intromissioun, the allegeance is altogidder irrelevant; for albeit he had intromettit, that establisches na richt of the Waird in his persone, bot the Donatour had sufficient intreis to persew the intromitteris with the maillis and douteis of the Waird landis: And, to mak the matter mair manifest, James deceit within fyftene dayis efter Robert his brother: Lyk as, vni^{le} Johnne was ane actuall seruand to the said Sir Johnne, during his lyf tyme, efter the dait of the said Gift. And as to the last part of the secund allegeance, beiring that the said Adame French disaffentis fra the perfute, and concurris with the defenderis,

¹ O. Fr. *mester*, to intermeddle; to interfere.

² Irrelevant; not pertinent.

affirmyng that all [that] was done to be done of his awin consent, it is anfuert, as of befor, that his difallenging fra the perfute can nocht preiudge ony of the perfewaris: And as to the last pairt of the said allegeance, quhilk appeiris to be proponit aganis the intreis, it is rather affirmatioun that the said Sir Johnne hes intreis nor¹ oppositioun aganis the samyn; and gif it fall pleis the pannell to propone it, as ane defense in the cause, thay fall haif ane direct anfuert; ffor, be the proponing of that allegeance, it is grantit that the Donatour hes intreis; and that he is Donatour, it is verifeit be the Gift product: Bot to mak this matter cleir, it is anfuert directlie, that ane cryme being committit aganis pairteis quha hes intreis, the Confessioun of the pairtie offendit can nevir tak away thair intreis, nather yit the Kingis intreis efter committing of the cryme, ffor, albeit wrang had bene done to ane maior,² and the maior wald renunce the actioun, that can nawayis preiudge the Kingis Maiefties intreis, nor na vther pairtie quha is preiudget; as is cleir in the haill article of the Cod. L. vnica Codice de *Rapto Virginium, et Lege Raptores, C. de Episcopis et Clericis*: And to mak this matter the mair cleir, it is spiciallie declairit be the Act of Parliament maid in October 1612, that the declaratioun of the persone ravished fall nawayis preiudge the Kingis Maieftie of his intreis to perfew the committer of the cryme: And to cleir this matter forder, the said Adame Frenche, eftir his away-taking, be ane Letter, all writtin and subfcraynit with his awin hand, grantit and confessit that he was tane away aganis his will and vndone: as the Letter heirwith product beiris.

To the quhilkis it is anfuert be the pannell, that the allegeances proponit be thame aganis the said Sir Johnne Homes intreis standis relevant, nochtwithstanding of my Lord Aduocattis anfuert; becaus the defendaris affirms constantlie, that of the Law nor Practique of Scotland, the Donatour of the Waird or Mairiage of ony persone hes na actioun criminall competent to him for ony wrang done to the minor, without the concurse of the minor quha is offendit, bot that the Gift of the Waird inferis to the Donatour ony ciuile actioun, *per se*: And howbeit the keiping of the minor during the Waird pertenis to the Donatour, yit gif the minor be past xiiij yeiris, *et sic sui juris*, divertis him self willinglie out of the companie of the Donatour, passis forwardis to the electioun of his curatouris, thair is na actioun competent of the law to the Donatour, for exhibition and delyvering to him of the minor. Lyk as, Williame Home being summoned befor the Counfell, for exhibition of the said Adame Frenche, and being be Ordinance of the saidis Lordis, thaireftir, sequestrat in the handis and custodie of *James Archbijchope of Glasgou*, vpon ane Supplicatioun gevin in be the said Adame him self to the saidis Lordis, the saidis Lordis, be thair Decreit, Ordanit the said Adame to be put to libertie to pas and repas at his plefour, nocht-

¹ Rather than the contrary argument.

² A person arrived at lawful age, or majority.

withstanding of the Gift of the Waird disponit to the said Sir Johnne Home, quhais entreis could be na impediment to stay the said Adames libertie: Lyk as, conforme to the said Decreit, being put to libertie, he frelie, volunterlie, and willinglie repairit to the Place of Eist Nisbet, quhairin he hes remanit senfyne, as to ane speciall freind; and, gif neid beis, the said Adame, be his awin Declaratioun, will declair his intentioun of passing to Eist Nisbet. And for instructing thairrof, produces the bairnes grevis,¹ to be considerit be my lord Justice, desyreing the famyn to be red as ane speciall part of the proces. As to the Letter producet be my lord Aduocat, the said Adame denyis the same altogidder to be his hand writt, and thairfoir na respect fould be had thairto: Lyk as, the said Adame being personallie present, Judiciallie declairis he can nocht wryte; and this Letter producet be my Lord Aduocat was writtin by² his knowlege in *the Guidman of Manderjones* hous, the tyme of his sequestratioun; and in case it war his hand writt, it could mak na faith in judgement, being direct be ane minor. As to the Act of Parliament producet, quhilk is in anno 1612, the alledgeance foundit thairupoun militatis nawayis in this eirand, nather is this perfoite foundit vpon that Act of Parliament; and quhan as my lord Aduocat foundis a perfoite thairupoun, it fall haif the awin answ^{er}.³ *Igitur, &c.*

The Aduocat, for him self, and for the partie, repeittis his former answ^{er}is, with this additioun, that the minor being in the Donaturis possessioun of his Waird and Mariage, lyk as, he was be the space of fyve yeiris befoir the Rapt lybellit, could nocht haif been tane out of his possessioun, in maner contenit in the Summondis; and the away-takeris of him ancht to be p^{ro}ueit accordiing to the desyre of the Summondis. As to the impertinent discourse, that the Waird was tane to the behuif of the bairne, thair is nothing producet to verrifie the famyn; and albeit it war verifeit, it is altogidder irrelevant, in respect of the former answ^{er}; and speciallie, in respect that the Defenderis had na intreis, in maner lybellit, to haif mellit with the minor: And quhairas thair is mentiou maid of the electioun of his Curaturis, thair was na Curaturis chofin the tyme of the committing of the crymes lybellit, quhilk was done in November 1615, the Curaturis being alledget chofin in Julij thaireftir, 1616. And quhair mentiou is maid of the bairnes libertie and sequestratioun, that is nawayis pertinent to this purpos, in respect of the lybell. *Igitur, &c.*

It is allegit be the pannel, that the electioun of the Curaturis be Adame Frenche in July 1616, is sufficient, nochtwithstanding of his away-taking of befoir: and that be reffone that howbeit the Curaturis was nocht chofin befoir

¹ Probably *grievances*. There is marked on the margin of the Record, 'Thir grevis tane vp and keptit be my lord Justice.' ² Without; beside; contrary to. ³ Its own, *i. e.* a special answer to the pursuit so founded.

the allegit Rapt, yit he was maior befor the allegit Rapt, past fourtene yeiris of age, &c. *Igitur*, &c.—It is anfuert thairto be my lord Aduocat and the perfwar, that na refpect aucht to be had, quhiddir he was past xiiij yeiris of age the tyme of the committing of the crymes or nocht, quha being at that tyme in the custodie and keeping of the Donatour to the Waird, and na curatouris chofin to him, the defenderis had na intres to haif mellit with him, as is lybellit. And quhair it is allegit, that the Miffine ufet and producet for the faid Adame, aucht nocht to be refpectit, in refpect of his minoritie; it is anfuert, that the famyn aucht to be refpectit, being all writtin and fubferynit with his awin hand: And to convert that argument aganis the defenderis, na refpect aucht to be had to his Declaratioun, nather be word or writ this day, in refpect of his minoritie. As to the Testimoniall producet for his age, na refpect aucht to be had thairto, for the reffones aboue writtin, fpeciallie, in refpect he was baptizet the xij of November, 1601, and was tane away in November 1615. fua that it is nocht conftant¹ thairby, quhiddir he was past xiiij yeiris or nocht the tyme of the Rapt lybellit. *Igitur*, &c.

It is allegit for the Defenderis, that the Dittay is nawayis relevant to infer aganis thame ony criminall perfute, nather can thay pas to the knowlege of ane Inqueift thairfoir; becaus the fact contenit in the Dittay, it is *vel Raptus vel Plagium: Raptus*, of the Law, it is nocht; becaus *raptus et raptura* of the Law is only concerning Virginis, and nocht more. *Cap. de Raptu Virginum, toto titulo*:—Bot quhiddir it be *vel Raptura vel Plagium*, yit the Dittay is nocht relevant, becaus *ad crimen Plagii vel Raptura, oportet accedat et interueniat eis et violentia: Oportet de jure ut deportatur de loco in locum, clandestinè, violenter*, and that his freindis and kinefimen be debarrit fra haifing accefs to him, quhairby he is depryvet of the libertie of ane frie ledge: Bot fa it is, that nane of thir periculicris, without the quhilkis the Dittay can nocht be relevant, is fet down in this Dittay; ffor firft, thair is no violence nor violent fact fet down thairin; it is nocht lybellit that he was violentlie, quyetlie, and clandestanlie tranfpoiritit fra place to place; or that he was detenit, *quafi in carcere*; or that he was debarrit fra his freindis, or fra haifing accefs to his freindis, or thay to him; bot be the contrair, it is affirmet in the Dittay, that he frelie, volunterlie, and willinglie past with Williame Home, his mother-brother,² out of the Hous of Mr Williame Bowie, quhilk inferris a frie away-cuming, being with his mother-brother, and nerrest of his kyn, haifing na kyn of the father fyde knawin to him: And fa, the Dittay is altogidder irrelevant. As to that pairt of the Dittay, beiring that the remanent defenderis are airt and pairt thairof, thay can nocht pas to ane Affyfe vpone that point of the Dittay; becaus, gif thair be nocht

¹ Clear; apparent.² Maternal uncle.

ane cryme committit be the principallis, nor a relevant cryme fet doun aganist thame, the perſones can nocht be alledgit to be airt and pairt thairof; and albeit it war relevant for the principallis, it is nawayis relevant aganis the remanent perſones, as airt and pairt; becaus airt and pairt, of the Law, is, *qui prodet vel auxilium vel conſilium; auxilium, vel ante factum, vel in facto, vel poſt factum*: Thair is nather *auxilium* nor *conſilium* relevantlie lybellit aganis thir defenderis, *neque ante factum, in facto, vel poſt factum*; for thair is nothing lybellit aganis thame, bot that he was firſt tranſpoirtit to Rymmiltone-law, and thaireſtir to Eift Niſbet; and that thaireſtir he was mareit to Jeane Chirnefyde, quhilk is na qualificatioun of violence *cum matrimonia ſunt libera de jure*; and the mariage of ane minor, eſtir his complet age of xiiij yeiris, quha hes *conſenſum* of the Law, can nocht be comptit ony violent fact, becaus it procedis of his awin propper fact; ſpeciallic, ſeing the mariage procedit vpon the Proclamatoun of his bands, publictlic, in the parochie kirk, quhilk takis away the grund of the argument of violence vſet aganis him. *Igitur, &c.*

It is anſwerit be the perſewaris, for verifeing of thair Summondis, and hail memberis thairof, that the ſamyn is verrie relevantlie conſanet, and aggreis with the Lawis and practique of the realme of Scotland, Ciuile, and Commoun Law, and Lawis of all Nationis maift ciuile, England and ſfrance; and thir anſweris ar proponit be him to verifie all the memberis of the propoſitioun contentit in the Summondis, and to elyde¹ the exceptiones proponit be the pannell, baith for the principallis, and thais that ar callit for airt and pairt: And as to the firſt member of the propoſitioun, the perſewaris alledges, that the ſamyn is ſufficientlie verifeit be the hail article of the Cod. L. nono, Tit. 20. ad Legem Fabiam *de Plagiariis*; lyk as, be the Lawis and practique of this realme, the taking of ony frie perſone is capitall, and ſumtyme thoct to be treſſonable: It was fund to be capitall aganis *George Meldram of Dumbreck*, for taking of *Mr Alexander Gibſone*; lyk as, he was perſewit and pwneit to the death thairfor: *The Marquis of Huntlie*, and *the Erles of Craufurd* and *Bothwell*, war perſewit criminallie, for the taking of vniq^{le} *Thomas Maiſter of Glammes*, and put to the knowledge of ane Inqueit. As concerning the Ravifcheing, that pairt is verifeit to be capitall, be the Act of Parliament maid in the dayis of King James the Fyft, of worthie memorie, in the moneth of Marche, 1540, cap. 118; and ſicyk, be the foirnameit Act, in October, 1612; be the Ciuile Law, the ſame member anent the Ravifcheing is capitale, toto Titulo et Lege vnica *de Raptu Virginiuum* et Lege *Raptors*, Codice *de Episcopis et Clericis*: And albeit the ſaidis Lawis chieflie makis mentioun of violence committit aganist Wemen, yit the Gloſs and hail Jurifconſultis reſolues, that the ſame lawis hes place quhair ane man is ravifched:

¹ Cut off; redargue. Lat. *elidere*.

And albeit na violence war lybellit, yit thair is sufficient circumstances lybellit to infer the violence; beiring directlie, that quhan the said *Adame Freuche* desyret to be bak agane to Hadingtoun, the principall perones defenderis, at the leif *Williame Home, Alexander Cranftoun of Moriestoun, and Williame Moffet*, of the speciall causing, counfalling, and devyfeing of the hail perones contenit in the Summondis, had the said Adame in thair power, and tauld to him panielie that he fould nocht returne, bot that it behovet him to go to Eift Nisbet, to marie the Lairdis dochter; and this was done be thame, eftir that the said Adame was tane and apprehendit be the said *Williame Home*, (and) was craftilie movet, persuaidit, and intyfet to pas with thame furth of Hadingtoun, of intentioun to haif visseit *Margaret Hailie*, his guidame, and siteris, albeit that was nocht thair intentioun; bot that followit quhillk thay proponit to thame felffis frome the begynning, to keip him in thair handis quhill he war mareit with *Eiji Nisbetis* dochter: Lyk as, he was quyetlie and secreitlie convoyit and cayreit fra Hadingtoun to Rynniltone-law, in the Merse, than the duelling-hous of the said Alexander Cranftoun of Moriestoune, and thairfra, be the said *Williame Home, Alexander Cranftoun, Johnne Cranftoun, and Williame Moffet*, to the Place of Eift Nisbet; and thairfra, furth of the realme of Scotland, to the Toun of Beruik in England, quhair he was secreitlie mareit *claudestinè*: Quhillk ansuer is sufficient to infer the conclusioun of the lybell, in respect of the circumstances contenit in the Dittay: And yit to mak the Dittay relevant, of the Law, albeit thair war na violence lybellit, quhan pairteis are seducet and intyfet, the cryme remanis capitall, as is contenit in the lybell; and alleges Godfredus, ad dictam Legem *Raptores*, et Bald ibidem; Farinacius de *Delictis carnis*, quest. 146, Tit. 16, numero 40; Chesla. de *consuetudine Burgund.* Rub. 1, pag. 57; Salicotus ad dictam Legem vnica, Cod. de *Raptu Virginum*, quhais woirdis ar thir schortlie, ‘*quod persuasio dolosa, in talibus, plus est quam violenta tractio.*’ Forder, be ane expres Statute maide be Henrie the Third of France, it is ordanit, that quhosoieur fall be fund to haif subornet or intyfit ane chyld, minor, and withiu xxv yeiris of age, without consent of thair parentis, or vtheris in quhais custodie thay ar, falbe pwneit to the daithe, without ony pardoun. This Law was set down, *per expresse*, in the grit Code of the said King Henrie, Lib. 60, Tit. 2^o, Stat. 8^o. Lyk as, in the sevint buik of Papon. de *crimine Raptus*, it is exprellie sfund and declairit, that ane Woman, for seduceing or intyfeing of ane young man to marie hir dochter *claudestinè*, was condampnit to the daithe. Lyk as, be the Lawis of England, this cryme is pwneit with fyve yeiris imprissonnement, and ane grit fyne at the Princes will; and this Law was set down quhair ony persone is ravischet fra thair parentis, tutouris, or guardianis: And of this Law mentioun is maid in the 555 leif of the Registar of the Lawis

of England. Julius Clarus, § *Raptus*, num. 6, ait, ‘*Raptum viri etiam puniri pena Raptus, ac si Virgo rapta esset.*’ Be the Lawis of the Maieftie of Scotland, *Quon. Attach. cap. 95, de Raptu heredis Maritajium debentis, et ejus pena*, &c. Be the felf fame Law of the Maieftie, in findrie pairtis, Ravifcheing of Men or Wemen, whois Mariage pertenis to the Prince, is appointit to be criminallie perfewit befor the Juftice. And laft, Ravifcheing is fa odions ane cryme in Scotland, that the famyn is exceptit furth of Remiffiones, as ane cryme maift haynous and deteftable.—In refpect of the quhilkis alledgeances, proponit for verificatioun of the propofitioun contenit in the Summondis, the Dittay is relevant aganis the haill perfones on pannell. And that pairt of the lybell, ‘airt and pairt,’ is verrie relevant aganis all perfones, and fpeciallie appointit to be lybellit be Act of Parliament; and the Law is verrie expres in that, that all the perfones that concurris and affiftis the fact quhilk is capitall, ar all culpable as the committeris thairof: Bot in this caice, it is lybellit expreflie, that Williame Home and William Moffet intyfet and tranet¹ the faid Adame furth of Hadingtoun, and convoyit him to Rymmiltounelaw, quhair he was reflaut be the faid Alexander Cranftoun; quhilk Alexander and Johnne Cranftoun convoyit him thairfra to Eift Nilbet, and thairfra altogidder to Beruik, quhan he was mareit *claufejunè*, as faid is, and reflaut be the faid *Laird of Eijt Nijbet*, and keipit be him quhill he mareit with his dochter, purpoillie done to preindge the faid Sir Johnne Home of the double avail of his Mariage; quhilk makis the haill pannell nocht only to be affifteris of the fact, bot airt and pairt, and direct doaris thairof. And to verifie that he was feduct, intyfet, and cayreit away aganis his will, repeittis the foirfaid Letter, all writtin and fubferyuit with his awin hand; and the Decreit gevin to the Secreit Counfall, finding ane wrang done, be the away-taking of him. And thir argumentis ar proponit, nocht only to verifie the propofitioun of the Summondis, bot alsò to elyde the exceptiones proponit be the perfones on pannell aganis the relevancy of the Dittay.

To the quhilk it is ANSWERT be the perfones on pannell and thair prelocoutouris, that the pannellis allegeance proponit aganis the irrelevancy of the Dittay ftandis relevant, nochtwithftanding of all the arguments proponit be my lord Aduocat aganis the famyn: for, as to the Lawis Civile, French Lawis, Inglis (Lawis, and) Municipall Lawis of this realme, thay ar verrie pertinentlie citit be my lord Aduocat, for confirmatioun of the propofitioun of the Dittay, and to infer the conclusioun thairof, gif the fubfumptioun war relevant, quhilk is *factum*; for it is nocht contravertit with² my lord Aduocat, that *Raptus Virginis*, Ravifcheing of wemen, *vel crimen Plagij*, as the taking of his Maieftis frie lege, is capi-

¹ Trained; led away craftily, or by stratagem.

² It is not controverted, even according to the doctrine laid down by the Lord Advocate.

tall of the Law, and may be criminallie perfewit at his Maieftes Aduocatts instance; bot the queftioun in this judgement¹ is, quhidder gif this pannell haif committit ony of thir crymes, at the leift quhidder the famyn be relevantlie lybellit to infer the cryme cravet; ffor his lordfchip will nocht deny, that of the Law, to aither of thir crymes thair aucht to intervene *vim et violentiam*, and the remanent circumftances allegit be me ofbefoir, viz. *Abductio per violentiam*, *Deportatio de loco in locum clauftrine*, *Seclufio parentum*, quhairby nather of thame fould haif accels to the pairtie ravifchet, and detenit, and withhaldin fra thair kyu and freindis, *quafi et tanquam in carcere*; fua that without thir circumftances concur in this caice, it can nather be *Raptus* nor *Plagium*; and confequentlie, they can nocht pas to the knowlege of ane Affyfe thairfoir. As to the instances citet be my lord Aduocat, betuix *Dumbrek* and *Mr Alex^r Gibfone*, nixt betuix vniq^{le} *Thomas Majfer* of *Glammis* and *the Erles of Huntlie, Craufurd*, and *Bothuell*, thay militat nathing in this caice; ffor as to *Dumbrek*, he exprellie committit *crimen Plagii*, in taking of the Kingis Maieftes frie lege, quyetlie and clauftrinlie, by² all his freindis knowlege, be plane violence and force, being accompaneit with ten or tuelf perfones in hofteill and weirfair maner, with wappones prohibeit to be borne or worne, tranfporiting of him from place to place vnder nycht, debarring his freindis to haif acces to him, and be carieing him to the Caftell of Harbottill, in Ingland; fua that the pwneifchment inflictit vpon him was dew, according³ to the fact. As to the fecund instance, anent *the Majfer of Glames*, it lykwayis far les militatis in this caice, ffor it is not-tour, as my lord Iuftice, his Affeffouris,⁴ and my lord Aduocat knawis rycht weill, that *the Erles of Huntlie, Craufurd*, and *Bothuell*, being banded againft the Kingis Maieftes authoritie, deprehendit *the faid Majfer of Glammis*, in the Kingis Maieftes high way, chaiflit him to the Hous of Kirkhill, and pat flyre thairto, quhilk inferris *crimen Plagij* of the Law, and ane gritter punefchment: And as to that part of the Dittay, heiring that the faid Adame was intyfet and feducet, that is nawayis relevant to infer ane cryme, ffor fraud is nocht capitale, of⁵ the Municipall Law of this realme, nor yit according to⁶ the practique of the fame: And as to the Lawis citet to infer the famyn to be *crimen capitale*, and fpeciallie the Law of the Maieftie, *Quou. Attach.*, I oppone⁷ the daylie cufrome of this Judgement, the Municipall Law of this realme, and fpeciallie the Act of Parliament in anno 1612, ffor it is exprellie fet down in the Dittay, that the faid Adame Frenche come with the faid Williame Home out of the faid Mr Williame Boweis hous, the famyn can infer na Rapt; nocht only

¹ Court; tribunal. ² Without; against; beside. ³ Corresponding; conformable. ⁴ It was the uniform custom, in all cases of difficulty and interest, for several Members of the Privy Council to sit in judgment with the Justice, as Assessors. Their names are only occasionally inserted in the Record in remarkable Cases. ⁵ According to. ⁶ Corresponding with. ⁷ Oppose.

for the argumentis, that he was, *fai juris*, past the age of xiiij yeiris, bot his being in companie with his kynsmen, can nocht infer ane Rapt, specciallie, quhair he is nocht detenit *per vim nec violentiam* fra the presens of his freindis. And quhair as, my lord Aduocat affirmes the Mariage to haif bene clandestine, and sa, nocht lanchfull, the contrair is affirmit—it was nocht clandestine; becaus thair preceidit Proclamatoun of Bandis,¹ the mariage was maid publiclie in the parochie Kirk, within the town quhair the parentis of the Gentilwoman had residence, off the specciall consent and assent of the said Adame; the said Williame Home being present at the time of the geving of his consent, and in companie with him, being his mother-brother. And sua, thair being nathing qualifit in the subsumption of the Dittay to infer ony violence, the pannell can nocht pas to the knowlege of ane Allyse thairfor: for as to thais wordis set down in the Dittay, that thai wald nocht suffer him to pas bak agane, thair is nathing productet to instruct that point of the Dittay, nor na pairt thairof, tuicheing the allegit fact; for, be the Cowmone Law and dinerse Doctouris, sic as Julius Clarus, Baldus, Hostientis, and remanent Doctouris treittand *de crimine Plagij vel Raptu Virginis*, thay conclud the samyn naways to be ane cryme quhairvpon ony pairtie may be accuset criminallie, except thair concur violence and violent deidis to that effect. This is cleir in the Cowmone Law, Digest. *de Incendio, Rapina, et Naufragio*, &c.; sua that the haill Doctouris and Cowmone Law concludis, that *nunquam fit Raptus sine vi et violentia. Igitur*, &c.

The Perfewaris repeatit thair former answers, with the haill argumentis proponit for verification of the proposition of the Summondis: and lykways repeatit the Summondis, and haill pairtis thairof, quhilkis ar relevanttie lybellit, as ane direct answir to the last argument proponit. And as to the consent of the said Adame, answiris as ofbefoir, that ane fact capital being committit, the pairtie aganis quhome the samyn is done may mak na² confessioun nor declaratioun to the prejudice ather of the Kingis Maiestie, or the pairtie interreit.³ *Igitur*, &c.—To the quhilk it is answirit, that the pannell declairis, that as yet thai haif proponit na alledgeance vpon ony contrair Confessioun of the pairtie; bot gif ony sic allegeances he hes to propone, referues the samyn to be proponit *suo loco*: And thairupoun askit instrumentis.

THE JUSTICE continewis Interlocoutour vpon the allegeances foirfaidis, and answiris maid thairto, to the morne, the nynt of November instant. The pairteis and Allyse wairnit. *apud Acta*: And Ordanet the pannell to find Cautioun for thair compeirance the morne, to the effect foirfaid.

The Laird of Eist Nibbet elder, become souertie for the entrie of Alexander Cranftoun of Burnecastell, vnder the panes contenit in the Actis of Parliament.

¹ Bans.² Is not entitled to make any confession, &c.³ Interested.

—The said Alexander become cautione for the entrie of Eift Nisbet, Johnne Cranftoun, Williame Home, and Williame Moffet, the morne, vnder the panes, &c.

Nov. 9.—THE JUSTICE, befor Interloquitour to be pronouncet be him in the matter, Ordanit the perfones on pannell, and fiklyk the said *Sir Johnne Home of North Beruik, knyght*, perfewar, to find cautionn for keiping of his Maiefteis peace, in nocht trubilling and molefting of vtheris,¹ by way of deid, in thair bodeyis, landis, or guidis, vtherwayis nor by ordour of Law and justice, under the panes following, viz. The said *Laird of Eijt Nisbet*, the said *Sir Johnne Home* of North Beruik, and *Alexander Cranftoun*, ilk ane of thame vnder the pane of fyve thowfeand merkis; and the saidis *Johnne Cranftoun* and *Williame Home* vnder the pane of I^m (1000) merkis, for ather² of thame.

James Fanfyde, younger of that Ilk, become plege and fouertie for Sir Patrik Chirnefyde; Johnne, Maifter of Cranftoun, for Alex^r Cranftoun; Alexander Chirnefyde, younger of Eift Nisbet, for Johnne Cranftoun; and the said Alexander Cranftoun of Burne Caftell, for Williame Home, that thair fall keip his Maiefteis peace, and that Sir Johnne Home of North Beruik, kny^t, fall be harmles and skaithles of thame in his body, landis, poffeffiones, and guidis, and onnawayis³ fall be moleftit nor trubillit be thame or any of thame thairintill, nor be na vtheris of thair caufing, fending, hounding out, command, reffet, affiftance, or ratihabitium, quhome thay may ftop or lat,⁴ directlie nor indirectlie, vtherwayis nor be ordour of Law and Justice, &c.

Sir George Home of Manderftoun, Johnne Home, younger of Aytoun, and David Home of Wedderburne, younger, become pleges and fouerteis, coniunctlie and feuerallie, for Sir Johnne Home of Northberuik, that Sir Patrik Chirnefyde, &c. fall be harmeles and skaithles, &c.⁵

(Nov. 20.)—MY LORD ADUOCAT, befor Interloquitour, declairis he will nocht inuft any forder at this prefent, in perfute of the perfones on pannell, for the crymes lybellit: And in refpect of the haynoufnes of the fact, and evill preparatiue⁶ and confequence quhilk may follow, defyres that cautionn may be tane of the defenderis for thair entrie, vpon a fyftene dayis wairning, to abyde tryell for the famyn, &c.—It is allegit be the pannell and thair prelocoutouris, that in refpect of the allegiances proponit, alfwieill dilatour as peremptour in this caufe, and of my Lord Aduocattis anfuers maid thairto, quhilk lysis at Interloquitour, his lordfchip, as perfewer, can nocht be hard to refeill⁷ fra this perfute; nather can the pannell be africtet to find cautionn, feing thay ar willing, vpon my lord Justice Interlocoutour, to defend thame felffis, as accoirdis of the Law: And in all humilitie abydis his lordfchipsis Interloquitour thairupoune.

¹ Each other.² Each.³ In nowise.⁴ Hinder.⁵ In the same terms as above.⁶ Precedent; example.⁷ Resile; draw back.

Mr Alex^r Peiblis, as prelocoutour for Adame Frenche, perfonallie present, produces ane Supplicatioun to my lord Justice, for his lordschipis informatioun in this caus, auent the said Adames passing away flurth of Hadington with the pannell, and that the samyn was of his awin frie will and consent; and defyret the samyn to be red, and to remane in proces; and takis instrumentis vpon the productioun thairof.—It is allegit be my lord Aduocat, that eftir his Declaratioun aboue writtin, that he desiftis fra this perfute, the perfones on pannell, and far les the said Adame Frenche, quha is nawayis convenit, ather as perfewar or defender in this matter, can be sufferit to produce ony informatioun or vther allegeance in this cause; nather aucht my lord Justice to admit the productioun thairof, eftir the Declaratour foirfaid.

The pannell defyret the Supplicatioun foirfaid to be red, befor my Lord Justice geve any Interloquitour, quhidder my lord Aduocat may reseill *pure et simpliciter, vel pro loco et tempore*.—The Supplicatioun gevin vp agane to the pannell, at command of my lord Justice.

THE JUSTICE findis that my lord Aduocat may verrie weill desift fra this perfute and tak vp his proces, seing he is perfewar of the caus; and that, nocht-withstanding of the alledgeance maid be the pannell in the contrair.

The pannell takis instrumentis of the productioun of the former Supplicatioun be Adame Frenche, and that the said Adame Frenche is perfonallie present, reddie to declair, baith be woird and writ, that he past away with his Mother-brother of his awin frie will and consent.—My lord Aduocat, in the contrair, sayis the samyn sould nocht be admittit.

The parties find caution ‘that thai fall compeir befor the Justice, or his deputis, the thrid day of þe nixt Justice-air of the Scheref dome quhair thai duell [“Beriuk”], or soner vpon xv dayis wairning, to vnderly the law for the crymes aboue spicifeit; vnder the panes contenit in the Actis of Parliament.’

Slaughter.

Nov. 13.—ROBERT ROBERTSOUNE, seruitour to James Fawfyde, younger of that ilk.

Dilaitit of airt and pairt of the crewall Slaughter of vmq^{le} Johnne Faufyde, servend also to the said James Faufyde, be streking him in the bellie with ane knyfe, within the barne of Faufyde, vpon the tent day of November instant; quhairof, vpon the twelf day of this instant moneth, he deceiffit.

PERSEWAR, James Faufyde, Younger of that ilk, as maister.

The pannell Confessis the cryme, and craves Godis and the pairteis pardoun, and mercie for the samyn.

VERDICT. The Assyse, all in ane voce, be the mouthe of Johnne Hall in Prestoune, chancellor, ffaid the said Robert to be Culpable and convict of the said crowth Slauchter.—SENTENCE. To be tane to the Castell-hill of Edinburghe, and thair his heid to be frukin frome his body; and all his moveabill guidis to be efcheit, &c.

Falsset—Perjury.

Dec. 20.—ALEXANDER CUIK, Notter, Schereff clerk of Bernik.

Dilaittit of Falsset, committit be him in his office of Notarie, in geving out tua feuerall extractis of ane Seafing, of tua feuerall daittis: And of Periurie, eftir he was folempnelie fuorne, in prefens of the Lordis, to declair the veritie in the premissis.

DITTAY against the Pannell.

FORSAMEKILL AS, it is expresse provydit, itatute, and ordanit, be dyuerse Actis of Parliament, maid aganis falsse Notteris, and falsse periuret Witneffis, that gif ony Notter committis falsset, and beis convict and fund giltie pairof, (he) fall be pwneit to the daithe: And ficyk, qubair ony Witnes depones falslie, fall lykways be pwneit, be pearceing of pair tungis, and efcheiting of all pair moveabill guidis; and forder pwneifchment to be inflictit in the perfone of pe saidis ffals Witneffes, at the sicht of and discreton of pe Judge, according to the qualitie of pe fact: As pe saidis Lawis and Actis of Parliament in thame selfis proportis. Nochtwithstanding quhairof, it is of veritie that pe said *Alexander Cuike*, being imployit as Notter be *Johanne Home of Stedden* for geving Seafing to him of pe Landis of Eifter Pleulandis, giftet and disponit to him be our Souerane lord, as vaikand¹ in his Maiesteis handis be pe forfaltour of vmo² *Frances Erle Botwell*; and that, conforme to ane Precept direct furth of pe Chancellarie to Adame Cokburne, Schereff depute of pe Schereffdome of Bernik for pe tyme, vnder pe Quarter Seill, for geving Seafing to pe said Johnne Home pairof; and to extract and draw furth to him ane Instrumēt pairpoun; the said Alexander maist falslie and erroneoullie, for his awin gane and lucre, extractit out of his Prothogoll³ tua feuerall Extractis of pe foirfaiddis Instrumētis of Seafing, of tua dyuerse daittis, the ane of pe dait pe xxij of Februar 1592, and the vper in anno 1593: As pe saidis tua Extractis producet, vnder pe saidis Alexanderis subfcriptioun, beiris. Lyk as, in regard of pe said falsse Extract of pe foirfaidd Seafing, ane actioun of Improbatioun being intentit, and as zit depending befoir pe Lordis of Sessiou, at pe instance of his Maiesteis Aduocatt, and *Walter, Lord of Boleleuch*, as heritour of pe Lordschip and barrony of Haillis, quhairof pe saidis landis of Eifter Pleulandis ar pairt and pertinent, and lykways at pe instance of *Alexander Haillie*, burges of Edr, as takifman pairof, aganis pe said *Johanne Home*, flor improving of pe foirfaidd Instrumēt of Seafing, extractit be pe said *Alexander Cuike*, and gevin to pe said Johnne Home of the saidis Landis; and pe said Alexander being dyuerse tymes fummound in pe said actioun of Improbatioun, to haif gevin Testimonie and declaratioun pairament; and, in end, compeirand befoir pe saidis Lordis, vpon the tuelf day of December instant, and being examinat in pair lordschipis haill prefens, anent pe trew dait of pe foirfaidd Instrumēt of Seafing, and being folempnelie fuorne to declair pe verritie pairin, the said *Alexander Cuike* than affirmet, constantlie, that pe trew dait of pe said Seafing was vpon pe xxij day of Februar, 1591, to the quhilk he was Notter; and abaidd at pe Extract of pe Instrumēt gevin furth be him to pe said Johnne Home pairpoun; and pairwith declairit that pe vther Extract of pe same Seafing, drawin furth be him to *Alexander Haillie*, beiring dait pe xxij of Februar, 1^{mo}. Vc.

¹ Lat. *vacare*. Fr. *vaguer*.

² Protocol-book—an official Register ordained to be kept by every Notary.

fourfoir threthene, was flafte; AND þe said Alex^r being þaireftir, vpone the xvij and xix dayis of þis infant moneth, re-examinat, in þe saidis Lordis prefens, and folempnelie fuorne to declair þe veritie, concerning þe dait of þe saidis tua Extractis, he varet fra his former Depofitiones, maid impudentlie : Lyk as, his Prothogoll buik was viciat þe him, in þe dait foirfaid, fcoiring out ‘ primo,’ and putting in ‘ tertio ;’ and þairefter fcoiring furth ‘ tertio,’ and wryting agane ‘ primo.’ Quhairin he hes declairit him fellþ to be ane flals and infamous Notter ; and þe his contrair Depofitiones, maid in his examination, to be ane manifet flals and menfioerne Witnes : Lyk as, þe saidis Lordis of Counfell, be þair Decreit, gevin vpone his tryell and Examination, hes fund þe said Alex^r to be ane flals Notter and manifet Perjuret Witnes : As the Extract þairof, vnder þe fubfcriptioun of *my Lord Clerk of Register*, daitit þe xix day of þis infant, togidder with his Depofitiones, maid in prefens of þe saidis Lordis, beiris. LYK AS, for verifeing of his flafet aboue writtin, þair was ane Band maid þe him to the said *Alexander Haillie*, quhairin he obleit him fellþ to stand and abyde at the Inftument extractit þe him, dait þe 23 of Februar. 1593, he procureing his Maiefties Remiffioun for þe fanyu. For þe quhill flafet and Perjurie, committit þe þe said Alexander, he aucht and fould be þwneit to þe dait, in example of vtheris.

ASSISA.

James Levingftoun of Jerifwoid,	Jo ⁿ Keir, mercheand burges, Ed ^r ,	Thomas Malleikyn, mercheand
George Logane of Bonytoun,	Patrik Somervell, mercheand	burges of Edinburghie,
James Nafmyth of Poffo,	burges thair,	James Halyburtoun, mercheand
Joseph Douglas of Pomphartoun,	Robert Halyburtoun, mercheand	burges thair,
Johne Gardin, merchand burges	burges thair,	Jo ⁿ Mitchelhill, mercheand burges
of Edinburghie,	Jo ⁿ Keir, flipper, burges thair,	thair,
James Douglas in Lugtoun,	Johne Reid, indueller in Leyth,	Rob. Moffett, merch ^h burges thair.

The Aduocat takis inftumentis of the sweiring of the Afflyfe : And for verifeing of the Dittay, productet the tua Inftumentis of Seafing, vnder the pannellis fubfcriptioun, baith to ane effect, of dyuerfe daittis : Productet lykwayis, the pannellis feuerall Miiffiue Letteris, direct to *Alexander Haillie*, beirand, that the Seafing extractit to him, of the dait the xxij of Februar, I^m.V^c. fourfoir threthene, was the trew Extract, and that he wald abyde thairat : Productet alfo, dyuerfe Letteris, writtin be the pannell to *Williame Ker*, beirand that the Seafing extractit to him, of the dait the xxij of Februar I^m.V^c. fourfoir elleuin, was the trew Extract, and that he wald abyde thairat : And ficyk, productet ane Letter, direct þe him to the Lordis of Seffion, being feik for the tyme, all writtin and fubferyuit with his hand, teftefeing the said Extract gevin to the said *Williame Ker*, daitit in anno 1591, to be the only trew Extract : Productet alfo, the pannellis Depofitiones, maid þe him in prefens of the Lordis, beiring the Confefsioun of the Extract of the Seafing in anno 1591, to be the trew Extract, and the vther, of the dait 1593, to be flals : And vpone his Re-examination, beiring the Seafing gevin in anno 1593 to be trew, and the vther in anno 1591 to be flals : Togidder alfo with his Prothogoll-buik, alfo productet, quhair it is twyfe mendit in the dait of the said Seafing. And laft, productet the Lordis Decreit, finding the pannell to be ane flafte Notter, and ane manifet

periuert Witnes. And vpone the production thairof, askit instrumentis; as also vpone the pannellis Judiciall Confessioun of the said ffalset.

Quhilk crymes he Confessit, iudiciallie, in thair prefens and audience, to be of verritie; and cravet God mercie for the samyn.

VERDICT. The Assyse, all in ane voce, be the monthe and declaratioun of the said George Logane of Bonytoun, chancellor, stand, pronuncet, and declairit the said Alexander Cuik to be ffylit, culpable, and conviet of the saidis crymes, spcifeit in his Dittay.—SENTENCE. To be tane to the Mercat-croce of Ed', and thair, as ane ffalfe Notter and Periuert Witnes, to be Hangit vpone ane gibbet, quhill he be deid; and all his moveabill gudis to be escheit, &c.

[*Sir Williame Heart of Preftonme, Justice-Depute.*

ASSESSOURIS TO THE JUSTICE, nominat be the Lordis of Secreit Counfell, conforme to thair lordschip Actis of Counfell, daitit the xx of Februar, 1617.

Sir Richard Cokburne of Clerkingtoun, kny';	Sir Alexander Drummond of Meidhope, kny';
Lord Previe feill;	Sir Andro Hammiltoun of Reidhous, kny'; and
Sir Williame Levingftoun of Kilsythe, kny';	Sir James Skene of Curriehill, kny'; ¹]

Usurping his Majesty's Authority—Murder under Colour of Law.

Feb. 26, 1617.—GEORGE GORDOUN of Geicht.

Dilaitit of Vfurpation of our fouerane lordis autoritie, in the violent and vnlauchfull taking of vmq^{le} Frances Hay, sone to vmq^{le} George Hay of Ardlethame, flurth of the Place of Logyrnif, pertening to Williame Hay, ffiear of Brunthillis, his brother-in-law, vppone the xvij day of Decembre, 1615 yeiris; bringing him as ane captiue and priffoner to the burgh of Aberdene; keiping and detening him in captiuitie, in a priuat hous or ludgeing of the said Laird of Geicht, within the Gallowgait, callit 'the Bony wyfe's Inn,' for the space of flourtie aucht houris, or thairby, &c.²

PERSEWARIS, Sir Williame Oliphant of Newton, kny', Adnocat to our fouerane lord, for his Maieftieis intreis; Mariorie Keith, as mother to the said vmq^{le} Frances Hay.

PRELOCOUTOURIS in defence, The Laird of Clwny, (Alexander Gordoun,) the Laird of Strathdoun, Mr Thomas Nicolfone, elder, Mr Alexander Peibles, Mr Robert Fairlie, Adnocattis.

The JUSTICE and ASSESSOURIS, with the advyse of ather partie, allweill perfewar as defenderis, continewis this dyet to Fryday nixt, the last of this instant. The perfones of Assyse wairnet *apud Acta*; ilk perfone vnder the pane of three hundreth merkis.

Alexander Gordoun of Clwny become fouertie for the entrie of the said Laird of Geicht, &c., vnder the pane of ffyve thowfeand merkis money.

¹ All ordinary Lords of Session, with the exception of Sir Alexander Drummond, who was an Extraordinary Lord. ² See Aug. 28, 1616, where the Dittay is inserted. The great importance of this remarkable Case induces the Editor to preserve all the useful information which is to be gathered from the Records.

[*Sir Williame Heart and Mr Alexander Colvile, Justice-Deputes.*]

PERSEWARIS, Sir Williame Oliphant of Newtoun, kny^t; Mariorie Keith, as mother; George Hay, as brother to the defunct; Williame Hay, liear of Brunthillis, George Hay, his brother.

PRELOCUTORIS in perfute and fortificatioun thairof, Frances Erle of Errole, Laurence lord Oliphant, My Lord Zeller, Alexander Keith of Ludquharne.

PRELOCUTORIS in defence, George Marquis of Huntlie, My lord of Eglington, My lord Viscount of Lauderdale, My lord Ochiltree, Mr Thomas Nicolfoun, and Mr Alexander Peiblis.

Feb. 28.—THE lord Aduocat product his Maicsteis WARRAND, ament the perfute of the pannell for the crymes contenit in the Summondis, daitit at Quhytehall, the 17 of februlare instant; and defyret the famyn to remane in proces.

Eftir reiding of the Dittay, it is allegit be the pannell and his prelocoutouris, that thair is dyuerse substantiall heidis contenit thairintill, quhilkis ar nawayis inferit in the coppie gevin to thame be the Messinger executour of the Summondis; and product the coppie, subferyuit be the Messinger, for verificatioun thairof: And in respect that na autentik coppie is delyuerit, desyres ane continuatioun of this dyet to the morne, to the effect thair may be advyset with the Dittay, and vpon thair Defennis to be proponit be thame aganis the famyn.—It is answert be my lord Aduocat, that the allegiance foirsaid aucht to be repellit, and na continuatioun fould be grantit, in respect of the Summondis and Executiounes thairof, product, heiring ane autentik coppie to be delynerit to the pannell: And forder, thair was na necessitie to charge the pannell, or to geve him ane coppie of the Summondis, bot only to his cautioneris, quha become fouertie for his entrie to vnderly the law for the crymes lybellit.

THE Justice Repellis the allegiance; in respect of my lord Aduocatis answert.

Thaireftir the pannell, nochtwithstanding of my lord Justice interlocoutour, desyres ane convenient tyme to be grantit to thame to reid and consider the Summondis product: and that thair may haif libertie to remoue thame fellsis apairt, to advyse thairupoun.—Quhilik the Justice grantit; and ordanit the Summondis to be gevin vp to the pannellis prelocoutouris, to be advyset thairupoune.

It is allegit be Mr Thomas Nicolfoun, for the pairt of the pannell, that he did na wrang in taking of frances Hay *privata autoritate*; becaus it is of verritie, that vpon Fryday, the fyftene day of December, immediatlie preceeding the day of his allegit taking, quhilik was vpon the xvij day of the said month, the said vniq^{le} *Fraunces Hay* had flane vniq^{le} *Adame Gordoun*, brother to the pannell, for the quhilik he fled; and sa, the said Laird of Geicht, being the avenger of bluid, viz. the eldest brother of the said Adame, it was lauchfull to him to ferche and seik the malefactor, to the effect he mycht be presentit to the Justice: Lyk as, be Act of Parliament, maid in the dayis of King James the first, of worthie memorie, Parlamento sexto, cap. 89, the Scheref and hail cuntrie is

commandit to ferche and feik the man-fflayer, being certefeit of the Slauchter; and fa, mekill mair mycht the avenger of bluid, be doing na wrang in the taking: Lyk as, eftir the taking of him, he prefentit him to the Schereff but¹ ony hurt of fence, or iniurie done to him: And that it is lauchfull to ony of the people, alfwell as to the avenger of bluid, it is cleir, be ane verrie trew example: ffor gif ane Theiff fleill ony mannis guidis, it is lauchfull to the perfone fra quhome the guidis ar flowin, to convene his kyn and freindis, and raife the cuntrie, and perfew the Theiff fa lang as he is *in fuga*, ay and quhill he apprehend him, or put him out of the cuntrie; and this he may do but ony Warrant of ane Magiftrat; as is cleir and nottour be the daylie practique of the cuntrie: *Ergo*, in this cryme of Slauchter, quhill is of far gritter importance than fleilling of guidis, it was lauchfull to ony of the people, *multo magis* the avenger of bluid, to apprehend the malefactour, and delyuer him to the Juftice: And as it was lauchfull to the pannell to ferche, feik, tak, and apprehend the malefactour, and delyuer him to the Juftice, evin fa it was lauchfull to him to do the famyn with convening of his freindis, (nawayis granting he did the famyn,) and with quhatfumeir airmes: ffor vtherwayis, this abfurditie fould follow, that the malefactour fould efcaip, and the innocent perfone fould be flane; in fa far as, gif the innocent perfone fall preife to apprehend the malefactour airmet with hagbutis and piffolettis, namelie, haifing the benefit of ane houfe, it war eafie for him to fla fic as focht him: and fa he fould nocht be apprehendit. *Secundo*, for this caus he did na wrang, becaus it is ane reule of the Law, that *conceffo aliquo extremo, conceduntur omnia media, per que pervenitur ad illud*; than it is fubfmet, gif it was lauchfull to tak the man-fflayer, as is afoir provin, *ergo*, it was lauchfull to vfe all the midiffis² be the quhilk he fould be taken, baith of airmour and vtherwayis.

It is anfuert be my lord Advocat, to the *firft* pairt, anent the avenger of bluid, thair is nather Law nor reffone can mak *the Laird of Geicht* the avenger of bluid, bot only the Kingis Maieftie, his Juftice, and vtheris haifing power and authoritie of his Maieftie. As for the argument proponit vpon the Act of Parliament maid in the dayis of King James the firft, the allegiance foundit thairupoun is atogidder irrelevant, impertinent, and atogidder repugnant and difconforme to the Act: be the quhilk, it is flatute, that the Man-fflayer fould be perfewit be the Schereff, and the cuntrie to concur; and gif the malefactour be tane be the Schereff, he fould be put in fure firmance, quhill³ the Law be done vpon him; and gif he be tane reid-hand,⁴ to be done with that fone.⁵ It is nevir allegit that the Schereff followit the allegit malefactour, nather that he was

¹ Without. ² Means. ³ Until. ⁴ With the red or bloody hand; instantly after
 commiffion of the fact. ⁵ Sun; day; before sunset of that day.

tane with reid-hand; sua that the allegeance is altogether irrelevant, quhilk is founded vpon that Act, as direct repugnant thairto: And as to that pairt of the allegeance, beirand that the Laird of Geicht tuik and apprehendit the allegit malefactour, that alledeance contenis ane grit abfurditie, haifing nather Warrant, grund, nor fundament, nather of the Lawis of the realme, nor of the Ciuile Law; feing, be the Lawis of this realme, the Schereff is appointit to follow the Mau-flayer; and be the Ciuile Law, it is nocht leifum¹ to ony privat man to tak and apprehend ony perfone, without ane Commiffioun and Warrant frome the Magiftrat: Leg. *Neminem*, Cod. *de exhibendis Reis*, lib. 9, Tit. 3, Leg. vltima, *Neminem exhibendum esse in iudicio precipimus, nisi de cuius exhibitione Iudex pronunciauerit*. Item, Bartolus, ad dictam Legem: Et Domaderius, cap. 15, num. 40, idem afferit: Et toto titulo, Codice *de Plagiariis*: Et lege *Raptores*, de Episcopis et Clericis: Item, Julius Clarus, § finali quest. 31, in principio: Be the quhilkis premiffes, it is cleir, that ane privat perfone, and fpeciallie the pairtie, had na power to tak the allegit malefactour. As to the argument proponit vpon the example of the profecutioun and following of ane Theif, it is altogidder impertinent to this purpois: feing the Theif is followit, *in ipfo actu*, immediatlie eftir the committing of the cryme, with the guidis and geir of the followeris; quhilk is permittit be the Lawis of this realme, be the Actis of Parliament maid thairanent, and the vniuertall consuetude of the fame, it is lauchfull to ony man, in following of his awin guidis and geir, to apprehend the Thevis; and albeit the Theif be flane in the following, the Slayer is maid frie be the lawis of the realme. It is abfurditie to think that the Schereff him felf may follow ony man committer of the Slaucher, and instantlie put handis in him, at his awin hand, *nisi in flagranti crimine*, quhilk is nocht allegit in this caice; and albeit he war tane *in flagranti crimine*, or reid-hand, as the Act of Parliament beiris, the Law ought to be done vpon him within that fone. And quhair it was allegit, that gif it war lauchfull to the Laird of Geicht to perfew or tak him, it was lauchfull to tak him with convocatioun of our fonerane lordis legis, and with wapponis forbiddin: it is anfuerit, that the first propofitioun is altogidder abfurd, in refpect of the first anfuer maid be the perfewaris; and confequentlie, the taking with convocatioun of his freindis, and forbiddin wappones, feing he had na autoritie, nather to tak, nor beir forbidden wapponis: In refpect quhairof, the first allegeance, and haill argumentis thairin contenit, aucht to be repellit.

It is duplyt for the pannell, that his allegeance proponit ofbefoir flaudis verrie relevant, nochtwithftanding of ony anfuer maid thairto; and quhair the faunyn is querrellit,² that thair is no law that makis the avenger of bluid, bot

¹ Lawful.² Disputed; argued.

the famyn pertenis only to the Kingis Maieftie, it is anfuertit, that the pannell makis no queftioun thairin *quo ad executionem*; bot the Law callis him the ane avenger of bluid, *quia habet jus profequendi fecundum formam juris*. As to that pairt, alledgeing the difconformitie betuix the allegiance and the Act of Parliament, it is duplyit, that thair ar verrie conforme; becaus be baith the Actis allegit, the Kingis hail legi ar commandit to coneur and affift the taking of the malefactour with the Scheref, *ergo*, thair was na wrang done, feing the Schereff was in ferching; and in refpect that he could nocht ferche in all pairtis; and the notoriety of the fact, and the maliefactouris fleing, being *in fuga*, and fa taking the cryme vpon him, quhatfoeuer was done be the pannell man be eftemit as concurring with the Sher e speciallie, haifing refpect, that the pannell tuik the malefactour but ony wrang or hurt of his body, or iniurie done to him, and referuit him faif but ony iniurie, quhill he was prefentit to the Schereff. &c.¹

THE JUSTICE, with advyfe of his Affefforis, Continewis all forder difputatioun in this mater to the morne, the firft of March, 1617.—The Laird of Clwy again becomes his furyty.

[*Mr Alexander Coluile, Juftice-Depute.*]

DECLINATURE OF THE JUDGE.

Mar. 1.—It is allegit be the pannell, that Mr Alexander Coluile can nocht be Judge in this caufe, in refpect he is fourtis of kyn to the Countes of Errole; my Lord of Arrole, hir hulband, being perfewar, viz. The faid Mr Alex^r Coluiles grandame was ane dochter of the Houfe of Lochlevin, quha is ane; the faid Mr Alexanderis guidfchir, tua; the faid Mr Alexanderis father, thre; and him felf the fourt: And referris the probatioun of this rekning to Mr Alexanderis awin ayth of verriety.—It is anfuertit be my lord Aduocat, that this Declinatour can nocht be refauit this day, becaus Mr Alexander Coluile, being Juftice-depute in this Judgement, quhilk is ane ordiner and Supreme Jurisdiction, na declinatour aucht to be proponit aganis him; at the leift, na kinreid² fould be ony cauf to declyne him. *Secundo*, the declinatour can nocht now be refauit, becaus the Court being fenfit yefterday, he fitting as Judge, the perfewaris and defenderis compeirand with thair prelocoutouris, thair is ane Interlocutour pronuncet in this cauf; and eftir pronouncing thair of, ane peremptour exceptioun (was) proponit be the pannell aganis ane member of the Dittay; eftir the quhilk, ane declinatour can nocht be proponit.

To the quhilk it is anfuertit be the pannell, that the declinatour exceptioun

¹ It has not been deemed expedient to insert the whole of the arguments of the parties in this keenly contested case, which are extremely prolix, and occupy above sixty pages of the Record. The opening of the pleadings has been given as a specimen of the procedure of the Court at this early period.

² No objection on the ground of kindred or relationship.

standis relevant, nochtwithstanding of my lord Aduocattis twa answers; namelie, the *ffixt* beirand, that Mr Alexander is ane Ordiner Judge of this Court, creat, electit, and suorne; that pairt of the answir *non relevat*; becaus the creatioun and admissioun of Mr Alexander Coluile takis nocht away the pannellis exceptioun declinatour, *ex superueniente causa*, vpon confanguinitie of bluid to the perswar; for than it fould follow, that in an actioun perswrit befor the Lordis of Sessioun, quha are supreme Judges of the laud in ciuile caussis, at the instauce of ane persone, quhais brother is ane of the Lordis of Sessioun, it fould follow that he fould be Judge to his brother, perswirer in the caus perswrit be him aganis ane vther, quhilk can nocht be: As to the *secund* member of the answir, beirand, that the pannell can nocht be hard to propone this Declinatour this day, be reffone that in ane Court haldin yisterday in the samy caus, Mr Alexander sat as Judge, befor quhome the pannell proponit dyuerse exceptiones dilatour and peremptour, aftir the proponing quhairof, the pannell can nocht be hard to propone ony exceptioun declinatour, be reffone that ane exceptioun declinatour is the first exceptioun fould be proponit in judgement; —to the quhilk it is answir, that nochtwithstanding of the said secund answir, the exceptioun declinatour standis relevant aganis the said Mr Alexander Coluile, be reffone thair was ane sufficient judgment and iudicatorie establischet yisterday by¹ the said Mr Alexander, to wit, Sir Williame Heart, ordiner Justice, quha sat in judgement, and pronuncet Interloquitour in this caus; sa that this exceptioun, gif it had bene proponit yisterday, could nocht be respectit, becaus the Judgement had bene ane persyte Judgment without him, quhilk is nocht this day in this caice; and sua, be the prefens yisterday of the said Sir Williame Heart, and his absence this day, the caice is alterit: In respect quhairof, the exceptioun standis relevant, nochtwithstanding of the answir. And forder, quhair it is answir, that Mr Alexander Coluile is Justice-generall, *in criminalibus*, thair can no exceptioun of confanguinitie be proponit aganis him as depute, it has nather Law to sustene the answir, and it is aganis the daylie practique; for thair is na Judge in Scotland that hes that priuilege to sit *in causa confanguinei*. bot only the Lordis of Sessioun; quhilk is done of necessitie, for vtherways thair will be no judgement thair, quhilk is nocht in this caice,—for the removing o ane ony Judge may be suppleit be the sitting of ane vther, *ubi non est penuria*: And this was practizet in the grittest pannell that was in our days, betuix the Lairdis of Caddell and Ardinglas, for the slauchter of the Laird of Caddell: in the quhilk, the Justice-depute was set,² as being depute to the Erle of Ergyle, quha bakit³ the persute; lyk as, the Kingis Maiestie having chosin dyuerse Judges *successiue* eftir vtheris, thay war all declynit, pairtlie vpon confanguinitie with the Erle of Ergyle, and pairtlie as being pensioneris to sic as assistit

¹ *Forbye*; besides; independent of.² Declined.³ Backed; countenanced; supported.

the perfute ; and nanelie, Mr Thomas Henderfoun, Commiffar, was fet, becaus he was within greis¹-defendant with the Hous of Bafs ; and Mr Thomas Nicol-foun, as penfioner to my Lord Ogilvie, quha fortifeit the perfute.

It is allegit be the perfewaris, that the declinatour aucht nawayis to be reffaut for the refoues proponit of befoir ; and fpeciallie, that this Court is a Supream Court *in fuo genere, viz. in criminalibus*, and that the faid Mr Alexander Coluile hes alreddie fittin and voittit in this caufe, eftir the proponeing of dilatour and peremptour exceptiones thairin, na declinatour exceptioun being proponit aganis him : And quhair it is allegit be Mr Alexander Peibles, that the Lordis of Seflioum will be declynit, viz. ane brother may nocht judge in ane vther brotheris caus, nor the fone in the fatheris caus, *et e contra* ; that is of verritte, in refpect of ane fpeciall Act of Parliament maid thairanent ; but in all vther cauffis, thair is na exceptioun, nather of affinitie nor confanguinitie, that will declyne ony of the Lordis of Seflioum. As to the practique allegit concerning *Arkinglas* proces, that aucht nawayis to be refpectit in this Judgement, becaus the Juftice Generall was pairtie perfewer, and adiffit the perfute, and fa nane of his deputis could fit ; bot we ar nocht heir in that caice.

THE JUSTICE, with advyfe of his Affeffouris, continewis Interloquitour vpon the allegaunces foirfaidis, and anfueris maid thairto. anent the declinatour proponit aganis him, to Tylday nixt.—The Affyfe wairnit *apud Acta* for thair compeirance the faid day, ilk perfone vnder the pane of floure hundreth merkis.

DECLINATURE of two of the Affeffors.

Mar. 4.—IT is allegit be my lord Aduocat, that my *Lord of Meidhoip* can nocht be Affeffour to the Juftice in this caus, in refpect my Lord Marqueis of Huntlie, and my Lord of Meidhopes wyfe, ar within greis-defendant, viz. : My Lord Marqueis is ane ; his Lordfchipis mother, the Countes of Huntlie, tua ; and hir father, James Duik of Chattellerault, thrid ; on the ane fyde : And the Bifchope of St Androis, brother to the Duik, ane ; the Laird of Blair, his fone, tua ; and my Lord of Meidhopes wyfe, the Laird of Blairis dochter, the thrid ; on the vther fyde. In refpect quhairof, he can nocht be Affeffour.

It is lykwayis allegit be my Lord Aduocat aganis *Sir Andro Hammiltoun of Reidhous*, that his lordfchip can nocht be Affeffour to the Juftice in this caufe ; becaus my Lord Marques and he ar ferdis of kyn, and fa within greis-defendant, viz. : my Lord Marqueis is ane ; his Lordfchipis mother, the Countes of Huntlie, tua ; James, Duik of Chattellerault, hir father, thred ; and Beatoun, the Duikis mother, quha was fifter to the Laird of Creiche, fourt ; on the firft pairt :— And felyk, the Laird of Creiche-Beatoun, brother to the Duikis mother, ane ; the Lady Balcleuch, dochter to the faid Laird of Creich, tua ; my Lord of Reidhoufe mother, the faid Lady Balcleuches dochter, thrid ; and my Lord of

¹ Certain degrees of near relationship, called *degrees-defendant*.

Reidhous, him self the fourth. In respect of the quhilk rekning, the veritie quhairof is sufficientlie knawin to my Lord him self, he can nocht be Assessor in this cause.—It is answerit be Mr Thomas Nicolfoun, as prelocutour for the pannell, that he can nocht be bund to geve ane answer to the tua allegiances foirfaids, foundit vpon the declinatour of the tua Assessoris; becaus in the last Court haldin on Setterday, the first of this instant moneth of Marche, thair was ane Declinatour exceptioun proponit be the pannell aganis the Justice him self, quhy he could nocht sit as Judge in this cause, viz., that he was within greis-defendant to the Countess of Errole; my Lord of Errole, hir husband, being ane persewar. To the quhilk declinatour, dyuerse answeris, duplyis, and triplyis war proponit, quhilk as yet ar nocht discussit, bot the Judge continewit Interloquitour vpon the said exceptioun-declinatour to this day: And thairfoir, *ante omnia*, befoir ony alledgeance may be had ather be persewer or defender, Interloquitour man¹ be first pronuncet vpon the said alledgeance, conforme to the ordour of the proces; quhilk man be done of necessitie; for, gif the Justice find the declinatour relevant, quhilk will be provin be his awin aith of veritie, than consequentlie he can nocht sit as ane Judge; and gif he be removet as Judge incompetent, he can nocht pronounce Interloquitour in the allegiances proponit aganis my Lord of Meidhoip and my Lord of Reidhoule as Assessoris, quhidder thay may be Assessoris or nocht, *qui rbi non est Judex, ibi nec Assessor, nec processus, nec sententia interloquatoria, litifcontestatio, nec sententia definitiva*: And thairfoir, quhill first it be pronuncet vpon the foirsaid declinatour proponit aganis the Judge him self, thair can na alledgeance be proponit or discussit aganis the Assessoris.

It is answerit be my lord Advocat, as of befoir, that the said Declinatour aganis the Judge, as Justice-depute, can nocht be ressaunt, in respect of the estait of the proces.

THE Justice continewis the dyet, and Interloquitour vpon the exceptions-declinatour aboue written, to Fryday next, the tēvint of Marche instant: And Ordanis Cautioun to be of new fund be the pannell for his entrie that day, to vnderly (the Law) for the said cryme, vnder the pane of ffyve thowfsand merkis.

The Assyse wairnit thairto, *apud Acta*, ilk persone vnder the pane of ffyve hundreth pundis money.

[*Mr James Bannatyne and Mr Alexander Colville.*]

COMPEIRIT judiciallie Williame Hay, seruitour to my lord Erle of Errole, and product ane Commissioun of Justiciarie, vnder his Maiestie's Catchet² and Court signet, subseryuit be my Lord Chancellor, my Lord of Mar thesaurer, and

¹ Must. ² A silver stamp, bearing an exact *fac-simile* of the King's signature, invented for the purpose of abridging labour to the King, whose subscription is required to so many documents. It is still in use, and is affixed to certain writings not requiring his Majesty's 'sign-manual.'

my lord Marqueis of Hammiltoun; quhairby Mr James Bannatyne of Neutyld is constitute his Maiefteis Justice be Commiffioun. As alfo producet thairwith ane Act of Counfall, beirand the said Mr James acceptatioun of the said Commiffioun of Justiciarie and office thairof, and geving his ayth in thair lordfchips prefens, for his faithfull difcharge of the said office. Of the quhilk Commiffioun and Act of acceptatioun and creationne, the tenour followis :

COMMISSION in favour of Mr James Bannatyne of Neutyld.

JAMES R.

JAMES, be the grace of God, King of Grit Britane, France, and Ireland, defender of þe faithe. To all and findre our legis and subiectis quhome it effeiris, to quahis knowlege thir our letteris fall cum, greting. FORSAMERIL AS George Gordoun of Geicht, being callit and convenit befor our Justice, in our Tolbuthe of Edinburgh, to haif vnderlyne þe law for þe taking, detening, and executioun of vniq^{le} Frances Hay, and for beiring, weiring, and schuiting of hagbutis and pistolettis, and for þe perfute and invasioun, hurting, wounding, and mutilatioun of the thre brether of Brunthillis; in maner, and at þe tyme specifieit and contentit in the Criminall Letteris direct pairupoun: And dyuerse dyettis being kepit to this effect; in end, the matter hes restait ane delay and continuatioun, by the age, infirmitie, and seiknes of Sir Williame Heart, quho may nocht attend pairupoun; and by ane declinatour proponit aganis Mr Williame Coluile, colligne to þe said Sir Williame, in the office of Justiciarie, sua that now the delay and hinder of Justice procedis vpon the want of ane vn suspect Judge. QUHAIRFORE, We, with adlyfe of the Lordis of our Secrett Counfall, haif maid and constitute our louit *Mr James Bannatyne of Neutyld*, oure Justice in that pairt, to the effect vnderwritten; Geveand, grantand, and committand to him our full pover and commiffioun, expres bidding, and charge, to vse and exerce the office of our Justice in all and findrie thingis concerning the Tryell of þe said George Gordoun of Geicht, vpon the petuler crymes and pointis of Dittay specifieit and contentit in þe Criminall Letteris raiset aganis him. And for this effect, to fence, hald, and continew Justice Courtis, ane or ma, within the Tolbutth of our burgh of Edinburgh, suttis to mak be callit, absentis to amerchiat, and to creat officeris and memberis of Court neidfull, if neid beis; and in the saidis Courtis the said George to call, be Dittay to accuse, and him to the knowlege of ane Assyse to put; and as he fall happin to be fand culpable or innocent of þe crymes contentit in the saidis Criminall Letteris, or ony of thame, to caus Justice be ministrat vpon him, conforme to þe lawis of our realme; Assyffis neidfull to this effect, ilk persone vnder suche panes as fall be thocht meit, to summond, wairne, chuse, and caus be fiorne, and generallie all vper thingis to do, exerce, and vse, quhilkis for executioun of þis our Commiffioun, ar requisite and necessar; ferme and stable halding, and for to hald all and quhatsoeur thingis fall be lauchfullie done heirin. GEVIN vnder our signet, Att Edinburgh, þe fourt day of Marche, and of our regune þe xiiiiij and sistie zeiris, 1617.

AL. CANCELLS. AL. MAR. HAMILTON.

APUD EDINBURGHE, *quarto die mensis Marcij, anno domini millesimo sexcentesimo decimo septimo*, Red, pass, voittit, and allowit. J. PRYMOIS.

ACT of Acceptation by Mr James Bannatyne.

APUD Edr, *quarto die mensis Marcij, 1617*. The quhilk day *Mr James Bannatyne of Neutyld*, being maid and constitute our souerane lordis Justice, for trying of George Gordoun of Geicht, vpon the crymes specifieit and contentit in the Criminall Letteris raisit aganis him, at the instauce of the mother, brojer, and freindis of vniq^{le} Frances Hay, and at the instauce of the brether of Brunthill, and of our souerane lordis Adnocat, for his hienes intreis; as in the Commiffioun maid to the said Mr James pairupoun, of the dait of thir presentis, at lenth is contentit. The said Mr James compeirit personallie, befor the Lordis of Secrett Counfell, Acceptit the said Commiffioun vpon him, and gave his aithe

that he fall discharge the said Commiffioun vrichtlie and faithfullie, according to his knawlege; as he will anfuer to God and the Kingis Maieftie Jairupoun.

Extractum de libris Actorum Secreti Confilij. f. d. n. Regis, per me Jacobum Prymrois Clericum ejudem. sub meis signo et subscriptione manualibus. JACOBUS PRYMROIS.

[*Mr James Bannatyne and Mr Alexander Coluile.*]

Mar. 7.—THE Justice continewis this matter to the mornie, the aucht of this infant. The Aylse wairnit thairto, *apud Acta, &c.*

The Laird of Geicht protestis, that the production of the said Commiffioun of Justiciarie, and fenceing of this dayis Court, fould nawayis preiudge him of his declinatour the nixt dyet, nor ony vther declinatour proponit be him of befor in this caufe.—My lord Aduocat protestis in the contrair.

[*Mr James Bannatyne.*]

Mar. 8.—THE perfewaris, nochtwithstanding of the former declinatour proponit aganis the tua Alesfouris, ar content that thair remane Alesfouris in this caus, conforme to the Counfellis Act maid aient thair constitutioun; and passis fra the saidis declinatouris.

Mar. 11-12.—THE 'disputatiounis' proceeded at great length, on both sides, on this day, 'Tyfday the xj infantis,' and the following day, on the merits of the caufe. They are very prolix, and unnecessary to be inserted in this place.

Mar. 13.—THE Justice and Alesfouris, ffor obedience of ane WARRANT of the Lordis of Secrett Counfall product be my Lord Justice Clerk, continewis this Justice Court, and all forder disputatioun in this caufe, to the aughtene day of Junij nixtocum; and Ordanis the pannell to find caution, &c.

JUSTICE, Justice Clerk, and 3our de-putis. 3ow fall, vpon the sight heirof, continew 3our Court and dyet appointit for Tryell of George Gordoun of Geicht, ffor the taking, detening, and executioun of vniq^{le} Francis Hay; and for þe beiring and weiring of haquebutis and pitoletis; and for þe perfute and inuasioun of the breper of Brunthillis, vntill the aughtene day of Junij nixtocum; takand new caution, conforme to þe ordour: Qubairant thir presentis fall be 3our WARRANT. ATT ED^s, the xiiij day of Marche, 1617. AL. CANCELL^s. AL. MAR. BYNNING.

My lord Aduocat declaris that he consentis to the former continewatioun, only becaus of his Maieftis Letter, direct to the Lordis of Secrett Counfall, in that matter, and vpon na vther respect.—The parties find caution for keeping of his Majesties peace, &c.

(Jun. 18.)—THE Justice, be directioun of his Maieftie, continewis this dyet to the xxvij of Junij instant, &c.

(Jun. 27.)—THE Justice, be directioun of the Kingis Maieftie, declairit be my lord Aduocat, Continewis all forder disputatioun in this proces, and tryell of the perticular crymes *respectiue* contenit in the summondis, to the thrid day of the nixt Justice-air of the seheredome quhair the pairteis, allweill perfewaris as defenderis, duellis ('Aberdene'), or soner vpon xv dayis wairming: And Ordanis

the Laird of Geicht to find Cautioun for his compeirance, to the effect and in maner aboue writtin, vnder the pane of ffyve thowfeand merkis, conforme to his Maiefteis directioun, reportit be his Maiefteis Aduocat, as faid is.

The faid Laird fand Williame Gordoun of Rothemay, fear of Cairneburrow, fouertie for his entrie, &c.

[*Mr Alexander Coluile, Justice-Depute.*]

Adultery—Bigamy.

Mar. 14.—ALEXANDER THOMESONE, skynner, burges of Edinburgh, brother to Johnne Thomesone, Leyth; Johnne Guthrie, *alias* callit Williame Laird, and Jonet Cutlibert.

Dilaitit of the crymes of Adulterie, committit be thame, in maner, and at the tymes specificit in thair Dittayis.

The pannell acknowleges the crymes contenit in thair feuerall Dittayis, and craves God and the Kingis Maiefteis pardoun; and offeris thame in his Maiefteis will thairfoir.

VERDICT. The Assyse, be the mouthe of George Carnebie, indueller in Ed', all in ane voice, fand the faidis perfones to be flylet, culpable, and convict.—SENTENCE. In respect of the quhilk convictioun, THE JUSTICE, conforme to ane Warrant of the Kingis Maieftie, quhairof the tennour followis:

To our JUSTICE GENERAL of our Kingdome of SCOTLAND, and his deputis quhatsoeuer, quhome thafe presentis may concerne; and to all and each of thame.

JAMES R. QUHAIRES, by expres Warrant and command frome ws, our Aduocat is criminalie to accuse and perfew befor yow one Alex' Thomesoun and one Jonet Cutlibert, tuo famous and notorious Adulteraris: Althogh thair cryme and offence thairin be capitall, and most, by our Lawis, infer payne of death againt thame, zit, out of our princelie grace and mercie, We ar plesed to mitigat the severitie or extremitie of Law in thair behalf. Requyreing yow, by these presentis, in caice of pair convictioun, to ordane the faid *Alexander* to be Banished our dominiones, and his escheit to be furthwith vptakin for our vse be our thesaurer: AND that ye faid *Jonet* be Banished our burgh of Ed', and the pairtis of ye cuntrie pairabout. In which behalf, and for performinge of ye whole premisses, these false to yow ane Warrant sufficient. GEVIN at Whytehall, the 26th of Januare, 1617.

Ordanit and Adjudget the faid *Alexander* to be banished his Maiefteis hail dominionis, and nocht to returne within the samyn at na tyme heireftir, without his Maiefteis Licence, vnder the pane of deid; as also, that his hail moveable guidis be escheit, &c. AND slielyk, Ordanit the faid *Jonet* to be banished furth of the burgh of Ed' and tuelf myles thairaboutis, and nawayis to be fund thair-intill, at na tyme heireftir, without his Maiefteis Licence, vnder the faid pane of deid. And as concerning the faid *Johnne Guthrie*, Ordanit him to be tane bak to the Tolbuth of Ed', therein to remane in sure firmance, vnto the tyme Dome be pronuncet againt him.

SENTENCE *against Johnne Guthrie, alias Williame Laird.*

Compeirit Sir Williame Oliphant of Newtoun, knycht, Aduocat to our sone-rane lord for his hienes intreis, and product his Maiesteis Warrant, direct to the Justice, quhairof the tennour followis :

TO our JUSTICE GENERALL of our Kingdome of SCOTLAND, and his deputis quhatfoeir, whome these presentis may concerne ; and to all and each of thame.

JAMES R. QUHAIRAS, by expres Warrant and command from Ws, our Aduocat is criminallie to accufe and persew, befor yow, on *Johnne Guthrie*, for mariage of tuo wyfes, and keeping (befydis thame) of a thrid woman for his concubene ; whiche being a cryme fo odious and intollerable amongst Christianes, and meriting to be most exemplarie punisched : THEASE ar pairfoir expresse to will and command yow, in caise of the said Johnnes convictioun, to caus pronounce and execute Dome and Sentence of Death aganis him, according to þe ordinance of our Lawis maid for þwneishment of suche offenderis. In which behalf, and for performinge of þe whole premisles, these fall be to yow ane Warrant sufficient. GEVIN at Whytehall, the 26th of Januar, 1617.

THE JUSTICE Ordanit the said Johnne Guthrie, *alias* Laird, to be tane to ane gibbet, beýde the croce of Edr, and thair to be HANGIT quhill he be deid ; and all his moveable guidis to be escheit and inbrocht to his Maiesteis vse, &c.

[*Archibald Earl of Ergyle, Justice General ; Mr Alex. Colville, his depute.*]

Slaughter.

Jul. 16.—JOHNE KIRKPATRIK, seruant to Mr Walter Kynnynmonth of Callinche (Kilduncane.)

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Andro Kynnynmond, sone to Danid Kynnynmond of that ilk ; committit vpone the tent day of Junij last-bypast, viz. The said Johnne being in companie with Mr Walter Kynnynmond, appeirand of Kilduncane, his maister, Jedione Kynnynmond, brother to the said Mr Walter, Patrik Kynnynmond, sone to the said Mr Walter, Hew Dik, seruant to the said Mr Walter, Thomas Fentoun, messinger citiner¹ in St Androis, Thomas Fentoun, his sone, thair, Johnne Clelland, and . . . Clelland, sones to Robert Clelland of Fermlaw, and . . . Broun, citiner of St Androis, with convocatioun of his Maiesteis leiges, to the number of tuentie persones, or thairby, all bodin in feir of weir, with suordis, daigeris, plait-flevis, hagbutis, and pistolettis, expresse prohibeit to be borne, worne, vsed, or schote with, be the Actis of Parliament : haifing confauct ane deidlie feid, rancour, and malice aganis the said vmq^{le} Andro, vmbeset² his hie way and passage, vpone Cires-mure, ane myle or thairby fra the burch of Couper ; quhair he, being only accompaneit with ane seruant of his awin, war, in soper and quyet maner, for the tyme, cuming furth of the hie way, lipning for na harme, &c., and thair fet vpone the said vmq^{le} Andro, schot him throw the body with hagbutis, and crewallie hurt and demanit³

¹ Citizen ; inhabitant ; probably inferring that he was not a free *burgess*. ² Beset ; blockaded ;
³ waylaid. ⁴ Abused. Literally, treated ; used.

him and his seruand with fuordis, in dyuerse pairtis of thair bodeyis, to the effuoum of thair bluid in grit quantiteis : Off the quhilkis (woundis) and hurtis gevin to the said vni^{le} Andro, he immediatlie deceifit, &c.

VERDICT. The Assyfe, be pluralitie of voittis, ffand, pronuncet, and declairit the said Johnne to be ffylet, culpable, and convict of airt and pairt, &c.

The Justice superceidid the pronouneing of Dome, &c.¹

[*Mr Alexander Coluile, Justice-Depute.*]

Child-Murder.

Jul. 24.—BESSIE DUNCANE, seruitrix to George Craig in Eister Dudingtoun.

Dilaitit of the crewall and vnnaturall Murthour and putting to death of ane young infant man-bairne of hir awin, immediatlie eftir the beiring thairrof, be putting it vnder the ftra of the bed quhairupone scho lay ; and thaireftir lying thairupoun, and smoiring² the said infant to deid : committit in ane bak hors of the said George Craigis, vnder nycht, vpon the fourtene day of Julij infant ; Williame Borthuik, sone to Johnne Borthuik in Waster Dudingtoun, ane young boy of xvij yeiris of age, being the father thairrof.

The said Bessie, with teiris, in grit penitencie, confessit the Dittay to be of verritie ; and cravet God mercie for the samyn.

VERDICT. The Assyfe, all in ane voce, be the mouth of Johnne Levingtoun, bailzie of Dudingtoun, ffand, pronuncet, and declairit the said Bessie, in respect of her awin Judicciall Confessioun, to be ffylet, culpable, and convict, &c.

SENTENCE. To be tane to ane gibbet at the mercat croce of Ed', and thair to be Hangit quhill scho be deid ; and all hir moveabill guidis and geir, gif scho ony hes, to be efcheit, &c.

Falsct—Forgery—Perjury.

Nov. 17.—MR JOHNNE MUREHEID, Notter in Tueidmonthe.

Dilaitit of airt and pairt of the formeing and wryting of ane fals nyntene-yeir Tak,³ and counterfuteing of vni^{le} Johnne Nisbet of Swanniseild his subscription thairto (allegit fetter⁴ of the said Tak) eftir his deceife : And of periureing him self, in maner set down in his Dittay.

The pannell allegit that my lord Justice can nocht be Judge competent to him, in this matter ; becaus he (the pannell) is ane stranger, quha hes duelt and had his continuall residence out of this cuntrie within the toun of Tued-mouth, in England, thir dyuerse yeiris bygane ; and thairfoir, conforme to the Act of Par-

¹ No farther entries occur ; so that it is probable a Remission was granted.

² Smothering ;

suffocating.

³ A Lease for nineteen years.

⁴ The landlord or proprietor of the ground, who set it in Lease.

liament, aucht to be remandit fra this Judicatorie to the Justice of Ingland, at the leift, to the Bifchope of Dureham, within quhais diocie he duelt, the pannell being ane Ecclefiasticall perfone, fervand at the Kirk of Tuedmouth: And laft, he appaillis to his Maieftis mercie and elemencie; and offeris him fell in his hienes will, for the crymes contenit in the Dittay.

My lord Aduocat, for verificatioun of the Dittay, producet the pannellis Depofitiones, with the fals Tak, quhilk is fund to be fals and fenzeit befor the Lordis of Seffion, and in refpect thair of ordainit to be cancellat and diftroyit: And anfuering to the allegances maid be the pannell, fayis, that nochtwithftanding thair of, he aucht to be put to ane Affyfe, in refpect the Act of Parliament allegit, is only in faouris of fie perfones as duellis in Ingland, and being citet for flautcher, thift, burning of houffis, and vtheris crymes, perticulerlie expreffit thairin, quhair of the cryme lybellit is nawayis comprehendit, and ar fugitiue thairfor; and the pannell, cuming willinglie to this cuntrie to beir witneffing in ane matter betuix tua Scottis perfones, was nawayis fugitiue: And as to the privilege of his profeffioun, that he is ane Ecclefiasticall perfone, fayis that the famyn aggrages his offence: And thairfor, fould be juftlie punceit for the falset and Periurie confellit be him and contenit in his Dittay.

THE JUSTICE, nochtwithftanding of the pannellis allegances, Remittis him to the tryell of ane Affyfe.

ASSISE.

Eduard Johnneftoun, Proveift of Annan, James Douglas, bailzie of Dalkeith,
Johnne Ramfay, mercheand burges of Ed^r, James Nafmyth of Poffo.¹

VERDICT. The Affise, all in ane voce, be the declaration of Eduard Johnneftoun, chancellor, fand the said Mr Johnne to be flylet, culpable, and convict of the fforgeing and fformeing of the said fals Tak; and of counterfuteing of the said vnc^{le} Johnne Nibetis fubfcriptioun thairto, eftir he was deid; and Periureing of him fellf, in maner fpecificit in his Dittay.—SENTENCE. To be tane to the mercat croce of Ed^r, and thair vpone ane gibbet to be Hangit quhill he be deid; and all his moveabill guidis to be efcheit, &c.

Usurpation of the King's Authority—Jamesurken, &c.

Jan. 9, 1618.—THOMAS MELDRUM of Idene,² Walter Grant, his fervand, James Grant in Tulliebo, his brother, and Johnne Roit's, alfo his feruand.

Dilaitit of Vfurpation of our foverane lordis autoritie, in cuming, vnder filence and clud of nycht, to Johnne Meldrum of Ordley his duelling hous of

¹ The remainder are 'mercheandis in Ed^r.' George Drummond of Cattifellbok (*Cat's-elbow*), Mr Johnne Rutherford, Proveift of Jedburgh, and six others, were each 'vnlawit in ye pane of ane hundredreth merkis,' for not passing on the said Assise.

² See Nov. 20, 1618, &c.

. . . ., and thair, be way of Hamefucken, clymmyng the walls thairof, turring¹ the ruif of the chahner quhair he lay bedfast, nocht weill convalescit of ane fever quhairwith he was afflictit and vissit, be the space of twentie foure oulks of befor: And for taking of him furth thairof, and cayreing him as ane captiue and priffoner to the place of Idene, quhair he was detenit in privat and strait priffone, be the space of foure dayis and foure nychtis; vrgeing him, all that tyme, to discharge certane actiones quhilk he had depending aganis the said Thomas: And for the hail remanent crymes contenit in the Letteris: Committit vpone the aucht of Majj, 1612 yeiris.

PERSEWAR, Johne Meldrum of Ordley, Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord, for his hienes intreis.

PRELOCUTOURIS in defence, Mr Thomas Hoip, Mr Thomas Nicolfone, Mr James Lawtie.

THE JUSTICE, for obedience of the Warrant of the Counsell, direct to him, subscryuit be my Lord Chancellor, continewis this dyet to the xvj instantis: And Ordanis the pannell to find caution for thair compeirance that day, vnder the panis contenit in the Actis of Parliament.—Patrik Meldrum, ffiear of Idene, become fouertie for the said Thomas, his father, &c.

(Jan. 16.)—Continued, by Warrant of the Secretit Counsell, to the xxj instant.

(Jan. 21.)—The Justice, of consent of pairtie, continewis this matter to the thrid day of the nixt Justice-air of Aberdene, or foner, vpone xv dayis wairning. George Seatoun of Schettin and the said Patrik Meldrum become pleges and fouerteis, coninnctlie and feuerallie, &c.

[*Mr Alexander Colville, Provoft of Kilmondy, Justice-Depute.*]

Slaughter—Convocation of the *Widges*, &c.

Jan. 14.—WILLIAME JOHNNSTOUN, callit *of Lokerbie*; Archebald J., his brother; Mungo and Hercules J., fones to the said Williame; Williame J., fone to vniq^{le} George J., in Lokarbie; Williame J., in Grenesyde; Thomas Harknes, in Lokarbie; Johne Chalmer, thair; Andro Chalmer, thair; Johne Johnneftoun, fone to David J., in Cleuchheid; Williame J., in Auldwallis; Patrik J. of Mylnebank, his brother; Johne J., in Turmour, callit *of Lokerbie*; Andro J., his fone; Archy Halyday, in Turmour; Andro Chalmer, thair; Johne Bell, in Lokarbie; Francis Bell, thair; James Kenydie, in Bektoun; Andro Chalmer, in Dames.

Dilaitit of airt and pairt of the Slaughter of vniq^{le} James Johnneftoun, in Kirktonne; committit with convocatioun of our fouerane lordis leigis, vpone the

¹ Forcing a passage, by breaking through the roof. Fr. *tirer*; and A. S. *tyr-an*, to tear.

xxv day of April, 1617, be geving to him of dyuerſe crewall and deidlie woundis in the heid, left airme, left hand, and left pape :¹ Off the quhilkis he nevir convaleſcit, ſpeciallie of the woundis reſſauit in his heid, threſcoir and nyne banes being taue furth thairrof ; and at laſt, vpon the firſt day of December laſt, he deceiſit, being vnder cure of the ſaidis woundis ſevn monethis and ten dayis off befoir.

PERSEWARIS, Agnes Johnneſton, the relict, Sir Williame Oliphant of Newtoun, kny^t.

PRELOCUTORIS in defence.

Mr Thomas Nicolſone, Mr Alexander Peiblis, Mr James Oliphant, Adame Cuninghame.

The Juſtice, of conſent of pairtie, continewis this dyet to the xxv of Febrnar nixt, and Ordanis the pannell to find caution for thair entrie that day, vnder the panes contenit in the Actis of Parliament : Quha for obedience of the ſaid ordinance, ſtand James Johnneſton of Waſtraw, and Archibald Douglas of Kelheid, brother to my lord of Tortherrell, bayth perſonallie preſent, cautioneris and ſouerteis, conjunctlie and ſenerallie, for thair re-entrie, &c.

(Feb. 25.)—Compeirit Mr James Oliphant, and product ane Warrant of the Lordis of Secret Counſell, procure be the (ſaidis) perſones (on pannell), daitit the xix day of Febrnare infant. be the quhilk the Juſtice is ordanit to continew this dyet to the xxvij day of Marche nixtocum, &c. Which deſire was granted ; Robert Johnneſton of Raecleuch becoming cautioner for the pannells' entrie.

PERSEWAR, Andro Johnneſton, as ſone.

PRELOCUTOR in perſate, Sir Robert Gordoun of Lochinvar, kny^t.²

(Mar. 27.)—It is declairit be the pannell, befoir thair cum to thair allegiance, be way of information to the Juſtice, that it wald pleis his Lordſchip vnderſtand, that the matter fell furth eftir this maner. My Lord of St Androis that now is, being Archebiſchope of Glegow for the tyme, haifing ane cair to haif the haill Kirkis within his dyocie³ ſufficientlie plantit ; and eftir vizitatioun, cuming to the Kirk of Dryſdail, quhair it was fund be him that the watter of Dryfe ran fa violentlie, eftir ane ſpeat,⁴ throw the haill kirk yaird and landis adjacent thairto, that the Kirk it ſelf was liklie to becum ruinous and decay, except the courſe of the ſaid watter had bene divertit and drawin ane vther way thairfra : For remeid quhairof it was aggreit, with conſent of the haill gentilmen of the parochin, that the ſaid watter ſould be divertit ane vther way ; and accoirding thairto, it was appointit, that vpon the ſaid xxv day of Apryle, the ſaid Williame Johnneſton, with aſſiſtance of the parochin, ſould cum, with ſpaidis and ſchuales, to mak ane watter-gang : In the doing quhairof, the ſaid vni⁶ James Johnneſton, with his ſones, come bodin in feir of weir, and maid interruptioun to the perſones foirſaidis that war caſting the ſaid watter-gang, and invaidit and perſewit dyuerſe of the perſones that war working, for thair ſlauchter ; be occaſioun of the quhilk

¹ Breast.

² These in addition to the persons abovenamed.

³ Diocese.

⁴ Flood.

perfüte and invafion ane fraik was gevin to the faid vmq^{le} James vpone the heid with ane fpaid or fchule, be quhat perfone the pannell knawis nocht: Eftir the quhilk fraik he convalessit, and was at tua feuerall Justice-Courts in Jedburgh; was alfo at the Parliament in Ed^r; raid in dyuerfe pairtis of the cuntrie, and within Ingland; and thaireftir, fell feik of ane fever, quhairof he deceffit; as is nottour to the haill cuntrie.

Quhilk being premittit,¹ it is allegit peremptourlie for the pannell, that thay can nocht be put to ane Affyfe for the cryme lybellit, in refpect the faid vmq^{le} James Johnftoun, for quhais flachter thai ar perfewit, was flane at the horne, and deceffit vurelaxit thairfra, ffor ane criminall caufe, viz. ffor airt and pairt of the Slaucher of vmq^{le} Hew Dowglas of Dalvene. *Igitur*, &c.—To the quhilk it is anfuerit be the perfewaris, that the allegeance aucht to be repellit, becaufe the faid vmq^{le} James was relaxt fra the faid Hoirning: And producet the Relaxatioun for verificatioun thairof.²—It is duplyt be the pannell, that the Relaxatioun producet meittis nocht the Hoirning; becaus the faid vmq^{le} James Johnftoun is relaxt fra the horne lang eftir the tyme lybellit of the fraikis gevin to him quhairof he deceffit, to wit, lang eftir the xxv day of Apryle, 1617, he nocht being relaxit quhill the xxvij of October thairefter.—To the quhilk it is anfuerit be the perfewaris, and allegit,³ that the Hoirning quhair-upoun the faid allegeance is foundit is null, becaus the faid vmq^{le} James Johnftoun being designet be the faid Letter of Hoirning to haif ane certane duelling-place, viz. in Twnnergathe, the tyme of the raising thairof, he is nather charget perfonallie nor at his duelling-place, quhilk aucht to haif bene done; he being ane Scottis fubiect, duelland within Twnnergath, quhair he duelt the tyme of the geving of the charge to him, be oppin proclamatioun; lykas, he duelt thairin dyuerfe yeiris ofbefoir.—It is anfuerit be the pannell aganis the allegeance, foundit be the perfewaris vpone the nullitie of the Hoirning, that the faid allegeance aucht to be repellit, in refpect of the privilege and Difpenfatioun fet down in the Letteris of Hoirning producet, quhilk fufteis the charge gevin to him, be oppin proclamatioun at the croce of Dumfreis, to be als lauchfull as gif he war charget perfonallie or at his duelling-place, for the reffone fpecificit in the Letteris.

It is allegit be the perfewaris, as to the Relaxatioun and allegeance maid thairupoun, that the faid Relaxatioun is lauchfull and fufficient in the felff; becaus the famyn is purcheft be the faid vmq^{le} James, and he lauchfullie relaxt, be vertew thairof, lang befor his daithe.—The pannell repeittis thair former anfuer.

¹ Premised.

² On margin, '1 Aprilis, 1618. This Relaxatioun gevin vp agane to Andro Johnftoun, producer thairof.'

³ Pleaded; urged as a plea.

It is sfordder allegit be the pannell and thair prelocoutouris, that thai can nocht be put to ane Assyfe for the cryme lybellit, becaus the said vniq^{le} James Johnston was flane and deit at his Maiesteis horne ffor ane criminall caufe, viz. ffor the steilling of tua horle pertening to James M^omathe in Kuokinhair; committit be him in the moneth of September, 1597; ffor the quhilk, being perfewit criminallie befor the Justice, and charget to vnderly the Law within the tolbuth of Ed^l, vpon the xxj day of Januar, 1607 yeiris, was, for nocht finding of caution, demuncet and declairit fugitive fra his hienes lawis for the said cryme: And ffor verificatioun thairof, producet the Extract of the Hoirning.—To the quhilk it is answert be the perfewaris, that the Summondis and Dittay aucht to pas to ane Assyfe, nochtwithstanding of the allegeance proponit be the pannell, foundit vpon the tua criminal Hoirningis producet; becaus the said vniq^{le} James Johnston of Kirktown was nocht only relaxt fra the first Hoirning befor his deceis, bot also becaus it is speciallie provydit be Act of Parliament, maid in the moneth of October, 1612 yeiris, that all perfones duelland vpon and within the boundis of the lait Bordouris of this kingdome, speciallie within the boundis of the scherefdom of Dumfreis and stewartrie of Amundaill, quhair the said vniq^{le} James duelt, ar fred and relevit of all and quhatfumeur criminnell cauffis that could be laid to thair charges, ffor quhatfumeur ffyre-raifingis, slauchteris, thiftis, and stouthes, or vther criminall cauffis quhatfumeur, befor his Maiesteis going in England, quhilk was in Apryle, 1603 yeiris, &c.

THE JUSTICE continewis Interlocutor, vpon the allegeances foirfaidis, to Wednisday nixt. The Assyfe wairmit *apud Acta*, ilk pergone vnder the pane of ij^s merkis. Williame Douglas, younger of Cafchogill, become fouertie for the entrie of the haill perfones on pannell, &c.

(Apr. 1.)—THE Justice, be directioun of the Lordis of Secret Counfall, Ordanis the perfones on pannell to find caution for thair entrie and compeirance of new agane, befor the Justice or his deputis, the thrid day of the nixt Justice-air of the scherefdom or stewartrie quhairin thay duell; or soner, quhan or quhair it fall pleis his Maieste, vpon xv dayis warning, &c. Williame Douglas of Cafchogill plege and fouertie, &c.

Invading—Hurting and Wounding—Slaughter.

Feb. 13.—HEW FALCONER of Innerlochtie; Hew Falconer, his sone; Frances Hay and Alexander Hay, sones to Williame Hay of Mayne; Thomas Grant, brother to James Grant in Daltulleis; Lauchlane Grant of Wester Elcheis; Johnne Grant, his sone.

Dilaitit of airt and pairt of the invading, hurting, and wounding of Thomas Grant of Cardellis, and slauchter of vniq^{le} Patrik Grant, his sone; committit within the burgh of Elgyn, the xj of November last, 1617.

PERSEWARIS, Thomas Grant of Cardellis, as father; Johnne Grant, appeirand of Cardellis, as brother; Sir Williame Oliphant of Newtown, knycht, for his Maiefteis intreis.

THE JUSTICE, of consent of ather pairteis, and accoirding to ane directioun gevin to his lordschip be the Lordis of Secreit Counfall, continewis this matter to the thrid day of the nixt Justice-air of the seheredome quhair the defenderis duellis, (Elgyn,) or soner, vpone xv dayis wairning, &c.

Sir Alexander Gordoun of Clwnie, kny', become fouertie for the said Thomas Grant, vnder the pane of tua thowfeand merkis; Sir Alexander Falconer of Halkertoun, kny', become fouertie for the said Hew Falconer and his sone; James Hay, appeirand of Mayne, become fouertie for Frances and Alexander Hayis, his tua brether; and Robert Innes of Balvany for Lauchlane and Johnne Grant—all vnder the panes contentit in the Actis of Parliament.

Slaughter.

Mar. 18.—WILLIAME JOHNSTOUN, callit of Lockerbie, and Johnne Carutheris of Rammeriscaillis.

Dilaitit of airt and pairt of the Slauchter of vniq^l Cristopher Wigholme,¹ burges of Sauguhar; committit in Junij, 1594.

PERSEWAR, Niniane Wigholme, as sone; Sir Williame Oliphant, knycht.

PRELOCUTORIS in defence, Mr James Oliphant, Adame Cuninghame, Aduocattis.

The persewar passis fra the persute of the said Johnne Carrutheris *pro loco et tempore*.—It is allegit for Williame Johnnstoun, that he can nocht be put to the knowlege of ane Afsyfe for the crymes lybellit, in respect his Maieftie and Estaittis, be Act of Parliament, maid in October 1612, hes, for the resson mentionet thairintill, geving ane generall pardoun to all maner of perfones duelland within the boundis of the lait Bordouris of this Kingdome, for all maner of crymes committit be thame preceding his Maiefteis going in England, &c.—To the quhilk it is anfuert, that the allegiance aucht to be repellit, in respect of the summondis beiring the fact lybellit to be persewit be the pairtie, with concurré of his Maiefteis Aduocat; quha is speciallie exceptit in the said Act, and hes power, be vertue thairof, to persew.

THE Justice continewis Interloquitour to Fryday nixt; and Ordanit the pannell to find caution for his compeirance, as also for the entrie of his brother, the said day.—Robert Somerwell of Smailhomes become fouertie, &c.

(Mar. 20.)—THE JUSTICE ordanit caution to be ffund, that the said Williame and Frances fall compeir befor the Justice or his deputis, the thrid day of the Justice-air of the seheredome or stewartrie quhairin thay duell, or soner, vpone xv dayis wairning.—Robert Somerwell of Smailholme, and Williame Johnnstoun of Currielaw, become pleges and fouerteis, &c.

¹ This name is now written *Wigham*, and *Whigam*.

Slaughter.

Mar. 18.—ROBERT SYMMER, sone to the Laird of Balzordie.

Dilaittit of the cewall Slaughter of vniq^{le} David Graham, sone to vniq^{le} James Grahame of Leuchland; committit vpone the xxix day of Apryle, 1616 yeiris, vpone the Hauche of Infche, neir to the Mekill-mylne of Brechin, be streking him throw the body with ane rapper-fuord; quhairof, within sex or fevin dayis thaireftir, he deceiffit.

PERSEWER, James Grahame, as brother to the defunct; James Keith of Harvieftoun, brother-in-law; Sir Robert Grahame of Morphie, neir kinfman; Sir Williame Oliphant of Newtoun, kny'.

PRELOCUTOR in defence, Mr George Symmer.

The pannell, being accufet be Dittay, of the slaughter of the said vniq^{le} David Grahame, denyis the samyn, with the hail circumstances fet down in the Dittay, concerning the said slaughter.

ASSISA.

Dauid Lyndfay, in Brechin,	Dauid Gairdin of Lawtoun,	Johnne Cob, citiner of Brechin,
James Ramfay, thair,	Patrik Guthrie of Kinblakmonth,	Williame Carnagy, tkynner, burges
Johnne Vdny of Kethik,	James Halyburtoun, mercheand	of Edinburghe,
James Smyth, in Brechin,	burges of Edinburghe,	Williame Ruthvene of Bandane,
Andro Thomefoun, thair,	Johnne Peter, wryter, burges thair,	Williame Elder, tailseour, burges
Johnne Anderfoun, burges of	Laurence Heiring, brother to	of Edinburghe.
Montrois,	Lethindie,	

VERDICT. The Assyse haifing reffonit and voittit vpone the pointis of the said Dittay, and being ryplie and at lenth advyfet thairwith, togidder with the Letteris of Hoirning producet be his Maiefteis Aduocat, beiring the said Robert to haif bene denuncet rebell in Majj, 1616, for nocht finding of caution to haif compeirit befor the Justice to haif vnderlyne the Law for the said slaughter; ffor the quhilk fact, he hes bene fugitive and furth of the cuntrie fenfyne; togidder with ane Commiffioun, and vther probatioun producet also be his hienes Aduocat, for instructing the said Dittay—thay all in ane voce, be the mouth of the said Johnne Vdny, chancellor, fand the said Robert to be FYLET, culpable, and convict of the said Slaughter.

SENTENCE. To be tane to the Mercat-croce of Edinburghe, and thair his heid to be strukin frome his body; and all his moveabill guidis to be efcheit, &c.

Intercommuning with the Clan-Gregor.

Mar. 18.—COLENE BRUCE, funtyme duelland in the Middilhauch of Huntingtoun.

Being brocht furth of the Tolbuth or Waird-hous of Edinburghe, quhairin he hes bene wairdit thir dyuerse monethis bygane, and presentit vpone pannell, be directioun of the Lordis of Secreit Counfall, to heir and fie the dome vnder-writtin pronuncet aganis him, as he that became in his Maiefteis will of befor,

ffor the affifting, reffett, fupplie, and intercowmoung with THE CLANGREGOUR; and according to his Maiefteis will than publeift and declairit, vpon the faxt day of Auguft, 1605, was ordanit to be Banifchet his Maiefteis hail dominiones, nevir to be fund agane within the famyn, vnder the pane of deid, for the faid cryme.—(See this Collection, II. p. 457.)

SENTENCE. The Juftice of new agane, conforme to ane Warrant and delyuerance of the Lordis of Secreit Counfall, fubferyuit be my Lord Chancellor, and be my Lord of Mar, Grit-Thefaurer, daitit the xvij day of Marche instant, Ordanit the faid Colene Bruce to be Banifchet, as ofbefoir, his hienes hail dominiones, and nevir to be fund within the famyn, vnder the pane of deid, but forder fauour: Lyk as, to be returnet bak agane to the faid waird be the Magiftratis of Edinburgh, to be keptit be thame thairin, in fure firmance and captiuitie, vnto the tyme a Schip be preparit, quhairin he may be tranfpoiritit.

Slaughter at a Funeral.

Jun. 10.—JOHNE JOHNNESTOUN of Twnergarthe; Blench Bell, his fpos (*'paf fra'*); Johnne, *alias Jok*, Williame, ffrances, and James, four fones to the faid Johnne; James Johnneftoune; Andro Johnneftoune, in Kirktoon; Williame, ffrance, and George, his thre brether; Dauid Bell, callit of Craighous; Williame Johnneftoune, in Hilbank; Johnne, his brother; Williame and Johnne Johnneftoune, in Schaw; Williame J. in Hilbank; Johnne, his brother; James Johnneftoun, in Hill (*'paf fra'*); Patoun Bell, in Yle (*'paf fra'*); Jok Burges, in Kirkhouffes (*'paf fra'*); Jok Johnneftoune, in Foulraw (*'paf fra'*); James Johnneftoune, fone to Twnergarthe; ffrances J. in Myreheid; James J. in Court; James Bell, in Twnergarthe (*'paf fra'*); Johnne Bell, in Holmheid (*'paf fra'*); George Johnneftoune, fone to Johnne Johnneftoune of Twnergarthe.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} Frances Johnneftoune, brother-germane to Williame Johnneftoune of Lockerbie; committit vpon the xxj day of Apryle laft, at the Buriall of Thomas Johnneftoun, 5ounger of Fingland, befide the Kirk of Twnergarthe, and 5aird thairof.

PERSEWARIS, Williame Johnneftoune of Locherbie, brother; Sir Williame Oliphant, kny^t.

James Johnneftoun of Waftraw became fouertie for the entrie of James of the Hill, the thrid day of the nixt Juftice-air of the fcherefdom quhair he duellis; or foner, vpon xv dayis wairning.—Johnne J. of Twnergarth, fouertie for the entrie of Patoun Bell, Jok Burges, Jok J. of Foulraw, and James Bell of Twnergarthe.—And Johnne Carmichell in the Maynes, fouertie for the entrie of Johnne Bell in Holmeheid.

THE JUSTICE, of confent of the perfewaris, continewis this dyet aganis the remanent perfonis nocht paf fra, to the fevint day of Auguft nixt; and Ordanis thame to find fouertie for thair entrie that day.

James Gordoun of Buithill, brother to Lochinvar, fouertie for the entrie of

Johnne of Twnergathe and his fones—Johnne of T. fouertie for Frauces of Myreheid, &c.—Johnne Gordoun of Hiffilfeld, for Andro J. in Kirktoun, &c.

(Aug. 7.)—The Justice, of consent of pairtie, continewis this dyet to the xvij of November nixt.—Niniane Johnneftoun of Powdene, cautioner for Twnergathe and Andro J. of Kirktoun—and thay, conjunctlie and severallie, for the entrie of the remanent perfones.

(Nov. 18.)—Continued to the thrid day of the nixt Justice-air of Dumfries, or foner, vpon xv dayis wairning.

Slaughter at a Funeral.

JUN. 10.—JAMES JOHNNSTOUN of Wastraw; William J. of Locherbie; Archibald, his brother; Nicolas Cairleill, spous to the said Williame ('*paif fra'*), and others.¹

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Andro Johnneftoun, fone to Johnne Johnneftoun of Twnergathe; and Slauchter of vniq^{le} Johnne J., brothergermane to Andro J. of Kirktoun; committit the xxj day of Apryle last, within the Kirk-zaird of Tounergathe, at the Buriall of Thomas Johnneftoun, zounger of Fingland.

PERSEWARIS.

Sir Williame Oliphant of Newtoun, kny^t, Aduocat to our fouerane lord; Johnne Johnneftoun of Twnergathe, as father to the said vniq^{le} Andro; Johnneftoun of Kirktoun, as brother to the said vniq^{le} Johnne.

The same procedure takes place in this case as in the preceding; and is finally, on Nov. 18, continued to the Justice-air of Dumfries, &c.

Rape—Forcing and shamefully Abusing, &c.

JUN. 17.—MR DAVID WEDDERBURN, indueller in Dundie, and Andro Cryftie, indueller in Leith.

¹ The other pannels follow:—Mungo Johnneftoun, fone to the said Williame; Williame J., brother-fone to the said Williame of Locherbie; Andro Chalmer, in L. ('*paif fra'*); Johnne C. and Andro C., his tua fones, thair ('*paif fra'*); Williame Brydane, in Gymmenbie ('*paif fra'*); Mathow Brydane, thair ('*paif fra'*); Heckie Johnneftoun, thair ('*paif fra'*); Andro Grahame, in Locherbie; Williame Grahame, in Westwood ('*paif fra'*); Hercules Johnneftoun, in Locherbie; Margaret J., wedow, in Nitholme ('*paif fra'*); Williame Kennedie, zounger of Hallaithe; Johnne K. of Hallaithe ('*paif fra'*); Johnne Chalmer, in Studrigis ('*paif fra'*); Thomas Harknes, oistler in Locherbie; Johnne Johnneftoun of Turmour, callit of Locherbie; Dorthie J., his spous ('*paif fra'*); Andro J., his eldest fone; Andro J., brother to the said Johnne of Turmour; Williame J., alio his brother; Johnne Bell, his fervand ('*paif fra'*); Thomas J. of Fingland; Johnne J. in Burfs, callit of Fingland; Johnne J., callit *Gawinus Johnne*; Gib Mundell, in Lairdholme ('*paif fra'*); Adie Blaiklok, thair, callit of Birikay ('*paif fra'*); Hercules J., callit *the Bassard*, in Locherbie; Johnne J., fone to Williame J. of Auldwallis ('*paif fra'*); George J. in Mylebank; Johnne J., fone to David J. of Cleuch-heidis; Mungo Kenydie in Aitork; Andro Irwing, alias Myller, in Wyliehoill ('*paif fra'*); Mathow Thorbrand, thair ('*paif fra'*); Williame T., thair ('*paif fra'*); James Grahame, in Quhyteftanehill ('*paif fra'*); Thomas Manekitoun, in Midge-bray ('*paif fra'*); David M., thair ('*paif fra'*); Symone Hall, thair ('*paif fra'*); Johnne Corrie, in Preiftbutts; Gawin Smyth, thair; Thomas Johnneftoun, callit *Geordeis Thome*, thair; Johnne Kenydie of Hallaithe ('*paif fra'*).

Dilaitit of the Foirceing and schamefull abusing of Jonet Crambie, dochter to vmq^{le} George Crambie, burges of Bruntieland, and Jonet Broune, hir mother; committit within the dwelling-houfe of Alexander Anderfone in Bruntieland, vpon the xxvj day of Marche last.

PERSEWARIS.

Jonet Brown, as mother to the said Jonet Crambie; Sir Williame Oliphant of Newtoun, kny^t.
PRELOCUTORIS in defence, Mr Thomas Nicolloun, Mr Vmphra Blindfchell, Mr Johnne Ruiffell.

It is allegit be the pannell and thair prelocoutouris, that na proces can be grantit in this matter, nather can thai (be) put to the knowlege of ane Affyse for the cryme lybellit; becaus the said Jonet Crambie, speciall pairtie persewar, to quhome the allegit cryme is done, is nocht present to perfew thame for the famyn.—It is anfuierit be my lord Aduocat, that the allegiance aught to be repellit, in respect that the mother is present, and is reddie to perfew, quha is sufficient; or ony of the kyn and freindis to perfew, with concurrence of his Maiesteis Aduocat.—It is replyit be the pannell, that the mother is only for her (awin) intereis; quha can nocht perfew thame for the allegit cryme, ~~the~~ pairtie allegit offendit being on lyfe.—It is anfuierit, that the allegiance aucht to be repellit, in respect of the former answ^r.

The pannell desyres the mother to be solemnelie fuorne, vpon the verritie of the Dittay, befor thai cum to thair defenfe.—The mother refuifes to geve her aith vpon the Dittay, as it is qualifeit, in respect scho was nocht present; bot declairis that hir dochter past saif and haill furth of hir hous; and come bak agane to hir hous schamefullie abus^t, &c.; quha than repoitit to hir that scho was forcet be the pannell, in maner specifeit in the Dittay.—The pannell takis infrumentis, that the mother refuiffing to sweir; and protestis for remeid of law, for thair schamefull felander.

THE JUSTICE Ordanis the pannell to find caution for thair compeirance the thrid day of the nixt Justice-air of the scherefdom qubairin thai duell,¹ or soner, vpon xv dayis wairning, to vnderly the law for the famyn, vnder the pane of I^m merkis for ilk ane of thame.—Mr Johnne Elphinstoun, indueller in Leith, become fouertie for the said Andro, vnder the pane of I^m merkis. Andro Watfone, bailzie and burges of Bruntieland, become fouertie for the said Mr David, vnder the said pane.

≡laughter.

JUN. 20.—JAMES STEWART, sone to vmq^{le} Johnne Stewart of Kilpatrik.

Dilaitit of the cryme following, viz. sforamekill as, he haifing confauet ane deidlie fleid, rancour, and mallice aganis Andro Cuninghame in Belliemichell, in

¹ Forfar and Edinburgh.

Arrane, in the moneth of Maij laft, come bodin in feir of weir,¹ with ane fuord and vther wappones, *inuafine*, to the faidis Landis of Belliemichell, of purpois to haif darnet² himfelf in the brome,³ neir to the faid Androis hous, thair to haif murthouret him: In his cunning to the quhilk brome, being efpit be ane . . . Jerveife, fervand to the faid Andro, quha was addreffing him felf in to the faid Androis hous, to geve him advertifment of the faid James being thair; the faid James followit the faid . . . Jerveife, and befor he could cum to his maifteris hous, ouertuik him, and with ane fuord ftrak him in the bellie, and flew him thairwith.

The pannell confefles the Slaucher of . . . Jerveis; and offeris to fatisfie the pairtie and the Kingis Maieftie for the famyn, feing nane perfewis him bot his Maieftis Aduocat, for his hienes intreis.—The Aduocat takis instrumentis of the pannellis confeffion of the cryme.

VERDICT. The Allyfe, be the mouth of Mr Donald Campbell, chancellor, all in ane voce, in refpect of the faid James Judiciall Confeffion, fand and declairit the faid James to be flyet, culpable, and convict of the Slaucher of the faid vnr⁴ . . . Jerveis.—SENTENCE. To be tane to the Caſtle-hill of Edinburghe, and thair his heid to be ftrukin frome his body; and his baill guidis and geir to be efcheit, &c.

Thrift.

Jul. 2.—GILBERT ELLOTE, callit *Gib the Galzart*.⁴

Dilaitit of the thiftious fleilling of ane purfe fra Johnne Airmefrang, callit of the Holme, vnder filence and chud of nycht, within the duelling hous of Alexander Young in Selkirk, in the moneth of Maij laft, be taking the faid purfe, with flourtie pundis being thairin, furth of the faid Johnne Airmefrangis breikis, in maift thiftious maner; and drinking of ten merkis of the money that was thairin; and abſtracting the reft of the flourtie pund, vnto the tyme the famyn was challanget vpon him, and reſtoirit bak agane thaireſtir to the faid Johnne Airmefrang, awner thairof.

The pannell declairit that he nawayis ſlaw⁵ the purfe, in maner ſpecificit in the Dittay; bot allanerlie, that he being in Alexander Youngeis hous, in Selkirk, ryſeing in the moirning, fand the purfe vpon the flure of the chalmer; quhilk he retenit, and ſpendit of the money that was thairin ten merkis allanerlie,⁶ in recompance to the faiffer;⁷ and reſtoirit the faid purfe, with the reft of the money

¹ Furniſhed in warlike manner.

² Concealed; hidden.

³ Broom; *planta genista*.

⁴ ⁵ ⁶ ⁷ ⁸ ⁹ ¹⁰ ¹¹ ¹² ¹³ ¹⁴ ¹⁵ ¹⁶ ¹⁷ ¹⁸ ¹⁹ ²⁰ ²¹ ²² ²³ ²⁴ ²⁵ ²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ³² ³³ ³⁴ ³⁵ ³⁶ ³⁷ ³⁸ ³⁹ ⁴⁰ ⁴¹ ⁴² ⁴³ ⁴⁴ ⁴⁵ ⁴⁶ ⁴⁷ ⁴⁸ ⁴⁹ ⁵⁰ ⁵¹ ⁵² ⁵³ ⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷ ⁵⁸ ⁵⁹ ⁶⁰ ⁶¹ ⁶² ⁶³ ⁶⁴ ⁶⁵ ⁶⁶ ⁶⁷ ⁶⁸ ⁶⁹ ⁷⁰ ⁷¹ ⁷² ⁷³ ⁷⁴ ⁷⁵ ⁷⁶ ⁷⁷ ⁷⁸ ⁷⁹ ⁸⁰ ⁸¹ ⁸² ⁸³ ⁸⁴ ⁸⁵ ⁸⁶ ⁸⁷ ⁸⁸ ⁸⁹ ⁹⁰ ⁹¹ ⁹² ⁹³ ⁹⁴ ⁹⁵ ⁹⁶ ⁹⁷ ⁹⁸ ⁹⁹ ¹⁰⁰ ¹⁰¹ ¹⁰² ¹⁰³ ¹⁰⁴ ¹⁰⁵ ¹⁰⁶ ¹⁰⁷ ¹⁰⁸ ¹⁰⁹ ¹¹⁰ ¹¹¹ ¹¹² ¹¹³ ¹¹⁴ ¹¹⁵ ¹¹⁶ ¹¹⁷ ¹¹⁸ ¹¹⁹ ¹²⁰ ¹²¹ ¹²² ¹²³ ¹²⁴ ¹²⁵ ¹²⁶ ¹²⁷ ¹²⁸ ¹²⁹ ¹³⁰ ¹³¹ ¹³² ¹³³ ¹³⁴ ¹³⁵ ¹³⁶ ¹³⁷ ¹³⁸ ¹³⁹ ¹⁴⁰ ¹⁴¹ ¹⁴² ¹⁴³ ¹⁴⁴ ¹⁴⁵ ¹⁴⁶ ¹⁴⁷ ¹⁴⁸ ¹⁴⁹ ¹⁵⁰ ¹⁵¹ ¹⁵² ¹⁵³ ¹⁵⁴ ¹⁵⁵ ¹⁵⁶ ¹⁵⁷ ¹⁵⁸ ¹⁵⁹ ¹⁶⁰ ¹⁶¹ ¹⁶² ¹⁶³ ¹⁶⁴ ¹⁶⁵ ¹⁶⁶ ¹⁶⁷ ¹⁶⁸ ¹⁶⁹ ¹⁷⁰ ¹⁷¹ ¹⁷² ¹⁷³ ¹⁷⁴ ¹⁷⁵ ¹⁷⁶ ¹⁷⁷ ¹⁷⁸ ¹⁷⁹ ¹⁸⁰ ¹⁸¹ ¹⁸² ¹⁸³ ¹⁸⁴ ¹⁸⁵ ¹⁸⁶ ¹⁸⁷ ¹⁸⁸ ¹⁸⁹ ¹⁹⁰ ¹⁹¹ ¹⁹² ¹⁹³ ¹⁹⁴ ¹⁹⁵ ¹⁹⁶ ¹⁹⁷ ¹⁹⁸ ¹⁹⁹ ²⁰⁰ ²⁰¹ ²⁰² ²⁰³ ²⁰⁴ ²⁰⁵ ²⁰⁶ ²⁰⁷ ²⁰⁸ ²⁰⁹ ²¹⁰ ²¹¹ ²¹² ²¹³ ²¹⁴ ²¹⁵ ²¹⁶ ²¹⁷ ²¹⁸ ²¹⁹ ²²⁰ ²²¹ ²²² ²²³ ²²⁴ ²²⁵ ²²⁶ ²²⁷ ²²⁸ ²²⁹ ²³⁰ ²³¹ ²³² ²³³ ²³⁴ ²³⁵ ²³⁶ ²³⁷ ²³⁸ ²³⁹ ²⁴⁰ ²⁴¹ ²⁴² ²⁴³ ²⁴⁴ ²⁴⁵ ²⁴⁶ ²⁴⁷ ²⁴⁸ ²⁴⁹ ²⁵⁰ ²⁵¹ ²⁵² ²⁵³ ²⁵⁴ ²⁵⁵ ²⁵⁶ ²⁵⁷ ²⁵⁸ ²⁵⁹ ²⁶⁰ ²⁶¹ ²⁶² ²⁶³ ²⁶⁴ ²⁶⁵ ²⁶⁶ ²⁶⁷ ²⁶⁸ ²⁶⁹ ²⁷⁰ ²⁷¹ ²⁷² ²⁷³ ²⁷⁴ ²⁷⁵ ²⁷⁶ ²⁷⁷ ²⁷⁸ ²⁷⁹ ²⁸⁰ ²⁸¹ ²⁸² ²⁸³ ²⁸⁴ ²⁸⁵ ²⁸⁶ ²⁸⁷ ²⁸⁸ ²⁸⁹ ²⁹⁰ ²⁹¹ ²⁹² ²⁹³ ²⁹⁴ ²⁹⁵ ²⁹⁶ ²⁹⁷ ²⁹⁸ ²⁹⁹ ³⁰⁰ ³⁰¹ ³⁰² ³⁰³ ³⁰⁴ ³⁰⁵ ³⁰⁶ ³⁰⁷ ³⁰⁸ ³⁰⁹ ³¹⁰ ³¹¹ ³¹² ³¹³ ³¹⁴ ³¹⁵ ³¹⁶ ³¹⁷ ³¹⁸ ³¹⁹ ³²⁰ ³²¹ ³²² ³²³ ³²⁴ ³²⁵ ³²⁶ ³²⁷ ³²⁸ ³²⁹ ³³⁰ ³³¹ ³³² ³³³ ³³⁴ ³³⁵ ³³⁶ ³³⁷ ³³⁸ ³³⁹ ³⁴⁰ ³⁴¹ ³⁴² ³⁴³ ³⁴⁴ ³⁴⁵ ³⁴⁶ ³⁴⁷ ³⁴⁸ ³⁴⁹ ³⁵⁰ ³⁵¹ ³⁵² ³⁵³ ³⁵⁴ ³⁵⁵ ³⁵⁶ ³⁵⁷ ³⁵⁸ ³⁵⁹ ³⁶⁰ ³⁶¹ ³⁶² ³⁶³ ³⁶⁴ ³⁶⁵ ³⁶⁶ ³⁶⁷ ³⁶⁸ ³⁶⁹ ³⁷⁰ ³⁷¹ ³⁷² ³⁷³ ³⁷⁴ ³⁷⁵ ³⁷⁶ ³⁷⁷ ³⁷⁸ ³⁷⁹ ³⁸⁰ ³⁸¹ ³⁸² ³⁸³ ³⁸⁴ ³⁸⁵ ³⁸⁶ ³⁸⁷ ³⁸⁸ ³⁸⁹ ³⁹⁰ ³⁹¹ ³⁹² ³⁹³ ³⁹⁴ ³⁹⁵ ³⁹⁶ ³⁹⁷ ³⁹⁸ ³⁹⁹ ⁴⁰⁰ ⁴⁰¹ ⁴⁰² ⁴⁰³ ⁴⁰⁴ ⁴⁰⁵ ⁴⁰⁶ ⁴⁰⁷ ⁴⁰⁸ ⁴⁰⁹ ⁴¹⁰ ⁴¹¹ ⁴¹² ⁴¹³ ⁴¹⁴ ⁴¹⁵ ⁴¹⁶ ⁴¹⁷ ⁴¹⁸ ⁴¹⁹ ⁴²⁰ ⁴²¹ ⁴²² ⁴²³ ⁴²⁴ ⁴²⁵ ⁴²⁶ ⁴²⁷ ⁴²⁸ ⁴²⁹ ⁴³⁰ ⁴³¹ ⁴³² ⁴³³ ⁴³⁴ ⁴³⁵ ⁴³⁶ ⁴³⁷ ⁴³⁸ ⁴³⁹ ⁴⁴⁰ ⁴⁴¹ ⁴⁴² ⁴⁴³ ⁴⁴⁴ ⁴⁴⁵ ⁴⁴⁶ ⁴⁴⁷ ⁴⁴⁸ ⁴⁴⁹ ⁴⁵⁰ ⁴⁵¹ ⁴⁵² ⁴⁵³ ⁴⁵⁴ ⁴⁵⁵ ⁴⁵⁶ ⁴⁵⁷ ⁴⁵⁸ ⁴⁵⁹ ⁴⁶⁰ ⁴⁶¹ ⁴⁶² ⁴⁶³ ⁴⁶⁴ ⁴⁶⁵ ⁴⁶⁶ ⁴⁶⁷ ⁴⁶⁸ ⁴⁶⁹ ⁴⁷⁰ ⁴⁷¹ ⁴⁷² ⁴⁷³ ⁴⁷⁴ ⁴⁷⁵ ⁴⁷⁶ ⁴⁷⁷ ⁴⁷⁸ ⁴⁷⁹ ⁴⁸⁰ ⁴⁸¹ ⁴⁸² ⁴⁸³ ⁴⁸⁴ ⁴⁸⁵ ⁴⁸⁶ ⁴⁸⁷ ⁴⁸⁸ ⁴⁸⁹ ⁴⁹⁰ ⁴⁹¹ ⁴⁹² ⁴⁹³ ⁴⁹⁴ ⁴⁹⁵ ⁴⁹⁶ ⁴⁹⁷ ⁴⁹⁸ ⁴⁹⁹ ⁵⁰⁰ ⁵⁰¹ ⁵⁰² ⁵⁰³ ⁵⁰⁴ ⁵⁰⁵ ⁵⁰⁶ ⁵⁰⁷ ⁵⁰⁸ ⁵⁰⁹ ⁵¹⁰ ⁵¹¹ ⁵¹² ⁵¹³ ⁵¹⁴ ⁵¹⁵ ⁵¹⁶ ⁵¹⁷ ⁵¹⁸ ⁵¹⁹ ⁵²⁰ ⁵²¹ ⁵²² ⁵²³ ⁵²⁴ ⁵²⁵ ⁵²⁶ ⁵²⁷ ⁵²⁸ ⁵²⁹ ⁵³⁰ ⁵³¹ ⁵³² ⁵³³ ⁵³⁴ ⁵³⁵ ⁵³⁶ ⁵³⁷ ⁵³⁸ ⁵³⁹ ⁵⁴⁰ ⁵⁴¹ ⁵⁴² ⁵⁴³ ⁵⁴⁴ ⁵⁴⁵ ⁵⁴⁶ ⁵⁴⁷ ⁵⁴⁸ ⁵⁴⁹ ⁵⁵⁰ ⁵⁵¹ ⁵⁵² ⁵⁵³ ⁵⁵⁴ ⁵⁵⁵ ⁵⁵⁶ ⁵⁵⁷ ⁵⁵⁸ ⁵⁵⁹ ⁵⁶⁰ ⁵⁶¹ ⁵⁶² ⁵⁶³ ⁵⁶⁴ ⁵⁶⁵ ⁵⁶⁶ ⁵⁶⁷ ⁵⁶⁸ ⁵⁶⁹ ⁵⁷⁰ ⁵⁷¹ ⁵⁷² ⁵⁷³ ⁵⁷⁴ ⁵⁷⁵ ⁵⁷⁶ ⁵⁷⁷ ⁵⁷⁸ ⁵⁷⁹ ⁵⁸⁰ ⁵⁸¹ ⁵⁸² ⁵⁸³ ⁵⁸⁴ ⁵⁸⁵ ⁵⁸⁶ ⁵⁸⁷ ⁵⁸⁸ ⁵⁸⁹ ⁵⁹⁰ ⁵⁹¹ ⁵⁹² ⁵⁹³ ⁵⁹⁴ ⁵⁹⁵ ⁵⁹⁶ ⁵⁹⁷ ⁵⁹⁸ ⁵⁹⁹ ⁶⁰⁰ ⁶⁰¹ ⁶⁰² ⁶⁰³ ⁶⁰⁴ ⁶⁰⁵ ⁶⁰⁶ ⁶⁰⁷ ⁶⁰⁸ ⁶⁰⁹ ⁶¹⁰ ⁶¹¹ ⁶¹² ⁶¹³ ⁶¹⁴ ⁶¹⁵ ⁶¹⁶ ⁶¹⁷ ⁶¹⁸ ⁶¹⁹ ⁶²⁰ ⁶²¹ ⁶²² ⁶²³ ⁶²⁴ ⁶²⁵ ⁶²⁶ ⁶²⁷ ⁶²⁸ ⁶²⁹ ⁶³⁰ ⁶³¹ ⁶³² ⁶³³ ⁶³⁴ ⁶³⁵ ⁶³⁶ ⁶³⁷ ⁶³⁸ ⁶³⁹ ⁶⁴⁰ ⁶⁴¹ ⁶⁴² ⁶⁴³ ⁶⁴⁴ ⁶⁴⁵ ⁶⁴⁶ ⁶⁴⁷ ⁶⁴⁸ ⁶⁴⁹ ⁶⁵⁰ ⁶⁵¹ ⁶⁵² ⁶⁵³ ⁶⁵⁴ ⁶⁵⁵ ⁶⁵⁶ ⁶⁵⁷ ⁶⁵⁸ ⁶⁵⁹ ⁶⁶⁰ ⁶⁶¹ ⁶⁶² ⁶⁶³ ⁶⁶⁴ ⁶⁶⁵ ⁶⁶⁶ ⁶⁶⁷ ⁶⁶⁸ ⁶⁶⁹ ⁶⁷⁰ ⁶⁷¹ ⁶⁷² ⁶⁷³ ⁶⁷⁴ ⁶⁷⁵ ⁶⁷⁶ ⁶⁷⁷ ⁶⁷⁸ ⁶⁷⁹ ⁶⁸⁰ ⁶⁸¹ ⁶⁸² ⁶⁸³ ⁶⁸⁴ ⁶⁸⁵ ⁶⁸⁶ ⁶⁸⁷ ⁶⁸⁸ ⁶⁸⁹ ⁶⁹⁰ ⁶⁹¹ ⁶⁹² ⁶⁹³ ⁶⁹⁴ ⁶⁹⁵ ⁶⁹⁶ ⁶⁹⁷ ⁶⁹⁸ ⁶⁹⁹ ⁷⁰⁰ ⁷⁰¹ ⁷⁰² ⁷⁰³ ⁷⁰⁴ ⁷⁰⁵ ⁷⁰⁶ ⁷⁰⁷ ⁷⁰⁸ ⁷⁰⁹ ⁷¹⁰ ⁷¹¹ ⁷¹² ⁷¹³ ⁷¹⁴ ⁷¹⁵ ⁷¹⁶ ⁷¹⁷ ⁷¹⁸ ⁷¹⁹ ⁷²⁰ ⁷²¹ ⁷²² ⁷²³ ⁷²⁴ ⁷²⁵ ⁷²⁶ ⁷²⁷ ⁷²⁸ ⁷²⁹ ⁷³⁰ ⁷³¹ ⁷³² ⁷³³ ⁷³⁴ ⁷³⁵ ⁷³⁶ ⁷³⁷ ⁷³⁸ ⁷³⁹ ⁷⁴⁰ ⁷⁴¹ ⁷⁴² ⁷⁴³ ⁷⁴⁴ ⁷⁴⁵ ⁷⁴⁶ ⁷⁴⁷ ⁷⁴⁸ ⁷⁴⁹ ⁷⁵⁰ ⁷⁵¹ ⁷⁵² ⁷⁵³ ⁷⁵⁴ ⁷⁵⁵ ⁷⁵⁶ ⁷⁵⁷ ⁷⁵⁸ ⁷⁵⁹ ⁷⁶⁰ ⁷⁶¹ ⁷⁶² ⁷⁶³ ⁷⁶⁴ ⁷⁶⁵ ⁷⁶⁶ ⁷⁶⁷ ⁷⁶⁸ ⁷⁶⁹ ⁷⁷⁰ ⁷⁷¹ ⁷⁷² ⁷⁷³ ⁷⁷⁴ ⁷⁷⁵ ⁷⁷⁶ ⁷⁷⁷ ⁷⁷⁸ ⁷⁷⁹ ⁷⁸⁰ ⁷⁸¹ ⁷⁸² ⁷⁸³ ⁷⁸⁴ ⁷⁸⁵ ⁷⁸⁶ ⁷⁸⁷ ⁷⁸⁸ ⁷⁸⁹ ⁷⁹⁰ ⁷⁹¹ ⁷⁹² ⁷⁹³ ⁷⁹⁴ ⁷⁹⁵ ⁷⁹⁶ ⁷⁹⁷ ⁷⁹⁸ ⁷⁹⁹ ⁸⁰⁰ ⁸⁰¹ ⁸⁰² ⁸⁰³ ⁸⁰⁴ ⁸⁰⁵ ⁸⁰⁶ ⁸⁰⁷ ⁸⁰⁸ ⁸⁰⁹ ⁸¹⁰ ⁸¹¹ ⁸¹² ⁸¹³ ⁸¹⁴ ⁸¹⁵ ⁸¹⁶ ⁸¹⁷ ⁸¹⁸ ⁸¹⁹ ⁸²⁰ ⁸²¹ ⁸²² ⁸²³ ⁸²⁴ ⁸²⁵ ⁸²⁶ ⁸²⁷ ⁸²⁸ ⁸²⁹ ⁸³⁰ ⁸³¹ ⁸³² ⁸³³ ⁸³⁴ ⁸³⁵ ⁸³⁶ ⁸³⁷ ⁸³⁸ ⁸³⁹ ⁸⁴⁰ ⁸⁴¹ ⁸⁴² ⁸⁴³ ⁸⁴⁴ ⁸⁴⁵ ⁸⁴⁶ ⁸⁴⁷ ⁸⁴⁸ ⁸⁴⁹ ⁸⁵⁰ ⁸⁵¹ ⁸⁵² ⁸⁵³ ⁸⁵⁴ ⁸⁵⁵ ⁸⁵⁶ ⁸⁵⁷ ⁸⁵⁸ ⁸⁵⁹ ⁸⁶⁰ ⁸⁶¹ ⁸⁶² ⁸⁶³ ⁸⁶⁴ ⁸⁶⁵ ⁸⁶⁶ ⁸⁶⁷ ⁸⁶⁸ ⁸⁶⁹ ⁸⁷⁰ ⁸⁷¹ ⁸⁷² ⁸⁷³ ⁸⁷⁴ ⁸⁷⁵ ⁸⁷⁶ ⁸⁷⁷ ⁸⁷⁸ ⁸⁷⁹ ⁸⁸⁰ ⁸⁸¹ ⁸⁸² ⁸⁸³ ⁸⁸⁴ ⁸⁸⁵ ⁸⁸⁶ ⁸⁸⁷ ⁸⁸⁸ ⁸⁸⁹ ⁸⁹⁰ ⁸⁹¹ ⁸⁹² ⁸⁹³ ⁸⁹⁴ ⁸⁹⁵ ⁸⁹⁶ ⁸⁹⁷ ⁸⁹⁸ ⁸⁹⁹ ⁹⁰⁰ ⁹⁰¹ ⁹⁰² ⁹⁰³ ⁹⁰⁴ ⁹⁰⁵ ⁹⁰⁶ ⁹⁰⁷ ⁹⁰⁸ ⁹⁰⁹ ⁹¹⁰ ⁹¹¹ ⁹¹² ⁹¹³ ⁹¹⁴ ⁹¹⁵ ⁹¹⁶ ⁹¹⁷ ⁹¹⁸ ⁹¹⁹ ⁹²⁰ ⁹²¹ ⁹²² ⁹²³ ⁹²⁴ ⁹²⁵ ⁹²⁶ ⁹²⁷ ⁹²⁸ ⁹²⁹ ⁹³⁰ ⁹³¹ ⁹³² ⁹³³ ⁹³⁴ ⁹³⁵ ⁹³⁶ ⁹³⁷ ⁹³⁸ ⁹³⁹ ⁹⁴⁰ ⁹⁴¹ ⁹⁴² ⁹⁴³ ⁹⁴⁴ ⁹⁴⁵ ⁹⁴⁶ ⁹⁴⁷ ⁹⁴⁸ ⁹⁴⁹ ⁹⁵⁰ ⁹⁵¹ ⁹⁵² ⁹⁵³ ⁹⁵⁴ ⁹⁵⁵ ⁹⁵⁶ ⁹⁵⁷ ⁹⁵⁸ ⁹⁵⁹ ⁹⁶⁰ ⁹⁶¹ ⁹⁶² ⁹⁶³ ⁹⁶⁴ ⁹⁶⁵ ⁹⁶⁶ ⁹⁶⁷ ⁹⁶⁸ ⁹⁶⁹ ⁹⁷⁰ ⁹⁷¹ ⁹⁷² ⁹⁷³ ⁹⁷⁴ ⁹⁷⁵ ⁹⁷⁶ ⁹⁷⁷ ⁹⁷⁸ ⁹⁷⁹ ⁹⁸⁰ ⁹⁸¹ ⁹⁸² ⁹⁸³ ⁹⁸⁴ ⁹⁸⁵ ⁹⁸⁶ ⁹⁸⁷ ⁹⁸⁸ ⁹⁸⁹ ⁹⁹⁰ ⁹⁹¹ ⁹⁹² ⁹⁹³ ⁹⁹⁴ ⁹⁹⁵ ⁹⁹⁶ ⁹⁹⁷ ⁹⁹⁸ ⁹⁹⁹ ¹⁰⁰⁰

⁶ Only.

⁷ Salvage money, and for restoring what was loſt.

being thairin, to the said Johnne Airmfrang, sa fone as he vnderftuid the famyn pertent to him; affirmeing, that the said Johnne Airmfrang wald nawayis inftit aganis him for Thift.—The Aduocat anfueris, that his Declaratioun maid can nocht be refpectit; bot he fould be put to ane Affyfe, in refpect of his deponitioun maid be him, in prefens of the Iuftice, confeffing the fteilling of the purfe and money thairintill, in maner fpecificit in the Dittay.

The Iuftice Ordanis him to pas to ane Affyfe, nochtwithftanding of his former allegiance and Declaratioun maid be him thairintill.

VERDICT. The Affyfe, be the mouth of Johnne Scott of Sundelithoip, chancellor,¹ for the maift part, ftand, pronuncet, and declairit the said Gilbert to be flylet, culpable, and convict of the away-taking furth of Alexander Youngis hous in Selkirk, of the said Johnne Airmfrang his purfe, with fourtie pundis being thairintill; quhilk purfe was delyuerit bak agane to the said Johnne, and hail fowme aboue fpecificit, except ten merkis thairof allanerlie: And Clanges him of the fteilling of the famyn.—SENTENCE. To be SCURGET throw the burgh of Edinburgh; and alfo to be actit to be Banifchet furth of this realme, and neuer to be ftund agane within the famyn, without his Maieftis Licence, vnder the pane of deid, but faouour.

The said Gilbert actit himfelf to depairt furth of this realme, within xx dayis eftir the dait heirof; and nevir to be ftund agane within the famyn, without his hienes Licence, vnder the pane of deid.

Murder.

Jul. 8.—JOHNNE MENZEIS and Andro Menzeis, brether to Williame Menzeis of Caftelhill; Raulff Dalzell at the mylne of Durifdeir, James Barbour in Colymme, Hectour M^cQuhynzie in Thornehill, Jonet M^cRone, fpous to Johnne Williamfoun in Dufdeir, Johnne Williamfone hir fpous for his intreis, Marioun M^cRone, fifter to the said Jonet.

Dilaitit of airt and pairt of the crewall Murthour and Slauchter, vnder nycht, of Patrik Douglas, fone to Hew Douglas of Baliebucht; committit the fyftene day of Marche laft, at the gavill of the said Johnne Williamfones hous, in Dufdeir, in his ganging furth of the toun of Dufdeir to the place of Moirtoun.

PERSEWAR, Hew Douglas of Bellebucht, Sir Williame Oliphant, kny'.

PRELOCUTORIS in defence, Mr Thomas Nicolfoun, Mr Lueis Stewart, James King.

THE Iuftice, with confent of my Lord Aduocat, continewis this matter to the thrid day of the nixt Iuftice-air of the Scheref dome of Dumfreis, or foner vpon the fyftene dayis warning; and ordanis the pannell to find Cautioun for thair re-entrie to that effect.—The Laird of Dalzell, elder, and Williame Menzeis of

¹ The remainder are merchants and burgeses of Edinburgh.

Castellhill, become pledges for Johnne and Andro Menzeis—and Robert Douglas of Cafchogill for the entrie of Hectour M^cQuhynzie.

Slaughter—Demembration.

[THE Case which follows, affords one among numerous other instances, of the unhappy consequences resulting from the deadly feuds, which occurred almost daily; and strongly points out their prevalence in Scotland, to a very lamentable extent. *Sir James Balfour*, in his *Annales*,¹ states, that ‘*the Young Laird of Culmalindie-Bruce*, in Perthshire, killed *Tojhoke Laird of Mincevaire*, sister sone to *Sir James Campbell of Lawers*, in the towne of Perth. *Culmalindie*, the committer of the slaughter, fled.’ But *Fleming*, in his MS. Diary or Chronicle,² gives a much more minute detail of this affair, in the following passage, extracted from the Original MS. :—‘*Vroun* Midfomer-day, the xx of Junij, 1618 yeiris, at twa efternoon, (*David*) *Tojcheoch of Monivaire* younger flaine in the South-gait of Perth be *Laurence Bruce younger of Culmalindie*, his brother, and diners thair associates. The twa that was with *Monyvaire*, the ane deidlie hurt, bot deit not; the yther, his richt hand clene itrakin fra him. This done in a moment of time. All the committeris thair of eschewit out of the towne, befor any of the townis-men hard of ony siche thing.’]

Jul. 29.—PETER BLAIR, brother-germane to Andro Blair of Gairdrum.

Dilaitit of airt and pairt of the fielloun and crewall Slaughter of vniij^{le} *David Tojcheoche*, younger of *Monyvaire*; and Demembring of *David Malloche*, his feruand, of his richt hand; comittit within the burgh of Perth, vpon the xxiiiij day of Junij laft.³

The said Andro (as cautioner for his brother) nocht compeirand nor enterand the said Peter, the Justice ordanit him to be in ane amerceament and vulaw, viz. tua hundreth merkis : Lyk as, the said Peter was decernit, for his nocht compeirance, to be denuncet rebell and put to the horne, and all his moveabill guidis to be escheit, &c.

Slaughter—Demembration.

Jul. 29.—LAWRENCE BRUCE, appeirand of *Culmalindie*; *Alexander Bruce*, his brother; *William Oliphant of Gask*; *Laurence Oliphant* his brother; *Alexander Fleming of Monels*; *William Douglas of Annatroche*; *Johnne New*, feruand to my Lord *Oliphant*; *Donald Paterfone*, feruand to the *Maister of Oliphant*, and *George Tyrie*, messinger in Perth.

Dilaitit of airt and pairt of the above slaughter, &c.

Eduard Tojcheoche, elder of *Monyvaire*, as ffather o vniij^{le} *David Tojcheoche*, younger of *Monyvaire*, produced the Letters denlie execute and indorfate vpon *Peter Blair*, brother-germane to *Andro Blair of Gairdrum*; be vertew quhairof the saidis *Laurence*, &c. ar denuncet rebellis and put to the horne, for nocht

¹ Orig. MS. Adv. Library.

1618, Nov. 17, 1619, Mar. 12, 1623.

² Orig. MS. preserved in Adv. Library.

³ See Dec. 4,

finding of caution for their compeirance this day and place, in the hour of caus, to haif vnderlyne the law, &c. Vpoun the production of the quhilkis Letteris, the said Eduard, with Archibald Campbell, brother to the Laird of Laweris, alkitt instrumentis; and Proteffit for releif of George Bifchope of Orknay, cautioner.

Slaughter.

Jul. 29.—ALEXANDER HERVIE in Innerrowrie.

Dilaitit of airt and pairt of the Slauchter of vmq^{le} George Robertfone, servand for the tyme to Patrik Con of Auchry; committit withiu the duelling hous of Thomas Chalmer in Turray, in anno 1599 yeiris, be streking him in the bellie with ane knyfe, quhair of he deceift.

PERSEWAR.

Alexander Soure, as brother on the mother fyde, and servand for the present to the Laird of Skeane.

PRELOCOUTOURIS in defence.

Frances Erle of Errole, The Erle of Rothes, The Laird of Balquhane, (Johne Leslie,) Mr Thomas Nicolfoone, Adnocat.

The persewar, with Mr Andro Skene, productet Hoirning aganis the pannell, quhairby he is denuncet vpone the xxv of Julij instant, for nocht finding of caution to compeir this day to vnderly the law for the said cryme; and thairupoun alkitt instrumentis, and proteffit for his cautioneris relief, in respect na report was maid to the officer, of the finding of ony caution, quhairby ane Allyse mycht haif bene summond.—The pannell takis instrumentis of his entrie, and proteffis for his cautioneris releiff: And as to the Hoirning productet, allegis the famyn is null, in respect caution was fund be him for his compeirance lang befor his denunciatioun, viz. vpone the xxij day of Julij of befor: And as concerning the Slauchter lybellit, he offeris him self to the tryell of the Law for the famyn, as altogidder innocent thairof, disaffenting to all maner of continuatioun; and thairupoun alkitt instrumentis.

THE JUSTICE continewis this dyet to the secund of December nixtocum; and Ordanis the pannell to find caution for his entrie that day, vnder the panes contenit in the Actis of Parliament.

The pannell, for obedience of the Justice ordinance, ffind Jomme Leslie, fiear of Balquhane, cautioner for his compeirance befor the Justice or his deputis, the saidis day and place.—The said Alexander Hervie being fuorne, maid fayth that he dred¹ bodelie harme of Alexander Soure (Sowre), inafar as he had affirmet, in prefens of dyuerse famous² perfones, that ‘ gif he gat nocht his intent befor the Justice, that he fould wair³ his motler sone vpone him also!’ And thair-

¹ Dreded; feared. ² Persons of good fame and credibility.

³ Literally, expend; *i. e.* that he would hazard his own life in his endeavour to be revenged of him.

foir, defyret Lauborris of him.—The said Alexander Soure declairit he had na cautionne, becaus he was bot ane purr man; and offerit *cautionem juratoriam*.¹

THE JUSTICE Ordanit him ather to find caution and lauborris for the indemnitie of the pannell, vnder the pane of ij^e merkis, or ellis to be tane to waird, to remane thairin quhill caution war fund.

Compeirit Mr Andro Skeane, and become fouertie and lauborris for the said Alexander Soure, that the said Alexander Hervie fall be harmeles and skaythles of him in his persone, landis, and guidis; and nawayis to be molestit or trubillit be him thairin, nor be na vtheris of his causing, &c. vnder the pane of tua hundreth merkis.

(Jul. 30.)—Alexander Gourlay of Southane, in Fyfe, become plege, fouertie, and lauborris for Alexander Sowre, &c. Mr Andro Skeane relieved.

(Dec. 2.)—THE JUSTICE, in respect nane of the Assyte compeiris, continewis all tryell in this matter to the thrid day of the nixt Justice-air of the Scherfedome of Aberdene, &c.—Johnne Leflie, fear of Balquhane, become fouertie and lauborris for the said Alexander Hervie, that the said Alexander Sowre fall be harmeles and skaythles of him, &c. vnder the pane of foure hundreth merkis.

Stealing of a Purse.

Jul. 30.—JOHNE BROUNE.

Dilaitit of the steilling of ane purse, with xxij li. being thairin, in Carnewath mercat, vpon Mydsummer-day last, quhill pertenit to James Walker, cordiner in Lynlythgow: and he being schortlie thaireftir challenget, made restitution of the said purse and money bak agane to the said James.

VERDICT. Convict of the steilling of the said purse.—SENTENCE. To be Scurget throw the burgh of Edinburgh, and Brunt² vpon the cheik: And to be Banisheit his Maiesteis haill dominiones, speciallie this his kingdome of Scotland; nevir to be fund agane within the famyn, vnder the pane of deid, but³ faour.

Forging of an infamous Pasquil against the Scottish Nation, &c.

[THE CASE OF MR THOMAS ROSS forms one of a series of sanguinary and barbarously vindictive acts of KING JAMES VI. which, unquestionably, must leave an indelible stain on his memory and character, as a despotic and cruel tyrant. It has already been frequently shown, in the course of this work, that whenever there occurred the slightest attack on his personal dignity, or any speech, lampoon, or other writing, at all infringing on his kingly prerogative, &c. his Majesty was relentless in the severity of the punishment, which he never failed to cause be inflicted on the luckless offender. As so many shocking Cases of this description have already been given in the present Collection, it is enough, without fatiguing the reader with any recapitulation, barely to refer him, among other cases of a

¹ Juratory caution.

² Burnt; branded.

³ Without.

similar nature, to the Trials of *Dikson*,¹ Aug. 3, 1569; *Tennent*,² Oct. 10, 1600; *Cornuall*, Apr. 25, 1601; and *Fleming*,³ May 17, 1615; which are the leading instances of the insane and blood-thirsty spirit above alluded to.

With regard to the *facts* attending the case of Mr Thomas Ross, there seems to be no reason for doubting that they occurred almost exactly as they are narrated in the abstract of the Dittay, which has been preserved in the Books of Adjournal. In case, however, that this example should prove *infectious*, the Record informs us, that the offensive papers were ‘gevin vp agane to my lord Advo-cat,’⁴ to be destroyed—‘as nocht worthie to remane in ane Register, to offend the earis or eyis of the posteritie!’ Every search has been made in the *Denmylne Collection* of MSS, and other Collections in the Advocates’ Library, the Warrants of the Privy Council of Scotland, and other similar sources, but no trace can now be had of the *Theses* and *Annexa*, which must have proved very interesting and curious at this distance of time.

In order that the reader may have an opportunity of judging for himself, the Editor has made every enquiry in his power, for the purpose of elucidating this disgraceful and sanguinary page of the personal history of ‘the British Solomon.’ *Sir James Balfour*⁵ gives the following account of this extraordinary tragedy. “THE 20 of August, this zeire, *Mr Thomas Roffe*, a brother of the Houffe of *Craige*, in *Perthshyre*, was fentenced by the Justice-Generall to loffe his head,⁶ at the Croffe of Edinbrughe; and thereafter, the same head to be affixed one the jayle—for propofinge certane villanous and opprobrious Thefes, in defamatione of his anen natine country and countreyemen, and affixing them on a Church-dore, in *Oxford*, before fermon, one a Tuesday; offering them to be publickly difpute, and himfelue (miferable wretche!) to defend them. This fentence was put in executione within 2 dayes thereafter.”⁷—Another authority⁸ narates the proceeding thus. “MR THOMAS ROSS, Minister at Cargill, having been convicted by an Affize, at Edinburgh, of writing, at Oxford, in England, against the Scots Nation, was executed at Edinburgh.⁹ His right hand was first stricken off; thereafter, he was beheaded, quartered, and put upon the Ports. He was of the Houffe of Craigie, being a fon of John Rofs, Laird of Craigie, and went to Court. He wrote very unnaturally, and whereof he was not wite, against the Scots Nation. He was conveyed to Scotland in a ship. Mr Thomas Rofs was infane, and his infirmity was pled in his defence. He affixed to the door of St Mary’s Church, in Oxford, a Latin Thefis, in which were ten propofitions; wherein he attempted to prove, that the English ought not to allow fo many of the Scots to remain among them. The King was ridiculoufly incented, and instead of confining him, as one in his condition needed to be, he fent him to Scotland, along with strict orders that he should fuffer death.”

It seems very singular, when all circumstances are considered, that so remarkable an occurrence has been entirely passed over in silence by *Spotswood* and *Calderwood*, in their Church Histories.

There cannot be a doubt that *Mr Thomas Ross* was a man of an ancient, influential, and highly respectable Family; and the Editor believes, that having embraced Episcopacy, he had gone to prosecute his studies in Oxford. It would appear, from the preceding notices, that *Ross* had previously

¹ See Vol. I. 385. ² *Ibid.* II. 232. ³ *Ibid.* II. 349. ⁴ *Ibid.* III. 359. ⁵ Sir William Oliphant of Newton.

⁶ *Annals*, MS. Adv. Library—and II. 70, Edin. 1824. ⁷ “In September 1618, *Mr Thomas Ross*, some to the Lord of Craige, wes, for vreting, at Oxford, in Ingland, aganis the Scottis nation, being send to Scotland he schip, convict be ane Assyse, his richt hand first strackin aff, thair-for beheadit.”—MS. Adv. Library.

⁸ An obvious oversight of *Sir James Balfour*, who had probably noted down the day of his intended execution—omitting to rectify the date, after the King’s Warrant had been received. ⁹ *The Rev. James Scott’s* transcript of the *Diary or Chronicle of John Mercer*, who was appointed Town-Clerk of Perth, Oct. 6, 1623, and lived to a great age. Orig. in Adv. Library. The Editor has the pleasure of notifying, that this interesting Diary is preparing for publication by his friend *James Maitland, Esquire*, as his contribution to THE MAITLAND CLUB, the Members of which have chiefly directed their attention to the printing of Historical works illustrative of Scottish affairs.

¹⁰ “2 Sep. 1618. MR THOMAS ROSS, MINISTER at Cargill, went to Court; and thair, for sum infamous writtings, and railing aganes the Scottis Nation, werie ornaturallie, being on of the sones of the Hous of Craigie; quharof he wes not wite. He wes beadit in Edinbrughe, quharerit, and putt vpon the Ports.”—*Fleming’s (Mercer’s) Chron.* MS. Adv. Library.

been *Minister of Cargill*; and as he is so designed in these accounts, it is likely that he had not been deprived of his living before the period of his execution. The conduct of KING JAMES in the whole of this matter, and his barbarous treatment of *Ross*, become altogether inexplicable, when it is considered, that at this very time, he was struggling to force Episcopacy upon the people of Scotland, as the permanent and established Religion of the country. In such circumstances, it seems strange indeed that he should have so rancorously pursued so zealous a convert to the forms and tenets of the Church of England, at the precise time that that person (a *Minister*, too, of the Kirk of Scotland) was doing every thing in his power to qualify himself for effectually pleading and maintaining the establishment of Episcopacy—a measure so near James's heart. *Ross*, however, had, for the indulgence of some mad and absurd frolic, written the *Pasquil* or Thesis in question, and affixed it to the Church-door of *St Mary's, Oxford*, as was then usual at all the great Universities in Europe, where public disputations were often held.¹ It was pleaded by the unfortunate man, that he had done so in a fit of *insanity*, which seems to have been credited by his contemporaries;—but all these circumstances combined, could not induce the King to save his life; on the contrary, they only inflamed his rage the more against poor *Ross*.

The only thing which can be urged in palliation of the rigorous sentence, which the King insisted on being put in execution, is, that at the time when KING JAMES succeeded to the English Throne, and for a long time after, the Scotch were peculiarly unpopular in England, and such swarms of needy adventurers had travelled southward, that not only were the greatest jealousy and hatred manifested on the part of the English, but it actually became necessary that a legislative enactment should be made, to prevent bloodshed and scenes of violence throughout the country. As remarkable instances of the rancorous feelings which existed against the Scotch, a curious passage may be cited from *Calderswood*,² which forcibly illustrates the state of the public mind, in England, upon this subject.—‘THE SCOTSHIMEN lying at Court were in danger of their lives, be reafone of the great malice of the English conceaved againt them. *Sir John Ramfay's* brother smote the *Lord Montgomeries* brother on the face, with a rod, for a lie given him at a Horfe-race. There were prefent about ane hundreth Scottil-men, all in danger to be maffaced, if the English had not been stayed by a Counfellor. *James Maxwell*, one of the Gentlemen of the King's Chamber, pulled ane Englishman's eare till it bleade. Oure country-men durft not repair foe frequently to the Exchange or Comedies as they did before. The *Lord of Kintulffe* was in great danger at a Comedie, but was convoyed secretly away be ane aged gentleman, who was weill acquaint with his father. This lybell was affixed in open places,—

‘THE SCOTS DOE WHIFFE OUR NOBLEMEN WITH RODS—THEY KILL OUR FENCERS TRAITORIOUSLY UNDER TRUST.’

‘The *Lord Sanguhar* indeid hired two Scottilmen to kill ane English fencer, who, fix or seven years before, had putt furth his eye at fencing! They killed him in an Innes, whilles he was putting the cupe to his head. To content the English, the King confented that *Sanguhar* should be *hanged*. For the greater contempt of our Nobility, he was hanged among a number of Theaves!’

It is barely possible that the King may have discovered certain indications at Court, which, in a manner, forced him to sacrifice *Ross*, for the purpose of checking in the bud any future attempts at

¹ It may be esteemed worthy of remark here, that a shadow of this ancient custom is still observable at the Scottish Bar, where, previous to the inauguration of each candidate for admission into the body of the Faculty of Advocates, a *Thesis*, with its *Annexa*, is publicly notified on the walls of the Parliament-House—and especially at the *outer-door* of that Hall. It intimates that a public disputation, “*Disputatio Juridica*,” is to be held on a certain day, under the auspices of the Dean of Faculty; and the subject-matter of the *Thesis* is thus notified. Originally, the candidate had stoutly to maintain his ground against all comers, in the Latin tongue. It is almost unnecessary to add, that this *Disputatio Juridica* has now degenerated into a piece of empty form; in point of fact, it is “elegantly understood”—as no disputation whatever takes place, excepting that which is apt to arise with the printer and book-binder, who are the only parties at all benefited by this edifying solemnity. It is high time that such an useless waste of money should be prevented—and the sum at present bestowed in this way appropriated to the support of the splendid Library under the charge of the Faculty.

² *Church History*, Adv. Library, MS. ad ann. 1612.

fomenting these national jealousies. This, however, is merely matter of conjecture, and the only plausible apology which can be adduced for the perpetration of so tyrannical an act.

A very extraordinary instance of the same insane rage upon the part of the King, we learn from a rare Poem, entitled, a 'Counter-buffe to Lyimachus, Junior, calling himself a Jefuite;' quarto, 1640, pp. 16;¹ where the fate of STERCOVIUS, a Pole, is alluded to. That stranger had unhappily appeared in Scotland in the dress of his native country, which attracted the attention of the idle, and brought down upon him the derision and abuse of the populace.

' Hither he came, clad all in antique fort,
Where seen in ftreets the subject of a sport,
He foone became to childith gazers, who
With fkricks and clamours lifs him to and fro,
Till forced he was with thame and fpeed to pack him,
And to his feet and loathfome cabin take him !'

Nettled at such rude and inhospitable treatment, he published 'a Legend of Reproaches' against the Scottish Nation, shortly after his return home; which, having reached the ears of his 'most sacred Majesty,' he procured the *arrest and execution* of the hapless STERCOVIUS! This out-herods Herod, with a vengeance! The death of this Pole was accomplished at an expense to the King of no less a sum than *six hundred pounds sterling*—an immense sum in those days. The instrument whom JAMES employed was one *Mr Patrik Gordon*,² a subject of Scotland, then resident in Poland. With a dexterity for which the sapient James was celebrated, he attempted to extort the price of this innocent man's blood from the *Royal Burghs of Scotland!* It is believed, however, that he was foiled in that attempt, by the Privy Council declaring themselves incompetent judges of the matter.³

In a very curious Collection, privately printed at Edinburgh, 1828, 'A Third Book of Scottifh Paquils,'⁴ the cases of *Ross* and *Stercovius* are particularly noticed; and a copious extract from the 'Counterbuffe' is there given. That singular Poem introduces *Ross's* story thus—which is enough for our present purpose.

. . . . ' A Scot of ancient race,
A scholler, too, as thou art, lived a space
In England's Court; and for some private hate,
A Paquill did against his country wreat,
As thou haft done in fouler fort; more full
Of vild atpersions from thy phrantick skull!
Well, then, King *James* of lasting memorie, who
Could not brook that any calummie
Should be asperft upon his native land—
After some tryall there, he gave command
The Lybeller should home go, and sustaine
Of doome unpartial laws th' unpitied paine.
And here being tryed, judged, and adjudged, they fand
That he should lose his head and faultie hand;
Which fraight was done, in public view—and fo
I thinke the matter with thyself will go !'

THE FAMILY OF ROSS OF CRAIGIE, near Perth, were probably a branch of the Family of the ancient *Earls of Ross*, and were reckoned among the most respectable Families in the shire. Many

¹ A copy is in the valuable Collection of David Iving, Esquire. ² Probably the author of the 'History of the Valiant Bruce,' in heroic verse. Dort, 1615; quarto. ³ See Decree of Lords of Privy Council, in *Charter-room of the City of Edinburgh*. ⁴ Prefatory Notice, xii. The two preceding 'Books' bear date, 1827, and 1828.

particulars concerning them are to be found in History so early as the reign of Robert Bruce, and in the records of the Religious Houses at Perth, to which they were benefactors. *Nisbet*, in the Appendix to his second Volume,¹ gives a list of some of the distinguished Families in the Kingdom to whom they were allied.²

It cannot be disguised, that however honourably born this family may have been, various members of it figured in Books of Adjournal, and others of them suffered the last punishment of the Law, for their crimes. JOHN ROISE of Craigie, James and William Roise, his brothers, John Roise, servant to vniq^l James Roise in Maitlandis, Lancelot Moncrief, servant to the Laird of Craigie, were, along with William Lord Ruthven, Henry Lord Methven, and others, brought to the bar of the Court of Justiciary, Nov. 12, 1571, for Oppression, Hamesucken, Convocation of the Lieges to the number of two hundred armed persons, besieging the Place of Dupplin, &c.³ This appears to have proceeded entirely from one of those deadly Feuds which were unhappily so common in Scotland at that time. Their antagonist was Laurence Lord Oliphant. But the most atrocious instance which the Editor can at present recollect, occurs in *Fleming's Chronicle*,⁴ under date Apr. 8, 1608; where it is recounted, that 'PATRICK EVIOT, brother-german to the Laird of Balhousie, wes murderit in Blelok be his wife, JONET ROSS, quha wes air to the Lairdship of Craigie and Kynfavnes, both. He wes schote with ane gun in his bed, sleipin, be James M^cNair. Thairefter, they wer both taikin and execute—and brunt, efter they wer hangit, in the Playfeild of Perth, the 17 of Majj, 1608. The heid and arme putt wp on the Caistell-Gawill-Port.' It will be recollected how narrow an escape *Patrick Eviot*, the husband of *Jonet Ross*, had previously made, when he was attacked by Sir Henry Lindsay of Carreston.⁵

After the death of JONET ROSS, the heiress of Craigie, (who seems to have wished to transfer, by marriage, her large estates to her blood-stained paramour, *James M^cNair*,) her uncle, *Robert Ross*, succeeded to the Estate of Craigie. The Laird of Balhousie at this time was *Colin Eviot*. The Reverend Mr Scott informs us, that "*Patrick*, his brother, had suffered trouble and loss by a sentence of Parliament, for the friendship he had expressed to the Earl of Gowrie, in 1600. The *Eviots* had been proprietors of the lands of Balhousie and Muirton, near Perth, for more than three hundred years. They were great benefactors to the Religious Houses, especially to the Black Friars' Monastery, at Perth; and some of the younger sons of the Family were in Clerical Orders. *Colin Eviot* was succeeded by his son *Patrick*, who, before 1618, had sold the lands of Balhousie to *John Matthew*, and was himself designed *Patrick Eviot of Muirton*. He was married, and had children."

The reader's indulgence is requested for the minuteness and prolixity of this Notice; which, however, has proceeded from the Editor's anxiety to throw all the light in his power on so extraordinary a Trial.]

Aug. 20.—MR THOMAS ROISE, sone to vniq^l Johnne Roise of Craigie.

Dilaitit of the devillische and detestable florgeing, ffeñcing, blasphemous vttering, and by writ publiclie expofeing, of ane villaneous, infamous, and devillische Writt, all writtin with his awin hand, concerning ane PASQUEILL or THESE; togidder with ten feuerall abhominable ARTICLES or APPENDICES, confirmeing the famyn—that all SCOTTISMEN aucht to be schote⁶ furth of THE COURT OF ENGLAND, excepting his gracious MAIESTIE, his sone, and ane verrie few vtheris, and that the ENGLISCHMEN ar nichtillie blindet, fyllet, and diffauet,

¹ *Nisbet's Heraldry*, App. to Vol. II., p. 23. ² See MS. Transcript of *Mercer's Chronicle*, before quoted, and noticed by the *Reverend Mr Scott*, Adv. Library. ³ See this Collection, Vol. I., p. 25.

⁴ *Advocates' Library*, MS. ⁵ See this Collection, Vol. II., p. 409; Feb. 1, 1601. ⁶ Ejected; thrust out by violence.

(althocht quik-sichtit vtherways,) that thay fould suffer sic ane vnprofitable and pernicious multitude and filthie aff-scourengis of people to rage and dominire within thair boundis and intrallis, &c.

My lord Aduocat producet the said Mr Thomas Roife Dittay, togidder with ane directioun of the Counsell, vnder forme of Act, ordaning him to persue the said Mr Thomas for the cymes thairin contenit.

DITTAY against Mr Thomas Roife.

MR THOMAS ROISE, sone to vniq^e *Johne Roife of Cragie*, 5e ar indytit and accuset, FORSAMEKILL AS, albeit it be expresse provydit, statute, and ordanit, be dyuerse Actis of Parliament, alsweill maid be his Maiestie as be his hienes progenitouris, of worthie memorie; speciallie, be the 43 Act of the secund Parliament of King James the first, intitulat, ‘that Liefing-makeris tynes thair lyfe and guidis.’ And siclyk, be ane Act maid be King James the secund, the 100 Act, contenit in the auld prentit Actis of Parliament, the foirsaid Act is ratifeit in all pointis, and Ordanit to be put in executioun in all tyme cuming; be the whilk, it is statute, ‘that Leasing-makeris fall tyne lyfe and guidis to the King, and be at his Will.’ As lykways, be the 134 Act of the aucht Parliament, haldin be his Maiestie, our darrest souerane, him self, and his hienes Estaittis, in the moneth of Maij, 1584; and in the tent Parliament, haldin also be his Maiestie and his Estaittis, the tent of December, 1585, *articulo primo*, intitulat, ‘Authouris of sklanderous speiches or writtis salbe pwneischet to the deathe.’ Quhilkis Actis ar ratifeit and approvin in his Maiesteis fourtene Parliament, haldin the aucht of Junij, 1594: And be dyuerse vtheris Actis, alsweill maid be his Maiesteis self as his Maiesteis progenitouris of renowned memorie, that all Liefing-makeris and telleris of thame, quhilk may ingender discord betuix the Kingis Maiestie and his people, quhair euir thay may be gottin, fall be chal-langet be thame that power hes, and tyne thair lyfe and guidis to the King; and that nane of his subiectis, of quhatfumeuir functioun, degrie, or qualitie, fall presume or tak vpon hand, privatlie or publictie, in Sermones, declamationes, or familiar conferences, to vtter ony fals, sklanderous, or vntrew speiches, to the disdayne, reproche, or contempte of his Maiestie, his Counsell, and proceed- ingis; or to the dishonour, hurt, or preiudice of his hienes, his parentis, or progenitouris; or to meddle in the effairis of his hienes and his estait, steiring vp his hienes subiectis to mislyking, seditioun, or vnquyetnes; and that nane presume or tak vpon hand, publictie to declame, or privatlie to speik or wryte ony purposis of reproche or sklander of his Maiesteis persone, estait, or gouerna- ment; quhairby ony mislyking may be movet aganis his hienes and his nobilitie, and loveing subiectis, in tyme cuming; vnder the pane of death, to be inflictit vpon thame with all rigour: As the saidis Actis of Parliament in thame selffis

proportis. NOCHTWITHSTANDING quhairof, it is of verritie, that ye, the said *Mr Thomas*, in the moneth of Julij lastbypast, contrair to the tennour of the saidis Actis of Parliament, hes falslie, sklanderullie, calumnioufflie, dispytefullie, and devillischlie, within the toum of *Oxford*, in ENGLAND, sforget, sfenzeit, and blasphemoufflie vtterit, and be writt exposet publictlie to be red and defendit be yow, (as ye affirme by your devillische writt,) within THE VNIUERSITIES OF OXFURD, CAMBRIDGE, PAREIS, and vtheris places mentionet in that villaneous, infamous, and devillische Writt; all writtin with your awin hand, in Latine, ane Propositiou or These, contening ten feuerall abhominable articles and (appendices), confirmeing the samyn, that all SCOTTISMEN aucht to be schote furth of the *Court of ENGLAND*, (excepteing his gracious MAIESTIE, his sone, and ane verrie few vtheris,) and that the ENGLISCHMEN ar nichtilie blind, fylet, and disflaut (althocht quik-sichtit vtherways) that thai sould suffer sic ane vnprofitable and pernicious multitude and filthie aff-scoureingis of people to radge and dominire within thair boundis and intrallis. To the quhilk Propositiou, ye haiff sett down and subioynet ten feuerall fals reafones, leasngis, and vntreuthis, for confermeing your devillische propositioune. (Quhilkis ten reafones ar repeatit in this place as ane pairt of your Dittay, bot purpoillie omittit and left out heirof, as nocht worthie to remane in ane Register, to offend the earis or eyis of the posteritie.¹) The quhilk blasphemous, iniurious, sklanderous, and devillische propositiou, and ten reafones, as ye terme thame, subioynet be yow thairto, for confirmatioun thairof, all writtin with your awin hand, ar fals and manifest leasngis and vntreuthis; and war affixt be yow (uaist impudentlie, as ane hear and defamear of your countrie and nation, nocht worthie to haif inioyit the naturall air thairof) vpon the *Marie-Kirk-dur* of the said VNIUERSITIE OF OXFURD, vpon ane Twislday, being ane preiching-day, in the said moneth of Julij last, as the people war dissolueing and skailing fra the sermone, and as *Doctour Godwene, Vice-Chancellour of the Vuinersitie of OXFURD*, was cuming out of the Kirk; to the intent the samyn mycht be publictlie red and disperit amangist his Maiesteis subiectis of ENGLAND: Off plane purpois and intentioun thairby to haif steirit thame vp to the cewall, barbarous, and vnmercifull murdering, massacreing, and assassine of the hail SCOTTIS people, alsweill noble men and counsalouris as vtheris of the SCOTTIS NATION quhatsumeur, his Maiesteis guid subiectis and servandis, attendantis vpon and about HIS MAIESTIS royall persone in Court; quhilk could nocht haif bene accomplischet without the extreme danger and perrell of HIS MAIESTIS sacreid persone, his gracious QUENE, and of THE PRINCES hienes. In the doing quhairof, ye haif

¹ (Marked on the margin.) 'Thir Thefis, with the argumentis or reafones subioynet pairto, ar gevin vp agane to my lord Aduocat.'

fforget, maid, and writtin innumerable leafingis, ffalfe, fkländerous, and vntrew fpeiches and wrytingis, quhilk mycht haif ingenderit difcoird betuix his Maieftie and his guid fubiectis; to the difdane, reproche, and contempt of his Maieftie and his noble progenitouris and thair proceedingis, and of your natiue countrie, nocht worthlie to haif the name of ane borne fubiect thairin; and thairby, hes medlit with his hienes effairis, eftait, and gouvernement, maift ffalllie, barbarullie, and vnnaturallic; contravening thairthrow (ye being ane SCOTISMAN, albeit vnworthie) the tennour of the Lawis and Actis of Parliament thairof, and incurring defervetlie the panes and pwneifchment aboue written, mentionet thairintill; quhilk aucht and fould, in maift exemplarie mauer, be inflictit vpone yow, with all rigour; to the terrour and example of vtheris to attempt the lyk. Quhilk is mair nor noutour, and ye can nocht deny.

MY LORD ADUOCAT producet the faid Mr Thomas Roi's Dittay, togidder with ane directioun of the Counfell, vnder forme of Act, Ordaning him to perfew the faid Mr Thomas for the crymes thairin contenit.

The faid Mr Thomas, eftir reiding of the Dittay, and his accufatioun of the crymes mentionat thairintill, acknowleges and confelles the famyn crymes to be of veritie; declaring that THE THESIS producet war writtin be him furth of ane mad and diftemperat humour, being *inops mentis* for the tyme; quhilkis he now, from his heart, repentis; craucing God, his Maieftie, and hail cuetrie people¹ pardoun for that his offence: And offeris him felf in his Maiefteis will, being a gracious Prince, quhais Royall difpofitioun, in all his proceedingis, hes ever inclynet rather to mercie, quhilk is the richt hand of God, nor² to the rigour of Justice, quhilk is his left hand: Delyreing thairfoir, in all humilitie, my lord Justice and Lordis of his Maiefteis Counfall present,³ to interceid at his Maiefteis handis, for fauour in his behalf.

My lord Aduocat takis instrumentis of the pannell his Judiciall acknowlege-ment and Confessioun of the cryme contenit in his Dittay.

THE JUSTICE findis the Dittay relevant, and Ordanis the famyn to be put to the knowlege of ane Affyfe of the perfones fummond to that effect.

ASSISA.

James Somerwell of Spittell,	Johnne Levinftoun of Hayneing,	James Hoppringile of Heriote
James Levingftoun of Jerifwoid,	Robert Johnftoun of Wanfray,	mylne,
Patrik Hunter of Hiltarvet,	Ja Douglas, portioner of Lugtoun,	Robert Phillope, Schereff-clerk
Johnne Achiefoun, portioner of	Eduard Johnneftoun, elder, bur-	of Dumfreis,
Imereik,	ges of Edinburgh,	Mr James Ord,
George Redik, Shereff-depute of	Johnne Ker, portioner of Duding-	George Carnebie, burges of Ed,
Kirkcudbrycht,	ftonne,	Hew Roi of Balnaukie.

Eftir fweiring of the Affyfe, the faid Mr Thomas of new agane, in thair

¹ Countrymen.

² Than.

³ Sitting as Assessors. Their names are not recorded.

presence and audience, confesses the wryting and affixing of the THESES and APPENDICES following thairupone; and that the THESES product at the samyn that was writtin and affixt be him: And as of befoir, he offeris him selff in his Maiesteis will for that offence.

My lord Aduocat takis instrumentis of the sweiring of the Assyse: and for verificatioun of the Dittay, produces the foirfaidis THESIS or PROPOSITIOUN, with the ten fals and vntrew ARGUMENTIS or REASONES following thairupone, all writtin with the said Mr Thomas awin hand. Repeittis the said Mr Thomas Judiciall Confessioun, frst maid in prefens of the Justice, and thaireftir renewit be him in the said Assyse prefens and audience; and his becuming in his Maiesteis will, as guiltie and culpable of the saidis crymes: And lykwayis produces, for the said Assyse forder informatioun, the said Mr Thomas awin Depositiones maid and subferyuit be him at Edinburgh, the xj August instant, in prefens of his lordschip, as his examinatur, nominat and appointit be the Lordis of his Maiesteis Secreit Counsell. And in respect thairof, and that the said Mr Thomas, eftir reiding of his Depositiones to him judiciallie, in prefens of the Justice and Assyse, abydis thairat, and that thairby the saidis crymes ar clerlie verifeit and provin with sa manifest probabilities; in caice any of thame acquit the pannel, (as he thinkis nane of thame will be sa voyde of knowlege or conscience sa to do,) Protestis for wilful and manifest Errour, with all perrel of the Law that may follow thairupone.

VERDICT. The Assyse,¹ being ryple and at lenth advyset thairwith, togidder with the villannous and infamous Pasqueill or Thesès, and damnable Appendices subioynet thairto; his Judiciall Confessioun and acknowledgeing thairof, and becuming in his Maiesteis will for the samyn, as altogidder giltie and culpable thairof; his subferyuit Depositiones, product be our souerane lordis Aduocat, for cleiring and instructing of the said Dittay; togidder with the fuerral Actis of Parliament quhairvpon the said Dittay is foundit; thay all in ane voce, be the repoirt and declaratioun of the said Johnne Levinstoun, chancellor, stand, pronuncet, and declarit the said Mr Thomas to be Giltie, culpable, and convict of the said devillische sforgeing and exposeing, be writt, of the said villannous and falsè Theses, and falsè and damnable Appendices subioynet thairto: and affixing the samyn (thay being manifest lewis and vntreuthes) vpon the said Kirk dur, in forme and maner specifeit in his Dittay; and of the samyn Dittay, and hailil crymes contenit thairintill, and of contravening, thairthrow, the tenour of the saidis Actis of Parliament: quhairby he hes incurrit and fallin vnder the danger,

¹ Mr Alexander Hammiltoun of Kinglas; Raulf Ker, bailzie of Lauder; Robert Montray of Seyfeld, Allardice of Skadowie; Charles Cairnecrofe of Birkfneip; Johnne Paterfone, Schereiff-clerk of Fyfe; Johnne Haitlie in Sneip; David Ramsay in Petthead of Lethaid, Portions of Glenkirk, and Robert Creichtoun, brother to Innernytie; ilk ane of thame vulawit in the pane of ane hundreth merkis, for thair nocht compeirance vpon the said Mr Thomas Assyse.

and within the compas of the panes and pwneifchment mentionet thairintill, juftlie merited be him.

THE JUSTICE, in regard of his convictioun, Ordanit him to be tane bak to waird, and to be kept in irnes, quhill his Maieftie by acquaintit with his convictioun, and quhat exemplarie pwneifchment fall be execute vpon him for his offence.

Sep. 10.—SENTENCE. The Justice, conforme to ane Warrant and directioun of his Maieftie, direct to my Lord of Bynning, his hienes Secreter,¹ be the mouth of Johnne Dow, dempfter of Court, Ordanit the said Mr Thomas to be tane to the Mercat-croce of Edinburgh, and thair, vpon ane scaffold, first his rycht hand to be ftrukin aff, and thairefter his heid to be ftrukin frome his body: And his heid to be thairefter affixt and fet vpon ane irne prik vpon the *Nether-boll-Poirt*; and his said rycht hand to be also affixt vpon the *Wajt-Poirt* of the said burgh of Edinburgh: And his haill moveable guidis and geir, &c. (gif he ony hes) to be efcheit to his Maiefteis vse, as convict and culpable of the said haynous cryme.

CURIA JUSTICIARIE, &c. per M. Rob. Fairlie, *Justiciarium f. d. n. Regis, hac in parte, virtute Commissionis Dominorum Secreti Consilij, specialiter constitut.*

Mutilation.

Nov. 4.—WALTER SCOTT, sone to Johnne Scott in Newark.

¹ The following extraordinary composition has fortunately been preserved among the *Dennyline MSS.*, Advocates' Library—but the King's 'Warrant and directioun' has probably been too pithy to have been filed by that obsequious courtier the 'Secreter,' even in his private Collection, as being considered too strong meat for posterity! Having the fear of his Majesty before his eyes, he perhaps felt that his own head and hand might be called on to answer for disobeying the strict injunctions given him.

MOST SACRED SOUERANE,

THE furious wretche MAISTER THOMAS ROS, wes, according to your MAIESTIES commandement, put to his tryall, and convicted of the haynous crymes conteained in his diuelith Paquill, produced for verificatioun of his guiltines, to the Assyse. The Dome is delaied till your MATIE be pleased to signifie your royall determination in it.

His malicious frenchie is fo mixed with presumption of his owne wourth, as he thinks the vse of his learning and eloquence necessar to the world; and that his passioun having furnished to much stof, in so bad a pourpose, he is able, in ane subiect fo wourthie and true as the commendation of your Royall guiftes of bodie and mynd, and most princelie actions, to kyt the miracles in dew publickifing thair of! To this sente, he spak in judgement: And leauing to your MAIESTIES euer gracious clemencie, multiplied examples of diuine and humane Histories, to the commendatioun of the famous Princeis who had gracioullie pardoned heigh offences; adding examples of manie, who being transported be passion to madnes, had thairefter recovered their settled judgement, and done great and wourthie materis; promeifing no les of him self.

Your MAIESTIES Adooct has wyfelic considered, that the infame of his Dittay meritis not to be insert in the Register of the Adiornall. Always I haue sent to James Douglas the copie of the proces, that when your MATIE desyres to fie it, he may haue it reddie, and may conceale it from all others. So expecting the figuification of your MAIESTIES farder pleafour, anent this vnatural and furious soole, I besek God long to preferue your MAIESTIE in perfection of all honour, happines, and contentment.

Your most sacred Maiefteis most humble, faithfull, and bund subiect and seruant,

ED^s, 22 Aug. (1613.)

BINNING.

TO THE KINGIS most sacred MAIESTIE.

Dilaitit of airt and pairt of the hurting, wounding, and mutilatioun of Adame Dalgleife, sone and appeirand air to Johnne Dalgleife of Deuchar, of thre fingeris of his left hand; committit in the moneth of August, 1617 yeiris; at Muriesones-hill, beyde the burgh of Selkirk, vpone set purpos, prouifioun, and foirthocht felonie.

PERSEWARIS, Adame Dalgleife, Sir Williame Oliphant, kny^t.

PRELOCOUTOUR in defence, Mr Thomas Nicolfone, Aduocat.

It is allegit be the pannell and his prelocoutour, that this matter can nocht be put to ane Assyse; becaus, gif ony hurt or mutilatioun was gevin be him to the persewer, nocht granting the samyn, it was done in his awin defence; infasar as, vpon the fevint of August 1617, the pannell was set vpone be Adame Dalgleife, persewar, neir to the toun of Selkirk, and was crewallie hurt be him: ffor the quhilk, the said Adame, vpone the xxvj day of Marche 1618, being summond befor the Scheref of Selkirk and his deputis, to vnderly the Law for the hurting and wounding of the said Walter Scott, defender, in the heid, to the effusioun of his bluid in grit quantitie, was, be ane Assyse of xv sworne men, fund gyltie, and convict of the bluid and bluid-wyte: And product the Rolment of Court, for verificatioun thairof, vnder the subscripcioun of Alexander Wilkiesoun, clerk of the said Schereff-Court. *Secundo*, the Dittay is nawayis relevant to pas to the knowlege of ane Assyse, becaus *mutilatio est tantum amputatio membri*; and thair is na member cuttit af, ffor the persewaris haill hand, and fingeris thairof, ar yit extant be oculour inspectioun; and he is able to move his hand and fingeris, and to grip thairwith.

It is anfuert be the persewaris, that the allegeances foirsaidis aucht to be repellit, in respect of the summondis and Dittay product; with ane Testimoniall of the Chirurges, subscryuit be the Deacone and thre of his bretherene, testifieing the mutilatioun, togidder with the persewaris awin mutilat hand, mutilat in thre fingeris thairof schawin judiciallie to the Judge. And as to the Rolment of Court product, na respect fould be had thairto, the samyn being altogidder null and repugnant to the lawis of this realme; be the quhilk, ane Sentence is gevin out in ane Criminall matter, the pairtie accused nocht compeirand, convictand him of ane cryme; quhairas, be the Law, (he nocht being present nor compeirand,) he aucht nocht to haif bene put to ane Assyse; bot the maist that could haif bene done be the Schereff in that Judicatorie, was allanerlie, to haif vnlawit him *in pena contumacie*: And albeit the Schereff and his depute wald geve out his or thair Testimoniall, that the said Adame Dalgleife, quha is mutilat, was the persewar, na respect fould be had thairto, becaus that is na pairt of thair office: And thairfoir, na respect fould be had to the Rolment of Court.

To the quhilkis, it is replyt be the pannell, that the Rolment of Court is sufficient to instruct his allegiance; becaus, quhatevir the pannell did, it was in

his awin defence, in respect of the forme of proceeding vsēt in the Scheref Court, quhilk is, to put the pairtie accusēt to ane Assyse, albeit he be absent and compeiris nocht: always,¹ it is sufficient to instruct that pairt, that he is convict of the bluid and bluid-wyte, and was *contumax*,² and compeirit nocht; quhairupoun he tuik the cryme vpon him: And as for that pairt of the allegeance maid be the pannell, that the taking away of the finger is nocht *amputatio membri*, becaus the finger is nocht *membrum*, bot *pars membri*, as sayis BALDUS, *Leg. non sunt liberi*, ff. *de statu hominum*,—whois wordis ar, *Nota, digitus non dicitur membrum sed pars officialis membri; et sic amputans digitum non dicitur amputare membrum*: And BARTOL. Confilio 201, sayis, *Queritur numque digitus sit membrum? Respondetur quod non, sed potius pars sive officium membri; per Legem, non sunt liberi*, ff. *de statu hominum*.—*Tertio*, the perfewar is nocht mutilat in thais thre fingeris, becaus he is able to grip with thame and hald; and sa thay ar nocht vnprofitable.—*Quarto*, thair can na payne of the body be inflictit, albeit the thre fingeris was mutilat, as is allegit; becaus na pane corporall can follow, feing na death followit; bot only ane arbitrarie and pecuniall payne, to be modifeit be the Judge.

It is answert be the perfewaris, to that pairt of the allegeance proponit, that the cutting af of ane finger is nocht mutilatioun, it is nocht pertinent to this purpos; becaus the perfewar compeiris that he is mutilat of thre fingeris, quhilk ar nocht cut aff, bot mutilat and maid vnhable, quhairby he hes nocht the full and rycht vse, nather of his thre fingeris, nor yit of that hand: And as for the mutilatioun it self, and verritie thair of, it is verifeit be ocnour inspectioun, and be the Chirurges Testimoniall producet: And quhair it is allegit, that the Rolment of Court producet, is only vsēt bot to verifie that the perfewer is culpable of the bluid and bluid-wyte, repeitis the answert maid thairto of befoir, with this eik,³ that the Schereff had na power to put him to ane Assyse, he nocht compeirand; sa that the Declaratioun maid be the Inqueist, aucht naways to be respectit: And as to the Schereff, he had nocht power to geve ony Declaratioun thairupoun; and the parteis contumacie and absence is na cause to convict him of the bluid or bluid-wyte; and becaus of his absence, he could be na forder convict bot in payment of the vnlaw; sua that, in respect of the premisses, na respect aucht to be had to the Rolment of Court or ony pairt thair of: And albeit a pairtie be *contumax* and compeir nocht, that contumacie convictis him nocht of the cryme; vtherwayis, gif ane pairtie war *contumax*, it war nocht neidfull to put him to ane Assyse of new, quhilk war ane grit absurditie; feing, findrie perones being summoned to compeir befoir the Justice Generall and vtheris Judges in Criminall causses, thay purge thair contumacie, and offer thame sellis to ane tryell; and cowmonlie thay ar claget be the Assyse; as was

¹ At all events.² Contumacious; showed contempt of Court by not appearing.³ Addition.

found in this Judgment, betwix *Cunninghame* and *Wylie*. And as to the Doctouris of the Law allegit, na respect aucht to be had thairto in this Judicatorie, in respect of the inviolable practique obseruet within this realme; quhairin, mutilatioun of ony pairt of ane mannis persone, be the quhilk he is frustrat of the rycht vse thairof, is put to ane Assyse determinatioun; the Justice advyfes and resolues vpon the pwneifchment, be advyse of the Lordis of Secreit Counfell.

THE perfewar Refrictis this Lybell to the mutilatioun of the thre last fingers of his left hand allanerlie.

It is forder allegit be the pannell, that he can nocht be put to ane Assyse for the mutilatioun lybellit; in respect, gif ony hurt or mutilatioun be gevin to the perfewar, it was done be the perfewar him self, in drawing of his awin suord the tyme lybellit; quhilk he has dyuerse tymes confessit to Andro Scott Chirurgane, and vtheris; and desyres the perfewaris ayth to be tane thairupoun.

The perfewar, being solemnlie suorne vpon the last allegeance, ament the mutilatioun be him self with his awin suord; he, be his grit aith, denyit the samyn; and affirmet that he was mutilat be Walter Scott, defender, and na vther: Quhairupoun my lord Aduocat askit instrumentis.

THE JUSTICE findis the Dittay relevant; and remittis the samyn to the tryell of ane Assyse.

ASSISE.

Robert Trumble of Huttrilburne, Johnne Trumble of Howdene, James Kene, bailzie of Selkirk, James Pringill in Tynneis.¹

The perfewar, be his grit ayth, fwore the Dittay to be of verritie: Quhairupoun my lord Aduocat askit instrumentis. And in respect thairof, and of the Chirurgenes Testimoniall productet, with the evidence of the mutilatioun, be schawing of the perfewaris mutilat fingeris, Proteftis for Wilfull Errour, gif the Assyse acquit.—The pannell repeittis the allegeances maid be him of befoir, now to the Assyse, speciallie, that pairt thairof, that the cryme was committit in his awin defence, and that he was perfewit be the perfewar, and is convict thairof, and of the bluid and bluid-wyte, as the Rolment of Court beiris.

VERDICT. The Assyse, be the mouth and declaratioun of James Wauch in Selkirk, chancellor, fand the said Walter Scott to be flylet, culpable, and convict of the mutilatioun of the said Adam of thre fingeris of his said left hand, in manner and at the tyme specifieit in the said Dittay.

THE JUSTICE, in respect of the former convictioun, Ordanit the pannell to find caution for his compeirance befoir the Justice or his deputis, in the Tolbuth of Edinburgh, the ellevent day of November instant, to heir sic Dome and pwneifchment to be inflictit vpon him for the said cryme, as fall be inioynet be

¹ The rest of the Assise were persons of no note.

the Lordis of Secretit Counfall: And that he onnawayis depairt furth of the burgh of Edinburgh, in the meane tyme; vnder the pane of ffyve thowfeand merkis money.—George Scott of Castellyde, Robert Scott of Hertwoidmyres, Walter Scott in Loquiharret, and Williame Mitchelhill, burges of Selkirk, become cautioneris and fouerteis, &c.

Nov. 11.—CONTINUED to the xiiij day of Januar nixt.

(Jan. 13, 1619.)—THE JUSTICE, of consent of Adame Dalgleifche, perfewer, continewis the pronouncing of Dome, to the tent day of Februar nixtocum.

(Feb. 11.)—THE dyett DESERTIT, be directioun of the Thesaurer for the Kingis pairt; in respect the pairteis ar agreit be my Lord of Balclenches Decreit gevin thairin, to quhome the matter was submittit.

Slaughter.

Nov. 11.—GAWIN NISBET, sone to Robert Nisbet of Dalzell, and James Scott in Ardblairis.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} James Hammiltoun in Brigbrae; committit at ane Oifler-hous, callit the Woman-hill, in the moneth of . . . , 1617.

PERSEWAR, Robert Hammiltoun, as brother.

THE Justice, of consent of aither partie, continewis this dyet to the thrid day of the air (of Lanerk), or soner, vpon xv dayis wairning, &c.

[*Mr Alexander Coluile.*]

Cutting and Carrying away of Growing Timber.

Nov. 18.—DAVID SPALDING of Effintullie, and Alexander Robertstone of Myddill Downie.

Dilaitit of airt and pairt of the cutting down of certane grit growand treyis, and away-taking thairof, furth of Johnne Erle of Mar his Forrestis and woidis, within the boundis of Braemar, Cromar, Strathdie, and Glengarie.

In respect of thair compeirance, offerit thame felfis to the tryell of the Law, as altogidder innocent thairof; and protestit for thair cautioneris releif; and that thai fould nocht be trubillit or charget for the faidis allegit crymes.

Slaughter.

Nov. 18.—JAMES MYDDILTOUN, sone to Robert Myddiltoun, tailzeour, burges of Edinburgh.¹

The samyn day compeirit personallie, in judgement, Robert Wynrahame, Herald, and productet ane Supplicatioun, quhilk was gevin in to the Lordis of his Maiesteis Secretit Counfall, be James Myddiltoun, sone to Robert Myddiltoun,

¹ See Aug. 26, 1612, where the whole particulars of the Trial are inserted.

tailzeour burges of Edinburghe, aneut the said James puting to libertie; togidder with the saidis Lordis of Secreit Counfall thair Warrant and delynerance on the bak thairof. Off the quhilk SUPPLICATIOUN and delynerance the temour followis.

MY LORDIS OF SECREIT COUNSALL, vnto 3our lordschipis humlie meanis and schawis I, 3our feruitour, *James Mydiltoun*, fone lauchfull to vniq^e Robert Mydiltoun, tailzeour burges of Ed⁵, That quhair, vpon occasioun of that vnhappy accident of the slauchter of vniq^e *Clement Mauchane*, committit be me, I was takin, presentit to justice, and convict for þe fame, and the dome of death was pronuncet aganis me accordingle thairfoir: And þe partie, from tyme to tyme, thir fex 3eiris bygane, haifing gevin eir to the offeris of Affythemment,¹ quhilkis war by me and my freindis maid and offerit vnto thame; in end, by submissioun of þe matter vnto 3our lordschipis Sentence and Decreit, as gevin and pronuncet pairintill, quhairby I am decernit to be BANISCHET þe realmes of Scotland and England, and ordanit never to returne agane within the same, without Licence and consent of Sir Johnne Cockburne of Ormestoun, kny^t, Justice clerk, and Mr James Mauchane, brother to the said vniq^e Clement Mauchane, first had and obtenit pairto, vnder the pane of deid, to be execute vpon me without fauour; conforme to þe Sentence and dome alreddie gevin and pronuncet aganis me in þis matter. Accordingle quhairvnto, I am mait willing to act my self in þe buikis of Adiornall: In consideratioun quhairof, I humbly besek 3our lordschip to geve Warrant and command, heirby, to the Justice clerk and his deputis to tak me actit in the buikis of Adiornall, in maner and to the effect foirsaid, vnder þe pane aboue writtin: Quhairanent þir presentis fall be vnto þe Justice clerk and his deputis ane Warrant sufficient: And 3our lordschipis answer.

APUD ED⁵, xvij Nouembris, 1618, THE LORDIS Ordanis the Justice, Justice clerk, and his deputis, to appoint and set a Justice Court, and to tak þis supplicant actit in þe buikis of Adiornall, that he fall depairt furth of the realmes of Scotland and England, within þe space of ane moneth estir þe dait heirof; and returne (nocht) agane within þis realme, vnder the pane of deid: And he haifing actit him self, as said is, Ordanis þe said Justice to caus put him to libertie: And Ordanis this supplicant, that, during the tyme of his remaining within þis cuntries, he hant^e nocht Kirk nor mercat, and that he weir nocht a fwoird.

AL. CANCELL^s. SANCTANDROIS. LAUDERDAILL. CARNAGY. J. PRYMROIS.

AND accordingle to the said WARRANT, the said Robert Wynrahame desyreit my Lord Justice to tak the said James Mydiltoun actit; lyk as, the said James Mydiltoun, immediatlie thairestir, being, be directioun of the Justice, brocht furth of waird be George Foulis, his Maiesteis Maister Cunzeour,² and ane of the present Bailleis of Edinburghe, and presentit vpon pammell, conforme to the foirsaid Supplicatioun and Warrant on the bak thairof, maist willinglie become actit, bund, and obleift, that he fall depairt and pas of the realmes of Scotland and England, within the space of ane moneth. &c.⁴ Quhairvnto my Lord Justice interponet his authoritie and Decreit: And in respect of the former Act, and for obedience of the said Warrant, Ordanis the said James Mydiltoun to be fred and

¹ A compensation or *solutioun*, by way of fine, paid to the relations of the murdered party.

² Haunt; frequent.

³ Coiner: Master of the Mint. This officer (George Foulis of Ravelston) was the son-in-law and successor of GEORGE BANNATYNE, the far-famed Compiler of the greatest body of Ancient Scottish Poetry now extant; in honour of whom the Literary Association, termed THE BANNATYNE CLUB, assumed his name.

⁴ As above narrated.

releit furth of the said Tolbuth and waird of Edinburghe be the Proveift and bailleis of Edinburghe.

The said James Mydiltoun, *olim in carcere*, and now at libertie furth of waird, Ratifeis, approves, and affirms the Band maid and subcruyt be him and his freindis, anent his Banifchment, &c., and payment of the fowmes of money thairin contentit, &c.

Slauȝhter.

Nov. 20.—PATRICK HEROUN of Kierochtrie.

Dilaitit of airt and pairt of the Slauchter of vni^{ic} Robert Gordoun of Bairnairny; committit within the duelling hous of Andro M^dDowell, mercheand in Monyogf, in the moneth of September laft.

PERSEWAR, Alexander Gordoun of Barnernie, eldest sone.

The pannell proteftis for his cautioneris releif; and offeris him self to the tryell of the Law, for the said allegit cryme, quhairof he is altogidder innocent; difaffenting to all maner of continuatioun.

THE Justice Continewis this dyet, of the perfeweris consent and defyre, to the thrid day of the next Justice-air of the fcherefdome quhair the pannell duellis, (Wigtoun,) or soner, vpon xv dayis warning. And ordanis caution to be ffund be him for his entrie to that effect, vnder the panes contentit in the Actis of Parliament: Quha fund Sir Patrick M^kie of Larg caution for his entrie, &c.

Usurping King's Authority, by taking Captive and Detaining, &c.

Nov. 20.—THOMAS MELDRUM of Idene;¹ Walter Grant, his fervand; James Grant in Tilliebo; Johnne Roife, fervand to the said Thomas.

Dilaitit for taking and apprehending of Johnne Meldrum of Ordley captiue and priffoner, furth of his duelling houfe of Ordley, vpon the viij day of Maij, 1612 yeiris, vnder nycht; cayreit him to the said Thomas duelling hous of Idene, quhairin he was detenit, *in privato carcere*, be the fpace of foure dayis and foure nychtis; and thairfra, cayreit him to Sir Alexander Gordoun of Clwneis hous, quhair he was detenit, *in privato carcere*, the fpace of tua dayis and tua nychtis; and thairfra brocht him, as ane captiue, all the way to the burgh of Edinburghe, to the duelling hous of Alexander Watfone, quhairin he was detenit, *in privato carcere*, as ane priffoner, the fpace of xxiiij houris: Vfurpeand thairby his Maieftis autoritie vpon thame, in taking and detening of the said Johnne, *in privato carcere*, but² Commiffioun or autoritie, be the fpaces foirfaid.

PERSEWARIS, Johnne Meldrum of Ordley; Sir Williame Oliplant, kny^t.
PRELOCOUTOURIS in defence, Mr Thomas Hoip, Mr Thomas Nicolfone, elder.

¹ See Jan. 9, 1618.

² Without.

It is allegit be the pannell, that na proces can be grantit at Johnne Meldrumis instance, becaus he is rebell and at his Maiesteis horne; and product fyve feuerall Hoirningis for verifeing thair of.—My lord Aduocat declairis he infiltis in the perfute for the Kingis Maiesteis intreis aganis the pannell, quha had na power to tak and detene the said Johnne, in maner lybellit.

It is allegit be the pannell, that gif the Dittay war trew, (nocht grantand the samyn,) that thai did na wrang in taking and detening of the said Johnne Meldrum, becaus the tyme of his taking, he was rebell and at the horne; and repeittis the Hoirningis product for instructing thair of: And as the pannell could nocht be callit for Slauchter of ane rebell at that tyme, far les can thai be persewit for his taking.—It is ansuerit be my lord Aduocat, as persewer, that the exception aucht to be repellit; *ffirst*, becaus he infiltis vpon the haill lybell *coniunctim*, as ane cryme to infer the conclusioun thairin contenit, viz. taking and detening of Johnne Meldrum *in privato carcere*, as the lybell beiris: *Secundo*, adheirand to the first ansuer, geveand¹ the said Johnne had bene rebell, the pannell had na Warrant to tak or apprehend him, thay nor name of thame being Magistrattis, haifand na Jurisdiction, power, nor commissioun; feing the pannell could nevir haif bene accuset for suffering a rebell to pas vp and down the cuntrie, nather warthayafstrictit of the Law² to tak him, nather myecht thay tak him.

It is duplyt be the pannell, that the exceptioun standis relevant, nochtwithstanding of the ansuer, insofar as the Kingis Maiesteis rebell can haif na benefeit of his Maiesteis Lawis; and thairfoir, as nocht being the Kingis frie leige, it was lauchfull to the pannell to tak him; and in the Law it is cleir, *quod capere Bauuitum rnicuique permittitur*, L. finali Cod. de *Maleficijs et Machematicis*; Baldus in *Lege prima*, Cod. de *Summa Trinitate*: And the reffone of the Law is, *quia Bauuitus habetur pro fugitivo; et fugitivum quilibet potest capere*; Bald. in *Lege qui bonis*, Cod. *qui bonis cedere*: And it was nevir practizet in this Judicatorie, that Hoirning being obiectit and product, ather for hurting, slaying, or taking of ony man, proces was grantit. And it being now opponit, that the persone tane was the Kingis Rebell, the pairtie persewit was nevir, nor can nevir be put to the knowlege of ane Assyse. Lykas, it is allegit, that the *Laird of Drumlangrig*, being accuset for taking of *Kirknichell*, was nocht put to ane Assyse. It is forder eikit to the allegiance, that the pannell had ane speciall intreis to tak him, becaus he was rebell and at the horne for nocht removing fra his landis of Woidheid, quhilkis landis of Woidheid he violentlie possessit, and opprest the tementis. Lyk as, the said Thomas Meldrum of Iden, finding the said Johnne Meldrum to be nyue or ten tymes his Maiesteis rebell, and haifing letteris of Captioun to tak and apprehend him, the said Johnne being

¹ Giving or granting, for the sake of argument.

² Bound by law.

ane fugitiue and ane howlat,¹ nocht appeirand in the day; and it being cum to the pannellis knowlege, the tyme lybellit, that he was cum, vnder silence of nycht, and enterit within the bouffis, the pannell, vpon suddantie, being adverteit by the spyis, nocht haifing the occasioun² of ane messinger, was forcé of necessitie, *propter periculum fuge*, to pas him self, with his awin domestik seruauds, and to leafe vpon the said Johne, of intentioun to exhibeit him to Justice, he being his Maiesteis rebell for causés Criminnall, sic as for invading the *Guidman of Harthill, &c.*, as the Hoirningis beiris: Lyk as, with all convenient dilligence, the pannell brocht the said Johne Meldrum to Edinburghe, of intentioun to exhibeit him to justice; and in the meane tyme, he being seafit vpon and put in waird, at the instance of dyuerse perones, baith for dett, ryottis, and oppreßiones. Quhair-vpon the pannell meant him self³ to the Lordis of Secreit Counsell; quha, be thair Warrant and directioun, vpon the xxj of Majj, 1612, Ordanit the said cautionn for observeing his Maiesteis peace, and his personall compeirance, quhan euir he sould be charget thairto, vnder the pane of V^m (5000) merkis, as the Ordinance, heirwith product, beiris. Sua that the pannell, being *in prosecutione proprie injurie*, for freithing⁴ him self and his tenentis of ane manifest oppreßour, *et quum latitabat tanquam fugitivus*, as said is, he was *in optima fide* to tak him; and nather the captor nor detentioun can be comptit criminnall, because it is lauchfull, *cuilibet ex populo*, to tak ane notorious malefactour, and to exhibeit him to justice; and his detentioun is nocht *culpa*, because he was presentit to justice.

It is answerit be my lord Aduocat to the first pairt of the Duply, that he repeitis his former answer; for albeit ane rebell may nather persew nor defend in judgement, that is na reafone quhairfoir everie privat man sould tak him at his awin hand, and detene him in his privat hous, as is set down in the lybell. Quhair the defender wald compair ane rebell *cum bannito*, nocht grantand to the Law allegit, quhilk makis na mentioun *de Bannito*, ffor *Bannitus* was properlie callit he quha transgressit aganis the Empyre or the Estait. As to the allegiance proponit aganis all the perfeweris rebelliones, thair is nocht ane proponit for ane criminnall cause persewit criminnallie; and as to the haill ciuile Hoirningis, repeittis as ofbefoir. And quhair it is allegit, that he was rebell at the instance of Thomas Meldrum him self, ane of the pannell, for nocht removing fra his landis of Woidheid, it is answerit, that albeit he was pairtie aganis him, that gave him na autoritie to tak him at his awin hand, speciallie being duelling and remaning in his awin hous, and vpon his awin heritage of Ordley, and nawayis being fugitiue fra his Maiesteis lawis at that tyme. As to the Hoirning vset aganis him, at the instance of his Maiesteis Aduocat for the tyme, the Guidman of Hearthill

¹ Owl. Such persons were likewise often termed *night-hawks*.

² Made suit; complained.

⁴ Freeing; ridding.

² Opportunity; convenience.

and his bairnis, is na Criminall Hoirning, becaufe it procedis frome ane perfute agitat afoir the Counfell; and fforder, to purge that Hoirning, he was relaxt thairfra, lang of befoir, viz. in *anno* 1609. As to the Letteris of Captioun product, na respect fould be had thairto, becaus thair is an executioun product, quhairpoun I tak instrumentis, defyreing the haill blankis thairintill to be feoirit; and allegis, that na respect fould be had thairto, becaus the Letteris of Captioun ar nocht direct to him, nor to nane of the perfones that concurrer with him in the taking of the said Johnne Meldrum: Lyk as, na respect aucht to be had to the saidis Letteris of Captioun, becaus thair is na executioun product. As to the Warrant of the Secreit Counfell, product, the perfewar acceptis the famyn, and alledges that this Warrant, gevin vpon the xxj of Maij, 1612, could be na Warrant to the perfones on pannell, nor nane of thame, to haif tane him vpon the aucht day of Maij preceeding, and to haif keipit him *in privatis carceribus* to the said xxj day, *quum carcer est meri imperij, et non competit privato*; and ane Ordiner Judge lies nocht power to keip ane perfone tane *in privato domo* attour¹ the space of xxiiij houris. Sua, infstand vpon the haill lybell coniunctlie, as is confauct, the haill argumentis proponit for the pannell aucht to be repellit.

It is forder exceptit be the pannell, that with the Hoirningis product, and allegances foundit vpon the rebellious of the perfewar, the defender did na wrang to tak or detene the perfewar, for the ressones foirsaidis. And quhair it is allegit, that he mycht nocht detene him, *quia carcer est meri imperij*; fforst, it is allegit, that quhan ane rebell is tane *ad hunc finem*, to present him to the Judge Ordiner, thair is na wrang done, quhilk is in this caice; as is decydit in the Law laittie allegit, *quod ait Pretor, Si debitorum ff. Digest. que in fraudem creditorum*: And thairfoir, feing the defender tuik the perfewar, being ane rebell, and detenit him quhill² he brocht him to the fait of Justice, and thair presentit him, thair can be na vsurpatioun of the Kingis authoritie: And as for the space of detentioun, it may be langer or schorter, according to the distance of the place; as is cleir in Julius Clarus, L. quinta § finali, *si captus, et aliquis potest illum detinere, et captum Judici presentare, etiam post septem dies*. And the same Clarus schawis, quhair it was practizet contra Dominum Joannem Stephanum, *qui furem septem dies detinuit, &c. sed cum compertum fuerit, quod Judici et officialis obtulerit, absolutus fuerit*.—*Secundo*, it is nocht capitall, bot the grittest pane that is inflictit is, *tot dies maueri in carcere publico, quot illum in privato inclusit*: ffor albeit Lex vnica, Cod. *de privato carcere*, appointis it *penam maiestatis*, yit it is mendit be the nixt Constitutioun immediatlie thair-estir following, quhilk appointis the pane foirsaid. Ita Cujacius, &c.: And, gif neid beis, fall be provin be the consuetude of all Nationes; and gif *privati*

¹ More than; above.² Until,

carceres (quhairin thay ar done be manifest vsurpation) ar nocht capital; *multo minus* can the pannell fall under ouch corporall pwnement, haifing tane ane manifest oppreffour, and presenting him to Justice. *Last*, as to the Relaxation fra *Harthillis* Hoiring, it is null, becaus the Kingis Aduocat and the pairtie is thairintill ordanit to be summond, quhilk is nocht done.

My lord Aduocat, anfueraud to the first pairt of the second allegiance, sayis, that the persouer is formallie contrair to the pannell, and that the lybell contenis ane sufficient Criminall caus, to put the pannell to the knowlege of ane Assyse: And quhair it is allegit, that the pannell brocht the persouer and presentit him to ane Judge, defyres the pannell to condiscend vpon the name of the Judge to quhome he was presentit; for it is treuthe, that quhan he was brocht to Ed^l, he brocht him to the callay,¹ and than tuik instrumentis of his setting to libertie; and thairefter, certane of his creditouris, be vertew of Captioun, tuik him and pat him in waird. And quhan it is allegit that the taking of perones and keeping of thame in *privatis carceribus* is nocht capital, the direct contrair is of verritie; becaus the said cryme is nocht only capital, bot, be the rigour of the Law, is tressonable; as was decydit befor the Justice General aganis *the Eries of Haultie and Crafard*, for taking of *the Maister of Glames*. As to the practique of *the Laird of Drumlawrig*, in that caice it was alleget, for defence of *Drumlawrig*, that *Kirkmichell* was tane be vertew of Letteris of Captioun, direct to *the Scherreff of Nidjilail*, and na Interlocutour was pronuncet in that cause, becaus the persouer past fra the persute thairof, *pro loco et tempore*. In respect quhairof, the lybell standis relevant; and, nochtwithstanding of the saidis allegiances maid be the pannell in the contrair, sould be put to the knowlege of ane Assyse.

THE JUSTICE continewis his Interlocutour to the thrid day of the nixt Justice air of the scherefdome of Aberdene, or soner, vpon xv dayis wairning.—Patrik Meldrum ffear of Iden become souertie for the entrie of the saidis Thomas Meldrum of Iden, his father.

Slaughter—Horse-stealing.

Nov. 20.—JOHNNE MELDRUM of Ordley.

Dilaitit of airt and pairt of the Slaughter of vmq^{le} Cristian Watfone, spous to Alexander Bythe suintyme in Scottiflow, in manner spacificit in the Letteris; committit in Marche 1614: And for airt and pairt of the Steilling of tua horsis fra Thomas Meldrum of Idene; committit in September, 1608.

PERSEWARIS, Alexander Bythe, as spous; Thomas Meldrum of Idene; Sir Williame Oliphant, kny.
PRELOCUTOR in defence, Mr Vmphra Blindfchellis, (Advocate.)

¹ Causeway; the paved public streets within the gates.

THE JUSTICE continewis this dyet, for tryell of baithe the crymes aboue written, to the thrid day of the nixt Justice-air of the Scherefdom of Abirdene, &c.—Mr Williame Levingstoune become fouertie, &c.

Slaughter—Demenbration.

Dec. 4.—WILLIAME STEWART, at the mylne of Dalcrove.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} David Toscheoche, younger of Monyvaird, and of airt and pairt of the Demenbring of David Malloche, his ferwand, of his rycht hand; and remanent crymes contenit in the Letteris; committit the 24 of Junij last, withiu the burgh of Perth.¹

Compeirit Hew Campbell *excusatorio nomine* for *Annas Grahame Lady Monyvaird*, and producet the Letteris deulie execute and indorfate, togidder with ane Testimoniall, subferyuit be the said Annas, and be Mr Johune Menteith Minister at Monzie, and Mr David Drummond Minister at Creiff, testifeing the said Annas Grahame to be newlie delyuerit of hir birth; and thairthrow, vnhabie to travell to the keeping of this dyet and persute of the said Williame Stewart for the said cryme: And in respect thair of, protestit for releif of the Lairdis of Laweris and Inchebrakie, cautioneris for repoirting and persute of the saidis Letteris.

THE JUSTICE continewis the dyet to the thrid day of the nixt Justice-air of the Scherefdom of Perth, or soner, vpon xv dayis wairning; and ordanis the pannell to find cautionn for his re-entrie. *Plegio, Waltero Stewart de Heildown.*

PERSEWAR, David Malloche, sumtyme serwand to vniq^{le} David Toscheoche.

(Feb. 25, 1620.)—THE persewer declaris, that at the tyme of the raising of the Letteris aganis the pannell, informatioun was gevin to him that the said W^m Stewart was in companie with Laurence Bruce of Cultmalundie, Alexander Flemyng of Monefs, Alexander Bruce, and remanent perones thair complices, at the away-streking of his hand; bot senyne, he hes tryit² that he is altogidder innocent thair of, nather was he vpon the grund at the committing of that fact: In respect quhair of, he passis *simpliciter* fra the said Williame his persute.

Continued to the air of Perth, tertio Itineris, or soner, vpon xv dayis wairning. Thomas Layng, indueller in Leyth, cautioner.

Slaughter.

Dec. 9.—ROBERT CAMPBELL, sone to Colene Campbell, burges of Glesgow.

PERSEWARIS, Thomas Symfoun at the Wast-poirt of Edinburghe, as brother to the defunct; Sir Williame Oliphant of Newtown, kuy'.

¹ See this Collection, Jul. 29, 1618, and Nov. 17, 1619.

² Proved; ascertained.

The pannell takis instrumentis of his entrie, and offerris him selff to the tryell of the Law for the said allegit cryme; affirmeing him selff to be altogidder innocent thairof; and disaffentis to all forder continuatioun, in respect that, to the keeping of that dyet, and cleiring of his innocencie of the allegit Slauchter aboute writtin, being out of the cuntrie this threttene moneth bygane, he being maid foirfene¹ thairof, be Letteris direct to him, and ressaute be him in *Spayne*, he hes cum furth of *Spayne*, and left his affairs thair vnperfyttit, haifing na vther errand to returne hame bot to cleir him selff of sic ane haynous imputatioun; quhairof he is innocent.

INTERLOCUTOR. The Justice continewis this matter, and all tryell to be tane thairintill, to the thrid day of the air (Renfrew), or soner, vpon xv dayis waiving; and Ordanis the pannell to find caution for his re-entrie to that effect, vnder the panes contenit in the Actis of Parliament: Dischargeing in the meane tyme all letteris to be direct aganis him or his cautioner, except he be refident within the cuntrie for the tyme, nocht vpon the poynt of his voyadge; nather that ony Letteris be direct in the tyme of wynter: And declaris, that in caice he be charged vpon the poynt of his voyadge, for his compeirance vpon a fyftene dayis thaireftir, in caice at the day of compeirance it be allegit be his cautioner that he could nocht guidlie enter him, becaus he was boun² to his voyadge furth of the cuntrie the tyme of the geving of the charge, respect and consideratioun fall be had to the said allegiance, the samyn being lauchfullie verifeit and provin to be of veritie: And last, the Justice Discharges the hail perfones summoned vpon this Assyse fra all compeirance herein in tyme cuming, in respect this is the secund dyet kept be thame, and nathing is done thairintill, &c.

[*CURIA Jusficicrie f. d. n. Regis, tenu in pretorio de Edinburghie, per M. Patricium Sandis, Jusficicarium f. d. n. Regis, hac in parte, virtute Commissionis Dominorum Secreti Consilij.*]

Slauchter.

Jan. 15, 1619.—ANDRO WAST, mafone burges of Dundie.

Dilaitit of air and pairt of the Slauchter of vni^{le} Alexander Tailzeour, his prenteis, be throwing ane four-futtit stule at his breist and heart, and geving him ane deidlie fraik thairwith; committit within his awin duelling hous, in Dundie, in the moneth of Januar, 1611; quhairof he deceift, in Februar thaireftir, being cayreit fra Dundie to his fatheris hous in Elgyn, in ane horfe-litter, in grit dollour and payne, quhair he deceiftit of the said deidlie hurt.

PERSEWARIS, Johnne Tailzeour, mafone burges of Elgyn, as father; Sir W. Olyphant of Newtown, kny^t

PRELOCUTOR in defence, Mr Alexander Peiblis.

It is allegit be the pannell, that the Dittay, as it is qualifeit, is nawayis relevant to pas to ane Assyse; becaus it is cleir, be the Dittay, that eftir the allegit fraik gevin to the defunct with the stule lybellit, he travellit the space of fourfoir myles frome Dundie to Elgyn; quha, eftir his coming to Elgyn, be the exces of travell, he contractit ane fever, quhairof he deceift.—It is anfuertit be my lord Aduocat, that the allegiance aucht to be repellit, in respect of the Dittay beiring the defunct to haif ressaute ane deidlie fraik, quhilk was the cause of his daith.

¹ Acquainted.

² Prepared; furnished; equipped.

THE JUSTICE findis the Dittay relevant ; and Ordanis the famyn to be tryit be ane Affyse.

The Adnocat takis instrumentis of the fueiring of the Affyse ; and thaireftir declairit, that feing they ar all induelleris in Dundie, to quhome the trenth of this matter was best knawin ; and that the defunct reffluit ane deidlie fraik, quhairof he deceit, protestis for Wilfull Error, gif thay acquit.—The pannell protestit in the contrair, affirmeing that the Defunct past hail and feir¹ furth of Dundie to Elgyn, and travellit lxxx myles thaireftir, vponne fute.

VERDICT. The Affyse, be the repoir and declaratioun of Robert Moreise, merchand in Dundie, chancellor, stand, pronuncet, and declairit, all in ane voce, the said Andro Wast to be Clene, innocent, and acquit of the said crewall Slauchter.

Slaughter—Proof in exculpation, by Witnesses, refused.

Jan. 15.—JAMES SCRYMGEOUR in Balquhadlie.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Johnne Eduard in Acharne, be streking him ane deidlie fraik in the heid, in September 1617 ; quhairof he deceisit in Januar thaireftir.

PERSEWARIS, Johnne Eduard, as sone ; David Eduard, as brotler ; Sir W. Oliphant, kny^r.

PRELOQUITOURIS for the pannell, Mr Thomas Hoip, Mr William Oliphant, younger.

It is allegit be the pannell and his prelocoutouris, that the Dittay is nawayis relevant to pas to ane Affyse, nather in the distinct memberis nor *conjunctim* ; nather can ony Homicid be tryit or pwneist, except the famyn proceed vponne ffoirthocht fellony. As to that member of the Dittay, beiring the defunct to haif bene best and dung with ane rung,² *non relevat* to infer ane cryme. *Secundo*, as to that article thairof, quhair the pannell haket his heid with ane quhinger,³ (nocht granting the famyn,) it is na capital cryme, bot ane ryote ; the tryell quhairof pertenis to the Connfell. *Tertio*, quhair it is allegit, that he was strukin to the grund, and hurt in his nobill pairtis, *non relevat*, vules the perfwear condiscend quhat intrallis or noble pairtis was brokin. *Quarto*, as to that point of the lybell, quhilk is the chiefest member, beiring, that be occasioun of the hail fraikis preceeding, he dwynet and pynet away to the tyme of his daith, *nullo modo relevat*, vules he say *postitue*, that he deceist be thais fraikis ; *nam non dicitur potest prebere occasionem mortis, nisi sit causa mortis*.—It is anfuert be my lord Adnocat, that the allegeance fairfaid aucht to be repellit, in respect of the lybell beirand, that the defunct deceist of the fraikis lybellit.

It is forder allegit be the pannell, that the Dittay, as it is mendit, is nawayis relevant ; becaus the preceeding qualificatioun can nocht be estemit *causam mortis*, except it war lybellit, that the defunct, immediatlie estir the allegit fraikis, he

¹ Whole and sound, or hearty.

² Basted and violently struck with a cudgel or heavy staff.

³ Hacked or *notched* his head with a sort of hanger or short sword.

fell down in found¹ to the grund; or ellis, that be the fraikis he contractit a deidlie difeafe and lay bedfalt, ather immediatlie eftir the fraikis to be the caus of a fupervenient difeis; ffor be the cowmoun confent of all Laveris, *vulnus non dicitur caufa mortis, quando a die vulneris vsque ad vigefimum primum diem nulla fupervenit febris vulnerato*. Panormitanus, ad Cap. *prefbiterium, extra de Homicidium*. In the quhilk place, Panormitan and all the Canoniftis contentis, *quod hoc fit iudicium medicorum*; ffor if ony ffever had followit, gif he had convaleffit thaireftir, the ffever falling out vpone the fraik was na caufe of deathe; *multo magis* in this caice, na fever following vpone the allegit fraik gevin. In refpect quhair of, the Dittay is nawayis relevant, *hoc autentico maxime*, that in the Dittay it is confest, that the perfone flane was threfcoir ten yeiris of age, fa that it was nocht poffible to him to reffau deidlie woundis, and to leave in health fa ang but² feiknes.

It is anfuert be the perfewaris, that the allegance aucht to be repellit, in refpect of the Dittay beiring deidlie woundis, in maner qualifeit in the Dittay; and that he dwynet and continewit in grit pane to the tyme of his deceis.

It is duplyit be the pannell, that my lord Aduocattis reply is only in refpect of the laft member; and thairfoir the vther tua, as nocht relevant, fould be feoirt out of the Sunmondis.

My lord Aduocat declairis, he inftis vpone the Dittay *conjunctim*, as it is confauet.—The pannell allegit in the contrair, that it can nocht be conjoynet.—It is allegit *peremptorie* be the pannell, that it can nocht be affirmet that *Johanne Eduard* deit of the allegit fraikis, in refpect of the lybell, quhilk beiris, that he levit be the fpace of foure monethis (albeit, *in rei veritate*, he levit quhill a thre dayis befoir Faftrenisevin,³ quhilk was the 18 of Februar): becaus *fecundum fententiam omnium medicorum, nullus lethaliter vulneratus potest vivere ultra quadraginta dies*. Jul. Clarus ad § Homicidium, vbi fubdit, *quod ita obferuat communis ftilis, et fi vulneratus poffi illatum vulnus ambulaverit, non prefumitur decessiffi ex vulnere*. Lege vnica, Cod. de Emendatione ferrorum. Bartol. ad Legem finalem, ff. *ficarijs*, particulo preterea extra de Clerico percuffore. Pharmaciac de Homicidio, Tit. 14, queft. 125, num. 46, vbi testatur de communi medicorum opinione, *Vulneratum qui vltra quadraginta dies vitam porrigit, non prefumitur ex vulnere decessiffi*. And be all thair contentis, gif the pairtie nocht onlie leave,⁴ bot alfo gif he leave in healtie, without feiknes, and walk vp and down in healtie, as ane haill man, the fpace of thre dayis, it is accoirdit, that the wound can nocht be the caufe of daithe: And the grund⁵ of this is tane out of the law of Moyfes, Exod. cap. 21, ver. 21. Off the quhilkis it is fubfmet, nocht onlie that the defunct levit fourtie dayis, bot neir-hand foure tymes fourtie

¹ In a swoon or fainting fit. ² To live, in health, so long without sickness. ³ Fasten's-eve; the day before the commencement of Lent. ⁴ Live; survive. ⁵ Ground; warrant.

dayis, flor he deit vpon the 16 or 17 of februar 1618 : During the quhilk tyme, he was nocht onlie frie of feiknes, nor nevir lay bedfast, except in the ordiner tyme of rest, in the nycht ; bot also, he walkit vp and down the cuntrie and parrochines about, as ane haill man, and nevir tuik bed quhill aucht dayis befor his deceis, at quhilk tyme he was tane with ane fever, quhairof baith he and his wyfe deceiflit.—Nather can the accuser, quhilk is the defunctis sone, be hard to allege in the contrair ; becaus, at Martimes thaireftir, he forcet his father out of his awin hous ; and the particuleris of this exceptioun the pannell offeris to prove be Witnesses, quha are summond be the Lordis delyuerance : Quhilkis Letteris, proceeding vpon the said delyuerance, thay produce, and desyres that the Witnesses may be callit and admittit thairupone. *Laji*, the lybell can nocht be sustenit *ad hunc effectum*, to pwneis the pannell to death, becaus *nullum Homicidium morte puniuntur, nisi homicidium dolosum et deliberatum sive ex feloniam ; aut culpofum vel casuale non puniuntur ad mortem*. And for proveing of this propositioun, the pannell cites the third Parliament of King James the first, cap. 51, Quhair the Estaitis distinguisches betuix Slauchter of iaddentie, and Slauchter of floirthocht fellonie ; and declairis fellonie to be pwneit be death ; bot the vther, that the pairtie skaithe fall follow, and the pairtie trespassand defend, according to the cours of the auld Lawis of this cuntrie : And siclyk, in the 6 Parliament of King James the first, cap. 95, quhilk contenis the same distinction, and closes this article, that gif it be floirthocht fellonie, he fall die thairfoir. Vpon the quhilkis it is subtumet, that it was nevir lybellit, nor can be lybellit, that this Slauchter was committit vpon floirthocht fellonie ; bot be the contrair it is trew, that quhatenir the pannell did, he did it as maister to Findlay Ramfay and vni^l Johnne Eduard, being baith his tenentis, *et sic dans operam rei licite* ; in sa far as Johnne Eduard, being decernit in Court, in Junij 1617, of his awin consent to haif done wrang in teilling and sawing¹ of ane peice of land pertening to the said Finlay Ramfay ; and be the Act of Court, the officer was ordanit to pas the tyme of scharing, and schar and leid the coirnes, as sawin vpon Finlay Ramfayis grund ; lyk as, the saidis coirnis war arreftit be the officer, vpon the sext of Junij 1617 ; and thaireftir, in the tyme of scharing, the said officer haifing past to the grundis, and scharne the coirnes, and being leiding the samyn away, the said Johnne Edward cam maist proudlie and contemptuoullie (his maister being vpon the grund), and defoirect the officer in his presens ; quhairupone the officer brak his wand.² Lyk as, the defunct being commandit be his maister to defit, he maist proudlie repynet contrair his Maieftis lawis ; and the pannell being present, haifing ane littill staff in his hand, strak the defunct thairwith vpon the heid, and did no forder ; nochtwithstanding quhairof,

¹ Tilling or ploughing, and sowing.

² Broke his staff or wand of office, symbolical of his being *deforced*, as it was termed, *i. e.* violently and forcibly interrupted in the execution of his office.

the defunct prouddie cayreit away the coirnes to his awin zaird, walking foundlie vpon his feit, without ony appeirance of hurt. And for verifeing thairof, producet the deforcementis.

It is anfuerit be the perfewaris, to the firft allegiance, proponit *peremptorié*, the famyn aucht to be repellit, in refpect of the Dittay, Lawis and pratique vniuerfalle obferuit in this Judgment, and all vther Criminall Courtis within this realme, quhairin Dittayis ar evir fund relevant, and remitted to the knowlege of ane Inqueift, being lybellit and fet down in maner as this Dittay is lybellit; and that the perfone offendit deceiffit throw the hurtis and woundis gevin to him: And quhair it is meant,¹ that he furvivet efter the geting of the hurtis the fpace of fyve monethis, that pairt is nawayis relevant mair nor was the firft; in refpect that the Dittay beiris, that the defunct was hurt and woundit vpon the nynt of September 1617, and he deceffit thairof vpon the aucht or nynt of Januar thaireftir, 1618; quhilk Dittay beiris lykwayis, that he dwynet continuallie fra the tyme of his hurting to the hour of his daith.—Quhair it is allegit, that WITNESSES aucht to be reflaut vpon this allegiance, anfueris, na Witneffes can be reflaut in Criminall cauffis, conforme to the Lawis of this realme, except in matteris of Treffone: And albeit Witneffes mycht be reflaut, yit thay can nocht be reflaut vnto the tyme the allegiance be firft fund relevant; and gif it war fund relevant, thair aucht na Witneffes be reflaut befor the Affyfe, feing the hail poyntis confitis *in factis*, and the tryell thairof is remittit to the Affyfe, quha becumis bayth tryeris and Witneffes thairin:² And as to the Lordis deliuerance grantit for funnmondng the Witneffes, it aucht nocht to be refpectit, becaus it is privat, and grantit be the Lordis *parte non citata*. As to the laft allegiance, beiring, that na man fould be pwneit to the daith, except it be done vpon ffoirthocht felonie, the perfewer denyis that propofitioun altogidder, in refpect of the vniuerfall pratique of this realme; be the quhilk, all perfones criminallie perfewit for Slauchter ar put to the knowlege of ane Inqueift, and pwneit to the daith; this lybell containd ane verrie relevant caufe, qualifeit with all the circumftances neceffar aganis the pannell, as committer of the Slauchter, with all circumftances of the Law requifite.

It is duplyit, that Witneffes may be examinat befor the Affyfe, vpon the treuth of the exceptiounne peremptour; and being remittit be the Judge, with the lybell, to the Inqueift, thay may cognofce thairupoun, and vpon the Witneffes Depofitiounes, fa far as the famyn may geue thame licht concerning the fact: And be fpeciall Act of Parliament, maid in his Maiefteis xj Parliament,

¹ Represented. Literally, complained.

² For an elucidation of the ancient practice upon this point, reference is made to Mr Hume's valuable Commentaries on the Criminal Law of Scotland. The present case affords ample illustration of the doctrines held relative to the Law of Evidence, in matters Criminal, at the commencement of the Seventeenth Century.

cap. 90, it is statute, that all writtis, Witnesses, and other probatioun, fall be led and deduced befor the Assyse, and that for tryell of the treuthie, *quia probationes in criminalibus debent esse luce meridiana clariores*: Lyk as, Witnesses war admittit in the Criminal caufe perfewit be *Strauchune* aganis *Geillis Johne-stoune*. And quhair it is affirmet, that the Warrant is purchest for summond- ing of Witnesses, *parte non citata*, it is nocht ane Warrant against justice, bot for fortherance of justice, and cleiring the treuthie. And as to the last, the samyn is foundit vpon tua Actis of Parliament, quhilk can nocht be derogat be ane contrair custome; lyk as, my lord Aduocat is nocht hable to schaw quhair this exceptionne, being proponit, was repellit.

INTERLOCUTOR *of Relevancy.*

THE JUSTICE REPELLS the hail allegiance, in respect of the Dittay, and answeris maid be my lord Aduocat in fortificatioun thairof. And Ordanis the Dittay, quhilk is fund relevant, to pas to the knowlege of ane Assyse.

Quhairvpon my lord Aduocat askit instrumentis.

THE JUSTICE, in respect thair is nocht ane number of substantial perones, landit men, according to the qualitie and rank of the defender, present, to pas vpon his Assyse, Continewis all forder tryell of this matter to the thrid day of the nixt Justice-air of the scherefdom quhair the defender duellis, or souner, vpon fyftene dayis warning: And ordanis the pannell to find caution for his re-entrie to that effect, vnder the panes contenit in the Actis of Parliament; with this restriction, that na Letteris be direct furth in this matter befor the first day of Junij nixt.

Quhairvpon the said James Scrymgeour, defender, askit instrumentis; and quha, for obedience of the said Justice ordinance, stand Johnne Scrymgeour of Ballanfcho cautioner, to the effect, and vnder the panes foirsaid.

[*Mr Patrik Sandis, Justice-Depute.*]

Slaughter committed at a Bridal.

Jan. 29.—JOHNE SWYNE, servand to the Laird of Randieford.

Dilaitit of airt and pairt of the crewall Slauchter of vniq^o Johnne Mc'cairtour, servand for the tyme to Jonet Mayne, wedow, in Menstrie, be streking him with ane durk in the bellie, quhairof he deceiflit; committit at ane brydell,¹ in the evening eftir supper, within the sayd Jonet Maynes duelling-hous, vpon the xxij day of December last, being Tyfday befor Jule.²

PERSEWAR, Gilchryst Mc'cairtour in Buttergalk, as father.

The pannell confessis the cryme, and cravis Godis mercie and pardoun for the samyn.

VERDICT. The Assyse, all in ane voce, stand, pronuncet, and declairit the said

¹ Bridal (*bride-ale*), wedding.

² Yule, or Christmas.

Johnne Swyne, conforme to his awin Judicial Confessioun, to be flylet, culpable, and convict of the said Slauchter.—SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair his heid to be strukin frome his body; and all his moveabill guidis to be efcheit, &c.

Child-Murder.

Jan. 29.—BESSIE WEIR, fervand to James Lowriestone in Over Gogar.

Dilaitit of the crewall and vnnaturall Murthour of hir awin infant bairne, borne and brocht furth be hir, in fornicatioun, to James Threipland in Biggar; committit vpon the xx day of Januar instant, about midnicht, within ane 5aird lyand to the said James Lowriestones hous in Over Gogar, immediatlie eftir hir delyuerie thairof.

VERDICT. The Assyse, all in ane voce, be the mouth and declaration of Robert Wilkie in Rathobyres, chancellor, in respect of the said Bessie hir Judicial Confessioun of the said cryme, stand, pronuncet, and declairit her to be culpable and convict thairof.—SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair hir heid to be strukin frome hir body; and all hir guidis, gif scho ony hes, to be efcheit, &c.

[*Mr Alexander Coluill, Justice-Depute.*]

Slaughter.

Feb. 3.—HABBIE RAE in Moufwall, Pait M'keg, fervitour to the Laird of Lag, and twenty others.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Johnne Carutheris, callit of Dormont; committit vpon the secund of Januar last, with schottis of hagbutis and pistolettis, within the dwelling-hous of Johnne Mundallis in Torthorrell.

PERSEWARIS.

Margaret Johnneffoun, as mother; Frances Carutheris, as brother; Sir Williame Oliphant of Newtown, kny^t. PRELOCUTORIS in defence, Mr Thomas Hoip, Mr James Hammiltoune.

Continued to the Justice-air of Dumfries, 'tertio Itineris, vel super premonitione xv dierum.'

Slaughter.

Feb. 3.—JAMES DOUGLAS of Moufwall; Johnne and Williame Greirsones, his fervandis; Johnne Carleill, sone to Thomas C. in Bankis; Johnne Blak in Moufwall; and Habbie Dikfone, thair.

Dilaitit for the above Slaughter. These persons were all 'denuncet rebellis, and put to the horne, for nocht finding of cautionn for thair personall compeirance.'

(Jul. 21.)—CONTINUED to the air of Dumfries, *tertio Itineris*, &c. Johnne Lord Fleming, cautioner.

[*Mr Alexander Colville of Blair, Justice-Depute.*]

Slaughter.

MAR. 10.—MR THOMAS DOUGLAS, Minister at Bahmirrienoche.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Thomas Creichtoun of Boduncraig; committit betuix Bahmirrienoche and Couper in Fyfe, vpone the xij day of Februar last, 1619.

THE Justice, in respect of the seikues of Jeanne Carmelie, the defunctis relict, quha can nocht be present to concur in this persute, continewis this matter to the thrid day of the nixt Justice-air of the Scheresidome of Fyfe, or soner, vpone fyftene dayis warning: And ordanis the pannell to find caution for his re-entrie: quha stand James Douglas of Moirton, portioner of Gogar, &c.

Treasonable Murder under trust, credit, and assurance.

Apr. 2.—JOHNE MAXWELL of Garrarie, and George Maxwell, his sone.

Dilaitit of the crewall and odious Murthour under trust, credeit, and assurance, of vniq^{le} Johne McKie of Glathak; committit vpone the viij day of Julij 1618; in forme and maner speifeit in the Dittay productet againt thame, viz.

DITTAY *againt Johne Maxwell of Garrarie, and George Maxwell, his sone.*

FORSAMEKILL AS, in the ellevint Parliament holdin by our souerane Lord and Edlaittis of this kingdome, att the burgh of Ed^e, the xxix day of Julij, 1587, cap. 51, it is statute and Ordanit, that the Murthour and Slauchter of quhatsumevir his Maicsties legis, quhair the pairtie flane is vnder the trust, credeit, assurance, and power of the slayer, all sic Murthour and Slauchter to be committit esfir the dait of the said Act, the samyn being lauchfullie tryed, and the persones dilaitit fundgiltie thair of be ane Aylse, fall be Treslone; and being fund culpable, fall sorsalt lyfe, landis, and guidis; as in our said Act of Parliament at mair lenth is contenit. AND trew it is, that the said *Johne Maxwell of Garrarie*, haifing, in his politique and craftie maner, vpone sic conditions of satisfiacion and recompence heit knawin to him self, conqueit and acqyrat fra the said vniq^{le} *Johne McKie of Glathak* his haill worldlie moyane¹ and estait; and thairby drawin him to his daylie companie and attendance, allweill within his hous of *the Garrarie*, as vther pairtis of the cuntrie quhair he maid his repair and residence, he, furth of his avaricouse and churlische dispositioun, lotheing and weiring² of the said *Johne McKie* his companie, in the moneth of Julij, in the yeir of God 1^m.Vj^e, and aughtene yeiris, to red and exoner him self of his companie, devyset and concludit in his devillische heart, the pitifull³ and tresloneable Murthour of the said vniq^{le} *Johne McKie*, as followis; and finding the said vniq^{le} *Johne* to be always under his trust, credeit, allurance, and power; in sa far as, he the spare of nyne monethis, or thairby, preceeding the tyme foirsaid of the said intendit Murthour, the said vniq^{le} *Johne* was for the maist pairt resoirting and making his daylie residence with him, at bed and buird, within his *Place of Garrarie*, sua that thairby na suspitioun of iniurie to be done be the said *Johne Maxwell* towards the said *Johne McKie* could be thocht vpone be him; the said *Johne Maxwell*, for effectuating of his tresloneable and devillische plott, vpone the xvij day of the said moneth of Julij, in the yeir of God foirsaid, knawing the tyme of the said vniq^{le} *Johne McKie* his dyet, in cuning to his *Hous of Garrarie*, vnder the silence and clud of nycht, accompanoit with the said *George Maxwell*, his sone, and vtheris thair complices, hodin⁴ with fuordis and vtheris wapponis *usuajre*, in the said vniq^{le} *Johne* his cuning to the said *Place of Garrarie*, pat violent handis in his persone, band bath his handis and

¹ Means.

² Getting fatigued or wearied.

³ Piteous.

⁴ Furnished; provided.

feitt, and thaireftir, in maist crewall and mercieles maner, playing the pairt of hangmen and burriowis,¹ with ane hair tedder,² frangillit and wirreit him to deid; and haifing, be that violent and crewall meane, bereft him of his lyfe, thay thaireftir cayreit him to ane peit mois or burne, callit *the Burne of Ranniefoun*, within ane half myle to the said *Hous of Garrarie*, quhairn they flang him: And sa, the said vni^{er} *Johne McKie of Guffak* was maist treflonabillie and crewallie muredfitt and flane be the said *Johne Maxwell of Garrarie*, and *George Maxwell*, his sone, he then being vnder thair trust, credeit, assurance, and power, in maner befoir deducet; and thay, and aither of thame, ar airt and pairt of the said treflonabill and barbarous Murthour, committit vnder trust and credeit; vpone fet purpois, prouisioun, precogitat malice, and foirthocht felonie, in hie and manifest contempt of our souerane lordis authoritie and lawis, and expres aganis the tennour of the said Act of Parliament; incurring thairthrow the pane and pwneifselment aboue writtin, expressit thairintill, viz. as *Tratouris* and *Murthouraris* of the said vni^{er} *Johne McKie*, vnder trust, to forsall thair lyvis, landis, and guidis, to the terrour and example of vtheris to attempt the lyk heireftir.

PERSEWARIS, *Niniane McKie*, eldest sone to the definet; *Sir Williame Oliphant of Newtoun*, kny^t,
Aduocat to oure souerane lord.

PRELOCOUTOURIS in defence, *Mr Alex. Peiblis*, *Mr Laur. McGill*, *Adame Cunninghame*, *Aduocattis*.

The Aduocat producet his Maiesteis Warrant, daitit at New-mercatt, the 13 of Januar, 1619, commanding him to infitt in the pannellis persute, for the Murthour contentit in the Dittay: *Quhilk Warrant* his lordschip tuik vp agane. —My lord Aduocat declairis, that he is nocht preparrit, at this tyme, to persue in this matter; and thairfoir desyret the samyn mycht be continewit to the fevint of July nixt.—The pannell, with thair prelocoutouris, altogidder disassentis to the said continuatioun, and offerit thame selfis instantlie reddie to abyde the tryell of the Law for the said cryme, as altogidder innocent thairof; and thairupoun askit instrumentis.

THE Justice, nochtwithstanding of the pannellis offer and declaratioun, continewis this dyet to the said fevint day of Julij nixt; and Ordanis the pannell to be tane bak to waird to the tolbutth of Edinburgh.

The pannell offeris cautione for thair compeirance the said day; and allegit, in respect thairof, thay fould nocht pas to waird.

THE Justice Ordanit thame to geve in their Supplicatioun to the Counfall, be quhais Warrant and authoritie thair war committit, and to crave thair libertie and fredome furth thairof, vpone thair offer of caution to thair lordschips, for thair entrie, the day foirsaid; and according as the Counfall fould command, in that matter, it fould be obeyit.

PRELOCOUTOUR in defence, *My Lord Maxwell*.⁵

(Jul. 7.)—THE JUSTICE, be directionn of the Lordis of Secrett Counfall, and conforme to thair Lordschips expres Warrant, continewis this dyet, and all tryell to be tane thairintill, to the xv day of December nixtoomm: And Ordanis the pannell to find cautione for thair compeirance and re-entrie that day, to vnderly the law for the said Murthour, ather³ of thame vnder the pane of thre

¹ Old Fr. *bourreau*, an executioner.

² A hair *tether* or halter.

⁵ In addition to the above

Prelocoutours. ¹ Each of them.

Thowfeand merkis. Quha, for obedience of the faid ordinance, fand Eduard Maxuall of Hillis cautionn.

In refpect of the quihlk cautionn fund be thame, the Juftice ordanit the Provoft and Bailleis of Edinburgh to put them to libertie furth of thair waird, &c.

[ASSESSORES JUSTICIARIO, *Dominus Willielmus Levingftoun de Kilfith, et Dominus Georgius Erjkin de Inverteill, Senatores Collegij Jufticie.*]

PRELOCUTORIS in perfute, My Lord of Gairleis, The Laird of Larg-M'Kie.

PRELOCUTORIS in defence,¹ The Maifter of Maxwall; The Guidman of Hillis; Edward Forrefter, Commiffar of Kirkeudbrycht; Johne Soung, notter.

(Dec. 15.)—THE pannell takis instrumentis of thair entrie; as alfo, that *my Lord of Gairleis* compeiris to perfew thame of thair lyves; and proteftis for thair cautioneris releif.—The perfewaris producet the Dittay, with the Letteris and Roll of Affyfe; and proteftis for thair cautioneris relief, and defyret proces.

The perfones on pannell denyis the hail crynes contenit in the Dittay, and paffis fra all difputatioun aganis the relevancie thairof; and offeris thame felffis to the tryell of ane honeft and vnfufpectit Affyfe.

ASSISA.

Johne Dalrumple of Schalliche,	Johne Maitland of Clonhie,	Andro Cranford of Barquharrie,
Andro Bruce of Bofark,	Johne Kirkpatrik of Brachlo,	Dauid Welfche of Collietoun,
William Middlemeit, Contable of Dumbartene,	Gilbert Baird of Kilhinzie,	Walter Cant of Wait-mylne,
Duncane Hunter of Ballagane,	George Logane of that Ilk,	James Birnie of Browbrie,
William Creichtoun of the Hill,	William Cuninghame of Pol- quharne,	Malcolme Dalrumpill of Water- fyde.

It is allegit be the pannell, that *Johne Dalrumple* can nocht pas vpon thair Affyfe, becaus he is nocht ane landit man of that qualitie and rank quihlk fould be admittit to pas thairpoun; the faid Johne Maxwall of Garrarie being ane landit Gentilman, in the rank of ane Barroun, worth thre thowfeand merkis of zeirlie rent, and aboue. *Secundo*, the faid Johne is vset and producet be my Lord of Gairleis, ane of his perfewaris, as ane Witnes befor the Counfell, and hes gevin his Depofitioun in this matter alreddie; and in refpect thairof, can nocht be ane Affyfour. *Tertio*, he is man, tennent, and fervand to *Jofiah Stewart*, quha hes affitit this perfute fra the firft begynning thairof, and behavet him felf as partie.—It is anfuert be my lord Advocat, that the allegiance aucht to be repellit, as altogidder irrelevant, the faid *Johne Dalrumple* being ane Gentilman of guid fame, and haifing fufficient moyane of his awin, quhairpoune he levis: And his Depofitioun maid be him as ane Witnes can nocht flay him to be ane Affyfour: And as to that part, that he payis mail and dentie to *Jofias Stewart*, wha is partie aganis thame, *non releuat*, becaus he is nocht ane perfewar, nor compeiris nocht in this Judgement to perfew, nather payis he ony deutie to him bot for his teyndis, quihlk teynd-deutie can naways itay him to pas vpon this Affyfe.—It is allegit be the pannell, that, with the teynd-deutie, he is alfo fubiect to the faid *Jofias* in daylie fervice.—The faid *Johne Dalrumple* being fuorne, declaris he is no forder fubiect to *Jofias*, bot only in payment of his teynd.

THE Juftice admittis *Johne Dalrumple*, and Ordanis him to be purget of partial counfall; quha, being of new fuorne, declarit he had gevin na partial counfall, in this matter, in faouris of this perfewar aganis the perfonis on pannel;—quha was thairfoir admittit.

It is allegit aganis *Walter Cant of Waitmyle*, that he can nocht be admittit vpon this Affyfe,

¹ In addition to the Prelocutors who are already noted, under date, April 2, and Jul. 7.

becaus he is nocht duelland within Galloway, nor the foure halfs thairabout, conforme to the Act of Parliament, in anno 1579.—It is anferuit be my lord Aduocat, that the allegiance aucht to be repellit, becaus he is duellaris within Scotland; and the Act of Parliament citet is only in matteris of Perambulation, for tryell of methis and marches, and is nocht extendit to the crymes of Slauchter and Mutilation, &c.—It is allegit, that he can nocht be admittit, becaus of the foirfaid Act of Parliament, for *ex argumeto a paritate rationis*, gif the perones of Inqueit, in matteris of Perambulation, man (*must*) be induellaris within the Scherefome quhair the landis lysis, or foure halfs about, *multo magis*, in tryell of a Slauchter or Murthour committit, fould the Affyfouris be induellaris within the boundis of the Scherefome quhair the fact was done, or four halfs about.—Anfueris, *Statuta sunt stricti juris, et non admittunt extenfionem*.

The lyk exceptioun proponit aganis *Andro Bruce of Bafark*, quha duellis nocht within the Scherefome, or foure halfs about.—My lord Aduocat repeitit his former anfueris for *Andro Bruce*.

It is forder allegit that *Walter Kant* is man, tennent, and fervand to *my Lord of Murray*, quha affitit this perfute; and thairfor, can nocht pas vpon this Affyfe. The said Walter being fuorne, gif he be man, tennent, or fervand to the Erle of Murray? Declairis, he is ane of his Lordschipis vassallis, and haldis his landis of him in fiew.

The Justice, nochtwithstanding of the former allegeances maid aganis the saidis Walter and Andro, and that the said Walter is ane fiewar, Admittit thame vpon the Affyfe.

It is allegit aganis *Duncan Hunter of Ballagane*, that he can nocht pas vpon this Affyfe, becaus he is ane removeable tennent to the *Laird of Drumlangrig*, quha affitit this perfute, and is within degreis-defending to the *Lord of Gairleis*, perfewar. The *Laird of Ballagan* being fuorne, declairit that he is *Drumlangrigis* vassall, and na removeable tennent; quhome the Justice, in that respect, admittit.

It is allegit aganis *Eduard Maxwell in Laroche*, that he can nocht pas vpon this Affyfe, becaus *non habet in bonis*, and is nocht worth the Kingis vnlaw. *Secundo*, thair is bluid and deidlie ffeed standing betuix the pannell and him vureconceillit. *Tertio*, he is alreddie reffautit witnes, and hes deponit in this matter, being product be *my Lord of Gairleis* to that effect.—Anfueris, becaus he hes alreddie deponit as ane Witnes, he may the mair clerlie be admittit ane Affyfour.

The Justice, in respect thair is na penurie of Affyfouris, Ordanis him to stand by.

David Welchie of Collieston admittit, of consent.

The lord Aduocat, for verificatioun of the Dittay, product ane Testimoniall, subscriuit be dyuerse Gentilmen and vtheris, testifeing the forme of *Glawjickis* binding, the tyme of his out-taking of the burne; and that he hes bene first frangillit, befor his casting thairin. As lykwayis, product the pannellis Depositione, with the Depositiones of dyuerse famous Witneses, reffautit and examinat be the Lordis of Secreit Counsell, in that matter; and thairupoun also askit instrumentis; and protestis, in respect thairof, for Wilful Errour, gif the Affyfe acquit.—The pannell protestit in the contrair, gif thay convict thame of that detestable cryme: quhairof, vpon thair kneyis, with grit and soleme aithes, thay affirmet thame felfis to be altogidder innocent.

VERDICT. The Affyfe, for the maist part, be the mouth and declaration of William Cunningham, chancellor, stand, pronuncet, and declairit the saidis *Johune Maxwell of Garrarie*, and *George Maxwell*, his lauchfull sone, to be GILTIE, culpable, and convict of airt and pairt of the tresonabill and barbarous

Murthour of the said vniq^{le} *Johne M'Kie of Glassak*, committit be thame in forme and maner spacificit in thair Dittay.

SENTENCE. The Justice, be the mouth of Andro M'cairtney, dempfter of Court, adiuget thame to be taue to the Mercat-Croce of Edinburgh, and thair, thair heidis to be strukin frome thair bodeis: And all thair landis, heritages, tenementis, annualrentis, takis, steidingis, rowmes, possessiones, coirnis, cattell, insicht pleneiffing, guidis, and geir, to be sforfalt and escheit to our souerane lordis vsê, as culpable and convict of the said treffonable and detestable cryme: Quhilk was pronouncet for Dome.¹

Hurting and Wounding.

JUN. 2.—NORMOND ROBIESOUN, sone to Robert Robiesoun, mercheand burges of Sterling.

Dilaitit of airt and pairt of the Hurting and Wounding of Johnne Robene, sone naturall to Johnne Robene, notter, burges of Sterling, in the casting of him down to the grund, and louping vpon his bak with the hail force of his body; and thairthrow breking of his bak-bone, and mutilating and making him impotent thairof, he being ane young boy of nyne yeiris of age, or thairby; committit in the Valay of Sterling, in the moneth of September, 1617 yeiris.

PERSEWARIS, Johnne Robene and his father; Sir Williame Oliphant, kny^t.

PRELOCUTOR in defence, Mr Thomas Nicolfoun, elder, Aduocat.

THE Justice continewis this dyet to the thrid day of the air of the scherefdome of Sterling, or soner, to ane fyftene dayis wairning; and ordanis the pannell to find caution for his re-entrie. Robert Robiesoun, mercheand, his father, becomes cautioner.

Slaughter.

JUL. 2.—JOHNNE M'DOWELL of Freuche.

Dilaitit of airt and pairt of the crewall Slaughter of vniq^{le} Alexander M'kie of Balfeir.

PERSEWAR.

Sir Williame Oliphant of Newtoun, kny^t.

PRELOCUTOR in defence.

Mr Thomas Hoip.

THE Justice continewis this matter to the thrid day of the next Justice-air of

¹ Sir Johnne Dumbar of Mochrum, kny^t; James Kennydie of Crngiltoun; Alex. Dumbar, appeirand of Mochrum; Hew Kennydie of Areis; Adame Ahamay, burges of Wigton; Robert Maxwell of Barvannok; Vthreid Campbell of Areis; Johnne Carutheris of Wadfute; Harie Cunninghame of Kildonnane; Johnne Bronne, zonger of Carlatyre; George Gordoun of Barkeoche; Johnne M' dowell of Freuche; Patrik Ahamay of Kirkdaill; Alex. M'calloche, appeirand of Netoun; Alex. Cunninghame of Powtoun; Fergus Dumbar, burges of Strauraer; and Adame Lyndsay, burges of Qubithorne, vlawit, for thair nocht compeirance vpon the said Allysê; ilk ane of thame in the pane of ane hundred merkis.

the scherefdome quhair the pannell duellis, (Wigtoun,) or soner, vpone xv dayis wairning. Plegio, Pat M^dowall de Croches.

Hurting and Wounding—Masterful Theft and Stouthreif.

Jul. 11.—JOHNE MURRAY, sone to Thomas Murray, in the Stanehous of Geicht.

Dilaitit of the invading of Andro Meldrum of Rothiebirrbane, his maister, in cuming out the hie way betuix Kynroschyre and the sferrie-fyde : Hurting and Wounding him, with ane fuord, in the heid and face, of purposis to haif slane him : And thaireftir, Steilling and away-taking, be way of maisterfull Thift and Stouth-reif, of his maisteris bonnet-caice, togidder with tua pair of filk schankis,¹ tua pair of filk gairtanes,² tua pair of roses³ of taffitie, tua final lynning schankis, thre bonnet mutches,⁴ thre pair of handis,⁵ fyve overlayers,⁶ ane peirlet lane⁷ ruff, tua naipkynnys, ane kame-caife,⁸ with ane brusch, with certane vther necessaris, being within the samyn, worth tua hundreth pundis ; by and attour⁹ certane writtis and eidentis,¹⁰ being also thairintill ; committit in the moneth of Majj laft.

PERSEWARIS, Mr Andro Meldrum of Rothiebirrbane ; Sir Williame Oliphant of Newtone, kny^t.

THE Justice, in respect thair is nocht ane sufficient number of Assyse compeirand, continewis this dyet to the xxj infantis : And Ordanis the pannell to be tane bak to waird, to the said day.

Andro Frafer of Staniewoid, William Keyth of Seatoun, James Seatoun, brother to the Laird of Mony, Mr Robert Elphingstoun, Tutour of Glak, Johnne Ogilvie, zounger of Glassall, and Alexander Frafer, indueller in Leyth, nocht compeirand on Assyse, the Justice ordanit ilk ane of thame to be vulawit in the pane of ane hundreth merkis.

ASSISA.

Robert Frafer of Durres,	James Hervie of Elrig,	Nicoll Sale, mercheand,
James Cheane, in Elrig,	Andro Hervie, his brother,	Johne Penman, mercheand,
Mr Robert Elphingstoun, Tutour of Glak,	James Keith of Craig,	Mathow Bailzie of Littilgill,
James Gairne of Blakfurd,	Mr James Stewart, Commiffar of Dunkeld,	Johne Fairholme, mercheand,
Johne Arbuthnot of Carnegaw,	Clement Ruffell, mercheand,	Thomas Broun, loksmyth.

Jul. 21.—THE Aduocat takis instrumentis of the fweiring of the Assyse ; and producet the pannellis Depositiones, for verificatioun of the Dittay ; and protestis for Wilfull Errour, gif thay acquit, &c.

VERDICT. The Assyse, be the mouth of the said Mr Robert Elphingstoun,

¹ Silk stockings. ² Garters. ³ Rosettes for the knees. ⁴ Caps. ⁵ Probably a sort of *mittens* or gloves. ⁶ A broad folding collar, falling over the shoulders and worn below the ruff, which was fastened about the neck. ⁷ A pearled lawn ruff ? ⁸ Comb-case. ⁹ Over and above. ¹⁰ Writings and Title-deeds.

chancellor, fland, pronuncet, and declairit, all in aue voce, the said Johnne Murray, conforme to his awin Judiciall Confessioun and Depositiones producet, to be flylet, culpable, and convict of the haill crymes aboue expremit.

SENTENCE. To be tane to the mercat croce of Edinburgh, and thair to be Hangit, quhill he be deid, and all his moveable gudis to be escheit, &c.

Taking the King's Free Liege—Famishing one of the Lieges to Death 'in privato carcere.'

Nov. 10.—PATRICK COWIE, in Kincairdin; Johnne Dow, his fervand; Johnne Anderfone, cordiner thair; Thomas Cowie, querriour thair; and David Miller, fälter in Eifter Kincairdin.

Dilaitit of the taking and keiping of vniq^{le} Thomas Daidfoun, bynd and fervand to Alexander Leask, in Porter, be the space of fyftene dayis, *in privato carcere*, within the said Patrik Coweis hous; and thairfra cayreing him to the pitt of Tullieallane, quhair, throw want of intertenement,¹ he flamiſchet and deit of hunger; and remanent crymes contenit in the Letteris.

PERSEWARIS, Sir Williame Oliphant, kny^t; Alexander Leask, as Maister.

The Justice continewis this matter to the thrid day of the next Justice-air of the Scherefdome quhair the defenderis dnellis, ('Clakmannane,') or soner, vpon xv dayis warning: And Ordanis thame to find new cautionn, &c.; quha fland Sir George Bruce of Carnok, kny^t, personallie present, for thair re-entrie.

Mutilation and Dememberation.

Nov. 17.—WILLIAME OLIPHANT of Gask.

Dilaitit for airt and pairt of the Demembering of David Malloche, fervand for the tyme to vniq^{le} David Toscheoche of Monyvaird of his rycht hand.²

Compeirit Lawrence Oliphant of Coudie, and producet ane Warrant of the Lordis of Secreit Counfall, direct to my Lord Justice; quhair of the tennour followis.

WARRANT of the Lordis of Secreit Counfall.

JUSTICE, Justice clerk, and your deputtis. Forfamekill as the xvij day of November instant is appointit to Williame Oliphant of Gask, for his compeirance befor you, to vnderly the Lawis for the Mutilatioun and Difenembering of David Malloche: Nochtwithstanding, according to the Kingis Maiefteis expres Warrant, command, and directiouns in this matter, theſe ar to command you to continew the said dyet to the tventie fyve of Februar nixtocum; to the effect, in the meane tyme, the said Williame may tak some courſe for fatisfactioun of his partie: And that you tak cautionn of the said Williame for his personall compeirance the said day, and diſpenſe with him and his cautioner for his nocht compeirance at this dyet: Quhairanent thir presentis ſalbe your Warrant. AT EDⁿ, the xvj day of November, 1619.

AL. CANCELL^r. MAR. MELROIS. LAUDERDAILL.

THE Justice continewis the said dyet to the said xxv day of Februar nixtocum:

¹ Sustenance.

² See Jul. 29 and Dec. 4, 1618.

³ Peter Oliphant of Rescobie.

and Ordanis cautionn to be fund for the said Williame Oliphant his compeirance that day, &c.—Gilbert Adamefoun of Scoureing-burne become fouertie, &c.

(Feb. 25, 1620.)—COMPEIRIT Laurence Oliphant of Condie, and product ane Warrant of the Lordis of Secreit Counfell, quhairof the tennour followis.

JUSTICE, Justice clerk, and your deputtis. Quhair as, the xxv day of Februar instant is appointit to Williame Oliphant of Gask, for his compeirance befor you, to vnderly the law for the slaughter of the Laird of Monyvaird, and mutilatioun and demembring of Danil Malloche, his servend, of his rycht hand,¹ and vtheris crymes sperefeit in the Letteris raisit thairanent: Neuertheles, this is to command you to continew the said dyet to the nynt day of Junij nextocum. vponn new cautionn, conforme to the ordour: And that you dispens with the personall compeirance of the pairtie: Quhairanent thir presentis fall be your Warrant. At Halyrudhous, the xxiiij of Februar, 1620.

AL. CANCELL. MAR. MELROIS. LAUDERDAILL.

Sir Johne Carmichell of Medowflat, Capitane of Craufurd, becomes fouertie, &c.

(JUN. 9, 1620.)—THE dyet deserted, by command of another Warrant, signed ‘Al. Cancell. Melrois.’

[If it were necessary still farther to prove the melancholy effects of the DEADLY FEUDS which raged in Scotland previous to the Eighteenth Century, perhaps few better illustrations could be adduced than what is contained in the present Case. The following affecting document is taken from the *Denmylne MSS.*, and requires no comment.]

LETTER, *the Privy Council of Scotland to the King, relative to the DEADLY FEUD between the Lairdis of Culmalundie and Monyvaird.*²

MOST SACRED SOVERAINE,

WHEREAS YOUR MAJESTIE was pleasit, tua yeiris syne, or thairby, to recommend vnto ws the sating and remoueing, by ane amicable forme and maner, the deadlie sseade standing betuix THE LAIRDIS OF CULMALUNDIE and MONYVAIRD and thair freindis,³ vpon occasion of the slaughter of the LAIRD OF MONYVAIRD; and to move the pairtie greened to accept of siche OFFERIS as the offendaris might reasonnablie performe: WE accordinglie wrote for sa many of the freindis as we know to haif cheif interesse in that mater, and vsed the best meanes we could to haif brocht the fame to some freindlie dresse; but that dyet being cassin af. vpon alledgeance that some of the speciall freindis wer omittit and not writtin for, we appointit a new dyet, and wrote for the whole freindis that wer gevin vp, who returnt thair answer to ws, in write, vnder thair handis, that thay could not medle in that mater, nor tak burdne for *Monyvaird*, who is the principall pairtie haueand interelle, in respect of his minoritie. Whairuppon the mater deserted, and we could go no forder thairin. At this secund dyet *Culmalundie eldair* exhibit befor ws OFFERIS, in write, vnder his hand, maid to the pairtie, contening the sowing of ane Thowland crownes for the Attyement of that Slaughter, with the Banishment of *Alexander Bruce his sone*, and *George Tyrie*, Messinger, who wer alledged to be the actual slayaris of *Monyvaird*, during your MA^s pleisour: And at that same tyme, we causit him gif satisfacioun to *Doucane Campbell* and *David Malloche*, who wer deadlie hurte quhen *Monyvaird* was slayne, by payment making to thame of twa Thowland pundis: Quhairuppon thay haif gevin ane discharge of thair interelle in that mater; as the same producit befor ws beiris.

¹ The local saying.—

‘AFF HANDS IN FAIR PLAY—DAVIE MALLOCH SAYS NAY!’

seems quaintly to allude to this incident.

² *Sir James Balfour's MS. Collections*, Adv. Lib.

³ Blood-relations.

This fcaete has altogidder vndone *Auld Culmalundie*; for his estait is exhaustit and wrackit, and he is become verie waik of his judgement and vnderstanding, by the greif that thir troubles hes brocht vponn him; whilkis wer the occasion of his wyffs death, and of the exyle and banishment of his fones and freindis, now be the space of foure yeiris; in the quhilk exyle, tna of his freindis of goode rank and qualitie hes depairtit this lyffe.

This being the effect of oure dealing in this bullynes, We haif bene intreated be the pairtie, humelic to present the fame to your Maiesteis consideration. And fo continewng our vncestant prayeris vnto God for your MA^s long and happie reigne, We rest,

YOUR MA^s humbill and obedient subiectis and feruitouris,

AL. CANCELL^r. MAR. MELROS. GEORGE HAY.

HALIERUDHOUS, xxj of Marche, 1622.

TO THE KING his most sacred and excellent MAIESTIE.

Taking Captive—Murder—Masterful Theft and Stouthreif.

Dec. 8.—DUNCANE CAMPBELL of Glenlyoun.

Dilaitit of airt and pairt of the violent Taking and Apprehending of vniq^l Allane McRannald in Swynnart, cayreing and keiping him captiue and priffoner ane nycht, within the said Dumeane his Place of Megernie:¹ And for Mordreifing him with durkis, vpon the morne eftir his taking, ane myle or thairby fra the said Hous: And be way of Maisterfull Thift and Stouth-reif, steilling and away-taking fra him of his purse, with ane thowfeand pundis of gold and silver being thairintill; committed in anno 1601 yeiris.

PERSEWAR, Angus McRannald of Vladill, as brother.

THE JUSTICE continewis this matter to the thrid day of the nixt Justice-air of the Sherefdom quhair the defender duellis, (Perth,) or foner, vpon xv dayis wairning.

Archibald Campbell of Glencarradell become cautioner for his re-entrie.

Murder.

Dec. 8.—JOHNNE MOITT in Waffhouffis, aboue Newbottle.

Dilaitit of the crewall and vnmaturall Murthour and Slauchter of Bessie Broun, his vniq^l spous, be streking hir in the heid, and wounding hir thairin with ane grit kent,² to the effusoun of hir bluid; committit be him vpon ane Setterday, at evin, in the moneth of October last; quhairof scho deceffit within tuelff houris thaireftir.

PERSEWER, Sir Williame Oliphant, kny^t.

PRELOCOUTOUR in defence, Mr Alexander Cuning.

It is allegit be the pannell, that na proces can be led aganis him, vnles thair

¹ In Glenlyoun, Perthshire. In the preface to Douglas's *Baronage*, notice is taken of a very remarkable Red-hook, (*an Leuar-diarig*.) written in the Celtic character, which was destroyed in the fire which consumed Miggerny Castle. It is there remarked, that 'some extracts from this book are in the hands of several Families in the Highlands.' See likewise, Prefatory Notice to HISTORY OF THE KENNEDIES, Edinburgh, 1830. 4to. ² Staff, or cudgel.

war ane pairtie informer to assist his Maiesteis aduocat, and to fueir the Dittay to the Afflyfe, the Dittay being fund relevant to pas thairto; and seing nane of the kyn and freindis of the woman flane compeiris to perfew, or to informe his Maiesteis Aduocat in this perfute, the Justice can nocht put him to ane Afflyfe.—It is answert be my lord Aduocat, that the allegiance is impertinentlie proponit be the pannell; and fayis, that albeit the freindis of the pairtie flane and he wald collude¹ togidder, yit, seing the Prince wantis ane subject, be the fact committit, the Kingis Aduocat hes verrie guid intreis to perfew, without ony informer: And thairfoir, nocht only fould the Dittay pas to ane Afflyfe, bot he, for committing of the fact lybellit, fould be exemplarie pwneift for the samyn, being fund giltie thairof.

VERDICT. The Afflyfe, for the maist part, be the mouthe of Thomas Hog, in Eishouffis, chancellor, stand, pronuncet, and declairit the said Johnne Motte to be flylet, culpable, and convict of the said Slauchter.—SENTENCE. To be tane to the Castellhill of Edinburghe, and thair his heid to be strukin frome his body; and his haill guidis to be efcheit, &c.

Slaughter—Wearing and Shooting of Hagbutis and Pistolets.

Dec. 22.—JOHNE LYDDELL of Halkerstoun.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Johnne Bell, fervand to Johnne Lord Borthuik; committit vpon the landis of Hauch-heid, vpon the aucht of October last, quhair the said Johnne Lyddell, with ane charget hagbut in his hand, invalidit the said vniq^{le} Johnne Bell for his slauchter, schote him in his lichting² of his horse with tua bullettis, at the left pape, throw the heart; and slew him with the said schote: And for contravening of the Actis of Parliament, in beiring and sehuing of hagbutis and pistolettis, &c.

The Justice, of consent of aither pairtie, continewis this matter to the nyntene of Januar nixt: And Ordanis the pannell to be returnet to Waird to the Tolbuth of Edinburghe, out of the quhilk he was tane.

PERSEWARIS, Barbara Levingstoun, the relict; Sir Williame Oliphant of Newtoun, kny^t, his Maiesteis Aduocat, for his hienes intreis.

PRELOCOUTOURIS in defence, James Lyddell, in Leyth; Mr Johnne Cranfoun, Minister thair; Mr Lanrence M'gill, and Mr David Prynrois, Aduocattis.

(Jan. 19, 1620.)—IT is allegit be the pannell, that the Dittay in that point thairof, 'airt and pairt,' is nocht relevant, except the perfewar condiscend vpon the names of the perfonas that war complices or associattis.—Answert, aucht to be repellit, in respect of the Act of Parliament, sustening airt and pairt to be

¹ Enter into collusion with each other, to defeat the ends of public justice. ² Alighting.

relevant aganis any perſone accuſet of ane cryme.—The pannell denyis the hail Dittay to be of verritie.

THE JUSTICE remittis the tryell thair of to the Aſſyſe.

Barbara Levingtoun, relict, being ſolemlie ſworne, declairit, that the Dittay is of verritie; and that ſeho hes juſt caus to perſew the pannell for the Slauchter of hir huſband. Quhairvpoun my lord Aduocat alkit iſtrumentis, and Proteſtis for Wilfull Errour aganis the Aſſyſe, gif thay acquit: As alſo, tuik iſtrumentis of the production of the hagbut, quhairwith the ſaid v^mq^{le} Johnne Bell was flane.

VERDICT. The Aſſyſe, be pluralitie of voittis, ſſand, pronuncet, and declairit the ſaid Johnne Lyddell of Halkerſtoun to be Clauget, innocent, and acquit of the ſaid Dittay, and hail crymes abone writtin mentionet thairintill.

In reſpect quhair of, the Juſtice ordanit him to be put to libertie furth of the ſaid Tolbuth of Edinburghe, quhairin he was wairdit, and na langar to be detenit thairintill for the ſaidis crymes; he making ſatiſfactioun to the javellour¹ for his expenſis.

Slaughter.

JAN. 19, 1620.—ALEXANDER GRAHAME, ſone to v^mq^{le} David Grahame, in Arduthie, and Johnne M^ckane, ſone to Williame M^ckane, burges of Montroiſe.

Dilaitit of airt and pairt of the Slauchter of v^mq^{le} Mr Alexander Keith, brother to Sir George Keith of Drumtochtie; committit be thame, in companie of Robert Grahame, brother to the ſaid Alexander, vpone the Sandis of Montroiſ, vnder nycht, vpone the tent of December laſt.

PERSEWARIS, Sir George Keith of Drumtochtie, kny^t, James Keith of Harvieſtoun, Mr Williame Keith, brother to the defunct; and Sir Williame Oliphant, kny^t.

PRELOCUTORIS in defence, Mr Alexander Peiblis, Mr Roger Mowat, Aduocattis.

The perſewaris producet Hoirning aganis Robert Grahame, ſone to David Grahame of Arduthie.

The perſones on pannell offerit thame ſelfis to the tryell of the Law, for the crymes contenit in the Summondis, quhair of thay declairit thame ſelfis to be innocent: difaffenting *ſimpliciter* to all forder continuatioun.—My lord Aduocat declairis that this Slauchter was committit vnder nycht, quhair of as yit na certane licht of the pannellis guiltines thair of is brokin vp; and thairfoir, deſyres thame to be put vnder caution, for thair re-entrie, vpone xv dayis wairning.

THE Juſtice continewis this dyet to the third day of the next Juſtice-air of the Scherefdom quhairin the pannell duellis, (Forfar,) or ſoner, to ane fyftene dayis wairning.

¹ Gaoler; jailer. Old Fr. *javelleur*.

Slaughter.

Jan. 21.—**JOHNE DUNCANE**, baxter¹ in Dudingstoun.

Dilaitit of the crewall Slauchter of vmq^{le} Johnne Buchaman, baxter, indueller of the Camongait; committit in the hie-way betuix Eifter and Wester Dudingstoun, vpone the fact of Januar instant, be ftreking of the said Johnne Buchanane with ane knyfe, vnder the left pape; quhairof, within tuelf houris thair-ettir, he deceiffit.

PERSEWARIS, Margaret Robertstoun, the relict; Sir Williame Oliphant, kny^t.

The pannell acknowleges the cryme, and craves God, his Maiestie, and the pairtie pardoun thairfoir.

VERDICT. The Assyse, all in ane voce, in respect of the pannellis Judiciall Confessioun maid be him, confessing the said cryme to be of verritie, flaud, pronunct, and declairit the said Johnne Duncane to be ffylet, culpable, and convict, &c.—**SENTENCE**. To be tane to the Castill hill of Edinburgh, and thair his heid to be frukin from his body; and all his moveable guidis to be escheit to his hienes vsfe, as convict of the said cryme.

Murder—Horse-stealing.

Feb. 25.—**JAMES REOCHE**.

Dilaitit of airt and part of the crewall Murthour and Slauchter, vnder nycht, of vmq^{le} Alexander Sandiesone, fervand to Hew Falconer of Immerlochtie; committit in September, vpone Michelmes Evin, in anno 1618, at the zett of Immerlochtie, in staying the said James, and resisting him and his brother in the steiling and away-taking of the said Hew Falconeris horse furth thairof, be schuteing the said Alexander throw the body with ane pistolett.

PERSEWARIS, Hew Falconer of Immerlochtie, his maister; Sir Williame Oliphant of Newtown, kny^t.

It is alleget be the pannell, that the allegit Slauchter was nocht committit be him; bot the defunct, being ravifcheing ane woman, the pannellis brother being thair present, and he in companie with him, imployit thair help to preserve the woman and to set hir frie; for the quhilk, the defunct, haifing ane knyfe in his hand, invalidit the pannellis brother thairwith; quhairnpoun the pannellis brother, for his awin faistie, drew ane pistolet frome his syde, and schote the defunct thairwith; and sa, the fact being committit be his brother, the pannell can nocht be perfwit thairfoir.—It is answerit be my lord Aduocat, that the allegiance aucht to be repellit, in respect of the Dittay beiring him to be airt and part of the defunctis slauchter; and that the Slauchter was committit be thame in the steiling of ane horse fra the defunctis maister, haifing cum that eirand to the Hous, at that tyme of the nycht.

¹ Baker.

ASSISA.

Mr James Stewart of Ladywall, Mr James Forbes of Hauchton, Alex. Farquhar, tail5our burges of
 Walter Hay in Forresteris-fait, Johnne Roife, proveit of Nairne, Edinburgh,
 Williame Douglas of Erlefaylne, Mr David Stewart, and Johnne Caddell, burges of
 Alex^r Brodie, chalmerslane of Patrik Weymes, fervandis Edinburgh,
 Kinloife, to the Earl of Murray, Alex. Home, burges thair,
 David Dunbar in Tarves, Thomas Hunter, burges thair.

The Aduocat takis instrumentis of the fuering of the Aflÿfe; and producet, for instructing the Dittay, the pannellis Depolitioun, maid in prefens of the Lordis of Secret Counfell; and proteftis for Wilfull Errour, gif thay acquit.

VERDICT. The Aflÿfe, all in ane voce, fand the said James Reoche to be flÿlet, culpable, and convict of airt and pairt of the Slauchter of the said vniq^o Alexander, committit vnder nycht, in the fleilling of the said Hewis horle.—
 SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair his heid to be strukin frome his body; and his haill guidis confisecat to his Maiefteis vsê.

Hamesucken—Slauchter.

Mar. 8.—JOHNE ROGERSOUN, in Bratnurelland.

Dilaitit of the crewall Slauchter of vniq^o Katharene Broun, spous to Hew Broun in Windiehillis,¹ be (by) cuming be (by) way of Hamesuckin to hir duelling hous in Windiehillis, in the moneth of Apryle 1613 yeiris, quhair scho was in sober maner for the tyme; and thair crewallie inavidit hir for hir slauchter, becaus scho had boundit hir dog at his scheip; tuik hir be the spaddis,² and violentlie flang hir over tua kyis³ bakis; thaireftir threw hir fydis to ane tumber bed,⁴ and thairby brak hir haill intrallis within hir; and thaireftir, with his feit and handis, crewallie punchet and strak hir vpon the bak, wambe,⁵ and fydis, and brak hir heart-pyes thairwith; sua that thairby scho tuik bed, and keipit the bed the space of fax dayis, or thairby, continuallie vomeiting hir heart-bluid; and in the moneth of Maj thaireftir, scho deceiffit of the saidis hurtis; and sa, was crewallie and vnmercifullie flane be the said Johnne Rogerfoune: And he is airt and pairt of the said slauchter; committit vpon set purposis, prouifoun, and foirthocht felonie, as at lenth is contenit in the said Dittay.

PERSEWAR, Hew Broun in Windiehillis, as spous to the defunct.

PRELOCUTORIS in defence, the Laird of Cloifburne; Adame Cunninghame, Aduocat.

The pannell offeris him self to the tryell of the law for the cryme foirsaid, quhairof he is altogidder innocent.

ASSISA.

Johnne Padzeane, younger of Newtown, Thomas Wauche, elder of Schawis,
 Mr Alexander Flemyng, minister at Dalgarnok, Thomas Wauche, his sone.⁶

¹ The crime is thus briefly described in another place.—⁴ be geving hir dyuerse hauch, blaue, and bludie straikis, in dyuerse pairtis of hir bodie.² Fr. *épauis*, shoulders. ³ Cows. ⁴ That is, dashed her with violence against or upon a wooden bedstead. ⁵ Belly. ⁶ The rest of the Assise are persons of no note.

VERDICT. The Assyse, all in ane voce, be the repoint and declaratioun of the said Mr Alexander Flemyng, chancellor, stand, pronuncet, and declarit the said Johnne Rogerfoun to be Clene, innocent, and acquit of airt and pairt of the slauchter, and haill circumfances thairof specifit in his Dittay.

Forgery—Falsset—Counterfeiting a Subscription to a false Bond.

Apr. 20.—THOMAS DEMPSTER, sumtyme of Murefk.

Dilaitit of airt and pairt of the falssefeing, fforgeing, and devyfeing and counterfuteing of the subscription of ane falsse Band of Reuerfioun, &c. specifit in his DITTAY following, viz.

FORSAMERKILL AS, albeit the said Thomas, be his birth, was ane gentilman borne, provydit, be vertew of his parentis and prediceffouris, to the suceffion and richt of dyuerfe landis, rowmes, and possèffions; the quhilkis, be his leud and godles misgovernment, ar maist schamefullie and vnwortbielie spendit and put away, to the impoverifeling alsweill of him selff, as prejudice and difapointment of his posteritie: SIT the said Thomas, altogidder fenles of that his miserable cairage, nawayis being movet thairwith, bot rather resoluing to rwn heidlongis in all godles and cruiket courfes, as a man fauld and gevin over to the practize of the samyn; amangis vtheris, his vnlauchfull and dannable proceedingis, a fourtene 3eir syne or pairby, he maist fallie, fraudulentie, and dislaiffullie plottit, devyset, forget, and drew vp ane falsse and counterfute BAND, conteneing the tennour of ane fals and simulat Reuerfioun, as gif the samyn had bene maid and subferyuit be vniq^{le} *Walter Barclay of Toweis*, quhais name and subfcription was also fallie counterfute be the said Thomas, with the Witneffes subfcriptionis insert thairintill; beirand in effect, that the said vniq^{le} *Walter Barclay* confestit and grantit him to haif reffait fra vniq^{le} *James Dempster of Auchterles*, his father, ane Reuerfioun maid and subferyuit be vniq^{le} *Patrik Barclay*, sumtyme of *Towie*, his father, in fauouris of vniq^{le} *Johnne Erle of Buchan*, Lord of *Glendovachie*, subferyuit at the *Castle of Banff*, the first day of July 1547 3eiris, for redemeing and outquyteing fra the said vniq^{le} *Patrik* and his airis, *Lairdis of Towie*, of the *Landis of Collone*, with the fisher-heaven and remanent pairtis, pendicles, and pertinentis of the samyn, lyand within the Lordfchip of *Glendovachie*, and Sherefdome of *Banff*, vpon payment and deluyerance of ane hundreth angell-nobles gold and wecht; with ane nyntene 3eir Tak, efter the Redemptioun, conteneing frie Office and iurisdiction of *Bailzerie*, with payment of thre-foir merkis, as for the 3eirie maill thairof allanerlie: And that be vertew of the foirsaid simulat Band, the said vniq^{le} *Walter Barclay of Toweis* obleift him to delyuer bak agane the samyn Reuerfioun to the said *James Dempster*, father to the said Thomas, at quhat tyme or how sone it shold happin him, and his airis, to be ditteftit or put at for delyuerie, or exhibitioun of the samyn, be the airis maill of the said vniq^{le} *Erle of Buchan*, and vtheris haiffand richt thairto; and thairwith to pay to the said *James Dempster* and his airis, the sowme of ten thousand pundis of liquidat expenffis, in caice of failzie: As the said Band, conteneing the tennour of the said fals Reuerfioun, with dyuerfe vtheris clausfes at lenth fet down thairintill, all fallie forget, devyset, and counterfute, first be the said Thomas, and thairefter writtin over at his command and directioun be *Airthour Meldrum*, Scule-maister and Reidar at *Kintor*, and ante-daitit be him, at the said Thomas command, at *Lambes laist*, daitit at *Mure-efk*, the first clay of October 1585, be the space of threthetie-foire 3eiris of befoir, in the selff proportis. LYK AS, in ane actioun of Improbatioun intentit laistie befoir the Lordis of Counfell and Sessioun, at the instance of *Sir Patrik Barclay*, now of *Towie elder*, and *Patrik Barclay younger* his sone, with concurrence of our souerane lordis Aduocat, for Improbatioun of the foirsaid Band and Reuerfioun, ingrossit thairintill, the saidis Lordis of Counfell and Sessioun, efter tryell tane be them in the premisses, hes stand and declairit be thair Decreit, gevin vpon

the second day of Marche instant, conforme to the said *Thomas* awin Confessioun and Depoitioun, subseruit be his awin hand, in thair baill Lordschippis prefens, that the foirsaid Band and Reuertion foirsaid, ingrossit thairintill, is fals and fençeit, fallie forget, fabricat, and devyset be the said *Thomas*, and the said *Airthur Meldrum*, at his command and directioun : And that the said *Airthur*, be his command and directioun, counterfute the names and subseriptions of *Patrik Chalmer, Alexander Frajer*, and *Alexander Watjoun*, thre of the Witnesles insert thairintill : And that the said *Thomas* him self counterfute, and pat to with his hand the name and subseription of the said vniq^{le} *Walter Barclay of Towie*, allegit maker of the said Band, with the names of *George Lyslie*, and *James Innes*, uther tua Witnesles insert thairintill : AND in respect thairof, the samyn Band was, be thair Lordschippis directioun, in thair Lordschippis prefens, immediatlie cuttit, cancellit, and destroyit, and declairit to mak na fayeth in judgement, nor outwith, in tyme cuming : AND the said *Thomas*, for his former falsheit, (was) also Ordanit be the saidis Lordis Decreit to be pwnest in his persone and guidis, conforme to the lawis of this realme ; quhilk aucht and fould be execute vpon him with all rigour, to the terror and example of vtheris to attempt the lyk. As the saidis Lordis Decreit, togidder with the said *Thomas*, his awin and the said *Airthur Meldrums* Depositiones, confessing cleirly the falsheit aboue writtin, product be our said fouerane lordis Aduocat with the Dittay aboue spēcifit, for verifi-catioun thairof, at lenth beiris.

The pannell allegit, that in respect the falsheit Reuertion quhairupoun he is accuset, was nevir vset nor abiddin at be him, to the hurt of *the Laird of Towie* or ony vther, that thairfoir the Justice could nocht put him to ane Assyse.—It is answert be my Lord Aduocat, that the allegiance aucht to be repellit, in respect of the Dittay, and of the Lordis Decreit, quhairupoun the samyn is foundit, finding the Reuertion to be falslie sforget be the pannell, and that *the Laird of Towie*'s subseription was falslie counterfute, and put thairto be the pannell ; and thairfoir Ordaning him to be pwnest, conforme to the Lawis of this realme.

THE Justice Repellis the pannellis allegiance, in respect of the answer ; and Ordanis the Dittay to pass to ane Assyse.

ASSISA.

George Logane of Bonytoun, elder,	James Halyburtoun, mercheand,	Archibald Law, goldsmith,
William Lauder, bailzie of	Patrik Elis, younger, mercheand,	Harie Hoip, mercheand,
Dumbar,	Capitane Patrik Heiring,	George Hammiltoun, mercheand.
Malcolm Stevinson, Tutour of	Johne Dougall, mercheand,	Eduard Johnnestoun, mercheand,
Hirdmetoun,	Johne Schaw, mercheand,	William Crichtiesoun, tailour.
Michell Ramfay of Forther,	Johne Smyth, mercheand,	

VERDICT. The Assyse, be the repoint and declaratioun of the said Chancellor. all in ane voce, stand, pronuncet, and declairit the said *Thomas Dempster* to be flylet, culpable, and convict of the hail falsheit set down in his Dittay aboue writtin.—SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair his heid to be strukin frome his body ; and all his moveable guidis and geir pertening to him to be elcheit to his Maiesteis vse, &c.¹

¹ The frequency of the crime of Forgery, during some years preceeding the date of this Trial, seems to have induced the Public Prosecutor to make several severe examples. Not a few of the criminals were persons of considerable rank in society, who, by desperate courses, had been reduced to the worst shifts to procure the means of subsistence.

Murder.

JUN. 14.—ROBERT HODGE in Spitteloun, and James Mitchell, myller at Dalmahoy mylue.

Dilaitit of airt and pairt of the Slauchter and Murthour of vmq^{le} Patrik Mitchell, skynner; committit in Marche laft or thairby, be ftreking him with kentis and flailis, in dynerle partis of his body, and douking him in the mylneleid or dam of Dalmahoy-mylue; quhairof he within xxiiij houris deceffit.

PERSEWAR, Johnne Mitchell in Langfyde, as father.

PRELOCUTOURIS in defence, Mr Robert Lermouthie, The Laird of Dalmahoy.

THE Justice continewis this dyet to fryday nixt.

JUN. 16.—COMPEIRIT Johnne Mitchell, perfewar, and declairit that the perfon on pannell ar altogidder innocent of the crymes contenit in the Letteris; and thairfoir he past *simpliciter* fra thair perfute, as innocent thairof.—The pannell takis instrumentis of the perfewaris Declaratioun, and passing *simpliciter* fra thair perfute; and nochtwithstanding thairof, offerit thame selfis to the tryell of the Law for the said allegit crymes, feing thair is ane sufficient number of honest men heir present, quha war summoned be the perfewar to pas on thair Assyse, and quha best knawis the verritie of that matter; and thairfoir, as of befoir, defyret my lord Justice that thair mycht be put to ane tryell, &c.

THE Justice, in respect of the perfewaris declaratioun and passing fra the pannellis perfute, Ordanis the dyet to desert; and na Letteris to be direct aganis thame, in this matter, in ony tyme cuning, at the instance of thair perfewaris.

Murder committed under Trust and Friendship.

JUN. 16.—HARIE GORDOUN of Haddo.

Dilaitit of the crewall Murthour and Slauchter of vmq^{le} Johnne Johnnestoun, fervand and neir kynfinan to the Laird of Caskieben, be schuiting him throw the body with ane double musket, charget with fyve bullettis, vnder trust and freindschip, at the dur of the said Hareis duelling-hous, the xxiiij of Marche laft.

Robert Johnnestoun, in Corhill, as father to vmq^{le} Johnne, togidder with Sir Williame Oliphant, producet the Letteris, deulie execute and indorfate, &c.

THE Justice Ordanit Adame Gordoun of Boighoill, as cautioner, to be vulawit for nocht entrie of the said Harie, in the pane of Tua hundreth merkis: And ficyk, that the said Harie be denuncet rebell and put to the horne, and all his moveabill guidis to be efcheit, &c.

Murder by Drowning, &c.

JUN. 16.—DONALD NEILSONE of Assint, Neill Neilfone, his sone, and Neill M^cEane Allafter.

Dilaitit for taking vniq^{le} Donald M^cAllafter V^cEane V^cHenrie, binding him hand and fute, and casting him in ane boit; and thaireftir cayreing him to ane craig¹ in the Sea of Clafieffe, in Affint, quhair the fie overflowing the faid craig, he was pitiefullie² drownit and cayreit away to the grit Ocean-fie; and fa, crewallie Murthouret be thame.

Michael Anderfone, tailzeonr in the Potter-raw, as cautioner, amerciated for nocht repoirting of the Letteres denlie execute and indorfate, and perfewing thairof, purchett at the instance of Johnne M^cAngus V^cHenrie, neir kynmifinan of the faid vniq^{le} Donald, viz. 100 merkis for the faid Neill M^cEan Allafter; and for the vther tua defenderis, ather of thame in tua hundreth merkis.

Slaughter.

JUN. 20.—WILLIAME JOHNNESTOUN, elder of Kellobank; Williame Johnneftoun, 5ounger, his fone; and Johnne Johnneftoun, alfo his fone.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Williame Johnneftoun of Kynnelheid; committit in anno 1619.

PERSEWAR, Jeane Johnneftoun, as dochter.

ASSISTERIS of the perfute, Robert Johnneftoun, callit of Moflope, Thomas Johnneftoun of Beirholme, James Johnneftoun of Erfchag.

PRELOCUTORIS in defence, Mr Thomas Nicolfone, elder, Mr Laurence M^cgill (Advocates.)

The perfewaris passis *simpliciter* fra the pannellis perfute, for the crymes foirfaidis: Quhairvpon the pannell alkit instrumentis.

Continued, 'for the Kingis pairt,' to the third day of the next Justice-air, or fooner, on xv days warning.

Taking captive and prisoner—Oppression, &c.

JUL. 12.—WILLIAME GARIOCHE, fone to James Garioche of Kinfair, and Thomas Anderfone in Awfurd.

Dilaitit for being in companie with *Alexander Forbes*, funtyme of *Toweis*, vpon the xxj day of Januar, 1620 laft, bodir³ with foure piftolettis and tua lang gwnes, fuordis, durkis, and vtheris wappones *inrafiné*; and cuning airtie in the moirning, befor the brek of day, to the duelling-hous of George Garioche, in Tullichetlie, fone-in-law to Johnne Bonar, in Tullichetlie, quhair the faid Johnne was, in fober and quyet maner, for the tyme, lying in his bed; and be plane force and violence entering within the faid hous, pat violent handis in the perfone of Barbara Forbes, ane fervand thairof, drew hir to the fyre, and in maist barbarous and crewall maner held hir about the famyn, thraitning to cast hir thairin,

¹ Craig, or rock.

² Piteously; lamentably.

³ Furnished; provided.

and to burn hir quick,¹ gif scho reveillit nocht to thame quhair the said Johnne Bonar was : AND lykwayis, ffor the putting violent handis in the persone of Robert Broun, ane vther fervand of the said hous, and halding ane drawin durk to his breift, thrainting to strek him thairwith, gif he also reveillit nocht to thame quhair the said Johnne Bonar was for the tyme : AND laft, vpone knowlege gevin to the said Alexander Forbes of Toweis and his complices, that the said Johnne Bonar was in his bed within the said hous, ffor thair cuming to him to his bedfyde, and drawing him furth of his bed in maift violent mauer, taking him captiue and priffoner, and cayreing him furth of the said hous be the space of tua myles, to the watter of Lochell, and douking² him dyuerse tymes thairin ; and thair compelling him to yeild to the furneiffing to the said Alexander Forbes, and delyuering to him of flyve hundreth merkis money ; and becaus of the said Johnne Bonar his refusall of performeing thaireftir of his promeis, ffor cayreing him with thame, as ane captiue and priffoner, to the duelling-hous of Robert Merfar of Edindowie, and keiping him thairin, as ane captiue and priffoner, be the space of tua dayis and tua nichtis togidder : AND for beiring and weiring of hagbuttis and pistolettis, contrair the tennour of the Actis of Parliament.

Compeirit personallie the said Williame Garioche and Thomas Anderfones, and maift willinglie offerit thame selffis to the tryell of the law, disaffenting *simpliciter* to all maner of continuation : And thairfoir protestit for thair cautioneris (Mr Williame Forbes of Craigievar, and Alexander Hill, litfter,³ burges of Aberdene) releif.—Compeirit on the vther pairt, Johnne Forbes, elder of Brux, as procurator, speciallic constitute, for the said Johnne Bonar, persewar, and be vertew of ane Letter of procuratioun, subferyuit with his hand, of the dait the acht day of July instant ; bearing, that the said Johnne, in regard of his grit age and inhabilitie to travell to the keiping of this dyett, and that he vnderstuid the saidis Williame and Thomas, quha had fund cautionne, war innocent of the haill crymes aboue writtin, Ordanit the said Johnne Forbes of Brux to pas *simpliciter* fra thair persute, &c. Quhilk protestatioun the Justice admittit.

House-breaking—Stouthreif—Theft.

Jul. 21.—PATRIK GRANT of Davachmoir ; Duncaen Grant, in Wester Bumboly ; James M'allaster Vic Eane Oig, in Inchebroun ; Ewin McNeill V^cquyane, in Littill Clwne.

Dilaitit for breking of Johnne Grant of Glenmoriestoun his hous of Belmacene, in Vrquhart ; breking vp of fourtene lokit kiftis⁴ being thairin ; steilling and away-taking of certane guidis and geir being within the saidis kiftis, all pertening to the said Johnne Grant ; committit in Apryle, 1615 yeiris.

¹ Alive.

² Ducking.

³ Dyer.

⁴ Locked chests,

PERSEWAR, Johnne Grant of Glenmoriestoun.

The persewar passis *simpliciter* fra the perseute of the said Ewin; and declairis him to be innocent thairof.

Continued to the thrid day of the nixt Justice-air of the scherefdome quhair thay duell, or soner, vpon xv dayis wairning. Johnne Grant, appeirand of Ballindalloche, become fouertie, &c.

Taking captive—Oppression—Starving to death.

Jul. 26.—ROBERT M'COULE, in Wefter Kindrogine; Robert Glas, thair; and Johnne Bowy M'kerra Dowy, in Straloche.

Dilaitit for Usurpatioun of our souerane lordis authoritie, in taking of viiq^{le} Allaster M'gilliemule, in Innerridrie, ane simple pur man, furth of the duelling hous of Johnne Roy M'gilliemule, vpon the landis of Bordland, within the scherefdome of Perth, binding him hand and fute, and cayreing him, as ane captiue and prissoner, with thame to the Castell of Blair, in Athole, and stryppit him naikit of his claithes, and thaireftir casting him in the pit of the said Castell, quhair, in the deid tyme of winter, viz. in December last, he fameischet with hunger and cold, eftir he had remanit foure dayis and foure nichtis thairintill: And thaireftir cayreing him out of the said pitt to ane gibbet (being deid) vpon the landis of Blair, quhair thay hang him vp as ane malefactour, but power or commissioun gevin to thame, or ony preceeding tryell tane of his guiltines of ony cryme.

THE Justice ordanit Johnne Fergussone of Belnacult, in Straloche, as cautioner and fouertie, to be vnlawit for nocht entrie of ilk ane of the saidis personis, in the pane of ane hundreth merkis: And siclyk, that thay fall be denuncit rebellis and put to the horne, and all thair moveabill guidis to be escheit, &c.

Hurting and Wounding—Dismembration.

NOV. 3.—JOHNNE STEWART of Hulreid; James Blaikwoid, his fervand; and Johnne Pollok, sone to Johnne Pollok, in Caldecottis.

Dilaitit of airt and part of the crewall Hurting and Wounding of Johnne Allansone, sone to Andro Allansone, in Waterfute, in his heid, be geving to him of seven bludie woundis thairintill, tua crewall woundis in his schoulderis and airmes: As also, of dismembriing him of his thombe and thre fingeris of his left hand; committit vpon the landis of Gorballis, pertening to Sir George Elphinstoun of Blytheswoid, kny^t, in his cuming frome Glasgou to his fatheris hous, in Waterfute, in the moneth of Junij last; vpon set purpois, prouisioun, and floirthocht stellanie.

PERSEWAR, Johnne Allansone.

PRELOCOUTOURIS in defence, Mr Thomas Hoip, Mr James Hammiltoun.

It is allegit be Mr Thomas Hoip, as prelocoutour for Johnne Stewart of Hulreid, that the Dittay can nocht be put to ane Assyfe aganis the said Johnne, nor his men, becans per Legem, *si quis in rixa*, &c. ; quhair ane persone, callit for ane cryme and is fugitiue thairfoir, the remanent perfones, his allegit complices, enterand, can nocht be tryit be ane Assyfe, or perfewit for the samyn : As also, he takis instrumentis of that poynt of the Dittay, beirand the fact lybellit to be committit vpon foirthocht felonie. It is forder allegit be Mr Thomas, that the Dittay is nawayis relevant to pas to ane Assyfe, for Dismembring, seing the perfewar wantis nocht ane member, bot onlie his thombe and tua fingeris, *quia digitus non est membrum, sed tantum pars membri*.

Mr James Hammiltoun, as prelocoutour for Johnne Pollok, takis instrumentis, that the perfewar is willing to pas fra the said Johnne Pollokis perfute *simpliciter*, as altogidder innocent of the cryme lybellit ; and protestis, in caice he perfew nocht Pollok, that the perfewaris cautioneris be vnlawit : And thairfoir, in respect of Pollokis innocencie, he offeris him to the tryell of ane Assyfe. Takis instrumentis also of the perfewaris declaratioun, beirand that he nevir saw the said Johnne Stewart and remanent perfones ou pannell befor his cuming to the grund of Gorballis, that day of his hurting thairupoun ; as also, that Johnne Stewart said theafe wordis at that tyme, ' It is ane mervellous matter we can nocht get James Pollok and Johnne Allansone red !'

THE Justice repellis the allegiances abone writtin, concerning the Law allegit be Mr Thomas Hoip, and concerning the dismembring, in respect of the Dittay : And Ordanis the samyn to be put to ane Assyfe.

VERDICT. The Assyfe, all in ane voce, stand the saidis Johnne Stewart, James Blaikwood, and Johnne Pollok to be Clene, innocent, and acquit, &c.

Slaughter.

Nov. 17.—JAMES MURE, in Dalmahoy,¹ and Thomas Aikman, thair.

Dilaitit of airt and pairt of the Slauchter of vni^o Johnne Weir, in Dalmahoy ; committit with stanes, rungis,² and vtheris wappones *invasiue*, vpon the last day of September lastbypast, vpon set purposis, prouisioun, and foirthocht felony.

PERSEWARIS, Margaret Wynrahame, the relict ; Thomas and William Weir, brether.

PRELOCOUTOUR in defence (for Thomas Aikman), Mr Robert Lermonthie.

VERDICT. The Assyfe, all in ane voce, stand the said *Thomas Aikman* to be Cleane, innocent, and acquit : And siclyk, that the said *James Mure* is Giltie, culpable, and convict of the said slauchter.—SENTENCE *against Mure*. To be tane to the Mercat croce of Edinburghe, and thair his heid to be strukin frome his body ; and all his moveable gudis to be escheit, &c.

¹ See Jun. 14, 1620.

² Cudgels ; staves.

Slaughter.

Dec. 1.—**JOHNE BROWN**, tailzeour, hantand¹ in Craufurdmure.

Dilaitit of airt and pairt of the crewall Slauchter of vniq^{le} James Williamfone, in Glengeich; committit the xxvj day of November lastbypast, within the duelling hous of Johne Gibfone, elder, in Craufurdoun, be hurting him with ane fuord in the heid, airnes, and vtheris partits of his body; quhairof, vpon the morne thaireftir, being the xxvij day of November, at tuelf houris in the day, he deceifit.

PERSEWARIS, Symone Williamfone, burges of Edinburghe, and Robert Williamfone, brethir to the defunct; James Williamfone, brother-in-law; Sir Williame Oliphant, kny^t.

ASSISA.

Mathow Bailzie, of Littillgill,
Mr James Bailzie, fone to Mathow,
Johne Makmath of Cortbank,

Thomas Johnntom of Beirholme,
Williame Tailzfeir of Herklaw,
Johne Vmpray in Glenmuklek.²

The said Robert Williamfone, brother to the defunct, fuoir the Dittay to be of verritie: Quhairvpon my lord Aduocat afkit instrumentis; and proteffit for Wilfull Errorr aganis the Assyle, gif thay acquit.

VERDICT. The Assyle, all in ane voce, be the declaratioun of the said Mathow Bailzie, chancellor, fand the said Johne Brown to be ffylet, culpable, and convict of airt and pairt of the said crewall Slauchter.—**SENTENCE.** To be tane to the Mercat-croce of Edinburghe, and thair his heid to be strukin frome his body; and all his moveabill gudis to be cfcheit, &c.

Slaughter.

Dec. 15.—**SIR JAMES MAXWALL** of Calderwoid, kny^t; Alexander Lyndfay of Dunrod; Johne Lyndfay, his brother naturall; and James Maxwell, fone to Williame Maxwell of Newlandis.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} Alexander Lekkic of that Ilk; committit in September 1601 yeiris.

PERSEWARIS, Alexander Lekkic of that Ilk, as fone; Adame Cuninghame of Markinche, the spous of Euphame Maxwell, relict of the said vniq^{le} Alexander, for his intreis; Sir Williame Oliphant of Newtown, kny^t, Aduocat to our fourane lord.

PRELOCUTOR in defence, Mr Thomas Hoip, Aduocat.

The Justice, conforme to ane Warrant of the Secreit Counfall, direct to him, quhairof the tennour followis:

JUSTICE, Justice Clerk, and 5our deputis. Quhairis the fyftene day of December instant is appointit to Sir James Maxwell of Calderwoid, kny^t, W^m Maxwell of Newlandis, James, Jⁿ, and James Maxwell his fones, Alex^r Lyndfay of Dunrod, and James Wauchope in pe Airdis, for pair compeirance befor 5ow, to vnderly the lawis for the Slauchter of vniq^{le} Alex^r Lekkic of pat Ilk; Nochtwithstanding, for certane causis moveing us, it is our will, and we Command 5ow to continew pe said dyet, vntill the

¹ Dwelling, but having no fixed residence.

² The rest of no note.

fextene day of Januar, in the 5^eir of God I^m.Vj^e, tuentie tua 5^eiris: And that 3e tak new caution of thame, conforme to the ordour. Quhairnent thir presentis fall be 5our Warrand. AT ED^s, the tuelf day of December, 1620.

AL. CANCELL^s. MAR. MELROIS. NITHSDAILL. LAUDERDAILL. CARNEYG.

Continewis this dyet to the said xvj day of Januar, in anno foirfaid.—Sir Alexander Hammiltoun of Innerweik, kny^t, elder, and Alexander Levingftoun of Belftane, become pleges and fouerteis for the entrie of the saidis Sir James, &c.

(Jan. 16, 1622.)—SIR James Maxwell compeirit, and perfonallie product ane WARRAND of the Lordis of Secret Counfall, proceeding vpon ane Supplicatioun gevin in by thair Lordschippis; quhair of the tenuour followis.

MY LORDIS OF SECRET COUNSALL, vnto 5our L. humlie meanis¹ and schawis, we 5our feruitouris, *Sir James Maxwell of Calderwoid*,² sone to vmq^{le} *Williane Maxwell of Newlandis, Alex^t Lyndfay of Dunrode, and Jo^s Lyndfay*, his brother naturale, That quhair, the fextene day of Januar nixtoom is appointit to us for our compeirance befor his Maiefties Justice, to vnderly the Law for the Slauchter of vmq^{le} *Alex^t Lekie of that Ilk*, at the quhillk day the Justice intendis to proceed in this matter; albeit it be of veritie, that be pe mediatioun and travellis of some weil affectit Noblemen, Barrones, and Gentilmen, commoun and indifferent³ freindis to both us pairteis, who hes delt and travellit betuix us, for bringing of this unhappie feid, whilk hes bene of fo long continuance betuix our Houffis, to some termes of aggrement and reconciliatioun: Thay brocht pe matter to this poynt, that I, pe said *Sir James*, fall superceid and continew the profecutioun and following out of pe actioun of Reductioun, quhillk I haif presentlie in dependance befor pe Lordis of Counfall and Sessioun, aganis pe said *Laird of Lekie*, and that I fall suffer the fame to rest and sleip⁴ till pe said fextene day of Januar nixtoom; and that the Criminall dyet foirfaid, appointit for our Tryell befor pe Justice, fall be continew till Witfunday nixt; to the effect, that in this meane tyme, forder travellis may be tane for bringing of the feid and querrell betuix us to ane more happie and finall conclusioun: AND with this appointment of freindis, bothe we pairteis restit weale satisfeit and content. THAIRFOIR we befiek 5our Lo. to geve command to pe Justice, Justice clerk, and pair deputies, to continew pe dyet foirfaid, appointit for our compeirance befor thame, to vnderly the Law for pe Slauchter, vnto pe said terme of Witfunday nixtoom; and that pai dispense with our perfonall compeirance, and tak new caution for us, conforme to pe ordour: And to discharge thame of all proceeding aganis us in the mean tyme, and of thair offices in that pairt, quhill pe said terme of Witfunday: Whairnent thir presentis fall be pair Warrand. And 5our Lordschippis anfuere. [*Followis the Lordis deliquerance.*] APUD ED^s, *quarto Decembris*, 1621, *ffiat ut petitur*, to the six day of Junij nixtoom: Becaus *the Erle of Mar*, being perfonallie present, testifeit pe consent and apppointment within writtin.

AL. CANCELL^s.

For obedience of the quhillk Warrand, the Justice continewis this dyet in the same forme, force, and effect, with all tryell of the pannell for the Slauchter aboue writtin, to the said six day of Junij, &c.—Sir George Elphingftoun of Blythefwoid, kny^t, became fouertie for the entrie of the said Laird of Calderwoid, &c.

(Jun. 19, 1622.)—THE Laird of Calderwoid product his Maiefties Letter following:

¹ Complains. ² It is likely the following words are omitted in the record, through a clerical error: 'Kny^t, James Maxwell, sone, &c. ³ Disinterested. ⁴ When no proceeding takes place in suits before the Court of Session for *year and day*, the process is technically said to *fall asleep*, and is revived by a Summons of *Wakening*, &c.

JAMES R.

TRUSTIE and weilbelout, We greit 3ow weil. WHAIR AS, We be credible informet that *Sir James Maxwell of Calderwood, kny*, and *Alexander Lindjy of Duurod*, with their complices, ar fummoud, to vnderly our Lawis, for þe Slauchter of vniq^{le} *Alexander Lecky of that Ilk*, alleadged committed þe thame, We ar well pleafed to grant vnto the said *Sir James* a Respitt for the fame, during the space of certane monethis eftir the dait heirof: AND thairfoir haif thought goode, by these presentis, to will and requyre 3ow not to medle in any wyfe, nor to tak cognitioun of the said cause, till the fyft day of October nixt. Wherein We expect 3owr conformitie to our pleafour. GEVIN at our Court of Grenewiche, the first of Junij, 1622.

THE Justice continewis, &c. Sir Johnne Hammiltoun of Lettrik, and James Maxwell of Kirkeconnell, cautioneris, &c.

PRELOCUTORIS in defence, Joseph Myller, Advocat; Archibald Hammiltoun, Commiffar of Lanark.

(Oct. 5, 1622).—JOSEPH MYLLER producet tua feuerall Testimoniallis, the ane subferyuit be the Minister of Lanark, and dyuerse elderis of the Sessiou of that Kirk; and the vther subferyvet be the Minister of Carlouk, and certane of the elderis of that Kirk, testifeing the deceife of *Sir James Maxwell of Calderwood, kny*: And vponne the production thairof askit instrumentis.

THE Laird of Duurod presentit to the Justice ane LETTER of HIS MAIESTEIS, quahairof the temour followis.

To o^r trustie and weilbelout, o^r Justice, Justice clerk, and pair deputeis whatsoever.

JAMES R.

Trustie and weilbelout, We greete 3ow well. Whairas, We hane bene pleafed to write to o^r Council, willing thame to employ their best meanes, for reconciliatioun of *Sir James Maxwell of Calderwood* and *Alexander Leckie of that Ilk*: We haif lykwayis thoct by these presentis to will and requyre 3ow nocht to proceed in the criminall actioun intendit aganis the said *Sir James Maxwell* and his complices, for the Slauchter of vniq^{le} *Alexander Leckie of that Ilk*, till 3e fall vnderstand by o^r said Council that þai haif gevin vp all forder deilling in that matter. So, expecting 3o^r conformitie to this o^r ples^r, we bid 3ou fare weil. GEVIN at Wudfore, the seavinthe day of August, 1622.

Conforme to the quhilk directioun of his Maiestie, the Justice deferris all proceeding aganis the pannell.

THE said Johnne Lyndfay disassentis to the said continuatioun, and affirms him self to be innocent of the said Slauchter; and thairfoir offeris him self presentie to the tryell of the Law for the samyn.—THE Justice Ordanis him, with the remanent defenderis vponne pannell, to find caution. James Lyndfay of Scheillis, and Alexander Levingstoun of Belftane, become cautioneris, &c.

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

Taking captiv King's free lieges—Cruel oppression—Murder, &c.

Feb. 7, 1621.—JAMES PARK in Cathkyn, and George Park in Wester Gremlear, his brother.

Dilaitit of airt and pairt of the Taking of vniq^{le} Williame Knox, in Cathkyn, furth of his duelling hous, vnder silence of nycht, and with cudgellis and rungis besting and dinging him in the breist, fydis, bak, and bellie; thairby breking

and bruſeing his hail intrallis and nobill pairtis within him, fetting thair feit betuix his leggis vpon his ball-cod,¹ and forcing thairby his flanes to loup vp in his lifkis;² binding him thairefter with ane coird, or hair-tedder, to ane horſe and ane fled,³ and cayreing him with thame as ane captiue and priffouer to the toun of Hammiltoun: Off the quhilkis hurttis and dedlie woundis, he deceiffit, in the moneth of Januar; the ſamyn being done to him in the moneth of October of befor, in the yeir of God I^m.V^c.lxxxvj yeiris.

PERSEWARIS, Johnne Knox, as ſone; Sir Williame Oliphant, kny^t.

PRELOCUTORIS in defence, Mr Tho^s Hoip, Mr Ja^s Hammiltoun, Mr Lueis Stewart, (Advocates.)

It is allegit be the pannell, that the Dittay contenis tua ſuenerall crymes; the firſt, for taking and apprehending of his Maieſteis frie lege but⁴ Commiſſioun, quhilk is treſſonable; the vther cryme, for Murthour and Slauchter of him, in in maner lybellit. As to the firſt cryme, quhilk inferris the cryme of Treſſone, *non relevat*, becaus, taking without imprifſoning in *privato carcere*, and detening him thairin, *per ſpacium riginti quatuor horarum*, can nocht be⁵ the law, infer *penam privati carceris*. And as to the Murthour lybellit, *non relevat* to pas to ane Aſſyſe, except it war condifcendit, at quhat tyme he contractit the deidlie feiknes, eftir the geving of the ſtraikis quhairupoun daith followit, as is allegit in the lybell. My lord Aduocat conioynes the tua crymes lybellit, and concludes thairin only *penam capitis* to be inflictit vpon the committeris; and thairfoir deſyres the Juſtice to put the hail lybell *coniunctim* to the knowlege of ane Aſſyſe.—The perſewar, Johnne Knox, declairis that he will nocht perſew at this tyme, becaus the ſpeciall perſones that ar ſummoned, and beſt knawis the treuth of the pannellis giltines, ar nocht preſent: And thairfoir, deſyres that the matter may continew to ane fyftene dayis wairning, and the pannell put vnder new caution.—The pannell diſaſſentis to the ſaid continuatioun; and in reſpect, thair is ane ſufficient number of Aſſyſe preſent, all ſummoned be the perſewar, offeris thame ſelfis to the tryell of the law for the hail crymes lybellit; quhairof thay declair thame ſelfis to be altogidder innocet: And proteſtis, in reſpect of thair former offer, that thay be nawayis trubillit or perſewit for the ſaidis allegit crymes, in ony tyme cuming.

THE Juſtice continewis this matter to ane fyftene dayis wairning; and ordanis the pannell to find caution, &c. Williame Anderſone, portioner of Littill Govane, became cautioner, &c.

[*Mr Alexander Coluile, Juſtice-Depute.*]

Usurping King's authority—Taking captive &c.

Feb. 9.—RICHARD GRAHAME of Hoſpitalcheillis, and Robert Merſar, meſſinger in Abirdene.⁶

¹ Testes.

² Reins.

³ Sledge, or cart without wheels.

⁴ Without.

⁵ By.

⁶ Cautioners, ' George Erle of Marſchell, and James Garioche of Kinfair.'

Dilaitit for cuming to Patrik Farquhar, burges of Abirdene, his duelling-hous thair, and maist violentlie, but ordour of Law,¹ or concurrence of the Magiftratis of the said burgh, and without ony Commiffioun or vther Warrant, putting violent handis in the perfone of the said Patrik Farquhar, taking him furth of his said hous; and thairfra, cayreing him, as aue captiue and priffoner, to the said Richerd Grahames Hous of Overcraig: As also, for cayreing him to the priffone of Stanehyve, quhairin he was keipit be the fpace of tuentie dayis: LYK AS, he was keipit and detenit in the said Richerd Grahames Hous, *tanquam in privato carcere*, be the fpace of tuentie foure houris; vfurpeing thairby our fouerane lordis authoritie vponne thame: AND sic lyk, for tranfporting him to the duelling hous of Mr Williame Reid in Cowie, quhairin he was keipit in ftrait firmanee the fpace of vther xxiiij houris: Vfurpeing thairby our fouerane lordis authoritie vponne thame.

PRELOCUTORIS in defence, Mr James Olyphant, Mr Roger Mowat, Aduocattis.

The said Patrik Farquhar declairit, that the saidis Letteris war altogidder raifit but² his warrant, and by³ his knowlege; and without ony informatioun gevin be him to our fouerane lordis Aduocat, or to the said James Keyth,⁴ or ony vther thairintill: And thairfoir, he renuncet all actioun Criminal or Ciuile that he had or could allege aganis the said Richard and Robert, and past *simpliciter* fra thair perfute, as altogidder frie and innocent thairof.—My lord Aduocat declairis, that thair is collufioun and fecreit aggrement betuix Patrik Farquhar and the perfones on pannell; and defyres the pannell thairfoir to be put vnder new cautionn, for thair compeirance of new agane, vponne xv dayis wairning, for his Maiefteis intereis allanerlie.—Johnne Grahame, indueller in Edinburgh, becomes cautioner to the above effect.

My lord Justice Ordanit na letteris to be direct furth agan is the pannell, at the instance of the said Patrik, for the crymes foirfaidis, in ony tyme cuming, in respect of his former declaratioun.

Slaughter.

Feb. 23.—JOHNNE BELLENDEN, indueller in Edinburgh.

Dilaitit of airt and pairt of the Slauchter of vni^{le} James Dalmahoy, burges of Edinburgh.

PERSEWARIS.

Agnes and Helene Dalmahoy, sifteris; Sir Johnne Dalmahoy of that Ilk, kyn^e; Andro Ker of 5air.

PRELOCUTORIS in defence, James Borthuik of Newbyres, Mr Laurence M^e Gill.

THE JUSTICE, of consent of partie, continewis the dyet to the fevint of Marche

¹ Without legal warrant.

² Without.

³ Beside; past; without; contrary to.

⁴ Of

Harviestoun, cautioner for producing the Letters duly executed against the pannel.

nixtocum. And ordanis the pannell to be tane bak to waird, thair to remane quhill the said day.

Mar. 7.—CONTINEWIS this matter to Fryday nixt, the nynt *injlantis*.

Mar. 9.—THE perfewaris passis fra the perfute of the pannell, *pro loco et tempore*.

Slaughter.

Mar. 30.—MR JAMES BAIL⁵IE, sone to Mathow Bail⁵ie of Littilgill.

Dilaitit of airt and pairt of the Slauchter of vniq^{le} James Dalnahoy, merchand burges of Edinburgh.

PRELOCOUTOURIS in defence, Mathow Bail⁵ie of Littilgill, Mr James Hammiltoun.

The saidis Mathow, and Mr James Bail⁵ie, declairit, that Mr James Bail⁵ie, his sone, the tyme of the geving of the charge to him, for his compeirance, was and is as yit heviele diseafit with feiknes, that he is nocht able to travell to the keeping of this dyet, &c.

Johne Loverance, Minister at Robertoun being solemplie fuorne, declairit, that he is Minister at the Kirk of Robertoun, and within this thre dayis vissit Mr James Bail⁵ie within the parochin, quhair he was lying bedfast, heavilie diseafit with feiknes, and nawayis of habilitie to travell, vpon horse or fute, to the keeping of this dyet; as he sould ansuer to the grit and Almychtie God. —*Johne Dunfyre* in Robertoun, also fuorne, is conforme to the said *Johne Loverance*, Minister.—*Mungo Inglis* thair, lykwayis deiply fuorne, depones conforme to the Minister.

THE Justice ordanit caution of new agane to be ffund for the said Mr James Bail⁵ie, that he fall compeir the thrid day of the nixt Justice-air of Lauerk, or soner, vpon xv dayis. The said Mathow becomes cautioner.

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

Murder vnder trust, credit, and assurance.

Apr. 13.—GEORGE ERLE OF CAITHNESS, and James Sinclair in Diran.

Dilaitit of airt and pairt of the crewall and tresonabill Murthour and Slaughter vnder trust, credit, and affurance of vniq^{le} Thomas Lyndfay in Scraibster in Kaithnes; committit be thame and thair compliceis, in forme and maner specifit in the Letteris.

Robert Monro of Aldie, Commiffar of Kaithnes, as brother on the mother fyde, to the said vniq^{le} Thomas, producit the Letteris deulie execute and indorfate vpon the said Erle and James Sinclair, be the quhilkis, thay and ather of thame ar denuncet rebellis and put to the horne, for nocht finding of caution, to haif compeirit befor the Justice or his deputis this day.

THE Justice, vpon the production of the saidis Letteris deulie execute,

indorfat, and regiftrat, adjudget the faid Erle and James Sinclair, in refpect thair of, and of thair nocht compeirance perfonallie this day, to be flugitines fra his Maiefties lawis for the faid trellonabill Murthour, as culpable and fugitive thairfoir.

[*Mr Alexander Colvile, Justice-Depute.*]

'Forcing'—Rape.

JUN. 27.—JAMES M^cNACHT in Igit^raird, and Thomas Weir in Gairding-holme-fute.

Dilaitit of the forcing of vniq^{le} Jonet M^rone, fervand for the tyme to Thomas Weir in Gairdingholme-fute, and abufeing hir, in the moneth of November, 1620 yeiris, in sic foirt, that within tuentie dayis thaireftir ſcho deceiffit.

PERSEWAR, Williame Campbell, coufing-germane to the defunct.

PRELOCUTORIS in defence, Mr Lucis Stewart, and Adame Cuninghame, (*Advocates.*)

The pannell defyres to vnderftand the perfewaris entreis to perfew; and that he declair how neir of kyn he is to Jonet M^rone.—The perfewar declairis he is coufing-germane to the faid vniq^{le} Jonet, viz. ſcho was his father-ſifter dochter; and thairfoir hes guid intreis to perfew.—It is allegit be the pannell, that he can nocht be eſtimat ane lauchfull perfewar, becaus the perfewaris father was the defunctis baftard-brother; and ſa, of the Law, can nocht perfew, his father being baftard; the verritie quhair of referris to the perfewaris ayth: Quid declairit the allegeance to be of verritie.

THE JUSTICE, in refpect thair was na lauchfull perfewar to inſiſt in this perfute, Ordanis the dyet to deſert.

The pannell takis inſtrumentis thairupoun, and affirms that thair ar altogidder innocēt of the crymes lybellit; and gif ane lauchfull perfewar, ather for the parteis or the Kingis entreis, war preſent, thay wald maiſt willinglie offer thame ſelfis to the tryell of the law for the ſaidis crymes; and diſaffentit, *ſimpliciter*, fra ony continuatioun, without ony exceptioun to be proponit aganis ony lauchfull perfewar or perſones of Affyſe, being honeſt and vnſuſpect perſones: proteſting, in the meane tyme, for thair cautioneris relief, fund for thair compeirance this day.

Slaughter.

JUL. 19.—HENRIE BAIRD, at the Mylne of Mukard.

Dilaitit of the crewall Slaughter of vniq^{le} Robert Huttone, duelland within the parochin of Mukard, beſyde Caſtell Campbell, be caſting of ane otter-ftalff, with ane tua-granet fork of irne at the end thair of, at the faid vniq^{le} Robert, quhilk peirſit him in the bellie, quhair of he immediatlie thaireftir deceiffit; committit vpon the nynt of July inſtant, vpon ſet purpois, prouiffioun, and ſfoir-thocht ſfellonie.

PERSEWAR, Johne Hutton, at the Kirk of Mukard, as brother to the defunct.

The pannell confessis the fact, and craves God mercie.

VERDICT. The Assyse, all in ane voce, stand the said Henrie Baird, conforme to his awin Judiciall Confessioun, to be flylet, culpable, and convict of airt and pairt of the said Slauchter.—SENTENCE. To be tane to the Castell-hill of Edinburgh, and thair his heid to be strukin fra his body; and all his moveable guidis to be efcheit, &c.

Convocation of Wierges—Wearing of Hagbutis—Slaughter, &c.

Jul. 20.—WILLIAME DOUGLAS of Drumlangrig; James Douglas of Mouffell, his brother; Johnne Douglas of Killievarrene, his brother naturall; Robert Greir, younger of Lag; and others.¹

Dilaitit for contravening his Maiesteis Actis of Parliament, in making of convocatioun of his hienes legis: AND beiring and weiring of hagbutis and pistolettis: AND for airt and pairt of the Slauchter of vniq^{le} Thomas Coupland in Cafchogill: AND demembring of Robert Douglas, sone to Sir Robert Douglas of Cafchogill, kny^t, of his left lug:² Committit in Majj lastwas, vpon the tuelf day thairof, at the Mo's of Cafchogill.

PERSEWARIS, Margaret Corbie, the relict; Williame, Robert, and Thomas Couplandis, as sones; and Coupland, as dochtler to the said vniq^{le} Thomas; Sir Robert Douglas of Cafchogill, kny^t, as father to Robert Douglas, and maister to vniq^{le} Thomas.

PRELOCUTORIS, Mr Thomas Hoip; Mr Thomas Nicolfone, younger; and James Dowie, wryter.

Convocation of Wierges—Wearing of Hagbutis—Slaughter, &c.

Jul. 20.—SIR ROBERT DOUGLAS of Cafchogill, kny^t; Robert Douglas, his sone; Johnne Paterfone, in Cafchogill; Thomas Paterfone, thair; Williame Coupland, thair; Hob Coupland, thair; Mathow Cowane, thair; and twenty-seven others.

Dilaitit for contravening of the Actis of Parliament, in making of convocatioun of his Maiesteis legis; beiring and weiring of hagbutis and pistolettis; and invading of the Laird of Drumlangrig, his brother, and remanent persewaris, with sehottis of hagbutis and pistolettis; committit at the Mofs of Knoeckconnie, pertening to David Douglas, heritour thairof, vpon the tuelf day of Majj last.

¹ The rest of the pannels were, Duncane Hunter of Ballagan; James Johnnitoun of Lochbous; James Johnnitoun, callit *Braikin'side*; James Johnnitoun, callit *Croftheid*; James Douglas, and Robert Grahame, all four servandis to the said James of Lochbous; Archibald Douglas, servand to the Laird of Mouffell; Robert Creichtoun, sone to . . . Creichtoun of Craufurdtonn; Thomas Bell, sone to *Reidcloke*; James Douglas, callit *in Glenmeid*; Christie Airmetrang in Bigholme, his sone in law; Andro Hunter in Auchinbathe; James Douglas, Thomas Mairtene, Johnne Paterfone, callit *the sicker*, all servandis to the said Laird of Drumlangrig; Hob Hunter in Crarieknow; and Johne Rig, messenger.² Ear.

PERSEWARIS, Williame Douglas of Drumlangrig; James Douglas of Mouffell, his brother; Johne Douglas of Killievarrane; James Johnstoun of Lochebous; Robert Dalzell, sone naturall to Sir Robert Dalzell of Eliok, kny^t; Sir Williame Olyphant of Newtown, kny^t.

ANE WARRANT was product to my lord Justice, quhair of the tennour followis.

JUSTICE, Justice Clerk, and your deputis; sfor samekill as the tuintie day of July instant is set and affix for perute of *Williame Douglas of Drumlangrig*, and certane his speciall freindis and kynfmen befor 50w, for þe slauchter of vniq^{le} *Thomas Complaud*, with hagbuttis and pitolettis; as also, for perute of *Sir Robert Douglas of Caskhogill*, and certane his freindis and pairt-takeris, for making of convocatioun of his Maiesteis legis, and beiring, weiring, and schuiting of hagbutis and pitolettis, contrair his Maiesteis Actis of Parliament; as the Letteris, *hinc inde*, raisit be ather pairtie thairintill, beiris: AND becaus, be the mediatioun of freindis, the saidis actiones ar liklie to pak up and agrie, and that no forder trubel be had amangis þame pairtintill: It is pairfoir our will and pleisour, that 5e continew the saidis dyettis to the thrid day of þe nixt Justice-air of the Scheredomme quhair þe saidis pairteis duellis, or sone, vpone fyftene dayis warning; dispenfand with thair nocht compeirance befor 50w this day, and takand new cautionn for þe haill perones re-entrie contenit in the Letteris, to that effect, vnder the panes contenit in the Actis of Parliament. Quhairanent thir presentis fall be to 50w ane sufficient Warrant. Subferyuit at Edinburgh, the xx day of July, 1621.

HAMMILTOUN. AL. CANCELL. MAR. MELROS.

THE Justice continewis the saidis tua dyettis to the thrid day of the nixt Justice-air of the Scheredomme of Dumfries, quhairin the haill perones duellis, or sone, vpone fyftene dayis.

Compeirit personallie . . . Douglas of Caveris, Scheriff of Teviedaill, and become souertie for the said Williame Douglas of Drumlangrig: And selyk, Johne Wilfone of Croglene, James Menzies of Enoche, and Malcolme Dahrum-pill of Enoche, souerteis, conjunctlie and senerallie, for Sir Robert Dalzell of Eliok, James Douglas of Mouffell, &c., that thay fall compeir, &c.—And on the vther pairt, compeirit Sir Williame Douglas, younger of Caskhogill, kny^t, and become plege and souertie for his father, and haill remanent defenderis, &c.

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

Slaughter—Clearing of Hagbuts and Pistolets, &c.

Aug. 24.—CAPITANE JAMES JOHNSTOUN of Thoruik.

Dilaitit of the felloun and crewall Slauchter of vniq^{le} Williame Johnstoun, brother germane to Robert Johnstoun of Wamfray: And for contravening of the Actis of Parliament, in beiring, weiring, and schuiting of hagbutis and piftolettis, and slaying the said vniq^{le} Williame Johnstoun thairwith; and remanent crymes contenit in the criminall Letteris.

THE Justice ordanit James Johnstoun of Braikansfyde, cautioner for the said Capitane, to be vnlawit and amerciat, for nocht entrie of the said Capitane, in the pane of flyve hundreth merkis: And selyk, that the said Capitane James, for his nocht compeirance, fall be denuncet rebell, and put to the horne; and all his moveabill guidis to be escheit, &c.

[*Mr Alexander Colvile, Justice-Depute.*]

Slaughter in Single Combat, or Duel, while in Foreign Service.

[THE following Trial is one which possesses considerable interest and importance, as well from the light which it throws on the application of the LAWS OF DUELLING, in Scotland and in the Low Countries, as from the rank and situation of the parties implicated. *Captain Harry Bruce*, who had subsequently been employed to superintend the martial exercises of CHARLES, PRINCE OF WALES, afterwards the unfortunate KING CHARLES I, was rigorously pursued, by the vindictive and mercenary spirit of the relatives of *Captain John Hamilton*, in the Supreme Criminal Tribunal of Scotland, after he had long before been honourably acquitted by Court Martial in Flanders—under the impression, no doubt, that they would either extort a large sum of money from this new Court favourite, or procure his ruin or death. The DUEL OF SINGLE COMBAT referred to in this case, and into which *Bruce* had been dragged by the rashness and insolence of his antagonist, had taken place no less than about *seventeen years* previous to those proceedings!]

The reader may here be referred to the Case of “*Capitan Johnne Rig, Archeour of the Gaird of France,*” in a former part of this Collection, Vol. II., p. 382.]

NOV. 14.—CAPITANE HARIE BRUCE, feruitour to THE PRINCE his HIENS.

Dilaitit of airt and pairt of the Slaughter of vnr^{le} Capitane Johnne Hammiltoun; committit in ane Singular Combat, in the Law Countreyis of flanderis, in anno I^m.Vj^c. and fyve yeiris.

PERSEWARIS, Margaret Hammiltoun, as sifter; Sir Williame Oliphant of Newtown, kny^t.

PRELOCUTOR in defence, Mr Robert Foulis.

The pannell producet ane WARRANT and command of the Lordis of Secretit Counfall, quhairof the temour followis.

ACT OF THE LORDS OF PRIVY COUNCIL.

AT EDINEBUR^t, the threttene day of November, the 5eir of God I^m. fex hundreth tventie ane 5eiris. ANENT the Supplication presentit to the Lordis of Secretit Counfall be *Capitane Harie Bruce*, feruitour to THE PRINCE HIS HIENS, makand mentioun, that quhair, the xiiij day of November infant is appointit vnto him, vpone the complent of *Margaret Hammiltoun*, as sifter, with the remanent kyn and freindis of vnr^{le} *Capitane Johnne Hammiltoun*, ffor his compeirance befor the Justice or his deputis, in the Tolbuth of Ed^t, to vnderly the law for the Slaughter of þe said vnr^{le} *Capitane Johnne Hammiltoun*, committit be the said *Capitane Harie*, in ane Singular Combat, in the Law Countreyis of flanderis, some fevintene 5eiris ago; lyk as, the Justice intendis to proceid aganis him, in that matter, althocht it be of verritie, that gif respect be had to the nature and qualitie of the perfute, and to the circumfiances of the Slaughter, quhan, quhair, and vpone quhat occasioun it fell out, it will be fund that the tryell thairof can no way be propper nor competent befor the said Justice, nor in no vther Judicatorie within this Kingdome; becaus the said Slaughter was committit outwith his Maieffteis dominiones, within the territorieis of the *Esfaitis of the Law Countreyis*, in ane Singular Combat, quhairvnto the said *Capitane Harie* was vrgeid and drawin by the grittef respectis of credeit and reputation quhairwith a Gentilman could be affail5eid: AND howeur the said *Capitane Johnne Hammiltoun* and he be borne Scottisfaen, and in that respect obleit in all submissiue deuteis of allegiance to thair naturall Sovereane, 5it the tyme of that vnhappie slaughter, and dynerfe 5eiris befor, thay war bothe in actnall seruce, and fuorne *Officeris* to the saidis *Esfaitis*, and alle far subiect to thame and to thair Judgement and Jurisdiction, in all matteris, allweill impoirting lyfe and death, as guidis and geir, as gif thay had

bene thair naturall-borne subiectis : And thair was no difference betuix thame and the natives of the cuntry, in pointis of subiection to the saidis *Ejiaitis* and pair lawis, the saidis *Ejiaitis*, at that tyme, being pair souerane Judges in all matteris, of quhatsumevir qualitie, occurring within thair boundis. AND twicheing the matter it self, the treuth is, as was clerlie verifeit befor the *Counsell of Weiris*¹ establisched be the saidis *Ejiaitis*, for trying and censuring of matteris of this kynd, that the said *Capitane Harie* was dyuerse tymes challenget to the Combat be the said vniq^{le} *Capitane Johanne Hammliton*, nochtwithstanding of the mony offeris maid be the said *Capitane Harie* to geve him all dew satisfiacion and restone, in the matter contravertit betuix thame, that, in respective termes of consideratioun, could be craved ; bot the moir the said *Capitane Harie* eschewit his Challenge, he was fo much the moir earnest in following of the fame, obiecting vnto the said *Capitane Harie* the reproche of cowardice, and preteting to abuse him, in his private revenge, accordingle : And fo, the said *Capitane Harie*, finding him self interest and tuiched in so heigh a poynt of credeit and reputatioun, quhilck being anes lost, was never to be recoverit, bot wald cary with him to the grave ane infamous imputatioun, and an ignominious spott of vnworthie cowardice ; and haifing respect, pairwithall, to his birth and parentage, quhilck he was lothe to blemishe, in a matter of this kynd ; and about all thingis, haveing eur befor his eis the equite of his caus, with ane full and constant assurance, that God, who is je trew ferecheour of the heart, and vpon quhois devyne Providence the event of such duellis dependis, wald iustifie his pairt, in that uniat Challenge quhilck was revertit vpon him, he acceptit and vndertuik the Challenge, quhairin it pleit God to iustifie and cleir the equite of his caus, by making the said vniq^{le} *Capitane Johne* to vnderly the dew desert of his errour and rashenes : Quhairvpon, the said *Capitane Harie*, being callit befor the said *Counsell of Weir*, and the forme and circumstancis of þe samyn being narowlie examined and ryped vp be thame, the qualitie of the said *Capitane Harie* and þe said vniq^{le} *Capitane Johne*, thair personis being fworne and actual Officeris in the armie, making thame subieit vnto the said *Counsell of Weir*, and punisheable be the lawis of that *Ejiait* ; thay stand, that þe said *Capitane Harie* had done nothing vnbesameing the deutie of a souldiour, suppoirit with the testimonie of a good conscience : And pairfoir, restoirit him to his place and charge, quhairin he ferued with good credeit dyuerse zeiris pairstir. AND quhair as, he looked that this forme of tryell, vsit aganis him be the said *Counsell of Weir*, who wer only Judges to him in this caice, fould haif securet and warranted him frome ony new persute, zit the sifter and freindis² of the said vniq^{le} *Capitane Johne* callit him, for þe fame Schlachter, befor his Maiesteis Justice, in the fax hundreth and fyve zeir of God ;³ quhairof informatioun being send vnto him frome hence, he maid his address to HIS MAIESTIE, aequentit his hienes with the perticuleris of this matter, and all that proceedit pairin ; quho, eftir consideratioun pairof, nocht only vtterit his discontentment that ony such matteris fould haif bene walknit heir, bot HIS MAIESTIE was gracioullie pleit to grant vnto the said *Capitane Harie* his Remission for that deid, and wrait a Letter vnto the Lordis of his Maiesteis *Previc Counsell* for discharginge the Justice to meddle in that matter : Quhilck Remission and Letter being delyuerit to the lait *Erle of Dunbar*, and presentit vnto the saidis Lordis, as some of thame rememberis ; the sleuth and negligence of those who war trusted with the said *Capitane Harie* his affairis, sufferit his Letteris to perrishe ; and the matter has eur restit and sleipit senfyne till now. AND quhairas this matter is alreddie tryed and censured by those whome it properlie concerned, humble thairfoir desyreing the saidis Lordis that thay wald geve command to the Justice, Justice clerk, and thair deputtis to desert the said dyet, and to desit and ceis fra all proceeding thairintill ; lykas, at mair lenth is content in the said Supplication. Quhilck being red, hard, and considerit be the saidis Lordis, and thay being pairwith weil advyset, THE LORDIS OF SECRET COUNSALL findis it verrie needfar and expedient, that pai vnderstand HIS MAIESTEIS Will and pleisour in this matter, afoir thay gif ony suall sentence or

¹ Council of war ; court-martial.² Blood-relations.³ Anno 1605 ; a mode of expression by no means infrequent in pleadings, &c., for the sake of brevity.

direction thairanent : And thairfor the saidis Lordis Ordanis and commandis his Maiestis Justice, Justice clerk, and thair deputis, to continew the said dyet to the tuentie nynt day of Marche nixtocum, and to desist and ceis fra all forder proceeding pairin, quhill the said day ; takand new caution of this supplicant, for his compeirance to his tryell the said day, conforme to the ordour obseruet in such caices ; to the effect that in this meane tyme the saidis Lordis may haif convenient tyme and lasure to informe HIS MAIESTIE anent the estait of this matter ; and to attend HIS MAIESTIES gracious Will and pleasour pairanent. For quhilk purpois the saidis Lordis Ordanis ane Missiue Letter to be writtin to his Maiestie.

EXTRACTUM de Libris Actorum secreti Consilij, s. d. n. Regis, per me Jacobum Prymrois, clericum ejusdem, sub meis signo et subscriptione manualibus. JACOBUS PRYMROIS.

According to the quhilk ACT, and for obedience of the ordinance mentionet thairintill, the Justice continewis this dyet, with all tryell to be tane for the said cryme, to the said tuentie nynt day of Marche nixtocum.—Mr James Bruce, iuduell in Edinburge, becomes cautioner for his entry, &c.

(Mar. 29, 1622.)—COMPEIRIT Mr James Bruce, iuduell in Edinburge, as he that was cautioner for the said *Capitane Harie* his entrie, and producet

ACT OF SECRET COUNSALL.

APUD HALYRUIDHOUS, xxvj die mensis Martij, anno dom. 1^m. 17. xviij. THE Lordis of Secret Counfall, according to ane Warrant and direction in writ, signed be THE KINGIS MA^{TIE}, and this day presented vnto thame, Ordanis and Commandis the Justice, Justice clerk, and pair deputis to Desert þe dyet appointit to *Capitane Harie Bruce* for his compeirance befor thame, to vnderly the law for þe Slaucher of vni^{er} J^one *Hamilton*, and to desist and ceise frome all proceeding aganis him at this dyet. Quhairanent the Extract of þir presentis fall be vnto thame a Warrant. EXTRACTUM, &c.

JACOBUS PRYMROIS.

Followis also the tennour of HIS MAIESTIES Letter and direction to the Lordis of Secret Counfall, anent the premiises.

JAMES R.

RIGHT trustie and weilbelouit counsingis and counsalouris, and richt trustie and belonit counsalouris, We greit 3ow weil. We war pleased to wryte to 3ow about tuelf 3eiris ago, concerning *Capitane Harie Bruce*, willing that no legall proceeding should be permitted to be vsed aganis him for þe Slaucher of vni^{er} J^one *Hamilton*, in respect that þe samyn was committed out of oure dominiones ; AND now, being credible informed, that of late some haif gone about to reueive þat perfute, nochtwithstanding of our former commandement, We haif thought guid, by theis presentis, to will and requyre 3ow to discharge o^r Justice general, Justice clerk, and pair deputis, and all vperis o^r Judges and officeris quhatfumeir, to grant ony Summonds or proces againt þe said *Capitane Harie* for þe foirsaid Slaucher, or in ony wayis presume to medle or call him in questioun for þe samyn. And thus, most earnestlie recommending to 3o^r special cair, We bid 3ow fairweill. GEVIN at o^r manno^r of Theobaldis, the xiiij of Marche, 1622.

According to the quhilk Act of Counfall and ordinance thairin contenit, the Justice DESERTIT THE DYET aboue writtin.

APPENDIX TO THE TRIAL OF CAPTAIN HARIE BRUCE.

[SEVERAL Cases have already occurred in the course of this Collection, illustrative of the state of the Law and practice, in Scotland, as to DUELLING, interchanging of CARTELS, and Slaughters committed in SINGLE COMBAT. The preceding Trial is one of much interest ; and the subject led the Editor to make some enquiries into various affairs of

honour, which had happened about the same period of this King's reign. Among others which have hitherto been noticed in this work, none appear to have excited greater interest than the quarrel between the sons of LORD CRANSTOUN and of SIR GEDEON MURRAY, which had nearly terminated in the most fatal manner. Although unconnected with the Case of *Captain Horie Bruce*, the following documents throw much light upon the opinions and practices of the Nobility and gentry in feuds and affairs of honour. It has been thought proper to preserve them in this place, as a memorial of transactions which tend to give a complexion and character to the spirit and genius of those times.]

I. LETTER from the *Privy Council of Scotland to King James VI., relative to the CHALLENGE, &c. between the sons of LORD CRANSTOUN and of SIR GEDEON MURRAY.*¹

PLEAS YOUR MOST EXCELLENT AND SACRED MAJ^{TIE},

AS WE hope that your highnes hathe long since vnderstood of sum CHALLENGE OF COMBAT betuix the secound sone of THE LORD CRANSTOUN and SIR GEDEON MURRAY his sone, begun betuix the yowthes, vpon licht cawfiss of verie small moment; and of the ordour taken be ws for preventing thame meiting, and calling of thame to there anfuer; and of the cowrtie taken for there reconciliatioun, whiche wes done in presens of the hole COUNSALL, wherby all probabilitie of forder Challenging betuix the pairteis then, in appeirans, wes removed; so when, vpon priue informatioun maid to ws, sum fear was apprehendit of a new breache betuix the pairteis, by interchanging of CARTELLIS priuilye betuix thame feliss, whowever we wald haue bene forye that the folyeis of the childrene, or the hard event which followe suche accidentis, fuld haue empaired or diminished the love and affection which heirtofoir haith bene and doeth still continew betuix there parentis, (bothe of quhome haithe worthelie deserved, and haue behaived thame feliss most dewtifulye and faythfullye as thay haue bene employed in your Ma^{ties} feruis,) yit heirin we war so muche more iustlie moved to adverte to suche a noveltye, that efter a reconciliatioun once maid befor your Ma^{ties} COUNSELL, atther the keeping of your highnes peace fuld be so lytle regairdit, or the ordour takin by ws for the obseruing therof so far contemned, as that any durst presume or attempt any new querrelling. Wherivpon both the fatheris wer chaired to compeir, and bring with thame and exhibite there sones; whiche being accoirdinglie and dewtifullye obeyit by bothe of thame, efter a verie hard and exact tryall² takin, in regard of the vnwillingnes of either³ of the yowthes, vpon thair first questioneing, to confesse what new maier haid passed betuix thame; at last, it being found that THE LORD CRANSTOUNIS sone wes the Challenger, by a CARTELL, wrettin efter the reconciliatioun maid; we therupon committed him cloise prisoner in the *Cyfile of Blaknes*. The other, whowever, being provoked, yit, in regaird he did obscure and conceale it, (being some presumption that he intendit to keip the meiting, and so to mak a breache of your Ma^{ties} peace,) wes adiudget to be committed in *Edl' Cyfill*, in frie wairde, haueing haid fredome granted vnto him furth thairof within xlvijj houris, and confyned within this Burghe and a myle about the same; where as, the said *Lord Cranstonis sone*, thir fourtene dayes past, haueing lyn cloise prisoner in *Blaknes*, and in the mean whyle making suite often by Bill⁴ to be releived, confelling, in most humble maner, his offence, and offering all satisfacioun that fuld be ijoynd be ws, wes, by directioun, brocht from the place of his imprisonment by the *Liertenant of your MA^{TIES} GAIRD*, and presented befor ws; where, in the presence of *Sir Gedeon Murray* and his sone, he did humblye, vpon his knies, craive pardoun of your MA^{TIES} for the offence done, and did intreat ws to be suitters for the same to your sacred highnes, on his behalf; haueing heirwithe confelld, also, the great wrong he haid done vnto your Ma^{ties} COUNSELL, in preswiming to renew any Challenge efter reconciliatiounes maid; and theirwith vttering most apparent signes of inward forrow for offending of his so loveing father, vnto whome he knew this bis hyppall behaviour wes so distaittefull, as without any intercessioun he culd expect at his handes no favour. He then to the pairtie challenged, in pre-

¹ *Dunmyln MSS.*, Advocates' Library, A. 2, 10.
or ⁴ 'Supplication' to the Lords of Privy Council.

² Enquiry; examination.

³ Both.

⁴ A Bill,

fenice of bothe fathers, did there confes the wrong he haid done him, offering him what fatisfaction he wald demand; and did there proteft, that howeiv, in his youthfull folye, he haid afcrvied the laft reconciliatioun as a maiter extorted by conflraint or command of THE COUNSELL, that yit nottheles this his prefent aggriment wes of meire affectioun, whiche he intendit all bypaff eylift¹ abolifhed to continew heirefter.

There wes fun jealousye in this mater takin by SIR GEDEON, as that the LORD CRANSTOUN, whowevir not a direct vrger of his fone to this *Challenge*, haid nottheles intendit to tak some advantage, to the preiudice of the credite and honour of him and his fone; and by the fpeiches delyvered by SIR GEDEON in our preiudice, we did conceive no lefs: Bot yit, that this impreffioun, not being cleirit, might tak no deiper roote, we then did queftioun THE LORD CRANSTOUN theirof; who, in prefence of SIR GEDEON, by his great oathe, vncrequyred, did proteft that he wes fo far from countenaucing or allowing of his fones actioun and cariage in this bufynes, as on the contrarye, these fevin yeiris past, no incident whatfoever that haid interveyned haid fo muche greivit him; and that he did affiure him self that SIR GEDEON wes no les in confcience perfwadit, fince he haid foirwarned him, immediatlie vpon his knowledge of the first *Challenge*; and vpon his fones departiour the last tyme frome him, fufpecting the humour of the yowthe, and yit, vpon his confcience, nocht knowing of any thing intendit, did of new certifie SIR GEDEONE of his fears. Whiche declaratioun, being delivered with fo great atteitacions by one not muche accuftomed to fweiring, did not onlye remove all fcrupule and jealousye frome SIR GEDEON, as he then affirmed, but left none of the beholderis vsatisfied, and fullie perfwadit of that Noble-mannis innocencye. THE COUNSELL, haveing taken a verye frict and exact tryall of all circumfances whiche might inferre any the least fufpitioun of THE LORD CRANSTOUNS allowance, airte, pairte, or connivence at his fons actioun, in the examining wherof, the farder that we did drywe we fill fand the father the more cleare of all imputatioun; and, in our judgement, SIR GEDEON is fullie perfwadit theirof; lyk as, in our prefence he did profes no lefs. And howeiv, that heirvpon all pairteis, bothe eldar and younger, wer reconceiled, yit, becaws of the offence done to your MATIE by JAMES CRANSTOUN, in prefessing to renew any querrell, efter aggriment ones maid in prefence of COUNSELL, we have theirvpon adiudget the said *James Cranstoun*, that betuix and the first of October next, he fall depart your MATIES dominiones, and remaine furthe of the fame, and naway returne bak, vntill that your MATIES speciall Licence and Warrant be purchett; and have takin fovertye and cawtioun, bound vnder a great fomme, for that effect. AND becaws there wilbe a necessitye of provifioun to be maid by the father for the fones furneifing, in his going beyond See, theifore we have committed him prifouner in his father's owin keiping, vntill the tyme of his departiure; who is to refraine, enduring that fpace, his fone of all fuche libertye, wheirbye any furder harme might be feared.

AND albeit the reconciliatioun and aggriment wes fullie maid, fo as in our judgementis there did not remayne the least fcruple of any furder grudge amonges the pairteis, yit the noveltye of the caice, and the hairme whiche the impunitye thairof might produce, if vpon this example, others who haif bene formerlye reconcilit, wald now preife to renew and revue there olde querrellis, we culd nocht, in our dewtye to your MATIE, fuffer this to go vnpunifched; whiche moved ws, (howeiv earneftlie and humblye entreated by SIR GEDEON MURRAY to recall our Sentence and determinatioun aganis the said *James Cranstoun*), nottheles, for ane exemplarye punifchment, and efferyng² of others to commit³ the lyk infolence, to continew our refolutioun takin in the maiter for his BANISCHEING, as said is. As lykwayis, ather of the two fathers bund and obleift, not onlye for these three fones, betuix whome this *CHALLENGE* hes past, bot for all others of these fones come to mannis aige, everie ane of thame vnder the payne of Ten Thowfaud merkis, that thay fall keep your MATIES peace, that no CARTELLIS falbe feyt by the one to the other; and that the pairtye vnto whome any falbe sent, fall

¹ Offence; from *oculus* and *laedere*. Danish, *overlast*, molestia, incommodum.

² Affraying; terrifying. Fr. *effrayant*.

³ A strange form of speech, then in use, to express 'from committing.'

immediatlie, with all possible diligence, acquaint the Counsell with the CHALLENGE sent to him ; otherwayes the payne forlaid to be incurrit. And hoiping that nothing heirin is left yndone, whiche in sic a caise was requisite, and fully expecting your MA^{TIES} good allowance and favorable constructure of our proceedingis, wischeing thay may prove good metall when thay come to the tryall of the trew tutecheffone, vnto whome we do most humblye pray for the continuance of all happines, We doe rest

Your sacred Maieftis most humble and obeydant subiectis and feruitouris,

AL. CANCELL^S. DUMBAR. WIGTOUN. KILSAYTH. J. PRESTOUN. ALEX^S HAY. S. T. HAMILTON.
EDINBURGH, the tent of August, 1610.

TO THE KING, his most sacred and excellent MAIESTIE, &c.

II. LETTER, *the Privy Council to the King*.¹

MOST GRATIOUS AND SACRED SOUERANE,

We resdauit your MAIESTIES Letter, twicheing your MA^{TIES} censure² of that lait committit ryott be THE ERLE OF LOTHEANE, and anent the fyne whilk your MAIESTIE wold haif to be imposed vpon him for that caus; whairin, as your MAIESTIES most excellent and rair wisdom in the censuring of that mater fo iuditioullie, by the circoimstaneis sett down in your MAIESTIES Lettre, and the directioun gevin be your MAIESTIE anent the pvnisching thairof, is verye weele warrantit with infallible groundis of iustice and reason; yitt, becaus suche heich fynes in ryottis of this qualitee hathe not bene vsuall to be imposed vpon any personis heir, we wilbe bauld to intreate your MAIESTIES fauour, for a mitigatioun of the fyne to Thrie Thoufand merkis, whiche in all our opiniois is anferable³ to the qualitee of the offence committed. He is full prifonner, and fall fo continew whill the pairtye in some meafour refaue satisfactioun. And howeur this ouerting, by¹ all our expectationis, hes fallen oute in his persone, we hoip that this your MAIESTIES censure of him, will mak him moir consideratlie and respectiuelie to looke to his future cariage and behaviour.

AND whereas your MAIESTIE doeth mervell that no tryale hes bene tane be ws of the infolencie committit be THE LORD OF CRANSTONIS sones aganis THE ERLE OF LOTHEANE, it will pleis your MAIESTIE we did nevir heir of any complaint in that mater, the pairtye being silent, and no informatioun gevin be him thairin: Alwayes,⁵ we haif causit demand of him, yf he will perfew? He hes promeit to gif informatioun to your MAIESTIES Aduocat, and to furneis probatioun; whairin we shall tak suche exact tryall, and accordinglie inflict such pvnishment as the course of iustice, in suche a caise, requireth. And fo, praying God to blisse your Maieitie with all contentment and happynes, we rett for ever,

Your Maieftis most humble and obeydant subiectis and feruitouris,

AL. CANCELL^S. ARGYLE. MONTROSE. GLENCAIRNE. BALFOUR. GLASGOW.
EDINBURGH, xv May, 1611.

TO THE KING, his most sacred and excellent MAIESTIE.

‘Forcing’—‘Defloiring’—Rapt.

Dec. 5.—ANDRO WISCHERT of Mwretoun.

Dilaitit of the schamefull forcing and defloiring of Bessie Leslie, dochter naturall to George Leslie of Alderaig, aganis hir will, scho being ane young virgane nocht past ellevin yeiris of age; committit in maner and at the tyme specifit in the Letteris.

PERSEWARIS, Bessie Leslie, George Leslie of Alderaig.

PRELOCUTORIS in defence, Mr Laurence M Gill, Mr Roger Mowat.

¹ *Dumfrye MSS.* Adv. Library.

² Judgment.

³ Commensurate; corresponding to.

⁴ Contrary

to; against.

⁵ Nevertheless; at all events.

The pannell offeris him selff to the tryell of the Law for the cryme contenit in the Letteris; quahairof, as he allegit, he is innocent; and difassentis fra all maner of continuatioun: And protestis, in respect of his compeirance this day and place, to vnderly the law, and that thair is nocht ane sufficient number of Assyfe present, that na Letteris be direct aganis him in tyme cuning; speciallie, in respect this perfute is malicioullie intendit aganis him, being ane man of thre fcoir ten yeiris of age, at the instance of the said George Leslie of Auldrcraig, quha compeiris nocht this day to assist this perfute.

THE Justice ordanit the Assyfouris, lauchfullie summoned and nocht compeirand, to be vulawit.— Levingstoun of Donypace become cautiuon for the said Andro his entrie, vpone xv dayis wairning, &c.

[CURIA JUSTICIARIE, *f. d. n. Regis, tenta in pretorio de Edinburgh, xx Marcij 1622, per Magistrum Alexandrum Coluile de Blair, Justiciarium; necnon per Dominum Walterum Stewart de Mynto, ballivum Regalitatit de Glesgow, virtute enjusdam deliberationis Dominorum Secreti Consilij.*]

ASSESSOURS TO THE JUSTICE, appointit be the Lordis of Secreit Counfall:

James Archebifchope of Glesgow,¹ Sir George Erkyne of Innerteill,² Mr Jo^s Weymes of Craigtoun.³

**Witchcraft—Sorcery—Charming—Incantation—Soothsaying
—Abusing the People.**

Mar. 20, 1622.—MARGARET WALLACE, spous of Johnne Dynning, mercheand burges of Glesgow.

Dilaitit, accused, and perfewit of the feuerall articles and poyntis of Dittay following. DITTAY *against the pannel*,⁴ *Margaret Wallace.*

FORSAMEKILL AS, albeit be the devyne law of Almychtie God, fet down in his sacred word, speciallie in pe 20 chap. of *Leviticus*, and 18 chap. of *Deuteronomie*, aganis pe vfearis and practizaris of WITCHCRAFT, SORCERIE, CHARMING, and SOTHESAYING, and against the SEIKERIS *of help and respouffis of thame*, thraitning and denunceing to pe committeris of sic devillifch practizes the pwneifchment of daith. As also, be dynerfe Actis of Parliament, and Municippall lawis of this Kingdome, allweill publeiff and fet furth be his Maiestie, in his awin tyme, as in the dayis of his maift noble progenitouris; namelie, be pe 73 Act of the Parliament, haldin be his hienes darrest mojer, Queene Marie, of

¹ James Law, formerly Bishop of Orkney. In the year 1615, he succeeded Archbishop Spottiswood, the well-known author of the Church History published in his name; and died in November, 1632.

² Lord Innerteill, one of the Ordinary Lords of Session. ³ An Ordinary Lord of Session.

⁴ This Dittay contains only the four Articles or points of which the Assise convicted this victim of superstition. The nature of the remaining points are clearly defined in the very interesting pleadings, which the Editor has carefully preserved at length, in consequence of their marking, in a striking manner, the prevailing opinions held by the most eminent Scottish lawyers, on the subject of Witchcraft, &c. The subject is so extraordinary, that it was thought advisable to print the pleas and arguments without curtailment.

worthlie memorie, it is exprellie provydit, flatute, and ordanit, that na maner of perfone or perfones, of quhatsumevir estait, degrie, or conditionn they be of, presume, nor tak vpon hand to vse any maner of *Witchcraft*, *Sorcerie*, or *Negromancie*, nor gif thame selfis furth to haif ony sic craft or knowlege, thair-by abusing his hienes people and subiectis; and that na perfone seik ony help, respous, or consultatioun at ony sic vfearis or abufearis foirfaidis, vnder the pane of death, alswell to be execute vpon the vfear and abufear, as to the feiker of the respous or consultatioun; as in the saidis Lawis and Actis of Parliament at mair lenth is contenit. NOCHTWITHSTANDING quhairof, it is of veritie, that the said *Margaret Wallace*, schaiking of all feir of God, reuerence or regaird to our souerane lordis authoritie and lawis, haifing consanet ane deidlie haitrent and evill will aganis *Cuthbert Greg*, couper, burges of Glesgow, becaus of certane speiches vtterit be him aganis hir and vni^q^h *Cristiane Grahame*, ane notorious Witche, and laitlie execute for Sorcerie and Witchcraft, at Witsonday a thre 3eir syne, or pairby, the said *Margaret Wallace*, furth of þe malice of hir heart, promiseit and avowit that scho sould mak the said *Cuthbert*, within few dayis pair-estir, nocht of habilite to work or wyn to him self ane caik of breid; according to the quhilk devillische promiseit and damnable vow, the said *Cuthbert* schortlie thairestir, be the said *Margaret* hir devillische Inchantment, Sorcerie, and Witchcraft practizet be hir vpon him, he was vifseit and grevoullie trubillit with ane frange vnnatural and vnkuawin disseis, maist crewallie and lamentabilie tormentit with continuall sueiting, be the space of fyftene dayis togidder, and pairby wes brocht to sic infirmitie and waiknes, nane expecting his lyfe, that he was nocht hable to steir or move himself: And the said *Margaret*, as ane Witche and Sorcerar, being suspectit as the onlayer and causer of the said grevous and heaveie disseis, was sent for by certane of þe said *Cuthbertis* freindis, and requeisit to cum and vizeit him; and estir mony malicious refusallis maid be hir, in end scho come to him; at quhais cuming, scho, to manifest hir skill for his help, tuik him be þe schaikill-bane¹ with the ane hand, and laid hir vther hand vpon his breist, and without ony word-speiking, saif only be movinge of hir lipis, past fra him at that instant; and vpon þe morn pairrestir, returning bak agane to the said *Cuthbert*, scho tuik him be þe airme and bad him aryse, quha at that tyme, and fyftene dayis befor, was nocht abill to lift his legis without help; 3it scho, haifing vrgit him to ryse, and taking him be the hand, as said is, brocht him out of his bed, and pairrestir led him but² the hous; quha, immediatlie pairrestir, be hir Sorcerie and Charmeing practizet be hir, walkit vp and down þe fluir, without help or suppoirt of ony; and fra that tyme quiklie recoverit and convalescit of þe former

¹ Wrist.² To another apartment. In small houses, consisting merely of a 'but' and a 'ben,' the 'but' is the outermost room or kitchen; the 'ben' is a better sort of apartment, where, upon great occasions, company is received. The master and mistress usually sleep in the 'ben' or inner room.

grevous difeais : Qulhairn þe faid *Margaret* hes committit manifest Sorcerie and Witchcraft, in laying on and taking af feikneffis, be hir devillifche meanis, vset and practizet be hir vpone the faid *Cuthbert*, in maner foirfaid. AND ficylk, about foure 5eir fyne, or þairby, the faid *Margaret Wallace*, being within þe duelling hous of *Alexander Vallange*, mercheand burges of Glegow, and haifing fallin in ane grit and fuddane feiknes within þe faid hous, feho incontinent þair-efter, as ane confulter and feiker of help and refponffis of Witches and Sorceraris, instrumentis of the Devill þair maifter, fend for vniq¹⁶ *Cristiane Grahame*, ane notorious Witche, and quha is laitlie conviet and brunt for hir devillerie and Witchcraft, practizet aganis dyuerfe his Maiefteis gud fubiectis, in Glegow and þairaboutis ; quhilk vniq¹⁶ *Cristiane Grahame*, haifing cum to the faid *Margaret* to þe faid Hous, feho tuik þe faid *Margaret* furth þairof to hir awin buith,¹ qulhair, be the faid *Cristiane* hir devillifche charmes practizet vpone the faid *Margaret*, the faid *Margaret* was curet of hir former fuddane feiknes. And þe faid *Cristiane Grahame*, with the faid *Margaret Wallace*, cuming togidder bak agane to the faid hous, and at þe turnepok-fute þairof, meitting with *Margaret Vallange*, dochter to the faid *Alexander*, thay, at þe leif ane or vther of thame, laid þe faid crewall feiknes, be þair Sorcerie and Witchcraft, vpone the faid *Margaret Vallange*, ane 5oung infant bairne, quha immediatlie þaireftir, in grit fuddantie, fell down to þe grund, the hail power of hir body being tane away frome hir ; and with pitiefull fereiches, fchoutis, and cryis, lying in that horrible payne, nocht hable to arryfe, was tane vp be *Margaret Montgomerie* hir moþer, fþous to þe faid *Alexander*, and brocht in be hir in hir airmes to þe hous, and þair remanit with continuall fchouteing and crying, nocht being of habitie to move or gang be þe fþace of xxiiij houris þaireftir, quhill² þe faid *Margaret Wallace*, vnſent for, come in to vzeit hir ; lyk as, þe faid *Margaret*, as ſone as feho luikit vpone þe faid bairne, declairit that it was the fuddane tranſe or difeis that feho had tane the day befor, and þairfoir willit and defyret the bairnes mother to fend for *Cristiane Grahame* to cure and releif hir þairof : And the faid *Margaret Montgomerie* haifing abſolutelie refuifit ſa to do, ſaying to hir, ‘ feho wad commit hir bairne to God, and nocht mell³ with the Devill or ony of his instrumentis,’ the faid *Margaret Wallace* maift blaſphemouffie and devillifchlie anſuterit agane, that þe faid ‘ *Cristiane Grahame* could do als mekill, in that eirand, in cureing of that difeais, as gif God him ſelff wald cum out of Hevin and cure hir—and albeit þe deid-ftraik⁴ war laid on, feho could tak it af agane—and without hir help þair could be na remeid to the bairne !’ Lyk as, ſchortlie þaireftir, without the motheris knawlege, the faid *Cristiane Grahame* was brocht in be þe faid *Margaret Wallace* to þe faid bairne ; at

¹ Her husband's booth, or shop.² Until.³ Fr. *mêler*.⁴ Literally, death-blow.

quhais cuming, the said *Margaret* listit vp þe bairnes heid, and the said *Cristiane* tuik hir be þe schaikill-bane,¹ and brocht þe bairne furth of hir bed, quhair scho was lying bedfast in grit payne of befoir; and pairefter, setting hir doum vpon e ane stuaile, with some croces and signes maid vpon hir, and be vttering of dyuerse woirdis, (nocht knawin quhat thay war,) restoitir hir to hir helth. Quhairin, the said *Margaret Wallace* hes planelie declairit hir self to be ane oppin and manifest consulter with the said *Cristiane Grahame*, ane notorious Witch, and ane feiker of help and responssis of hir, in her devillisch airt; alsweill for cureing of her self, as in practizeing with her, be Sorcerie and Witchcraft, to þe cure and help of þe said *Alexander Vallange* bairne, in maner and forme aboue writtin: And þe said *Margaret Wallace* is airt and pairt of þe devillisch practizes abouewrittin, practizet be the said *Cristiane Grahame*, at the time and in maner foirtaid. To the taikin,² the said *Cristiane Grahame*, the day of hir accusatioun and persute, being þe xxvj day of October last, 1621, willinglie, of hir awin accoord, in Judgement, befoir hir convictioun, the Allyse being ineloset, affirmet, and with oppin speache declairit, that þe said *Margaret Wallace* was airt and pairt with hir in all hir wiket deidis; and reslauit fra hir sum cullourit silk and worlet, for practizeing of Witchcraft against sic persones to quhome þe said *Margaret* buir invy; and quhan willinglie scho wald nocht geve þe said *Margaret* sic materiallis, the said *Margaret*, as scho saw thame in þe said *Cristianes* handis, wald violentlie reif þame from hir: Lyk as, vpon the morne pairetuir, scho being at þe staik befoir hir executioun, ratifet and renewit the haill premiffes to be of verritie.

ITEM, a tua 3eir syne, or þairby, *Margaret Mure*, dochter to vni^{ic} *Archibald Mure*, burges of Glesgow, being hevelie diseasit with ane strange and vncouth seiknes, and nocht liklie to haif recoverit þairof, the said *Margaret Wallace*, geving out hir self to haif skill in þe cure of the said seiknes, scho come to the duelling-hous of *Dauid Scheirar*, couper, burges of Glesgow, and þair finding *Marioun Mure*, his spous, saþer-sister to the said *Margaret Mure*, lamenting and weiping for the said *Margaretis* seiknes, the said vni^{ic} *Cristiane Grahame*, be þe said *Margaret Wallace* hir devyse and directioun, a littill þaireftir, come to þe said hous; and þe said *Margaret Wallace*, being acquentit with þe caus of þe said *Mariounes* greif, desyret þe said *Cristiane Grahame* to help þe bairne; quhais ansuer was to the said *Margaret Wallace*, that the said *Margaret Wallace* and scho behouet to go first to the place aggreit vpon betuix thame, quhilk place was knawin to þe said *Margaret* hir self: Accordiing to the quhilk appointment, the said *Margaret Wallace*, with the said *Cristiane Grahame*, past, that same nycht, betuix elleuin and tuelf houris, vnder silence and clud of nycht, to the 5aird of *James Fynlay*, burges of Glesgow, quhair thay remanet the space

¹ Wrist.² In token, testimony, or proof whereof.

of ane hour togidder, practizeing Sorcerie and Witchcraft, for cuiring of þe said bairne, and taking the said feiknes af hir, be vnlauclfull meanis; lyk as, þat famyn nycht, the said feiknes wes tane af þe said bairne, and scho conualeffit þairof. To the taikin, the said *Margaret Wallace*, in hir going to þe 3aird þat nycht, tynt hir pantoun;¹ lyk as, þe said *Marioun Mure*, for þe foirfaid cuir, gaif to þe said *Margaret Wallace* and *Cristiane Grahame* ane guife,² with ane pynt of wyne, within aucht dayis þaireftir. ITEM, a tua 3eir syne, or þairby, ane discoird haifing fallin out betuix *Alexander Boig*, smyth in Gorballis, and þe said *Margaret Wallace* and *Johne Dyming*, hir hufband, about the bying of ane irne studie³ to *Williane Weymes*, mercheand burges of Glesgou, ane complant was maid vpon him be þe said *Margaret* to *Sir George Elphingstoun of Blithefvoid, knyt*, his maister; and becaus scho reffaut na amendis at þe said *Sir George* handis, becaus he tryit⁴ hir complement to be vniust, and only maid vpone malice, the said *Margaret*, maift impudentlie, in þe fens of þe said *Sir George* and *his Lady, James Pollok*, and *George Thomefone*, his tementis, oppillie thraitnet and arowet to do to þe said *Alexander Boig* ane evill turne: ffor effectuating quhairof, scho, be hir Devillerie, Sorcerie, and Witchcraft, prepairit and practizet be hir, laid ane crewall and feirful feiknes vpon *Boig*, the said *Alexanderis* bairne, of foure 3eir auld, within few dayis þaireftir; quhilk bairne, with continuall fueiting and vomeiting, deceffit within tua dayis thaireftir. AND last, þe said *Margaret Wallace* is, and hes bene thir aucht or nyne 3eiris bygane, ane cowmoun consulter with Witches, speciallie with the said *Cristiane Grahame, Katharene Blair*, and vther Witches and Sorceraris, and ane feiker of help and responffis of thame, allweill for hir awin cure and releif of dyuerse feikneffes and diseaffis quhairwith scho hes bene vissit, as for þe cure and help of hir freindis and acquentance in þair feikneffes and diseaffis; as also, for þe overthrow and distructioun of dyuerse persones, men, wemen, and bairnes, be Sorcerie, Witchcraft, Charmeing, and Incantatioun, and vperis devillisch and vnlauclfull meanis, expreflie prohibeit and forbidden be the Lawis of Almychtie God, and Municipall Lawis of this kingdome: thairby abusing the people, and puting thame in grit dreddour⁵ and feir of hir and of hir devillisch practizes, vset and practizet be hir aganis sic of our fouerane lordis peceable subiectes to quhome scho hes borne ony grudge, or vterit ony malicious thaitningis. BE the committing of þe quhilkis perticular practizes aboue writtin, as also be the hanting, vseing, and frequenting of þe vnhappie sociatie and companie of þe said Witches and Sorceraris, instrummentis of the Devill, fauld and gevin over to him for committing of all maner of mischeif, and in affisting and

¹ Slipper. Fr. *patoufle*.² Goose.³ Purchasing of a smith's stithy, or anvil.⁴ Ascertained upon examination.⁵ Dread; terror.

taking pairt with thame in þe practize of all foirt of Witchcraft and Sorcerie, and in the feiking of help and reþonßis of thame, baith for cureing of vnnaturall and vnknauin feikneßes, and for þe malicious inflicting and laying on of dyuerße feirfull and horrible feikneßes and difeaßis vpon dyuerße perßones, for þair overthrow and diftrucioun, in maner foirfaid, the faid *Margaret Wallace* hes contravenit the tenmour of þe faidis Lawis and Actis of Parliament, and incurrit the paines and pweineßment of daith fet down þairintill; quhilk aucht and fould be execute vpon hir, with all rigour, to þe terroure and example of vtheris heireftir.

PERSEWARIS, Sir Williame Oliphant of Newtoun, kny^t; Alexander Boig, fmyth in Gorbellis; Johnne Robertoun, querriour, burges of Glegfow, for thame felßis, and as informeris to his Maiesteis Aduocat of the haill pointis of Dittay.

PRELOCOUTOURIS in defence, Johnne Dunning, mercheand in (Glegfow); Mr Alexander Peiblis, Mr Robert Lermonth, Mr Thomas Nicolfone, younger, (Advocates.)

COMPEIRIT Sir Walter Stewart of Mynto, kny^t, and product ane delyuerance of the Lordis of Secreit Counfell; quhairof the tenmour followis.

SUPPLICATIOUN of *Ludouik, Duik of Lennox.*

MY LORDIS OF SECREIT COUNSALL, vnto your Ll. humlie meanis and schawis I your seruitour, LODOUIK DUIK OF LENNOX, lord and heritabill Bailzie of the Regalitie of Glegfow, and Sir Walter Stewart of Mynto, kny^t, my depute of þe faid Bailzerie: That quhair, þe tuentie day of Marche instant is appointit to Margaret Wallace to compeir befoir the Justice, in the Tolbuth of Ed^z, to vnderly the law for sum poyntis of Witchcraft laid to hir charge: And quhair as, selo duellis within þe boundis of my Regalitie, and sua is subiect to me, my office and Jurisdictione, sit I will nocht contel in that poynt, nor itand out aganis þe coursfe tane be your Ll. for hir tryell; bot for the preseruatioun of þe liberteis and privileges of my office and Jurisdiction, my humble desyre and Petitioun vnto your Lo. is, that my faid depute may be admitit to sit with his Maiesteis Justice in the tryell of the faid Margaret, and to iudge þairin with him accordingle—and your Lo. anßwer.

[*Followis the Lordis delyuerance, vpon the bak of the foirfaid Supplicatioun.*]

APUD ED^z, xiv Marcij, I^m. Vj. xxiij. FIAT ut petitur. AL. CANCEL^l. MAR. MELROIS.

Vpon the productioun of the quhilk delyuerance, the faid Sir Walter alkit instrumentis.

THE JUSTICE Ordanit the faid *Sir Walter* to sitt down with him, with the remanent Affeßouris.

THE Dittay being red, and *the ffirß Article* thairof, concerning hir laying on of ane grevous feiknes vpon Cuthbert Greg, couper, burges of Glegfow, be Sorcerie and Witchcraft, and aff-taking of the faid feiknes be the lyk devillifche and vnlauchfull meanes; as the ffirß Article beiris; quhilk the pannell haillie denyit.—It is thaireftir allegit be Mr Alexander Peiblis, as prelocoutour for the pannell, that the Dittay and ffirß Article thairof can nawayis be put to the knowlege of ane Allyße; becaus it is nocht lybellit, nor fet down in the Dittay, that the fact lybellit was done be the pannell, or the feiknes inflictit be hir. Nixt, it is nocht lybellit *quibus mediis, quibus modis, et quibus malis artibus*, the samyn was accomplifchet; becaus Witchcraft can nocht be accomplifchet as

Witchcraft, bot¹ be characteris, signes, croces, poyfonet watteris, poyfonet afches, poyfonet oyles, powderis, figures, pictouris, poyfonet herbis, ruittis, venmemous oyles, woirdis, speiches, by incalling and invocatioun of the name of Sathan, quila, at the accomplifhment quhairof, hes promeit to geve his prefens to thame; without the quihilkis, or ony of thame, Witchcraft can nocht be accomplifchet: Nather is it lybellit, that this fact and deid allegit is committit be the pannell, be ony of thir meanis: And fa, that Article can nocht pas to ane Affyfe.—To the quihilk it is anfuert be my lord Aduocat, that the allegeance aucht to be repellit, in refpect of the lybell and haill poyntis thairof, tane *conjunctim*; be the quihilk it is affirmet *positiue*, that this feiknes was laid on be the pannell vpon *Cuthbert Greg*, be hir Sorcerie and Witchcraft; and he purget, and relevit, and reftoirit to his helth be hir Sorcerie and Witchcraft: And fa, the Dittay, as relevant in that poynt, fould pas to ane Affyfe.

It is forder allegit be the pannell and hir prelocutouris, that the woirdis ‘laying on and taking af’ ar altogidder generall, and can nocht pas to ane Affyfe, nevir condifcending in speciall quhat was done; as is fet down in the former definitioun of Witchcraft.—To the quihilk it is anfuert be the perfewaris, that thair is no neccitite to condifcend vpon the forme of the on-laying and af-taking of feikneffes, quhidder be woirdis, signes, croces, and vtherwayis, the perfewaris nawayis being previe thairto, nather can thai be vrget to condifcend thairupom, feing the Witches, practizeris of that vnlauchfull and godles meane, ar beft acquentit with the poyntis of thair awin craft: And thairfoir, it being lybellit, relevantlie, that, be hir Sorcerie and Witchcraft, the feiknes was baith laid on and tane af be hir, the famyn fould pas to the knowlege of ane Affyfe, as relevant.

It is forder allegit be Mr Thomas Nicolfone, as prelocutour for the pannell, that of the Law *multa indicia debilia nunquam faciunt indicium indubitatum, quia nunquam ea que natura sunt dubia possunt facere rem indubitatum; ut multa integra vnum sanum, multa non alba vnum album.* This is the opinioun of *Pharinacius*, and of *Delrio* in his 5 feet. pag. 728; at the leift, except that thair war ane coherence and neccellar fubordinatioun of *illa multa indicia*. Bot fa it is, in this poynt of dittay, thair is confufet feuerall articles, quihilkis, *per fe*, ar *indicia debilia*; and thair is na coherence amangis thame felffis, in fa far as the promeiffing to do him ane evill turne, and the fubfequent feiknes, ar nawayis coherent, nather can the ane follow vpon the vther. *SECUNDO, circumstantie indictionum sine quibus ad inquisitionem non proceditur sunt quis, quando, ubi, cum quibus, quomodo circumstantia. quomodo est huic rui, et quibus instrumentis factum esse dicatur, et sint pulveres, vnguina determinu mortuorum.* And quhair it appeiris to be allegit in the reply, that *de medijs non potest constare*, becaus

¹ Excepting; unless.

they are knawin only to the Witches and thair Maister, thair is heirin ane maifest equivocatioun, in sa far as be the determinatioun of the hail traiteris *de Veneficijs, hec duo sunt disperata signa media*; it is grantit *sive medijs*, condiscending vpon *medijs*, a lybell may stand relevant; becaus *hec S. C. T. I. V. A. firatagemata quibus ille naturaliter etatur medijs sunt plerumque incognita*; bot of all necessitie, to the lybelling of ane deid of Witchcraft, *accedere oportet superstitutionem et dicatur r̄sarpasse res aliquas facta vel verba que sapiant incantationem vel dicatur nominatim exercuisse actum aliquem qui ex communi maleficiorum praxi ad malificium dirigitur*. This is DELRIO's opinioun, ceitting the hail treiteis *de Veneficijs*, in his thrid sect. pag. 711; et libro 5, sect. 16, pag. 774. And the premisses, sa authorizet be the hail learnet wryteris, ar of infallible verritie; for this reasone, becaus thair can be na deid of Witchcraft lybellit relevantlie, bot man¹ be sa lybellit, as it is possible, *per rerum naturam*, to the Assyse to cognosce thairupoun; bot it is subsumet, that except sum sensible actioun or signe, or vther thing be lybellit, it is impossible to the Assyse to cognosce thairupoun, *quia nihil est in anima quod non sit prius in sensu*.

The persewaris repeittis thair former ansuer, foundit vpon the bail memberis of the Dittay, tane *conuinctim*; quhilkis memberis coheris verrie pertinentlie—a promeis to inflict the seiknes, and laid on—the on-laying of the seiknes, be Inchantment, as the Dittay beiris—and the taking be the hand of the persone vizeit with the seiknes, and releising him thairof be moveing of hir lips, &c.: And as for the tryell of the Assyse, the deidis ar verrie publict and knawin; and referris the verritie thairof to the Depositiones of the Witnellès alreddie tane, and to be tane in that matter, and to the Assyse awin knowlege.—The pannell adheris to thair former exceptioun, vncondiscending in speciall, *quibus modis, quibus medijs, et quibus malis artibus* to infer Witchcraft.

The pannell quarrellis that pairt of the lybell be the quhilk it is said, that scho inflicted the seiknes be Witchcraft, nocht condiscending quhat maner of Witchcraft was vsed for inflicting thairof. And quhair it is said, that the memberis coheris, becaus of a promise and the effect following, the pannell oppones the authority of *Pharinatus*, confirmet be *Delrio*, in the 718 page of his 3 sect.; quhair it is said, *immo minc² delictum subsēctum inimicia non sufficiunt ad penam fortilegij; quia hujusmodi indicia sunt tantum remota*. As lykways, a stronger authoritie, pag. 717: quhair it is affirmet, and bakit with resson,³ in thir termes, *minc subsēctute damno—et si male fume sit minaus indicium, sunt inferum ratio potest enim pars offensu alios habere inimicos qui hoc tegmine preter scelus perpetrarunt*: Nather is thair necessitie to affirme *alium fecisse*; becaus the possibilitie of ane instance aganis ane generall reule evinces the incertantie

¹ Must.² Threatening expressions.³ Backed, seconded by argument.

thairof: *Additur, quod in criminalibus nunquam ex presumptionibus proceditur ad condemnationem, sed probationes debent esse luce meridiana clariores.* And as to the vther part, concerning the as-taking of the seiknes, thair is na deid lybellit bot ordinarie deidis of vzeiting a patient, be a freind or a phisitoun, to wit, graipping of the pulfés or chaikill-bane and breift, quhilk is the steiring of the spreittis-vital, and is the ordiner behauiour vsét and practizet be the visittouris of ony patient; and becaus that eftir thais ordiner remedeis the patient arraisé, and that scho maid him to ryfé, *est clenchus dilirij.* And forder, the pannellis former authorities man¹ be respectit, becaus thair is na contrair practeis product.—My lord Aduocat repeitis his former ansuer.

THE *Secund Article of Dittay* being red, and the said Margaret being accusét thairby, viz. that vpone a discórd fallin out betuich hir and *Johanne Robertoun*, querriour, a thre yeir syne, scho thraitnet and avowit to be avengit vpone his flefche; quhairvpon a diseis was inflictit be hir vpon him, quhairin he yit continewis, and that be hir Sorcerie and Witchcraft practizet be hir vpon him.—It is allegit be the pannell, aganis the said secund Article of Dittay, that the samyn is nawayis relevant auent *Johanne Robertoun*; being altogidder coincident with the former Article, and cayreing thairwith far les probabilitie nor² the former; for thair is na member thairof relevant to infer Witchcraft, for sa mekill thairof as consistis in fact, tuiching *Robertoun* his inhabilitie to work this thre yeir bygane, throw the inhabilitie of his seiknes, quhilk is manifest fals in the self: for it is evident, be ocular inspectionne, to luik to him presentlie at the bar, that he hes sufficient strenth of body to work: As also, it fall be verifeit, gif neid beis, that he, being an querriour of his craft,³ hes wrocht, thir dyuerse yeiris bygane, to dyuerse persones, namelie, to *Sir George Elphinstoun of Blitheswoid*, *George Anderson in Woidfyle*, and to the pannell, be wyuning of stanes furth of the querrell;⁴ and repeitis the former allegiance maid aganst the first Article. *Igitur, &c.*—To the quhilk it is ansuerit be the persewaris, that the allegiance aucht to be repellit, in respect of the Dittay, quhilk is relevant in it self. And as to that point consistin *in facto*, the persewar referris the tryell thairof to the Witnesses product and to be product, and to the persones of Assyse, quha aucht to cognosce vpon the hail poyntis of Dittay, consistin *in facto*.

It is forder allegit be Mr Thomas Nicollone, that the said secund poynt of Dittay is altogidder irrelevant; becaus of the Law, *indicium minus et damni subsécuti*, quhilk is the only substance of this point, and is nawayis relevant of the Law, *quoties delictum ex intervallo dicitur subséquatum*; bot sa it is, in this Dittay, it is lybellit, that the thraitning of *Johanne Robertoun*, and the inflictin of the diseis, was within this yeir and this half, quhilk is *ex intervallo*; And

¹ Must.² Than.³ To his trade.⁴ Stone quarry.

quhair as, it appears that this feiknes is inflicted immediatlie eftir ane vther thraitning maid to the wyfe of *Johanne Robertoun*, *nullo modo relevat*; becaus *et mine et damnum, subsecutum faciunt indicium, oportet et sit eadem persona cui mine et damnum dicuntur inferri*; sa that the thraitning to the wyfe, and inflicting feiknes vpon hir husband, is na relevant poynt. *Item, mine et damnum subsecutum nullum omnino faciunt indicium, nisi mine fuerint specificate, sen de eodem quod subsecutum est in specie*; for ane general thraitning to do ane evill turne, nocht condiscending vpon the speciall evill turne, can haif na coherence with ane speciall kaith following thairaftir, to mak it *revesice*; becaus *mine et damnum, subsecutum ar comptit aliquale indicium maxime respectu predictionis*, as ane maner of suthes-aying; and that can be comptit na suthes-aying quhilk ony man could lykways foirtell by¹ ane Witche, viz. *predicere de genere et subsecutum esse speciem*.—My lord Advocat adheris to his former answer.

THE *Thrid Article of Dittay*, anent ane discord that fell out betuix the pannell and *Jonet Harper*, and of ane thraitning and vow maid to mak the said *Jonet Harper* in a worse cais nor² hir poysonet swyne; and anent ane feirfull feiknes quhairin scho schortlie thaireftir fell be the pannellis Sorcerie, Incantation, and Witchcraft—It is allegit be the pannell and his prelocoutouris, that the thrid Article is naways relevant, nevir condiscending quhat maner of Inchantment scho was bewitched with, and be quhat factis and deidis this was done, and quhat was vset be the pannell for that effect.—It is answerit be my lord Advocat, that the allegeance aucht to be repellit, in respect of the Dittay.

THE *fourth Article of Dittay*, anent the pannell hir being within *Alexander Vallange* hous, quhair scho fell in ane grit and suddane feiknes; and hir sending for vni^{le} *Cristiane Grahame*, ane notorious Witche, and consulting with hir for hir relief of that feiknes; and eftir the said *Cristiane* hir cuning, of the pannellis passing out of the said *Alexander Vallange* hous to hir awin buith, with the said *Cristiane*, quhair scho was charmet and curet; and thaireftir the same feiknes, be devillerie and Witchcraft, callin vpon *Alexander Vallange* bairne; and anent the said *Cristiane Grahame* hir cuning with the pannell to the bairne, and cureing hir, be taking af agane of the said feiknes; and for airt and part of the af-taking and on-laying of feiknes, and of af-taking the samyn agane af the said bairne with the said *Cristiane*; and consulting and practizeing of Witchcraft with hir for that effect, &c. The samyn being red, and the pannell indytit thairof.—It is allegit be the pannell and hir prelocoutouris, aganis the said fourt Article, that the first part thairof is naways relevant, beiring that scho contractit ane suddane diseise, and for cureing thairof, send for *Cristiane Grahame*, ane notorious Witche, except it had bene expresse lybellit, that the tyme the

¹ Besides; *forbye*; independent of.

² Than,

pannell fend for hir, scho was ane notorious Witche, of the pannellis knowlege, and that scho fend for hir as ane notorious Witche, *ad hunc effectum*, to cure hir of that difeis: And it is nocht lybellit nather, that quhan *Crijiane* come, the pannell consultit with hir as with ane Witche; for, it is supponit¹ that ane Notter² war haugit for ane ffals Instrument, and he had gevin the excipient ane Seifing tuentie yeiris afor, is that Seifing, gevin sa lang befor, ffalfe? Na mair can that be ane poynt of Dittay, the pannellis fending for *Crijiane Grahame*, except scho was knawin to hir at that tyme to be ane Witche. The secund member is nawayis relevant, beiring that scho curet the pannell in the buithe, for that makis ane contradictioun, that scho was deidlie diseaset quhan scho come, and thaireftir raise and past to the buithe, and thair was curet. The thrid member is nawayis relevant, beiring that the pannellis seiknes was cassin on the bairne, being lybellit that the samyn was done be the pannell, or be *Crijiane Grahame*, or be ane or vther of ws (thame). The fourt member is nawayis relevant, becaus it is confessit in the Dittay, that the pannell was curet in the buithe; and thaireftir come out of the buithe to the hous, and cuist it on the bairne: Gif the pannell was curet in the buith, quhair was the seiknes? *Hoc est impossibile*. As to the rest of the poyntis of that Article, that scho come down to the hous, vsent for, quhair the bairne was; that can be ane poynt of Witchcraft. That the pannell declairit it was the seiknes scho had, *non relevat*, except it had bene verifeit and tryit³ that hir self had bene bewitched. And as for that member thairof, desyreing to fend for *Crijiane Grahame* to help her, *non relevat* to infer Witchcraft, except scho had knawin the said *Crijiane* to be ane notorious Witche. As to the rest of that Article, quhilk the pannell alto-gidder denyis, vpone hir aith and conscience, quhan the judge demandis hir; and albeit it war grantit, yit it is na poynt of Witchcraft, bot rather Blasphemie, and blasphemous speiches, quhilk can nocht coheir with this lybell of Witchcraft; bot is content, quhan evir scho sall be tryit and fund giltye, to vnderly the pwneischment of the lawis of the cuntry. That poynt of the Dittay, that *Crijiane Grahame* come at the pannellis desyre and curet the bairne, is nocht relevant to infer the cryme of Witchcraft aganis the pannell, except the samyn had bene done at hir specciall command, *malis artibus et veneficis artibus*, for the hailling of hir. It is nocht lybellit that the samyn was done be the pannell, or at hir command, or be ony Sorcerie or Witchcraft vsent be hir for that effect: And as to *Crijiane Grahame*, quhat scho did, the pannell can nocht be pwneist thairfor. And as to *Crijiane Grahames* pretendit Confessioun, quhilk is nocht producet, it can nocht be respectit, *quia est dicta socia dicti criminis*; nather is the samyn relevant, albeit it war trew, as it is nocht, ffor hir confessioun can nocht

¹ Supposed, or argued, for the sake of illustration. ² Notary public. ³ Proved; established legally.

work aganis Margaret Wallace, *quia dicit se esse sociam dicti criminis; et dicente se sociam criminis non creditur, quia ex suo dicto est infamis et sic testimonium perhibere non potest; precipue, quia malefici, reusfici qui ad fortilegos diciofque concurrunt nullatenus ad testimonium sunt admittendi.* And quhair as it may appeir, that in crimine reusfici, et in casu excepto, etiam infames admittuntur; hoc rerum non est nisi cum duplici cautela, una quod confessio infamis sit jurata non enim ei creditur nisi testi, et non testi nisi jurato: The second cautell is, non fidem facit dictum socij nisi confirmatum sit in tormentis. Dammoderius, Tit. de Reprobatione.

The persewaris allegis, that the haill allegeances proponit aganis the flourt Article aucht to be repellit, in respect of the Article and haill memberis thairof, tane *coniunctim*; and quhair it is allegit that the Article is nocht relevant, except it war affirmet that *Margaret Wallace* knew *Cristiane Grahame* to be ane Witche, that pairt aucht to be repellit, in respect of the expres woirdis of the Dittay, beiring, ‘that the said *Margaret Wallace* affirmet that *Cristiane Grahame* had als grit knowlege as God him self, and as gif God him self wald cum out of Hevin and cure hir! Albeit the deid-straik war laid on, scho could tak it af agane!’ As to the argumentis proponit aganis that pairt of the Dittay foundit vpon the Depositionis of *Cristiane Grahame*, that pairt is verrie relevant, and the argument is only proponit aganis the probatioun; to the quhilkis argumentis sufficient answers fall be maid the tyme of the verificatioun of that poynt of the Dittay; at quhilk tyme, it fall be maid cleir, baith be Law and practique, that in matteris of Treffone and Witchcraft, and vtheris caices exceptit-wemen, *socij criminis*, and infame¹ persones ar admittit Witneffis.

The pannell, adheirand to hir former allegeance, affirms that that member of the Article of Dittay is nawayis relevant, becaus scho is summond to answere to ane lybell of Witchcraft, and that pairt of the lybell inferrit be the persewaris repeiting thais odious and vnrehairfable speiches, as ane argument of the pannellis knowlege of *Grahame* to haif bene ane Witch, the famyn ar woirdis of Blasphemie: Quhilkis being plane Blasphemie, (nocht granting the speiking thairof,) scho is nocht haldin to answere to that pairt thairof, in this persute; nather dois the lybell conclude ony thing aganis the pannell, to infer hir to haif knowlege that *Cristiane Grahame* was ane Witche, (vnder protestatioun, the pannell denyis thame altogidder to be of verritie, as ofbefoir,) yit the famyn being bot woirdis, can nocht infer ane cryme of Witchcraft, it nocht being confessit be the pannell to be trew; nather can it furneise a Dittay of Witchcraft, quhairvpon scho may be accuset, nor repute nor esteimit a Confessioun, nocht being maid iudiciallie, bot allegit spokin be ane wyfe to ane vther, vpon certane

¹ Persons declared, or considered, infamous by law.

altercationes arryfeing amangis thame. *Igitur*, &c. And to the anfuer *de focis criminum*, thair is na anfuer maid speciallie to that pairt, quhair it is said, *non creditur focij testimonio, nisi confirmatur tormentis*. As to ony Confessioun maid be *Grahame* eftir hir convictioun, *nihil operatur, et non releuat* to put the pannell to ane Affyfe thairfoir.

THE ffyft Article of *Dittay* being red, anent the cureing be Sorcerie and Witchcraft of *Margaret Mure*, dochter to vmq^{le} *Archibald Mure*, of ane ftrange and vnknewin difeafe, be taking af the said feiknes af the said bairne, be the help and affiftance of *Crifiane Grahame*, and confulting with the said *Crifiane* thairanent, being a notorious Witche; the said *Margaret Wallace*, with the said *Crifiane Grahame*, haifing paff, vnder filence and clud of nyecht, to the zaird of *James Fyndlay*, burges of Gleggow, quhair thay abaid togidder the fpace of ane hour, practyzing Sorcerie and Witchcraft for cureing the said bairne, and taking the said feiknes af hir; as at lenth is fet down in the said ffyft Article: And the said *Margaret* being accufet thairof—It is allegit be the said *Margaret* and hir prelocoutouris, that the said ffyft Article is nawayis relevant, nor na pairt thairof; nevir condifcending in speciall quhat fcho did, quhat Sorcerie or Inchantment fcho vfet or applyit, or quhat was practizet be hir for taking af the feiknes af the bairne; nor yit condifcending vpon the meanis of Sorcerie or Witchcraft, quibidder be figures, woirdis, croces, incantatioun, invocatioun of the Devillis name; without the quhilkis, Witchcraft can nocht be accomplifchet.—It is anfuerit be the perfewaris, that the allegiance aucht to be repellit, in refpect of the article of *Dittay*, beirand the feiknes to be tane af the bairne be the pannellis Sorcerie and Witchcraft, practizet be hir and *Crifiane Grahame*, for the bairnes help, and cure thairof be vulauchfull meanis.

THE Saxt Article of *Dittay* being red, and the said *Margaret* accufet thairof, viz. that fcho, haifing confauet ane deidlie haitrent aganis *Robert Mure*, mercheand burges of Gleggow, thraitnet him with mony outrageous fpeiches, faying to him, ‘Thow fall gang hame to thy hous, and fall bleid at thy noife ane quart of bluid, bot fall nocht die quhill (*until*) thow fend for me and ask me forgivenes;’ quhairvpon fchortlie thaireftir, be the said *Margaret* hir Sorcerie and Witchcraft practizet vpon him, he contractit ane grevous and fuddane feiknes, quhairfo he deceffit; quhilk is confellit in prefens of Witneffes—It is allegit be the pannell and hir prelocoutouris, aganis the *saxt Article*, that the famyn is nocht relevant, for the particuler anfweris and argumentis maid to the haill Articles offefoir, quhilk the pannell repeittis, and everie ane of thame, as ane fufficient allegiance, *brevitatis causa*, to ftay the famyn to pas to ane Affyfe: And as to hir pretendit Confessioun, maid in prefens of Witneffes, can nocht be refpectit, becaus *est Confessio extra-judicialis que non tenet confidentem nisi in iudicio fac-*

tam: And albeit it war grantit, as it is nocht, that scho maid ony sic Confessioun, scho may reseill¹ thairfra; and sa is na relevant poynt to pas to ane Assyse; quhilk is confirmet be the autoritie of SALICOTUS, L. finali, codice de *Probationibus*; *probationem seu Confessionem sponte factam potest reus revocare, et confessus non est condemnandus nisi constet de corpore delicti, id est damnum datum esse malificium facinoris.* Libro I de Contraverfiis, cap. 28. *Item*, we haif ane expres text, Lege prima, § Divus, ff. de Questionibus; *Confessiones reorum pro exploratis facinoribus haberi non oportere, et Confessio extrajudicialis non sufficit ad qualificationem delicti.* JULIUS CLARUS, Lib. 5, § finali, quest. 55, num. 2. *Immo Confessio facta coram Jndice non sedente pro tribunali est tanquam facta privata et ex ea reus non potest condemnari.*

It is answert be the perswaris, that the saxt Article is verrie relevant, being tane *coniunctim*, becaus it contenis ane promeis to do the deid, the doing of the deid, and the confessioun thaireftir of the doing thairof. And as to the Confessioun, that the samyn is maid extra-judiciallic of ane cryme committit, that extra-judiciall Confessioun is lauchfull and valid to condampne the pairtie quaha hes confessit. Dammoderius, cap. 54, num. vltimo.—It is duplyt be the pannell, that the samyn is contrair to the text, and Dammoderius speikis na thing of ane extra-judiciall Confessioun; and repeitis thair perticuler answar maid to the particuler Articles of Dittay ofbefoir.—The perswar alfo repeitis the haill particuler answaris maid of befoir.

THE *Sevint Article of Dittay* being red, and the pannell accuset thairby, that a flyve or sex yeir syne, scho being conventit befoir the Sessioun of the Kirk of Glasgow, and accuset be *Mr Archibald Glen*, Minister at Carmunnok, flor rayleing on the said vniq^{le} *Robert Mure*, brother-in-law to the said *Mr Archibald*, and raleing on *Eljzabeth Arbuckle*, his mother, and for taking away of the said *Robert Mures* life be Sorcerie and Witchcraft; and that the said *Margaret*, in revenge thairof, schortlie thaireftir, be hir Sorcerie and Witchcraft, laid ane feirfull and vnkawin feiknes vpon the said *Mr Archibald*, quhairof, be continuall sueitting, he deceffit; and sa, was airt and pairt of his daith; quhilk scho hes confessit, sen-syne, in presens of witnecess. It is allegit and answert be the pannell, *et supra*, against the *sevint Article*, baith anent the fact and pretendit Confessioun lybellit, flor thair is na thing qualifeit of Sorcerie, or Withcraft, or Inchantment, done to the said *Mr Archibald*: for the treuth is, that the man deceffit of ane consumption of his lichtis; ² nather is it lybellit that scho inflictit ony thing vpon him be signes, croces, inchantit herbis, oyles, clathies, or ony vther meanis.—The perswaris answaris, that the said allegiance aucht to be repellit, in respect of the *sevint Article of Dittay*, relevant in the sellf, and answert maid of befoir.

¹ Withdraw; retract; *resile*.

² Lungs; pulmonary consumption.

THE *Aucht Article* being red, and the pannell indytit, fforamekill as fcho, haifing confauct ane deidlie haitrent aganis *William Mure*, flefcheour, a fyve year fyne, for calling *Crijfiane Grahame* ‘ane rank Witche,’ fcho, in revenge thairof, come to the faid *William*, vpone the Hie Streit of Glegow, and in grit wraithe faid to him, ‘Go thy wayis hame, bludie butcher that thow art, thow fall nevir fie the calfay¹ agane, bot fall fuddanlie fchute to deid in thy awin chyre!’² Accordring to the quhilk thraitning be the faid *Margaret* hir Sorcerie, Devillerie, and Incantatioun, ane feiknes was laid vpone the faid *William*, and vpone the morne thaireftir, in his awin chyre, in grit fuddantie deceffit: Quhilk fcho hes confeffit to be of verritie, in prefens of Witnelles; and fa is airt and fair of his death.—It is allegit be the pannell aganis the *Aucht Article*, ut *supra*, with this eik,³ that thair is nathing qualifeit thairin of Witchcraft done be hir to him, bot that fcho gaif him evill woirdis, and be thais woirdis he deceffit. As to the pretendit Confeffioun thairin conteuit, anfueris thairto ut *supra*.—My lord Aduocat repeittis the woirdis of the Dittay, and former anfueris maid be him to the hail former poyntis thairof.

It is forder allegit be the pannell and hir prelocoutouris to the *Nyut Article*, anent the bewitching of *Allane Speiris*, in maner thairin fpecifeit, without offence of my lord Aduocat, that all thais Articles contenit in the Dittay ar meir⁴ fabulous, refolveing only vpone ‘he faid and fcho faid.’⁵ And forder, oppones to his lordfchip all the authoriteis foirfaidis; and na practiques in the contrar ar product, bot ane naikit afertioun.—My lord Aduocat repeittis the Dittay, quhilk is verrie relevant, and als relevant a Dittay as ever was maid in Scotland, vpone fic a fubiect; quhilk is mair relevant in everie article nor the Dittayis product aganis *Barbara Naper*, *Eufame Mcalzeane*, and *Agnes Sampfone*, quha war put to ane Affyfe, and convict, &c.⁶

The pannell addis forder, that *damnum infecutum ex longo intervallo* is nocht relevant: pag. 717, Lib. quinti, fectionis tertij Martij Dalrio.

THE *Tent Article of Dittay* being red, and the pannell thairby accufet, beiring that a tua yeir fyne, or thairby, ane difcord falling out betuix hir and *Alexander Boig*, fmyth in Garboillis, about the bying⁷ fra hir and *Johne Dyming*, hir husband, of ane irne fudie to *William Wemyes*, fcho thraitnet to do the faid *Alexander* ane evill turne; ffor performeing quhairof, fcho, be hir devillerie and Witchcraft practizet be hir, laid ane crewall feiknes vpone the faid *Alexander*is bairne, fa that, with continuall fueitting, within tua dayis the bairne deceffit, &c.—AND ficyk, the *Last Article of Dittay* being red, and fcho alfo accufet thairof, beiring hir to haif bene thair aucht or nyne yeiris bygane ane cowmoun

¹ Causeway, or street. ² Chair. ³ Addition. ⁴ Merely. ⁵ Mere matter of idle hearsay, without foundation in truth, and not supported by legal evidence—‘says he’ and ‘says she.’

⁶ See their Trials, in this Collection, Vol. II, pp. 230, 242, and 247.

⁷ Purchasing.

confulter with Witches, ſpeciallie with *Criſtiane Grahame*, *Katharene Blair*, and vther Witches and Sorceraris, and ane feiker of help and reſponſes of thame, baith for diſtruction of dyuerſe perſones, men, women, and bairnes, be Sorcerie, Witchcraft, and Incantatioun, and vtheris devillifehe meanis, expreſſie forbidden be the Lawis of Almychtie God, and Municipall Lawis of this Kingdome ; as alſo for cureing and help of hir ſelf, in dynerſe ſeikneſſes, and of dynerſe hir freindis and acquentance, &c.

IT is allegit be the pannell and hir prelocoutouris againſt the *Tent Article*, that the ſauyn is nawayis relevant, for the argumentis befoir proponit, with this additioun, that in accompliſhing of Witchcraft, practizinge thair of, the maner, forme, and qualitie of Inchanting is neceſſarilie requyret, quhilke is nocht heir lybellit ; nather that thair was ony Witchcraft vſet be the pannell be ony Article of the Dittay, and be woirdis, ſignes, croces, ruitis, herbis, poyſone, or be inchantit pictouris, ſpeiches, or be invocatioun of the Devillis name, without the quhilke Witchcraft can nocht be accompliſchet.—As to the *Laſt member of the Dittay*, it is ſa generall, that it merittis na anſuer. As to that poynt of the Dittay, anent conſulting with *Criſtiane Grahame* and *Katherine Blair*, that is atogidder generall and irrelevant, nocht condifcending vpon the tyme and place, *quando et ubi*, nor yit condifcending quhairvpon they conſultit, quhidder vpon Witchcraft or vthirways ; and that the pannell, the tyme of thair meitting, knew thame to be Witches, and conſultit vpon Witchcraft with thame as Witches : And quhair as, ſcho helpit hir freindis, *non relevat*, nocht condifcending thair names, or quhair-with they war helpit. ITEM, it is anſwerit to that part of the Lybell, *per totum*, quhair it is ſaid, that the pannell inſlietit diſeaſis, be Inchantment, and Sorcerie, and Witchcraft, nocht condifcending quhat foirt of Inchantment or Sorcerie ; *quia et inquiſitio ſit valida, oportet ſit clara, certis delicti qualitates et circumſtantias continens, de quibus poſſet Juxta judicare* : Bot, *de incantamentis in genere nemo Juxta poteſt judicare* : Ergo, the ſpecies of the Inchantment man¹ be expreſſit be ſum ſigne or ſpecial deid : *et ratio eſt, quia ne per incertitudinem, generalitatem, et obſcuritatem tollatur reo deſenſio*. DELRIO, Lib. 5, ſect. 2, pag. 617. I argu, *a ſimili*, iſt it war lybellit, that a man had burſt out ane vther manis guttis with rolling over ane beift vpon him, *non relevat*, except ye ſay quhat beift, and ſic ane beift as mycht haif done it : for ane mous could nocht haif done it ! Ewin ſua, it being only lybellit, it was done ‘ be Inchantmentis :’ And gif they war ſpeciall, I wald contend, that thair war naturall meanis, and na Sorcerie. And thairfoir, the generalitie is atogidder irrelevant, takand away my exceptioun ; for gif thair war ſpeciall, we mycht reſſone and diſpute quhidder they war Inchantmentis or no Inchantmentis.

¹ Must.

ITEM, *per totum* to the hail lybell, *non relevat* 'vncouth feiknes,' except it war in lyk maner qualifeit, quhat is vncouth;¹ ffor quhat can the Assyse cognofce quhat is vncouth or nocht vncouth, it nocht being condifcendit quhat is 'vncouth feiknes,' quhilk is to be judget be thame quhidder it be vncouth or nocht? And for the fueiting, *nullo modo relevat*, for the proponer fuat² in ane feiknes ane hail moneth, and fueitting is ane naturall purgatioun. *Igitur*, &c.

The Aduocat repeatit the hail Articles aboue writtin, quhilkis ar fpeciall in thame felffis.

THE JUSTICE and ASSESSOURIS continewis thair Interloquitour, vpon the hail allegances aboue writtin, to the morne; and Ordanis the pannell to be tane bak agane to waird, in the mean tyme. The Assyse wairnet *apud Acta* to conpeir agane the morne, the xxj *instantis*, in the hour of caus; ilk perfone vnder the pane of tua hundreth merkis.

INTERLOQUITOUR of the Judges and Assessoris.

Mar. 21.—THE JUDGES and Assessoris, be thair Sentence-Interloquitour,³ Repellis the hail allegances aboue writtin, in refpect of the Dittay, and anfuieris maid be his Maiefteis Aduocat, in fortificatioun thair of. And as to *the laft Article*, quhilk is generall, findis the famyn relevant, with ony ane of the ten Articles of Dittay, *et non per se*: And thairfoir, Ordanis the famyn to pas to ane Assyse, viz. the hail ten Articles of Dittay, as relevant; and the laft general Article, with ony ane of the ten.

ASSISA.

Johnne Lawfoune, mercheand burses of Glegow,	Robert Bell, wrycht thair, James Mitchell, tailzeour,	Airthour Gilmour, mercheand, James Fallis, mercheand,
Jo ⁿ Dikfoune, mercheand thair,	Patrik Bell, elder,	Johnne Boyd, mefoune,
Andro Fales, mercheand thair,	Williane Anderfoune, cordiner,	Johnne Anderfoun, cordiner,
George Louk, mercheand thair,	Johnne Gilmour, mercheand,	Andro Ker, cordiner, burgeffes of Glegow.
Williane Neilfoun, maltman thair,		

OBJECTIONS against Assisiers.

It is allegit be the pannell aganis *Johnne Dikfoune*, that he can nocht be admittit vpon hir Assyse, becaus thair is inimitie and evill will betuix *Johnne Dunning*, the pannellis husband and him, vnreconcillit this ten yer bygane: Lyk as, the said Johnne Dikfoune, being dyuerfe tymes travellit with to be reconcillit with the said Johnne Dunning, refusit.—It is anfuertit, the allegiance aucht to be repellit as nawayis relevant, becaus inimitie is na caus, except he fay, that thair was bluid betuix thame.—It is forder allegit, that he can nocht be admittit, becaus he hes bebauit him self as partie, and hes gevin partiall Counfall, in preiudice of the pannell; in fa far as scho, being tane be the Proveit, Bailles, and Connfall of Glegow, without ane Warrant, out of hir awin hous, was put in waird in the Caftell be thame: In the quhilk taking and committing of hir to waird, the said Johnne Dikfoune wes ane speciall affister of the saidis Proveit and Bailles.—It is anfuertit be the perfewaris, that the allegiance mereitis nocht ane anfuert, feing he did nothing but the dutie of ane honest citizen and burges, to affist the Magistrat to apprehend a malefactor, being fuffect of sic haynous crymes.—Johnne Dikfoune, being

¹ Strange; indescribable.

² Sweated.

³ Interlocutory sentence, or judgment.

folemlie forne, and declairing that, to his knowlege, thair was never difcord nor inimitie betuix Johnne Dynning and him, the Justice thairupoun, and vpon his declaratioun that he had gevin na partial counfall in this caufe, admittis him.

It is allegit aganis *Walter Sterling*, mercheand, that he can (nocht) be vpon this Afflyfe, becaus he is brother-in-law to vni^o *Robert Mure*; thair being ane specciall poynt of Dittay fet down aganis the pannell, for allegit iniurie done to Robert Mure.—Anfuert, aucht to be repellit, becaus thair is na perfute movet aganis the pannell be the kyn and freindis of Robert Mure, and thairfoir fould be admittit.—It is forder allegit, that *Walter Sterling*, brother-in-law to Robert Mure, can nocht be admittit, becaus ane Dittay being fet down aganis me for ane wrang done to Robert Mure, ilk poynt of Dittay is fund relevant and ordanit to pas to ane Afflyfe; the said *Walter* can nocht be ane Afflyfour aganis me, being perfewit vpon my life.—My lord Aduocat anfuert *ut supra*, that nochtwithstanding thairof he fould be admittit, except Robert Mure, or fun of his freindis, war ather perfewaris or defenderis, or vpegevaris of the Dittay, or Informeris to his Maiefteis Aduocat thairin.—THE JUSTICE Ordanis *Walter Sterling* to stand by; and to call ane vther.

It is allegit aganis *Williane Neifone*, elder, that he can nocht pas vpon this Afflyfe, becaus he is brother-in-law to *Johnne Nicoll*, wyter, quha hes behaivt him felf as pairtie, in geving information of the Dittay, and is present at the bar affittin the perfewaris in this perfute.—Anfuert, the allegiance aucht to be repellit, becaus *Johnne Nicoll* is nocht a perfewar, nor the Summondis is nocht raiit at his instance.—*Williane Neifone*, being forne, and purget be his ayth of partial counfall, is admittit be the Justice.

Williane Anderfjone, cordiner. It is allegit aganis him, that he can nocht be admittit vpon this Afflyfe, becaus the pannell, haifing skill in chirurgerie, fauld to him fun drogis, quhilk he haifing poit-poit the pannell in payment, fecho thairfoir perfewit him be ordour of Law thairfoir; quhairvpon ane inimitie fell out betuix thame, quhilk is yet vureconceilit.—The said *Williane*, be his grit (aith) being purget of partial counfall, is admittit.

VERIFICATIOUN of the perticuler poyntis of Dittay.

MY Lord Aduocat takis instrumentis of the fweiring of the Afflyfe; and, for verificatioun of the perticuler poyntis of Dittay following, vfes and produces the probatioun and Witneffis efter fpecificeit. And first, for Verificatioun of *the ffirft Article (of Dittay)* anent *Cuthbert Greg*, produces *Charles Pollok* and *Margaret Dynning* as Witneffis, defyreing thair Depositiones to be taue.

Chairlis Pollok, couper, burges of Glesgow, fworne judicallie, and examinat in prefens of the Judges, pairteis, and Afflyfouris, and purget of partial counfall. mareit, of the aige of threttie yeiris, declairis, that a thre yeir fyne, or thairby, ane differ¹ being betuix *Cuthbert Greg* and *Cristiane Grahame*, for ane dog quhilk *Cristiane* defyret fra him, and he refuifet, anfuering to hir agame, ‘I rather ze and my huffie² baith (meaning be *Margaret Wallace*) war brunt or³ ze get my dog!’ Quhairof *Margaret Wallace* getting knowlege, fecho comes to *Cuthbert* and fayis to him, ‘fals land-loupper loun that thow art, fayis thow that *Cristiane Grahame* and I fall be brunt for Witches? I vow to God I fall do to ze ane evill turne!’ And declairis, that, within foure or fyve dayis thaireftir, the said *Cuthbert* fell feik. Being inquiryret, gif he hard hir fay thir woirdis, ‘that *he (she)*

¹ Quarrel; difference; alteration.

² Cumber; gossip.

³ Rather than.

fould mak *hir* (*him*), within few dayis, nocht of habitie to wyn ane caik of breid?' Denyis that he hard sic woirdis—bot only that scho fould 'do him ane evill turne.' Sayis, he saw *Cuthbert Greig*, the tyme of his feiknes, fueitting and brocheing¹ in ane vnconth feiknes, fairlie handillit, quhairby he was nocht able to gang; bot knawis nocht how lang he swat, or abaid in that estait. Demandit, gif he saw *Margaret Wallace* cum in to *Cuthbert*, at ony time of his feiknes? Declairis, he saw hir nocht within that hous; and forder, knawis nocht anent that first Article of Dittay.

Margaret Dynning, the spous to *Andro Lennox*, fuorne and examinat vpon the first Article, concerning *Cuthbert Greg*, and desyret to tell the treuth, fa far as she knawis thairanent; Depones, that the tyme of *Cuthbertis* feiknes, the deponer and *Margaret Montgomerie*, with *Margaret Wallace*, past all thre togidder vp to *Cuthbertis* hous, to visseit him, the tyme of his feiknes; at thair in-cumming, declairis, scho saw *Margaret Montgomerie*, with *Margaret Wallace*, pas to his bed-syde quhairin he lay, and that the said *Margaret Wallace* fat down with hir bak to him, the deponer hir self nocht being able to wyn ben the hous, becans of the thrang of peopill in the hous, at that tyme: And forder knawis nocht.

FOR the *Second poynt of Dittay*, concerning *Johnne Robertoun*, querriour, desyres the said *Johnne Robertoun*, as persewar, his ayth to be tane, and that poynt of Dittay to be fuorne be him, gif he has just caus to persew the pannell as giltie thairof? Quha, being solemplie fuorne, declairit, that the said *Margaret Wallace* avowit 'to be avengit vpon his flesehe!' And that schortlie thaireftir, conforme to the Dittay, the feiknes was laid vpon him; and thairfoir, hes just caus to persew the said *Margaret*, for that poynt: And eikis² thairto, that sen the making of that vow be hir, he was nevir able to wyn him self fyve f. (shillings.) Quhairvpon my lord Aduocat alkit instrumentis.

Charles Pollok being product, and fuorne vpon the secund Article of Dittay, anent the said *Johnne Robertoun*, querriour; declairis, he knawis na thing thairof, except allanerlie, that he saw him hevelie diseisit.

As to the *Thrid Article of Dittay*, referris the notorietie of the pannellis giltines thairof to the Assyse.

FOR verificatioun of the *ffourt Article*, my lord Aduocat product *Cristiane Grahames* Depositionn, tane be my lord *Archebischope of Glesgow*. As also, produces *Marioun Mitchell*, the spous of *Johnne Hunter*, and desyres hir to be examinat, and her Depositionn to be writtin.

Marioun Mitchell, the spous of *Johnne Hunter*, taker,³ fuorne, and examinat

¹ Commonly pronounced *broiching*; in the last stage of exhaustion, through profuse perspiration. The English word *sweltering* conveys something of the same meaning.

² Adds; subjoins.

³ Day-labourer.

vpone the flourish Article of Dittay, in presens of the Judges, Assyfouris, and parteis, iudicialle, Depones, that four yeir syne, or thairby, Margaret Wallace and Robert Stewart come to the duelling-hous of Alexander Vallange, in Glesgow, quhair the deponer was fervand for the tyme, and callit for ane choppin of aill; quhill was brocht be ane boy to thame, namet James Symfone; and in drinking thairof, betuix Robert Stewart his taking the cope and offering it to Margaret Wallace, the said Margaret tuik ane suddane brasthe of feiknes, vnkawin to the deponer quhat feiknes it was, quhairin the said Margaret was sa extremelie handillit, that scho was liklie to ryve hir self!¹ Thaireftir scho cryis, ‘Bring me hither my deir burd!’—And Margaret Montgomerie, the guid-wyfe of the hous, being present, anfuertis hir, ‘Quhill deir burd wald ze haif? I beleif, sayis scho, (thinking it had bene *Johane Dyming*, hir husband.) ‘he is nocht at hame!’ ‘Na,’ anfuert Margaret Wallace, ‘bring me *Cristiane Grahame*, my deir burd!’ All this quhyle, Margaret Montgomerie was halding hir be the ane hand, and Cristiane Mcclauchlane be the vther. Thaireftir, at hir desyre, Robert Stewart past, and with grit dilligence brocht Cristiane Grahame to hir, at quhais suddane cuming, Margaret Montgomerie sayis to Robert, ‘Jesuf saif ws! I beleif thow hes met her be the way!’ And Cristiane Grahame anfuert, ‘flayth, he met me nocht, bot come and brocht me out of my awin chalmir; and fra I hard that my burd was sa diseaft, I sped me hither!’ Sayis, thaireftir, that Cristiane Grahame tuik Margaret Wallace be the schaikill-bane,² and kist hir; and in hir airnes cayreit hir down the stair, saying to hir, ‘Nothing fould aill hir.’ Eftir quhais outgoing, Margaret Vallange, dochter to the said Margaret Montgomerie, ane infant bairne of four yeir auld, followit thame down the stair; and in the ganging out at the zet,³ over the dur-threschold, scho fell down in a suddane and grevous payne, and grat vehementlie. Incontinent thaireftir, the said Margaret Wallace come bak agane, and declairit that the bairne was greting at the stair-fute; and desyret hir mother to bring her vp. And thaireftir, the bairnes mother cuming to hir and taking her vp, the bairne cryis, ‘Mother, mother, ding me nocht, for thair is ane preyne⁴ raschet throw my fute!’ And the bairne, being brocht vp to the hous, grat continuallie all that nycht, and quhill⁵ the morne at that same tyme of the day. The Deponer forder declairis, that scho and the bairnes father and mother sat vp all that nycht, and walkit⁶ the bairne; and that vpon the morne thaireftir, the said Margaret Wallace come to visitt the bairne, and desyret Margaret Montgomerie, hir mothir, to send for Cristiane Grahame, making all that tyme ane grit mone⁷ for the bairnes feiknes: To quhome Margaret Montgomerie anfuert, ‘I haif nothing ado with Cristiane Grahame, and

¹ This attack was probably a hysterical affection, or rather a kind of convulsion fit.

² Wrist.

³ Gate; wicket.

⁴ Pin.

⁵ Until.

⁶ Watched.

⁷ Moan; lamentation.

will nocht fend for hir ! ffor gif God hes laid on that feiknes on my bairne, he will, at his awin plesour, tak it at agane !' Sayis thairefter, that Margaret Wallace maid anfuer to hir, 'Gif 5e knew of Cristiane Grahame skill, and quhat scho can, 5e wald nocht refuse to fend for hir ; for scho can do alse mekill as God in the Heavin !' Deponis forder, that sehortlie thaireftir, Margaret Wallace, by¹ the said Margaret Montgomeris knowlege, brocht the said Cristiane Grahame in to the hous, the bairne being lying as ane deid stoeck in the bed, and haifing gevin over greting for the tyme ; and at thair incoming, ane heip of grene webbis² being lying on the fluir, Margaret Wallace lap over the same, and cumis to the bairne, and takis hir vp out of hir bed, and fettis hir on Cristiane Grahames knie ; and declairis, that eftir the bairne had sittin ane sehorte s'pace vpon the said Cristianes knie, scho grew better, and eftir that mendit.

For verificatioun of *the ffyft poynt*, my lord Aduocat producet certane Depositiones tane befor *the Bischope of Glesgow* ;³ with ane vther Deposition tane befor *the Commissar of Glesgow* ; as also, producet certane Depositiones tane be the said *Archebischope*, at command of the Secret Councill ; and thairwith produces Andro Mure, chirurgane, as Witnes ; desyring him to be suorne, and his Deposition to be writtin.

Andro Mure, chirurgane, marcit a sevintene yeir syne, of the age of xliij yeiris, fuorne, and purget of partial counsell ; being inqyret, quhat he knawis concerning the ffyft Article of Dittay, red in his audience ? Depones, he knawis nothing of Margaret Mures feiknes specifeit in the said Article, except that he himself, cunning down the Brig-gait,⁴ he saw Cristiane Grahame cum furth of Marioun Mures hous ; quha thaireftir come to the deponer, and desyret him to gang in to the said Marioun : And the deponer, at hir desyre, haifing pass in to the hous, at his incuming ane roistit hen was sett down on the buird ;⁵ and the deponer, with David Scheirar and the said Marioun Mure, fat down at the buird togidder ; and within ane sehorte s'pace thaireftir, Margaret Wallace come in to thame ; Declairis, at Margaret Wallace incuming, ane guise⁶ was sett down on the buird : And the deponer, persaveing that sic interteuement wald draw him to charges, he payit his choppine of wyne and come his way, and left the rest of the companie behind him. And forder knawis nocht.

For verificatioun of *the Saxt Article, Seviut, and Aucht Articles*, produces the Deposition of Alexander Montgomerie and vtheris, subferyuit be *my Lord of Glesgow* ; togidder with ane Testimoniall of the Minister, testifeing Mr Alexander Montgomerie his feiknes, that he was nocht able to travell, without hazard

¹ Without ; contrary to. ² Webs of newly weaved, or unbleached, linen cloth. ³ James Law, Archibishop of Glasgow ; who had been translated from the Sec of Orkney, anno 1610. ⁴ The Bridge gate of Glasgow. ⁵ A roasted fowl was set upon the table. ⁶ Goose.

of his lyfe: And referriſ the notorietye of the pannellis giltines of the ſaidis Articles to the Aſſyſe.

FOR preveing of the *Nynt Article of Dittay*, produces Robert Dykes, Johnne Pincartoun, Thomas Wilkyne, and Johnne Thomeſone, as Witneſſes, deſyreing thair Depoſitiones to be tane, for the Aſſyſe better informatioun.

Robert Dykis, maltman in Ruglen, mareit, ſuorne and examinat, in prefens of the Judges, Aſſyfouris, and pairtie, in judgement, vpone the Nynt Article, to declair the verritie, and purget of partiall counſell, Depones, that at command of vmq^{le} Allane Spens, the deponer come to Johnne Dymning, and deſyret ane ſicht of his elwand,¹ and, conforme to the Dittay, the elwand was brokin; and a fyftene dayis thaireſtir, or thairby, the ſaid Allane Spens being in Glegſow, and fleing ane ſchoure,² come befor Johnne Dymningis buthe-dur,³ quhair the deponer hard Margaret Wallace, Johnne Dymningis wife, ſay thir woirdis to Allane, ‘ Away, deboiſſhet knave!’ Depones, the ſaid Allane Spens fell ſeik; bot knawis nocht how ſone eftir thais woirdis war ſpokin this ſeiknes fell⁴ to him. Declairis, he come in to him the tyme of his ſeiknes, and ſaw him hevelie diſeaſit with continuall ſueitting.

Thomas Wilkyne, burges of Ruthirglene, mareit, ſuorne in prefens of pairtie, Judges, and Aſſyfouris, in judgement, Depones, he knawis nocht Margaret Wallace, befor his cuming to Edinburgh. As to that Article of Dittay concerning Allane Spens ſeiknes, declairis, he was hevelie diſeaſit with ane fuddane and grevous ſeiknes, quhairof he deceiſſit; bot knawis nocht quhat or quha war the cauſeris thairof.

Johnne Thomeſone, burges of Ruthirglene, mareit, and ſuorne vpone the nynt Article of Dittay red to him in judgement, in prefens of the pairteis, Judges, and Aſſyfouris, is conforme to the ſaid Thomas Wilkyne.

Johnne Pincartoun, ſuorne and demandit vpone the nynt Article, quhat he knawis thairintill? Depones, he was narreſt dur nychtbour⁵ to Allane Spens, and ſaw Johnne Dymningis elwand brokin, at quhilk tyme the ſaid Johnne Dymning and Allane Spens war likelie to go by the earis for breking of the ſaid elwand. Declairis, that he hard Margaret Wallace, ſcho being preſent with hir huſband, ſay to him, ‘ Go ʒour wayis joy, let him allane,’ (meaning be Allane Spens), ‘ I fall tak ane amendis thairof!’ Sayis he knew that Allane Spens fell in ane heavie diſeas, bot knawis nocht quhat was the cauſ thairof.

FOR verificationn of the *Tent Article* of Dittay, my lord Aduocat vſes the aithe and declaratioun of *Alexander Boig* in Garboillis, perſewar thairof, and deſyres that Article to be ſuorne be him to the Aſſyſe, for thair better informa-

¹ Ell-wand, yard measure.

² For shelter from the shower.

³ Shop door.

⁴ Happened.

⁵ Next-door neighbour.

tionn : Quha being fuorne, declairit that he had juft caus to perfew the faid Article, as is fet down thairintill, aganis the pannell.

Produces alfo George Thomefone and James Pollok, Witneffes, defyreing thair Depofitiones to be reflauit for preving of the faid tent Article of Dittay.

George Thomefone, duelland vnder Sir George Elphingftoun of Bliethefvoid, kny^t, fuorne and examinat in judgement, Quhat he knawis anent the faid tent Article of Dittay? Depones conforme thairto, that he hard Margaret Wallace and Alexander Boig flyteing with vther; and that fcho faid to him, in a grit rage and furie of mynd, that fcho fould 'do to him ane evill turne,'—or fould 'gar get to him ane evill turne!' And within thre dayis thaireftir, the faid Alexander his bairne fell feik, and deceffit of fueititing and vther grevous panes.

James Pollok, gairdner to Sir George Elphingftoun, fuorne and examinat vpon the faid Article, Depones, he being working at the hedge within the zaird, he hard Margaret Wallace and Alexander Boig flyteing togidder; and that in hir anger fcho faid to him, fcho fould 'do to him ane evill turne!' And fchortlie thaireftir, his bairne contractit ane feiknes, and deceffit.

My lord Advocat takis infrumentis of the Witnes judiciall declarationn abone writtin; quhilk he repteis to the Affyfe, with the vther Depofitiones product be him.

THE JUSTICE and ASSESSOURIS continewis this dyet to the morne. The Affyfe wairnit to be prefent the morne, at xj houris; ilk perfone vnder the pane of iij^s merkis.

OBJECTIONS *be the Pannell to hir pretendit* CONFESSIOUN, *and haill*
Probatiouu adduct.

Mar. 22.—IT IS OBJECTIT be the pannell and hir prelocutouris aganis *hir pretendit Confessioun*, maid be hir befoir the Lordis of Secreit Counfell, that the famyn can preve nathing of the haill Dittay, nor na pairt thairrof. And as to that pairt of hir allegit Confessioun, quhair as fcho confellit 'that fcho was content, in caice it fould be provin that fcho was in *Cuthbert Gregis* hous, to grant the haill Dittay!' Anfueris thairto, that is na Confessioun of the Dittay, nor of na pairt thairrof; ffor the Dittay is fet down vpon Witchcraft, and that the pannell practizet Witchcraft vpon the perfones contenit in the Dittay, be Sorcerie and Inchantment; fcho hes nocht confellit the famyn be hir Depofitioun, nor na pairt thairrof; fua that hir Depofitioun can be na probatioum of Witchcraft, nor of practizing thairrof; bot only, that gif it fall be provin aganis hir, hir being in Gregis hous. quhilk fcho hes denyit, fcho hes thairin committit onlie a lie, and being perfewit and provin, is content to vnderly the pwneiffment appointit aganis Leafing-makeris. *Secundo*, be the Confessioun contenit in hir

Depofitioun befor the Counfell, fcho is only content, gif that hail Article be provin aganis hir, than to confes all the reft to be trew; bot albeit it be provin that fcho was in the hous, it is nocht confeffit thairby that fcho was ane Witche. *Tertio*, it is nawayis provin be the Depofitioun producet, that fcho was within the hous, becaus thair is only ane woman producet as a Witnes to verifie the fame. It is forder allegit, that thair can be na probatioun vpon that hir Confefsioun maid befor the Connfell, becaus the famyn is na poynt of Dittay.

It is anfuerit be the perfewaris, as to the obiection maid againft the Depofitioun maid be the pannell befor the Counfell, that obiection aucht nocht to be refpectit, in refpect of the Judicial Confefsioun maid befor the Lordis of Counfall, quhilk bindis hir; be the quhilk it is manifet, that fcho hes denyit the treuth, in refpect of the probatioun led be dyuerfe of the Witneffes producet, verifeing hir to haif bene in Gregis hous the tyme of his feiknes, quhilk the perfewaris referris to the Inqueiftis knowlege and Witnefs Depofitioun. And defyres it may be rememberit to the Afflye, quhat fentence was gevin aganis *Patrik Cheyne*, vpon the lyk Depofitioun.

It is forder allegit be the pannell, that the Depofitioun maid befor my Lord of Gletgow, the famyn can mak na fayth, in refpect his Lordfchip had na warrant to that effect.—It is anfuerit be the perfewaris to that obiection, that the famyn aucht to be repellit, in refpect of my Lord of Gletgowis Judicial Declaration maid be his Lordfchip, that he had ane fpeciall Letter direct to him be the Lordis of Secreit Counfell, for taking of the faidis Depofitiones, and of the article fubioynnet to hir Depofitiones fubfcriyuit be the Clerk of Counfell.

It is allegit be the pannell, that nather the firft nor fecund Depofitioun of *Cristiane Grahame* can be refpectit: *ffirft*, becaus it is nather hir principall Depofitioun, nor Extract thairof; nocht the principall, becaus it is nocht fubfcriyuit be hir, nocht the Extract, becaus nocht (fubfcriyuit) be ane Clerk of Court: *Secundo*, can preve nathing, becaus it is maid, fcho nocht being furme to that effect: *Tertio*, it is maid be the partie being abfent aganis qhome it is deponit, quha, gif fcho had bene requyret, wald haif compeirit, and offerit to haif bene confrontit with hir; quha, gif fcho had bene confrontit, wald haif denyit the famyn: Lyk as, fcho cum of fet purpois to the Tolbutth, befor hir Convictioun, and offerit hir felf to haif bene confrontit, quhilk was denyit. *Laft*, hir Depofitioun can work nathing aganis the pannell, being ane condampnet perfone; and the Depofitioun aucht nawayis to be refpectit, except it war instantlie verifeit be the proces, that befor the making of the faid Depofitioun, or the tyme of the making thairof, that the faid Cristian Grahame had confeffit the hail poyntis of Dittay than laid to hir charge: ffor as the woirdis ar confaet, thay ar fpokin be comparifone, that eftir fcho had denyit the poyntis of Dittay laid to hir

charge, and declairit hir self to be altogidder innocent thairof, and the pannell being at that tyme ane honest woman, fua repute and haldin, scho sayis, ‘ scho was als frie of Witchcraft as scho or ony vther in the toune !’ Forder, the Confessioun can nocht be respectit, becaus it is nocht maid befoir ane Judge haifing power to tak her Confessioun, thair being na Commiffioun producet for taking of the said Confessioun. Nixt, the Deposition beiris nocht that scho was ony wayis interrogat or speirit¹ at, and is nocht maid in judgement, becaus the Assyse was than incloset, being than hir Judges. Laft, it beiris nocht that this pannell was airt or pairt of ony Sorcerie, bot of sic deidis as scho did, and confessit to haif done : And referis to the Assyse, hir Confessioun, that scho was innocet of all. And as to the worstettis,² thay ar na pairt of Witchcraft, be reveing³ or drawing thame furth of hir purse.

It is anfuert thairto be the perfewaris, that the obiectiones maid aganis the tua Depositiones producet is nawayis relevant, and is nocht to be respectit be the Assyse, becaus the samyn is subseryuit be *my Lord Archbischope of Glasgou*, as Lord of the Regalitie, and quha was present the hail tyme of Cristiane Grahames tryell, nocht onlie as Lord of the said Regalitie, bot also as being aue of the Lordis of his Maiesteis Previe Counfall ; and thairby, be vertew of his office and authoritie, haifing sufficient power to tak cognitioun of quhatfumeuir ryote or offence committit to ony of his Maiesteis subiectis, be quhatfumeuir maner of way, within that pairt of his dyocie,⁴ or ony pairt of the kingdome. *igitur*, &c. —To the quhilk it is anfuert be the pannell, that the Deposition was nocht subseryuit be *my Lord of Kilsyth*, to quhome the Commiffioun was grantit, bot is allanerlie subseryuit be the Prouest and Bailleis of Glasgou, quha ar pairteis : Lyk as presentlie, at the dyteing heirof, Gabriell Cunningham, standing at the bar, hes professit him self to be a pairtie and informer to my lord Aduocat. Laft, her Deposition can nocht be respectit, becaus scho alleges hir self to be participant of the same cryme ; and sa hir Deposition, of the Law, can mak na fayth, except scho had confessit scho had maid hir Deposition or Confessioun eftir tortour.

To the quhilk it is anfuert be the perfewaris, that the saidis Depositiones ar subseryuit be the Prouest and Bailleis of Glasgou, quha war a pairt of the Commiffioneris nominat and appointit to the tryell of the said Cristiane Grahame, as also subseryuit be vther tua men of grit credeit, viz. Mr Johnne Bell and Mr Robert Scott, Ministeris of Glasgou, quhais subscriptiones ar sufficient to geve authoritie to the Depositiones, as evir has bene fund in this judgement, in all matteris of Witchcraft, and speciallie, in the proces of *Euphame Macalwane*, *Barbara Naper*, and *Agnes Sampson*. The laft pairt aucht nocht to be

¹ Enquired. ² The coloured worsted threads formerly noticed. ³ Stealing. ⁴ Diocese.

respectit, in respect *foej criminis* ar reffaut and admittit in all crymes of Tref-fone, Erracie,¹ and Witchecraft.

Quhairvnto the pannell and hir preloctouris anfuersit to thais tua memberis of my lord Aduocattis anfuersit, that the tua Ministeris befor quhome Cristiane Grahame hir Depofitioun was maid, that thai war honest men, it is nocht denyit ; bot it followis nocht, becaus thay are honest men, thairfoir thay had power to tak hir Depofitioun, in ane matter concerning hir lyfe, without Commiffioun. For anfuers to the proces allegit aganis *Euphame Mcalzeane, Barbara Naper*, &c., agreis thairto, in regaird thay war examinat be Mr James Carmichell, to quhome speciall Commiffioun was gevin for that effect. Laft, it is declairit be the pannell, that evin in the cryme of Erracie or Lefe-maieftie, a pairtner of ane cryme² is nocht to be credited without tortour ; and repeittis the tortouring of *Sprote* in Treflone, becaus he was partiner of the Treflone.

It is objectit be the pannell and hir preloctouris, aganis the Depofitioun maid be *Margaret Grahame*, dochter to Cristiane Grahame, befor the Commiffar of Glefgow, it can nocht be respectit ; firft, becaus it is not maid judiciallie, befor ane Judge haifing power to that effect : *Secundo*, befor ane Commiffar, without ane Commiffioun, quha had na power in matteris of Witchcraft, and vtheris concerning lyfe and daithe : *Tertio*, was nocht requyret Witnes befor ane Judge haifing Commiffioun, nor fwrne to that effect : *Quarto*, hir Depofitioun can nocht be respectit, in respect of hir age, fcho nocht being past xvij³ yeiris : *Quinto*, in all hir Depofitiones, nevir a word deponet that fcho knew Margaret Wallace to be ane Witche, or a practizer of Witchecraft ; bot only that hir mother and fcho past to the 5aird togidder, tynt hir pantoun, quhilk was put one agane be Cristiane Grahame, &c. : *And* quhair, it is affirmet in the Depofitioun, that fcho tuik ane fchooe, and pat in fum feidis thairin, that is nocht lybellit, and can nocht be respectit, becaus nathing followit thairupoun : *Last*, na Depofitioun can be respectit at all, of ony perfone, as Witnes, bot only sic as ar producet in Judgement,⁴ to the effect the pannell may object aganis thame, quhidder thay may depone aganis hir or nocht. And thairfoir, of all Law, it is inviolablie obseruet, that na faith is gevin to Testimoniallis, bot as Witneffes, in a matter of fourtie schillingis.

It is anfuersit be the perfewar, as to the allegiance and objection aganis *Margaret Grahame*, the famyn aucht to be repellit, it being tane befor ane Judge-Ordiner, judiciallie, viz. the Commiffar of Glefgow : And as to hir age, fcho hes deponet fcho is past xiiij yeiris, quhilk is referrit to the Assyse knowlege ; and that than fcho mycht haif mareit lauchfullie, mekill mair to beir witneffing in

¹ Heresy.² *Particeps criminis*.³ *Sic* ; xiiij?⁴ This is the first time that this objection is recorded as having been started by the Counsel for the pannell.

obfcure factis, sic as ony thing concerning vmq^{le} Cristiane Grahame and Margaret Wallace, quhais companie scho refoirtit daylie. And forder, the perfewar referis to the Affyse knowlege, quhat thay knaw of hir Depofitioune; and fpeciallie, gif it was grantit befor my Lord of Glegow, the pannell hir felff, and fum of the Inqueit: And forder, product the dome and fentence of convictioun to the Affyse, quhair the Proveift and Bailleis of Glegow war Commiffioneris appointit and fet for tryell of Cristiane Grahame, and fa had power to reffauie Cristiane Grahames ayth, for haifing Commiffioun thairto.

It is anfuertit be the pannell, as to that pairt of the anfuier anent Margaret Grahames age, the Depofitioun productet beiris na fic thing.—My lord Adnocat, for anfuier thairto, declairis, he produces ane vther Depofitioun of hiris of the fame dait, beiring hir former age: Quhilk is referrit to the Affyse.

Item, the pannell anfuertis to that poynt, anent the production of Cristiane Grahames Sentence of Convictioun, that the pannell acceptis the fame; and proteftis that the perfewaris repetitioun thairof, for inftructing of the Affyse, anent that alledgeance proponit be the pannell, that Cristiane Grahames Depofitioun, beiring Margaret Wallace to be airt and pairt of all confest be hir to haif done, preves nawayis hir to be giltie of Witchcraft; becaus the convictioun productet, beiris hir to haif denyit all the poyntis of the lybell anent Witchcraft; and scho confelles that scho was pairt-taker of fic thingis as scho confelles hir felff to haif done, it man (*muft*) be of na deidis impoirting Witchcraft.—The laft objectioun proponit be the pannell is nocht to be refpectit, in refpect of Cristiane Grahames Confeffioun and convictioun productet; quhairin scho is convict of tua poyntis, conforme to hir awin Confeffioun, viz. the fecund and fourt poyntis of Dittay quhairupone scho was indytit.—It is anfuertit be the pannell, that the faid convictioun proceedis vpon the admitting of the haill Articles thairto to the knowlege of ane Affyse, fua that the finding of hir giltie of ony of the Articles is nocht the grund of the fentence of Convictioun; ffor thais tua Articles, a pairt quhairof scho is convict, was nocht relevant without the haill Articles had bene admittit; and forder, thir tua poyntis quhairof Grahame is convict, is na poynt of our Dittay.

It is objectit be the pannell aganis *Marioun Mures* Depofitioun, fubfcraynit be my Lord of Glegow, the famyn can nocht be refpectit, for the reffones foir-faidis; with this additioun, that gif the faid Marioun Mure war now productet as Witnes at the bar, scho wald be repellit; for this reffone, becaus be the Depofitioun it is confestit that scho is father-fifter to the bairne quha is allegat to haif bene bewitched or curet be the pannell, as being within degreis-defending to the faid bairne mentionet in the Dittay. And forder, it is objectit, that scho had gevin partiall counfall in the caus, quhilk defens is tane fra us be production of

ane Testimoniall, and nocht hir selff. And repeittis all the rest of the objectiones aganis the vther Testimoniall.—The last objection aucht to be repellit, in respect of the Depositioun of *Marioun Mure*, tane be my Lord of Glesgow, quha had Commissioun of the Counsell, as he hes deponit, and is testifeit be James Prymrois, clerk of the Counsell. Lyk as, the samyn Depositioun is subseryuit be the Laird of Mynto, and the Provcift and Bailleis of Glesgow, Commissiouneris for Tryell of the said Cristiane Grahame: And as to the objection, that scho was within degreis-defending to the bairne, it is answert directlie, that Commissioun be the Counsell for hir examinatioun, the pannell being present, and nathing objectit be the pannell in the contrair, is sufficient to elyd¹ that pairt of the said objection.

It is objectit be the pannell aganis the Depositioun of *Mr Alexander Montgomerie* product, that the samyn can mak na fayth, it nocht being maid befor ane Judge, nor he suorne to that effect; nor nane inqyreing sic thing of him: And speciallie, aucht to haif bene summond befor ane Judge-Ordiner, and to haif deponit judiciallie; in respect that letteris war direct, summonding him to compeir befor the Justice in this judgement, and hes nocht compeirit, being summond to that effect; and speciallie, his Depositioun could nocht haif bene ressuait gif he had compeirit, becaus it wald haif bene objectit contrair him, that he and Margaret Montgomerie are brother-bairnes of the hous of Heselheid,² quhais dochter is allegit to haif bene witchet, be ane speciall poynt of Dittay gevin in aganis this pannell; and sa, his extra-judicial Confessioun out of all judgement, subserynet be him without Witnes, could nocht be respectit.—To the quhilk the perswaris answert, that this last objection aucht to be repellit, in respect of the Testimoniall product, beiring Mr Alexander to be seik, subseryuit be ane Minister, quhilk excuifes his absence: Quhilk Depositioun is referrit to the tryell of the Assyse.

IN respect of the quhilkis Depositiones and Verificationes product to the persones of Inqueit, for thair forder informatioun of the pannellis giltines of the particular poyntis of Dittay aboue written, Protestis for Wilfull Error aganis thame, gif thay acquit.

VERDICT. The Assyse, for the maist pairt, FYLES *Margaret Wallace* of the *first* Article of Dittay,³ anent Cuthbert Greg, couper, and haill circumstances thairof: AND siclyk, all in ane voce, fyles hir of the *fourth* poynt of Dittay, and haill circumstances mentiouet thairintill, anent the consulting with vni¹⁶ Cris-

¹ Cut off, &c. Lat. *elidere*.

² The Montgomeries of Hazelhead, a respectable family in Ayrshire.

³ The Articles of Dittay of which the panel is found guilty, are rehearsed at length at the commencement of the Trial, being the only part of the Dittay preserved at full length in the Record. The remainder of the points are pretty largely recapitulated in the preceding arguments, which are of great importance, as they completely illustrate the state of the Law and practice on this extraordinary subject. More freedom of discussion was permitted in this Trial, than in any of the previous cases of a similar nature.

tiane Grahame, ane notorious Witche, for cureing of hir self of ane suddane diseafe, be taking the samyn of hir, and laying it vpon Alexander Vallange bairne; and thaireftir cureing the said bairne of the said diseafe, in forme and maner specifieit in the Dittay: AND lykwayis, for the maist part,¹ fyles hir of the *fyll* poynit, anent the cureing of Margaret Mure of the feiknes quhairwith scho was visseit, be Sorcerie and Witcheecraft, and consulting with Cristiane Grahame for that effect, in maner contentit in the said *fyll* Article: AND in lyk maner, all in ane voce, fyles hir of the *tent* Article of Dittay, and hail circumstances thair of, anent the feiknes laid vpon Alexander Boig his bairne, be Sorcerie and Witchcraft, in maner specifieit in that Article: AND last, all in ane voce, fyles hir of the generall poynit, as ane cowmoun confuler with Witches, thir aucht or nyne yeiris, namelie with vmq^{le} Cristiane Grahame, laitlie couvict and brunt for ane notorious Witche, and with Katharene Blair, and vther Witches, and feiken² of help and responssis of thame, allweill for cureing of hir self of dyuerse feiknesses, and cureing of hir freindis and acquaintance, as for inflicting of dyuerse crewall diseissis vpon dyuerse persones to quhome scho hur ony haitrent; and distructionne of thame thairby, be devillrie, Incantatioun, and Witchcraft, exprellie forbidden be the Lawis of Almychtie God, and municipall Lawis of this realme. AND CLANGES hir of the hail remanent poynitis of Dittay, and crymes thairin contentit.³

SENTENCE. The Justice, be the mouth of James M'cairtour,⁴ dempster of Court, Ordanit the said Margaret Wallace to be tane to the Castell-hill of Ed', and thair to be wirreit⁵ at ane staik to the deid; and hir body thaireftir to be brunt in asches: And all hir moveabill guidis to be escheit, &c.

Slaughter.

Mar. 27.—MR JOHNNE STEWART of Dowellie, and Thomas Stewart, his brother.

Dilaitit of airt and part of the Slaughter of vmq^{le} Johnne Low in Gairnetullie; committit vpon the xvij of Januar, 1614 yeiris.

PERSEWARIS, James Low, as brother; Andro Low, burges of Perth, neir kyufman; Sir W. Oliphant. PRELOCUTORIS in defence, Mr Luis Stewart, Mr Robert Lermouth.

It is allegit that this matter can nocht pas to ane Assyse, in respect thai haif obtenit his Maiesteis Remission, vnder his hienes Greit Seil, quhilk thay vse and produce, daitit the xxiiij day of Marche, 1618 yeiris.—The Justice ordanis the pannell to find caution to satisfie the pairties; quha, togidder with James Soutter of the Mylnetoun of Fornocht, band and obleist thame, &c.

¹ 'By a plurality of voices,' as it was more recently expressed. ² Seeking. ³ 'Johnne Laugoun, chancellor.' ⁴ Who appears for the first time in this office. ⁵ Strangled.

**Intercommuning with the MacGregors—Slaughter—Theft—
Fire-raising, &c.**

Apr. 23.—**JOHNE MOIR M'EANE** **CHERE**¹ **CLAMRONE** (Cameron), and **Duncane** (Moir) **M'eane Chamrone**, his brother.

Dilaitit of the crymes following, viz. The said *Johnne Moir*, ffor being in companie with vniq^{le} Allafter M'Gregour of Glenftra, Johnne Dow M'Gregour, his brother, and vtheris thair kyn and freindis, togidder with the Clan-Chamrone and Clan-Anveroche, and vtheris brokin men and foimeris, to the number of ffoure hundreth perfones, convocat in battell array, vpon the landis of *Glenfrune*,² pertening to the Laird of Lufe,³ in ffbruar, 1603 yeiris; quhair vniq^{le} Alexander Colquhoun of Lufe, accompaneit with certane his freindis, war convenit, at that tyme, be vertew of oure fonerane lordis Commiffioun, to refist the faidis M'GREGOURIS cruell interpryfes and intentiones. AND for airt and pairt of the fteilling and away-taking of sex hundreth ky and oxin, aucht hundreth fcheip and gait, fourtene fcor horfe and meiris, with the hail pleniffing, guidis and geir of the four-pund-land of Lufe, pertening to the inhabitantis thair of. AND felyk, the said *Duncane Moir M'eane Chamrone*, ffor being in companie with Robert Abroche,⁴ Johnne Dow M'allafter,⁵ and vtheris thair complices, ane aucht yeir fyne, or thairby,⁶ at the Slauchter of vniq^{le} James Menzies, brother to the Barrone of Comerie, and Burning of his hous;⁷ and fa was airt and pairt of the faid slauchter, and burning of the faid hous. TO THE TAIKIN,⁸ he hes confeffit that he paid thre hundreth merkis to the Barrone of Comerie and his freindis, in Allythement⁹ of the Slauchter and Burning; as at lenth is contenit in the Dittay.¹⁰

PERSEWAR, Sir Williame Oliphant; Johnne Colquhoun, indueller in Leyth, as informer.

The perfones on pannell, being enterit, declairit that nane of the freindis of the Barone of Comerie could perfew thame for the Slauchter of James Menzies; becaus thai had reffault fatisfactioun for the Slauchter and Burning, fra Duncane. And the said Johnne Moir confeffit his being at the ffeld of Glenfrune, bot denyis that he did ony fkyath thairat.

¹ John 'the large,' the son of John of 'the mouse colour.' ² See this Collection, II. 430, for an account of the Battle of Glenfruin, &c. ³ Luss, on the banks of Loch-Lomond. ⁴ M'Gregor. Named *Abroche* after his father Duncane, viz., 'of Lochaber.' ⁵ It appears from the Records of the Privy Council, that he was killed in February, 1611. ⁶ Robert Abroche received the Royal pardon, previous to December, 1612. ⁷ As the Menzieses were both interested and most zealously active in furthering the cruel persecutions directed against the Clan-Gregor, so they were particularly obnoxious to the vengeance of that Clan. ⁸ In testimony or *token* whereof.

⁹ That compensation shall thee nought avail,
Which erst necessity, not Justice gave;
Howe'er in others it be held sustainable—
But shall be quoted as sound proof of guilt,
And practical confession of thy crime.

Ancn.

¹⁰ The Dittay is not preserved on record.

The Justice Ordanis the Dittay to pas to the knowlege of ane Assyfe, &c.

ASSISA.

Johne Naper of Kilmahew,	George Nicoll, cuik in Ed',	Vmphra Colquhounne, indueller in
Johne Darleith of that ilk,	James Mitchell in Chapelton,	the Cannogait,
Johne Daniellfoun of Dal-	Johne Williamfoun, thair,	William Buchannane, thair,
quherne,	William Gow in Drymmene,	Adame Clerk, littler in Edinburgh,
Mungo Buchannane in Tillie-	Robert Moriefoun, burges of	Patrik Colquhoun, alias Cowane,
chevin,	Dumbartane,	tailzeour in Edinburgh,
W ^m Bantene in Auchinfolde,		George Mitchel, flabiler thair.

VERDICT. The Assyfe, all in ane voce, ffand, pronuncet, and declairit the saidis Johnne and Duncane to be ffylet, culpable, and convict of the crymes *respectiue* aboue writtin.—SENTENCE. To be tane to the Castell-hill of Ed', and thair, thair heidis to be frukin fra thair bodeyis; and thair guidis to be efeheit and inbrocht to his Maieftis vse, &c.

Suborning of Witnesses—Perjury.

Jun. 22.—ANDRO TRUMBLE in Belfches, Robert Ker in Bewlie, James 5oung in Belfches, and David Trumble in Lustruthir.

Dilaitit of Suborning of Witneffes, and for beiring of falsfe-witneffing.

My lord Aduocat producet the Dittay, with ane Warrant direct to the Justice be the Lordis of Sessiou, for putting the pannell to the tryell of ane Assyfe, for the crymes spacificit in thair Dittay.¹

ASSISA.

Gilbert Ker of Lochtour, William Ker of Lyntoun, Johne Glendonynng of Drumrafche, George Kincaid, mercheand in Edinburgh, Mr Thomas Ker, fone to the Guidman of Yair.²

My lord Aduocat takis instrumentis of the sueiring of the Assyfe; and for verification of the Dittay, producet the Depositiones maid in presens of the Lordis of Sessiou, subferyuit be my Lord of Melrois,³ *in presetia Dominorum*; And also, producet ane Deereit of the saidis Lordis, vnder the subfcription of Mr Thomas Hay, clerk, daitit the xxij of Junij instant, finding and declairing the said Andro Trumble to be a periured and fals man, and ane corrupter and seducer of Witneffes to depon falslie; and also, finding the saidis Robert Ker, James 5oung, and David Trumble, Witneffes foirfaidis, seducet be the said Andro, to be in lyk maner perjuret and falsfe Witneffes; in respect, thay first declairit be thair solemne aithes, that thair war nawayis seducet, be the said Andro Trumble, to beir fals wities in his cause of Spuilzie, perfewit be him aganis William and Walter Mydilmestis; and thaireftir, being mair straitlie and narrowlie examinat, confessit the verritie of the said seduction, and the falsset of thair Depositiones. And vpon the production thair of, akit infrumentis, and

¹ The Dittays are so extremely prolix and uninteresting, that it has not been deemed necessary to insert them here. ² The rest burgesses. ³ Sir Thomas Hamilton of Binning, &c. afterwards Earl of Hadington, Lord President of the College of Justice, &c. one of the greatest men of his time.

proteffit for Wilfull Error aganis the saidis perſones of Aſſyfe, gif thay acquit ; ſpeciallie, in reſpect of the pannellis offering thame in his Maieſteis will for the ſaid crymes.

VERDICT. The Aſſyfe, all in ane voce, be the repoint of Nicoll Edzer, mercheand burges of Edinburghe, Chancellor, ſtand, pronoucet, and declairit the ſaidis Andro, Robert, James and David, to be flyet, culpable, and convict.—**SENTENCE.** The ſaidis *Andro Trumble, Robert Ker, and James Young*, to be tane to the Caſtell-hill of Edinburgh, and thair to be Hangit quhill thai be deid ; and thair haill moveabill guidis to be eſcheit to his Maieſteis vſe.—And the ſaid *David Trumble* to be tane to the Mercat-croce of Edinburghe, and thair his tounge to be pearcet with ane hett boitkyn : and thaireſtir Banifchet this reahne, and nocht (thaireſtir) to be fund thairintill, vnder the pane of deid.

ASSISORS, ſued for being abſent.

SIR WILLIAME McDUGALL of M'cairtoun, Sir Johnne Scott of Newburgh, Raulf Ker, bailzie of Lander, Sir Robert Scott of Thirlſane, Williame Johnnetoun of Lockerbie, Williame Borthuik, elder of Johnſtoun-burne, Sir Archibald Murray of Blakbarrony, Mr Johnne Home of Swanſcheill, James Fairbairne of Weſt Gordoune, Johnne Elphingſoun of Schauck, Alexander Craufſoun of Morieſtoun, Johnne Craufſoun of Thornydykis, Sir Robert Scott of Hayneing, David Vauſe of Blaufe, Williame Home of Hardeſimylne, Williame Bennet, ſeruitour to the Erle of Roxburgh, Johnne Symontoun, younger, of that ilk, Gilbert Ellote of Stobis, Robert Logane, ſciar of Bonnytoun, Mr Johnne Ker, clerk of Selkirk, Adame Gairdin, mercheand,—and twelve others, mercheands,—' ilk ane of thame, for thair nocht compeirance, to pas vpon the ſaid Aſſyfe, war vnlawit in the pane of ane hundreth merkis.'

Taking captiue—Scourging—Slaughter, &c.

JUN. 26.—SIR WILLIAME KEYTH of Ludquhairne, kny', and Hew Charteris, his ſervand.

Dilaitit for allegit airt and pairt of the Taking and Apprehending of Alexander Pedder, myller at the mylne of Feachfeild, vnder nycht, furth of his duelling hous, mother-naikit as he was borne : and for cayreing him, as ane captiue and priſoner, to the Place of Feachfeild, and breking vp of the zettis and durris of the ſaid place ; ſcurgeing him with ſuord-beltis and horſe-brydillis vp and down the hall thairof, to the eſſuſioun of his bluid. AND ſielyk, for allegit airt and pairt of the daith and Slaucher of vmq^{le} Andro Fraſer, ane young infant bairne, ſone to Andro Fraſer, younger of Mukallis : AND for contraveining the Actis of Parliament, in beiring and weiring of hagbutis and piſtolettis PERSEWARIS, Andro Fraſer, younger of Mukallis, as father ; Alexander Pedder, myller ; Sir Williame Oliphant of Newtoun, kny'. Aduocat to our ſouerane lord, for his hienes entreis.

PRELOCUTORIS in defence, Mr Thomas Hoip, Mr Roger Mowat.

Compeirit the ſaid Sir Williame and his ſervand, togidder with the ſaid prelocutouris, and exponet and declairit, that thai war informet, Criminall Letteris

war direct out aganis thame, vpon threfcoir dayis wairning, at the instance of Andro Frafer, &c. chargeing thame and certane vtheris¹ to find caution for thair personall compeirance this day and place, in the hour of caus, to vnderly the law for the above allegit crymes : For obedience of the quhilk charge of Hoirning, and tryell of thair innocencie of the saidis allegit crymes, the said Sir Williame Keyth, and Hew Chairteris, compeirit and offerit thame felfis of the Law, as altogidder innocent thairof. And in respect na pairtie compeiris to infist in thair perfute, being oft tymes callit to that effect, protestit for thair cautioneris relief, and that thai, na name of thame on nawayis fould be callit or perfewit for the saidis allegit crymes, in ony tyme cuming ; and thairupoun akfit instrumentis.

Johnne Forbes, eldest sone and appeirand air to Mr Duncane Forbes of Bannagask, as cautioner and souertie, for repointing the above Letteris, denlie execut and indorfate, and perfute thairof, &c., vnlawit vnder the panes following, viz. vpon the said Sir Williame Keyth, and Nathaniell Keyth of Coklaw, ilk ane of thame vnder the pane of v^c merkis ; and vpon ilk ane of the remanent defenderis, in the pane of ane hundreth merkis.

House-breaking—Theft.

JUL. 3.—ANDRO RUTHERFURD, sumtyme seruant to Mr James M'Gill of Cranstoun.

Dilaitit of airt and pairt of the breking of the said Mr James M'gillis Place of Cranstoun, and breking vp of ane kist,² within the Woman-hous³ thairof, pertening to Malie Newlandis, and steilling xxx li. furth thairof ; committit in Maij last.

The pannell offerit him felf in the Kingis Maiestie and the Laird of Cranstones will, for the said cryme : Quhairvpon, the Justice ordanit him, of his awin consent, to be Banischet the parochin of Cranstoun ; and at na tyme heirefter to be fund thairintill, vnder the pane of deid. And ordanit him to find caution for his compeirance vpon fyftene dayis wairning, to vnderly the law for the said cryme, gif in ony tyme cuming he beis fund within the said parochin ; quha fund Thomas Rutherford in Borthiuk-manes caution for that effect.

Fire-raising—Slaughter,

JUL. 24.—DONALD M'ANGUS of Glengarie.

¹ There were ' Nathaniell Keyth of Coklaw, Williame Keyth, sone to Alex. Keyth of Bodome, Robert Marshell, Gilbert Wairdene, Gilbert Huchoun, and Alexander Forbes, all seruitouris to the said Sir Williame ; Johnne Keyth, sone to Alex. Keyth, vnclie to the said Sir Williame, George Keyth, callit *Caitanes*, George Johnne Dow M'farlane, Alexander Fordyce, and Thomas Murray, seruitouris to the said Nathaniell Keyth, vnclie to the said Sir Williame.' ² Chest. ³ Probably that part of the Offices of Cranstoun, where the female domestics resided.

Dilaitit of the trefsonable Raifing of fyre, Burning of xxvij Houffes, with the inficht being thairin, pertening to Mr Johne M^cKenzie, Archedeane of Rofs; and Slauchter of dyuerfe his tennentis.

PERSEWAR, Mr Johne M^cKenzie, Archedene of Rofs.

The perfewar paffis fra the pannellis perfute *pro loco et tempore*, for the crymes contenit in the Letteris.

The pannell offeris him felf to the tryell of the law for the faidis crymes, as altogidder innocent; and difaffeutis to the faid continuatioun. And for obedience of the Justice ordinance, stand Sir Donald Gorme of Slait, kny^t, personallie present, cautione for his entrie, to the effect foirsaid.

Resetting of a Jesuit-Priest.

Aug. 6.—ANDRO HATHOWIE, burges of Glesgow, and Jonet Pollok, his spon.

Dilaitit of the trefsonabill Receipt of George Mortimer, ane Jesuite Preift, &c.¹

VERDICT. The Assyse, be pluralitie of voittis, be the repoint and declaratioun of George Moore of Powmadie, chanceller, stand the faidis Andro and Jonet to be sylet, culpable, and convict, &c.—SENTENCE. The Justice, conforme to ane Warrant of the Lordis of his Maiesteis Secreit Counfall, decernis and ordanis the faidis *Andro* and *Jonet* to be Banischet furth of this kingdome of Scotland, during all the dayis of thair lyftymes: And to be committit to waird, thairin to remane, quhill caution be fund to the Proveist and Bailleis of Glesgow, for obedience of the faid dome, and thair nocht returning agane; vnder sic panes, as fall be set down be the faidis Proveist and Bailleis, in thair Act to be maid thairupoun.

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

Thrift.

Sep. 20.—HENRIE KYNLOCHE, sumtyme post-maister, indueller in the Cannogait.

Dilaitit of the thiftious steilling of ane blak cloik, lynet throw with blak veluet, ane grograne taffitie cloik, lynet with figuret fatene, and tua pair silk schankis, pertening to Alexander Lord of Kildrymmie, furth of his Place, at the bak of the Palice of Halyruidhous; committit in November 1621 lastbypast.

The pannell confessis the cryme speifeit in his Dittay, with all humilitie: Seing the gudis stowin ar restorit to the rycliteous owner thairof, offeris him felf in the Kingis Maiestie and his hienes Counfellis will, for the faid cryme.

WARRANT of the Lordis of Secreit Counfall.

APUD HALYRUIDHOUS, *decimo quinto mensis Maij*, 1622. FORSAMEKILL AS Henrie Kinloche, sumtyme post-maister in the Cannogait, being tane and put in waird, within the Tolbuthe of the Canno-

¹ The Dittay, which is recorded at length, is similar to those already reported.

gait, quhairin he presentlie remanis, for certane poyntis of Thift committit be him : Off the quibilis, necessar it is that he be tryed, and that some pwnschment be inflictit vpon him, to the terrour of vtheris to offend in the lyk heireftir. Thairfoir, the Lordis of Secreit Counfall Ordanis his Maiesteis Justice, Justice-clark, and thair deputis, to appoint ane Justice Court to be holdin in the Tolbuthe of Edinburge, at suche ane day as thay fall think expedient ; and to caus the said Henrie to be exhibeit and product befor thame ; and thair to accufe him of the said cryme of Thift, according to the per-tiencr Dittay, that fall be gevin in aganis him. And Ordanis his Maiesteis Aduocat to intit in the perstue of him ; and gif the said Henrie fall confes the said cryme, and become in his Maiesteis will for the fame, that than thay pronounce dome and fentence aganis him, ordaning him to be Banit the realmes of Scotland and Ingland, and nevir to returne agane within the samyn during his lyfytyme, vnder the pane of deid.

Extractum, &c.

JACOBUS PRYMOIS.

SENTENCE was pronouced in conformity to this Warrant.

'Rapt and Ravisching'—(Forcible Abduction)—Adultery.

[THE following brief notice of an ancient *Crim. con.* Case, affords a specimen of the mode in which affairs of gallantry were managed in the Western Islands and Highlands of Scotland. Sir LAUCHLAN M'FINGANE (MACKINNON) of Strathardill, having fallen in fancy with *Mary M'Connell (MacDonald)*, the wife of *Ranald of Benbecula*, makes the best use of his winning arts, and carries off the lady, by violence, from her husband. It would appear, from the charge of Adultery being also preferred against this knight errant, that the consent of the lady had in all probability been previously obtained to the arrangement. *Ranald M'Allan V'Ear*, the injured husband, was brother to *Donald M'Allan M'Ear*, CAPTAIN OF CLANRANALD, and grandfather of *Donald MacDonal of Benbecula*, who became Captain of Clanranald, anno 1725. This gay and *captivating* deceiver, Sir Lauchlan, was one of several Hebridian Chiefs, who had been knighted by KING JAMES VI, in the latter part of his reign, to ensure their more ready acquiescence in the schemes so zealously projected by him, for the civilization of their semi-barbarous tribes. A Gift of his Escheat was granted by the King, Dec. 12, 1622.¹

The Editor begs to refer the reader to the forthcoming work of Mr GREGORY, already alluded to, for more copious illustrations of matters connected with the Hebrides and West Highlands.]

NOV. 8.—SIR LAUCHLANE M'FINGANE of Strathardill, kny^t.

Dilaitit of the Rapt and Raveischieng of Marie M'comeill, sifter to Sir Donald M'comeill of Slait, and spouse to Rannald M'allane V'eanne of Casteltwirrie,² committing Adulterie with hir, and remanent crymes contenit in the Letteris.

James Logie, wryter, product the Letteris deulie execute, indorfate, and regiftrat ; quhairby the said Sir Lauchlane is denuncet rebell, and put to the horne, for nocht finding of caution, to haif compeirit to haif vnderlyne the law.

Slaughter.

Mar. 12, 1623.—WILLIAME OLIPHANT of Gask, and Alexander Fleming of Monnefs.³

Dilaitit of airt and pairt of the Slauchter of vmquhile David Toscheoch of Monyvaird.⁴

¹ See Record of the *Privy Seal* and *History of the Macdonalds*. ² Castletirrim. ³ Peter Oliphant of Rescobie, and Johane Erle of Wigton, cautioners for the pannels' entry. ⁴ See Jul. 29, 1618, &c.

Compeirit Mr James Campbell, sone to the Laird of Laweris, for him self, and in name and behalf of the remanent kyn and freindis¹ of the said vniq^e David, and in name of Annas Grahame, Lady Monyvaird, and past fra the said Williame Oliphant of Galk his perfute, *pro loco et tempore*.

Compeirit personallie, Mr Johnne Oliphant, as procuratour for Williame Oliphant of Galk, and productet ane Warrant and delyuerance of the Lordis of Secreit Counfall, commanding the Justice to defert the dyet appointit this day for the said Williame Oliphant; quhairof the tennour followis.

WARRANT of the Secreit Counfall, concerning Williame Oliphant of Galk, for Monyvairdis Slauchter.

MY LORDIS OF SECREIT COUNSELL, vnto your ll.^s humble meanis and schawis, I, your seruitour, Williame Oliphant of Galk: That quhair, I am charget to compeir befor his Maiestis Justice, in the Tolbuth of Edinburgh, vpon the xij day of Marche instant, to vnderly the Law for the Slauchter of vniq^e David Tojcheche of Monyvaird, and vtheris crymes spicifit in the Letteris raiffit thair-upoun. Lyk as, the Justice intendis to proceede aganis me in that matter, albeit it be of verrite that HIS MAIESTIE, being treulie informet of the forme and maner how that vnhappy Slauchter fell out, and how that dyuerse come to the fray quho war bothe ignorant and innocent of the Slauchter, and wald haif bene lothe to haif bene actoris thairin, or to haif medlit thairwith; HIS MAIESTIE was pair-upoun gracioullie pleasit, by his Letteris writtin and direct to your Lo., to recommend to your Lo. the settling of that ffeid² by some amicable and freindlie dresse, and by making of siche Assythement³ and satisfacioun, as convenientlie may be performed: AND in the meane tyme, it was his Maiestis expres will, and speciall command, and direction vnto your ll., that all proces Criminall and Ciuill aganis me, for that cause, sould rest and ceis, till some generall courle war concludit vpon and tane in that matter: As his Maiestis Letter, exhibeit vnto your ll. in the sex hundreth and nyntene seir of God beiris. ACCORDING quhairvnto, your Lo. hes nocht onlie gevin Warrant to defert findrie dyettis, quhilis formerlie war appointit for my tryell in this matter, bot with that your ll. tooke verrie grit panes, in tua or thre feerall dyettis, to haif settled this ffeid, and causid wairne ane grit number of Monyvairdis speciall freindis to that effect: And at þir dyettis your ll. causit satisfacioun to be maid to Doucane Campbell and David Malloche, who war bothe deidlie hurte and woundit at the slauchter of Monyvaird, the one haiveing his hand cut aff, and þe vther being deidlie woundit in the heid; bot anent þe satisfacioun for Monyvairdis Slauchter, whairin thair was verrie honorable Offeris maid; the same was callin af, be refone of Young Monyvairdis minoritie, his freindis in the mean tyme refusing to medle þairin, or to tak burding for him; tua that þe nocht settling of this buffines proceedis nocht from the default or vnwillingnes of the offenderis, quho in heart and affection wold do mair nor goodlie they may in þat matter, bot frome the refusall of Monyvairdis freindis to deale thairin, during his minoritie. IN consideratioun quhairof, I man⁴ maist humlie besekit your ll. to geve command to the Justice, Justice clerk, and þair deputtis to defert þe said dyet, and to defil and cease fra all proceeding aganis me or my cautioneris pairintill; discharginge thame þairof, and of þair offices in that pairt, till some generall courle be takin for þe finall settling of that ffeid. And your ll. anfuere. (followis þe delyuerance on the bak þairof.)

APUD EDINBURGHE, 27 Marcij, 1623. FIAT ut petitur,

GEO. CANCELL. MAR. MOIRTOUN. WIGTOUN. ROXBURGH. MELROIS.
LAUDERDAILL. R. COKEURNE. ALL HAMMILTOUN. J. PRYMROIS.

THE Justice, for obedience of the said Warrant, and command thairin, Ordanit

¹ Blood-relations. ² Lordships. ³ Feud. ⁴ Compensation or *solatium* paid to the deceased's nearest of kin, on account of being deprived of their relation. ⁵ Must.

the said dyet to DESERT aganis the said *William Oliphant*: AND of consent of the said Mr James Campbell, continewis the dyet aganis *Alexander Flemyng of Monnes*, to ane fyftene dayis wairning; and cautionn to be fund be him for his entrie to that effect.

Johnne Erle of Wigtoun of new becomes cautionn for the said Alexander, to enter him befor his Maiesteis Justice or his deputis, the thrid day of the nixt Justice-air of the scherefdome quhair he duellis, (Perthe,) or soner, vpon xv dayis wairning, &c.

Slaughter.

JUN. 4.—THOMAS GOWDIE, mercheand, burges of Dumfreis.

Dilaitit of airt and pairt of the Slauchter of vni^{le} Harbert M'kie, younger, in Dumfreis; committit vpon the last day of December lastbypast; be geving to the said vni^{le} Harbert M'kie, at the Brig-end of Dumfreis, of ane grit and deidlie fraik, with his fute, in the said vni^{le} Harbert his secreit pairtis; ane vther, at the left pape, vpon the heart; and ane thrid, on his left schoulder, quhairby his schoulder-bayne was strukin out of joynt: Off the quhilkis straikis he nevir convalessit, bot being instantlie borne hame to his hous, tuik bed; quhairin he lay bedfast, in grit dollour and payne, of the saidis hurtis, vnder the cure of chirurganes, be the sspace of tuentie dayis thaireftir; and, in end, vpon the xxvj of Januar thaireftir, now bypast, he deceffit of the saidis hurtis and woundis.

PERSEWARIS.	PRELOCOUTOUR	PRELOCOUTOURIS
Katharene Edger, relict;	for the persewaris.	in defence.
Agnes Maxwell, mother;	Johnne Maxwell of	Mr Lueis Stewart,
Eduard and Johnne M'kie, his	Conhathie.	Mr Thomas Nicolfoun,
tua brether.		younger, Advocattis.

The pannell, eftir reiding of the Dittay, to informe the Justice of the secreit proceedingis of thir persewaris, and how maliciouslie thai proceed aganis him, declairis, that thair was nevir querrell nor discoird betuix him and vni^{le} Harbert M'kie, for quhais slauchter he is wrangullie and unjustlie persewit; bot as the treuth is, ane contraverse falling out betuix ane Thomas Craik and the pannell, in craveing of ane sosome of money addetit be Craik to him, and sum woirdis and dry cuffs¹ being gevin be ather of thame to vther, the Bailzie of the Regalitie of Lyncluden, viz. Johnne Maxwell, brother to Kirkconnell, within quhais Regalitie the contraverse fell out, for putting the pairteis to quyetnes, commandit thame to waird, quhill cautionn war fund for keiping his Maiesteis peace; quhairvpon, the said vni^{le} Harbert M'kie, with ane number that assistit him, laid handis vpon the pannell, brocht him, with grit violence, to the Waird-

¹ Dry blows, i. e. upon which no blood had followed; fisty-cuffs.

hous, pat him in the stokis; and becaus the buittis that was than vpon his legis wald nocht, convenientlie, be flowit and placet within the hoillis of the stokis, thai maist infolentlie strak him vpon his bak, dung down the over¹ bar of the stokis, and dancet thairpoum with thair feit and kneis, as also vpon his breift and bellie, quhairthrow he was almost confoundit in that painful agony. And quhair, in the Dittay, it is allegit, that thair wes straikis gevin to the said vni^{le} Harbert, quhairof he deceiffit; the verritie thairof is, that ane yeir or thairby, of befor, he being strukin in at the left pape be ane Ahannay, with ane durk, a fevin inches or thairby, with grit difficultie was than curet, bot never fullilie convalescit; sua that the corruption² gadding within the wound, raifit vpon him ane new fever, quhairof he deceiffit; as is sufficientlie knawin to the haill country. Lyk as, it was declairit be the said vni^{le} Harbert to dyuerse inhabitantis of the said burgh of Dumfreis, that, lang befor that contraverfie of the pannellis, he was strukin in the secreit partis, quhilk he ever declairit would be his deid. And sa, the premisses being confidderit, the said perfute is maist wrangullie inventit, and vpon greid of geir to be obtenit of this pannell be thir schameles perfewaris; and, vnder cullour of justice, thay haif followit furth this perfute aganis him, albeit the defunct him self, in prefens of his chirurgane and vtheris, cleirlie absoluit and fred the pannell of all perfute done to him.— Quhilk being premitit,³ for informatioun, it is allegit be the pannell and his prelocutouris, that this Dittay can nocht pas to ane Assyte, becaus the said vni^{le} Harbert M'kie, the persone allegit slane, the tyme lybellit of his slauchter, was rebell and at his Maiesteis horne, for ane criminall cause, viz. ffor nocht compeirance befor his Maiesteis Commiffioneris within the Tolbuthe of Jedburgh, vpon the tventie sevint day of Apryle, I^m. Vj^c. and nyntene yeiris, in ane Justice court, haldin be thame the saidis day and place, to haif vnderlyne the law for beiring and weiring of hagbuttis and pistolettis, and contravening the Actis of Parliament maid thairanent. And for verificatioun thairof, producet the Letteris of Hoiring, &c.

Continued to the thrid day of the nixt Justice-air of Dumfreis, &c.—The said Thomas Goudie, defender, be his aithe gevin, declairit that he dred⁴ bodelic harme of the said Eduard M'kie, ane of his perfewaris; and thairfoir desyret caution and lauborreis of him, conforme to the ordour, vnder sic pane as his lordschip fould pleis modifie. Johnne Maxwell of Conhaithe become souertie, &c., vnder the pane of fyve hundreth merkis money, *toties quoties*.

Slaughter of two MacFarlanes—Barbarous Torture and savage Murder of a Buchanan by some of the Clan MacFarlane.

[In the whole range of the Criminal Records of this country, remarkable though they unquestion-

¹ Upper.

² Purulent or corrupted matter.

³ Premised.

⁴ Dreaded.

ably are, the Editor believes it would be difficult to point out a Case possessing incidents of such varied and frightful interest, as those brought forward, so prominently, in the following Trial. It is not his intention, in this place, to recapitulate the leading facts of the present truly horrible Case. He has not been able to throw much additional light upon the facts recorded in the Books of Adjournal from contemporary documents. All that he at present deems worthy of remark is, that *tradition* has preserved pretty accurate outlines of the general features of this 'Romance of real life' in the district where they occurred—an additional proof, were such requisite, of the fidelity with which historical and extraordinary events are handed down, from father to son, in THE HIGHLANDS OF SCOTLAND.

The only Paper which the Editor has discovered, illustrative of the other side of the question, is the 'SUPPLICATION,' preserved among the Warrants of PRIVY COUNCIL, which is appended to this Trial. That document is given here as an act of common fairness to the CLAN MACFARLANE. The reader is left to draw his own conclusions as to the relative demerits and guilt of the several parties.]

Jun. 6.—GEORGE BUCHANANE, in Gartincaber; Johnne B., his sone; Patrik B., sone to George B. of Archinar (Anchmar); Patrik M'wreift, his fervand; Johnne Beg Buchannane, in Ballindewar; Johnne B., his sone; Johnne Keir, in Gartnahinch;¹ Thomas Buchannane, in Drougie; and Archibald B., his brother.

Dilaitit of airt and part of the Slauchter of vmq^{le} Duncane M'farlane, sone to Andro Moir M'farlane, in Vonellene; committit vpone the lastt day of Apryle laft, within the toum of Kippienoche, in Drummond, in the LENNOX.

PERSEWARIS.	PRELOCUTOURIS	PRELOCUTOURIS
Robert and Thomas M'farlane, as brether;	for the persewaris. The Young Laird of M'farlane;	for the pannell. Alexander Douglas of Maynes;
Sir Williame Oliphant, kny'.	Mr David Prymrois.	Mr Robert Nairne.

Compeirit the said Robert M'farlane, &c., and product the criminal letteris, deulie execute and indorfate, vpone the hail perfones defenderis aboue writtin; and offerit thame selfis reddie to perfew the defenderis for the said cryme, and defyret proces.

The said Alexander Douglas of Maynes, cautioner for the entrie of the hail defenderis, with Mr Robert Nairne, Adnocat, product ane WARRANT and command to the Justice, proceeding vpone the following

SUPPLICATIOUN, *gerin into the Lordis of Secreit Counfall, be the joirsaidis hail defenderis, and in their names.*

MY LORDIS OF SECREIT COUNSALL, vnto your Lo. humilie meanis and schawis WE, your feruitouris, PATRIK BUCHANNANE, appeirand of Anchmar; George Buchannane, in Gartincaber; Johnne Buchannane, his sone; Johnne Buchannane, in Ballindorne; Johnne Buchannane, his sone; Thomas Buchannane, sone to vmq^{le} Williame Buchannane, in Blairneborg; Archibald Buchannane, his brojer; Donald Keir, in Gartnahinche; and M'caula, ferui-

¹ Perhaps for Gartranich, or Gartrahnich.

tour to the said Patrik Buchanane: THAT quhair, the fast day of Junij instant is appointit vnto ws for our compeirance befor the Justice or his deputtis, in the Tollbutth of Edin', to vnderly the law for the Slauchter of vniq^{le} Duncane M'farlane, sone to vniq^{le} Andro Moir M'farlane, in Kipnoche: Lyk as, the Justice intendis to proceed aganis ws in the said matter, althocht it be of verritie, that gif your ll. war informed of þe certane treuth of this bussines, how and vpon quhat grund and occasioun the Slauchter fell out, and quhat just caus of wraith and displeasour was gevin to vs thairin, we persuaid our sellis that your lo., in honour and justice, wald nocht think this perfute to merit ony fauour: FOR the treuth is, that þe said vniq^{le} *Andro Moir M'farlane*, quho, during the whole course of his unhappie lyfe, was knowin to be ane notorious Lyk and lymmer, haifing flowin sum goodis frome certane of his Maiesteis guid subiectis in THE LENNOX, sone foure or fyve 5eiris since, or þairby; and þe said vniq^{le} *William Buchanane*, out of his trew haitrent and detestatioun of siche theviche doingis, haifing maid sone inquerie, and having taue panes and travell to speir out and try the goodis, in end, he tryed the goodis to be stowin be the said vniq^{le} *Andro Moir M'farlane*, who, by course of Justice, was constraed to mak redres and satisfacioune for the same: AND the said vniq^{le} *Andro*, haifing confaet ane deidlie haitrent and malice aganis þe said vniq^{le} *William* for speiring¹ of thir goodis, he resolued, out of the pryde and malice of his wikked heart, to be revenged vpon him, eftir þe most detestable and crewall maner that the heart of him could devyfe: And knowing that the Gentilman was accus-tomed at sone tymes, for his recreationne and pastyme, to go to þe hunting, in þe Mure about the Ducher, he maid chosc and took hold of that occasioun to do his turne; and haucing, be sone previe moyane, bene maid acquentit with þe Gentilmannis dyet for his pastyme, he, accompancit with his tuo sones, and fewin or aucht vtheris lawles lymmaris,² come to the said Mure, and lay at await for the Gentilman; and howsone he come þair, about aucht of þe cloke in þe moirning, without ony company bot foure hunting doggis, thay layed handis vpon him and band him fast, that he mycht not fleir; and haifing consultit amang thame sellis, eftir quhat forme and maner thay sould dispatche him, thay resolued, in end, that his presumptionne and malapeartnes to speir out þe saidis goodis deserued ane extraordinar deathe, by torture; quhilk thay maid him to vnderly, the space of ten houris, in maner following, to wit: Thay band him fast to ane trie, at the said hour of aucht in the moirning; and everie hour thaireftir, till sax at nicht, quhilk maid vp ten houris, thay gaif him thre crewall straikis with ane durk, in siche pairtis of his body as war nocht to bring present daithe; and haifing this way maggillit him with threttie straikis, till þe full number of

¹ Enquiring; searching after.² Thieves; worthless characters.

ten houris war outrwn, thay than gaif him þe laft deidlie fraik, at the heart ; quhairwith he fell deid to the ground ! And haifing tირed¹ him naked, becaus his towng was the instrument quhairby, as thay alleged, he offendit, in speiring out of þe former stowin goodis, thay cuttit his throte, tooke his toung out of his heid, slew his foure dogis, cuttit aue of thair toungis out, and pat it in the Gentilman his mouthe ; and pat his toung in the dogis mouthe : And nocht content heirwith, bot the forther to fatisfie þair inhuman and barbarous crewaltie vpon the naked corpis, thay slitt vp his bellie, tooke out his whole intrallis, and pat thame in aue of the dogis belleis, eftir thay had opuit the dogis bellie and tane out his intrallis, quhilkis thay pat in þe Gentilmannis bellie : And so left him lyand naked, and the foure deid dogis aboue him ; quhair he lay aboue the eard the space of aucht dayis thaireftir, or² he was found : FOR the quhilke detestabill butcherie and Murthour, thir lymmeris being callit to thair tryell, befor his Maiesteis Justice, thay tuik the cryme vpon thame, and past to the horne ; quhairat the said *Andro* remainit till þe hour of his deathe, and the rest of his complices remanuis pairat as ȝit : Aganis quhome ȝour Lo. past aue ampill Com-miffioun, for þe persute of thame with ffyre and fuord. AND quhair as, this detestable and moir than barbarous Murthour fould haif bred, in the heart and confcience of thois lymmeris, some remorse and fealling of this syn, and aue abstinance and forbearance frome all forder impietie, ȝit þe said *Andro* continewit in his accustomet thevische trade of Thift, Reaffe, and Oppressioun, and could nevir be reclaimed pairfra, till the hour of his deathe : AND, for his last Thift, he, a littill befor his deathe, staw an ox fra me, the said *George Buchannane*, and cayreid the fanyn to aue Houfe in ,³ quhair he and his wyfe hes thair ordiner reffett ; and how-sonne we vnderstuid of the steilling of the ox, we followed the tred⁴ directlie toward the said houfe ; and haifing send for the *Erle of Pearth*⁵ his Officer, to assist ws in rypeing⁶ of the Houffes pair-about, the lymmar and his said sone, being in the Houfe foirsaid, and pair guiltie confcience standing vp aganis thame, as aue burreau⁷ to tak vengeance of thame, thay disguiset þame selffis in weamenis apparell, and preift⁸ to flie away ; whilk being persaued be ws, and we thinking that thay keipit nocht þe ordiner paife of women, and ȝitt nawayis suspecting that thay war the lymmaris, we followit, in a soft pace, to remark quhat course thay held ; and the said *Duncane Mfarlane*, luiking over his schoulder, and seing ws follow, he turnes about, and presentit aue lang hagbute at ws ; quhilke being fyred, by the Providence of God, misgaue : And with that, he and his father drew pair fuordis, and come dryveand

¹ Violently stripped, by tearing off the clothes. ² Ere ; before. ³ Left blank. ⁴ Tread ; foot-marks—probably by means of the *sleuth-hound*, or blood-hound. ⁵ As Lord of the Regality, whose Bailie would, upon application, grant warrant to search, &c. ⁶ Searching. ⁷ Fr. *bourreau*, a hangman ; an executioner. ⁸ *Pressed* ; made every effort.

vpone ws with all pair force ; and or evir we preift to perfew thame, thay gaif me, the said *George*, aue deidlie straik, whairat thay strak me deid¹ to the grund, and in the opinioun of the rest of my companie I was a deid man ; and thay hurt and woundit vther thre of ws : And sua, we finding no longer tyme, with furetie, to be beholdaris and fufleraris, we tuik ws to our just and lauchfull defence, quhairin the vnhappie lymner was worthielie flane, and his sone, who vnhappielie was in companie with him, and who maid the first onfet with his hacquebut or entir we knew quhat he was, was lykways killed ; the fader being rebell and at the horne for þe Murthour foirfaid, and he and his quhole bairnis being þe most notorious lymneris of that Clan. AND howeir it may be obietit, for þe pairt of þe young man, that he was nocht accessour to þe Murthour foirfaid, and that he fould nocht be pwneit for his fatheris deid, it is of trenth that continewallie sen þe fader was rebell for the Murthour foirfaid, the said *Duncaue*, his sone, remanit and attendit vpone him, was airt and pairt with him in all his thevische and wicked deidis ; and in assisting and taking pairt with his fader aganis ws, in our just and lauchfull defence, was flane : At quhose lyke-walk, that nycht, the ox foirfaid, stowin be þe fader and þe sone, was flane and eittin.

THIS being the trew and simple discourse of all that hes past in this buflines, We humblie present the samyn to 5our Lo. consideration, quhairby 5our Lo. may perfaue how mischantlie² and barbaruslie the innocent and hermeles Gentilman was murdreift and flane, and quhilk was þe ground and occasioun of the succceeding slauchteris ; quhairin, becaus pair is grit appeirance of disorder to arryfe, to the disturbance and brek of þe peace of þe countrey, feing THE CLAN-FARLANE gois about pair privat revenge, and our freindis [THE BUCHANANS] ou þe vper pairt, will be cairfull of pair awin defence : We will humlie besaik 5our Lo. to tak siche course and ordour heirament, as 5our Lo. fall think fitteft for the peace of þe Countrey ; and we, for our pairtis, will be willing to vnderly quhateuir 5our Lo., in honnour and justice, fall prescrive to ws. And becaus this can nocht be done vpone the suddane, bot will requyre some tyme and lafoure to be tane ordour with and satled ; We most humlie besaik 5our Lordschipis to geve command to þe Justice, Justice-Clerk, and pair deputis, to DESERT þe said dyet, and to desift and ceis fra all proceeding aganis ws thairin, or calling of our cautioneris for our entrie ; discharginge thame pairof, and of pair offices in that pairt : Quhairament þir presentis fall be pair Warrant.

AND 5our Lordschipis humlie I besaik.

ORDINANCE of the Lordis of Secret Counfull, on the above Supplication.

APUD *Halyrudhous*, quinto Junij, 1623. THE LORDIS Ordanis and commandis the Justice, Justice Clerk, and pair deputis, to continew the dyet within writtin to þe xiiij day of Junij instant :

¹ Insensible ; in a dead swoon.

² Old Fr. *meschantement*, wickedly.

And Ordanis thir complineris to mak OFFERIS to the pairtie, and to present the Offeris to þe 50UR LAIRD OF M'FARLANE, yf he be in the toun, and to þe ſpeciall freindis attending this dyet, quhome the ſaidis Lordis Ordanis to remane in this toun of Edinburge till ſome ordour be tane for ſating of the matter within writtin, and for the peace and quyetnes of þe Country. And Ordanis the Juſtice to diſpens with the perſonall compeirance of þe pairtie, vpon new cautionn, conforme to þe ordour.

GEO. CANCELL^s, I. P. D.

And thairwith alſo product OFFERIS, in writt, conforme to the Ordinance about writtin; quhilk was preſentit be *the Young Laird of Buchanane* to the Juſtice, to be delyuerit to *the Young Laird of M'Farlane*, alſo perſonallie preſent.

THE JUSTICE: for obedience of the Counſallis ordinance, Continewis the dyet to the xiiij *infantis*: And Ordanit the perſewaris to confiſider vpon the Offeris in the meane tyme: And ſielyk Ordanis cautionn to be fund for the hail defend-eris re-entrie that day, vnder the pances contenit in the Actis of Parliament.

Mr David Prymrois proteſtit, that this Warrant, and Offeris preſentit this day, nawayis preiudge the perſewaris of thair lauchfull perſute, for the ſlauchter of thair freind and kiuſman.

The Laird of Maynes become cautionn for re-entrie of the hail defenderis, containt in the Letteris, the day foirſaid, &c.

JUN. 14.—COMPEIRIT perſonallie, THE LAIRD OF M'FARLANE, ELDER, as CHIEFF to the perſewaris, and deſyret proces on the aue pairt; and on the vther pairt, Compeirit Alexander Douglas of Maynes, as cautioner for the de-fenderis entrie this day, and product,

WARRANT of the Lordis of Secrett Counſill, &c.

MY Lordis of Secrett Counſell, vnto 5our Lordſchips humble meanis^s and ſchawis I, 5our fernitor, George Buchanane, appeirand of that ilk: That quhair, for obedience of 5our Lordſchips ordinance, I, in name of my freindis quho war callit for the ſlauchter of vni^q^e Duncane M'Farlane, haif maid Offeris to the pairtie; quhairin I haif offerit, that thay, or I, in pair names, ſhall ſubmit thame ſelſis to þe ERLES OF MAR, MENTEITH, WIGTOUN, and LINLITHGOW: As þe coppie of my Offeris, heirwith product, beiris. Whairant, as 5itt, thay haif returnet no anſwer; ſua that it appeiris my Offeris ar reiectit. And gif 5our Lordſchips ſhall nocht find thir Offeris to be ſufficient, I, in pair names, offeris to caus thame ſubmit all thair differences to 5our lordſchips, and to do thairin as 5our lordſchips ſhall think meitt. Heirfoir, I beſeik 5our ll. to confiſider of thir Offeris, and to do thairin as 5our ll. ſhall think meit for þe peace of þe cuntry. And becaus the matter can nocht be preſentlie ſettled and put to ane poynt, that 5our lps. will geve a new Warrant to the Juſtice, Juſtice-clerk, and pair deputis, to continew þe dyet appoint to my freindis for pair tryell befoir thame, vnto ſuche reſonabill day as 5our lps. pleiſis. And 5our lps. anſwer.

APUD Halyrudhous, *duodecimo Junij*, 1623. THE LORDIS OF SECRETT COUNSALL Ordanis and Commandis the Juſtice, Juſtice-clerk, and pair deputis, to proceed and miniſter juſtice in þe matter within writtin, aganis Johne Buchanane, ſone to *Johne Beg*, and *Archibald Buchanane*, ſone to vni^q^e *William Doc*. And to Deſert þe dyet for þe remanent perſones charget to compeir to vuderly þe Law for þe Slauchter within writtin: Quhairant þir preſentis ſhall be vnto þe ſaid Juſtice, Juſtice-clerk, and pair deputis, a ſufficient Warrant.

GEO. CANCELL.

¹ In presentia dominorum (Secreti Conſilij.)

^s Complains; literally, *moans*, or *bermoans*.

THE Justice Ordanis THE DYET TO DESERT vpon the baill defenderis inferit in the Letteris, except as above; and iustice to be profecute and followit furth aganis thame, conforme to the ordour. And Ordanit the said Alexander Douglas, as cautioner foirsaid, to be vulawit for nocht entrie of the saidis Johnne and Archibald Buchamanes, in the pane of ane hundreth merkis for ather of thame. And siclyke, that the saidis Johnne and Archibald fall be demuncet our souerane lordis rebellis, and put to the horne; and all their moveable gudis to be efcheit, &c.

APPENDIX TO THE PRECEDING TRIAL.

SUPPLICATION *by the Kin and Friends of vinqhile Duncane M^{re} Farlane to THE LORDS OF PRIVY COUNCIL.*¹

MY LORDS OF SECRET COUNSELL, vnto yo^r lo^{ps} humelic menis and schawis we, yo^r seruitouris, the KIN and FREINDIS² of vinqhile DUNCANE M^{re} FARLANE, sone to vinqhile *Andro M^{re} Farlane*, in Kipmoche: THAT quhair, the said vinqhile *Duncane*, a young boy of the aige of xvj yeiris, or thairby, being most shamefullie and cruellie slayne be certane of THE NAME OF BUCCHANNANE, vpon sett purpos, proufoun, and foirtocht fellouny; we, foirbareing to atone priue revenge, and in most submissiue obedience to HIS MAIESTIE and his Lawis, haucing resolued, be the ordinar course of iustice, to follow out the tryall of that slauchter; we, for this effect, raised Letteris, and charged the Criminalis to thair tryall befor HIS MAIESTIS Justice, vpon the fact of this infant: At the quhilk day, we, lookinge that the course of iustice sould haif had place, conforme to the Lawis of the Kingdome, notwithstanding, it is trewthe, that yo^r lo^{ps}, vpon the finitler and wrong information of the partie, concerning the slauchter of vinqhile WILLIAME DOW BUCCHANNANE, wth thay aggregit³ with sache circumstances, and after sache a detestable maner, as might mak we, who ar innocent, to seame odious.

AND towcheing the occasions of the slauchter of the young boy and of his fader, and of the forme and maner thair of, grantit ane WARRANT for continewatioun of our dyet, till the xiiij of this infant; by the quhilk, not onlie we, bot the Gentlemen of the Cuntrie, who ar summoned vpon the Assise, ar verie far preiudgen and troublit, and the course of iustice is interruptit and hinderit; and we persuade oure selfis that yo^r lo^{ps} in yo^r awne honourable regard and dispositioun to iustice, wald neur haue grantit sache ane Warrant, yf yo^r lo^{ps} had bene treulie informed anent the slaughtair of the innocent and harmles young boy; for althocht we will not preafe to extenuat the slauchter of vinqhile *William Dow*, who, to our regrait, was mischeantlie⁴ and vnwortheilie slayne, yit we may treulie afferme vnto yo^r lo^{ps}, that anent the forme, maner, and circumtanceis of the slauchter, as is punctuallie sett down in THE PETITION givin in to yo^r lo^{ps}; and anent the forme, maner, and occasions of the slauchter of the young boy and his fader, as is lykwayes sett down in the Petitioun, and qth was the ground wherpoun yo^r lo^{ps} wer moved to grant the said continewatioun, the pairty hes verie far ouerfene thame selfis, and past the boundis of modestie; and hes abused yo^r lo^{ps} with thair finitler and wrong informatioun; quhilk, yf thay be able to iustifie and mak good, as thay haif sett down in the Petitioun, first, anent the maner of the slaughtair of *William Dow*, and how that the slaughtair of the boy procedit vpon occasioun of thair following of ane stollin ox, quhilk thay alledgeit in thair BILL⁵ was stollin be the said Andro, and eatin at his lykewalk⁶ and that the boy, assittin his fader, presentit ane hagbute, wth misgaif, and thairefter concurring wth his fader in persute of the *Buquhannanis* was slayne;

¹ From the Original, preserved among the *Warrants of Secret Council*, General Register House, Edinburgh.

² Blood-relations.

³ Aggravated.

⁴ Wickedly; O. Fr. *meschantement*.

⁵ Bill of Supplication.

⁶ See this Trial, p. 549.

we ar content, without forder ceremonie, to tak the pairtie be the hand,¹ and to renounce o^r Criminnall perfute againes thame: for the treuthe is, that thay come to the boyis houfe, quhairof he wes tenent to the Erle of Perth, vpon fet purpois and provifoun; and the boy, apprehending his danger, after he hard the thonte raifed be thame, he fled for faultie of his lyffe; whome thay followit ane lang way; and haeing onertane him, and he being thair prifoner, thay brocht him bak half ane myle, and in cauld bloode, cruellie and barbarouffie flew and manghit him, but² pitie or compaffioun, with xvij deadlie woundis, with durkis; and haeing caffin him on his bellie, quhair he lay deade vpon the ground, thay, the forder to fatisfie thair raige vpon the poore corps,³ cuttit his bak in tua with fwerdis.

This is the fimple trewthe of the buffynes, w^hk we will ftand to: And thairfoir, we will humble befeike yo^r lo^{ps} to caus thair Petitioun to be exhibite be the faidis perfonis befoir yo^r lo^{ps}, to the intent the trewthe of the circumftances of the flaughteris, as thay ar fett down in the faid Petitioun, may be examined be yo^r lo^{ps}, and ordour tane thairin accordinglie. AND feeing, we haif, in all modettie, and w^t grite patience, as humble and deutifull fubiectis [to HIS MA^{TIE}] focht the benefeit of his Lawis, We humelie befeike yo^r lo^{ps} that the fame may be grantit vnto ws, and that no forder continuation be grantit to o^rs⁴ pairty: And yo^r lo^{ps} anfuer.

DELIVERANCE by the Lords of Privy Council. [On the back of the foregoing Petition.]

APUD Halyrdhoufe, decimo Junij, 1623. THE LORDIS Ordanis a Maifter to pas and warne both the pairtyis, the Barone of Achyll, David Drummond of Innermaith, and Mr Alex^r Seatoun of Gargonnok, to compier befoir the Lordis, vpon Thurifday nixt, to heir and fie ordour tane in the mater within-writtin, as accordis.

GEO. CANCELLS.

Usurpation of the King's authority—Taking captive, &c.

JUN. 18.—ALEXANDER GORDOUN, appeirand of Erlestoun, and James Gordoun, meffinger.

Dilaitit of the Vfurpation of our foverane lordis authoritie, in taking and apprehending of Johnne Glendoning of Drumrafche, and keiping him captive and prifoner be the space of thre houris, *in privato carcere*, he being his Majesteis frie lege, and thair haifing na power nor commiffioun for that effect; committit in Februar, or thairby, laft.

The perfewar paffis *simpliciter* frae the pannellis perfute: Quhairvpon thay askit instrumentis.

THE JUSTICE ordanis caution to be ffund be the faid Alexander, for his entrie, vpon xv dayis (wairning) for the Kingis pairt; quha fund Vthreid M^c-Dowell of Mondurk, fouertie, &c.

Resetting of a stolen Purse, &c.

JUN. 18.—JOHNE DOUGLAS in St Leonardis, and Agnes Mustard his spous.

Dilaitit of the Thiftious Resetting of ane stowin purse, with ffyve hundreth pundis of gold; and tua jewellis being thairin, worth thre thowfeand pundis; pertening to Sir Johnne Scott of Newburgh; stowin fra him be Margaret Ahannay.

¹ To be reconciled. ² Without. ³ By way of retaliation, no doubt, for the horrible butchery committed upon the person of *Buchanan*, before referred to. ⁴ Probably for *outher*, i. e. either party.

PERSEWARIS, Sir Johnne Scott of Newburgh, Sir Willame Oliphant, kny^t.

PRELOCOUTOURIS in defence, The Laird of Maynes, Mr Laurence M^cGill, James King.

Eftir the reiding of the Dittay, and accufatioun of the pannell of the crymes thairin contentit; it was allegit be the pannell and thair prelocoutouris, that the first pairt of the Dittay is naways relevant, anent the reflēt of the flowin purfe and jewellis thairin; vules the principall steiller war first callit, and ather convict and pwnceit for the cryme, or ellis declarit fugitiue thairfor: For, gif the principall steiller thairof, viz. Margaret Ahannay, war accuset in this judgement, for the said allegit cryme, it wald be allegit and verifeit be hir, that gif ony purfe was apprehendit or gottin be hir fra the persewar, that it was *precium publicie*, gevin be him to hir. And thairfor, quhill first scho be callit, na proces.

THE JUSTICE, in respect na dilligence is vset aganis the said Margaret Ahannay, Ordanis the pannell to find caution for thair re-entrie, vpoun xv dayis wairning: Quha fand James Douglas, portioner of Lugtoun, and Willame Douglas, hatmaker, burges of Edinburgh.¹

Slaughter.

Jun. 27.—COILL M^cGILLESPIK M^cDONALD in Collonfay, Archibald M^cDonald, his sone, and four others, ‘feruitoris to the said Coill.’

Dilaitit of airt and pairt of the fellone and crewall Slauchter of vmq^{le} Malcolme M^cphie of Collonfay, Donald Oig M^cphie, Dougall M^cphie, Johnne M^cquhirrie, and Ewir Bayne, alias Quhyte; committit in Februar last.

PERSEWARIS, Marie M^cdonald, the relict; Donald Oig M^cphie, as sone; Katharene, Anne, and Fynwall M^cphies, as dochteris to vmq^{le} Malcolme; Murdoche M^cphie in Ilay, as brother to vmq^{le} Donald Oig, and Dougall M^cphie, and as nerrest of kyn to vmq^{le} Johnne and Ewir.

Johnne Quhyte, wryter, producet the Letteris duellie executed, &c. and proteffit for releif of Archibald Campbell, brother to the Laird of Caddell, cautioner for repoirting thairof.—Coll M^callaster, ffear of Dounkey, as cautioner for the said Coill, &c. vnlawit, for nocht entrie of ilk ane of the saidis perfones, in the pane of ane hundreth merkis. And fielyk, the Justice Ordanis that the saidis Coill, &c. fall be denuncet our souerane lordis rebellis, and all thair move-abill guidis to be efcheit, &c.

Taking Captive and Strangling, &c.

Jul. 2.—JOHNNE GRANT of Glenmoreiftoun, Finlay M^cean Roy in Invermoreiftoun, and Alexander Dow M^cean Roy, his brother.

Dilaitit for Vfurpatioun of our souerane lordis autoritie, in taking of vmq^{le} Donald M^cffindlay Vⁿorofche, mercheand, vpone the landis of Glenmoreiftoun, binding his handis behind his bak, and cayreng him, as ane malefactour, to ane

¹ It is likely that this pursnit was abandoned. At least no farther notices occur in the Record.

woid neir to the landis of Glennmoreiftoun; quhair thay, as hangmen, hang him vp vpon ane trie of the said woid, and wirreit him to deid:¹ and thaireftir cuttit him down, and, with thair durkis, gaif him dyuerse fraikis in the breift and bellie, to the effufioun of his bluid in grit quantitie; and thaireftir, cayreit him to ane burne-bra,² vnder the quhilk they bureit him, be cafting the said bray vpon him; committit in the moneth of September, 1602 yeiris.

PERSEWARIS, Fynlay Vik-finlay Vⁿorofyche, in Kintail, as brother; Sir Williame Oliphant of Newtown, kny^t, Aduocat to our fouerane lord.

James Logy, wryter, product the Letteris, duelic execute, &c., and proteftit for releif of Mr Alexander M^cKenzie of Culcovie of his cautionrie.—Patrik Grant of Carroun, as cautioner for the pannell, Ordanit the Justice to be in ane amerciament, for nocht entrie of the said Johnne Grant, in the vulaw of Vⁿ merkis; and of ather of the saidis Fynlay and Duncane, in the pane of ane hundredth merkis.

[*Mr Alexander Coluile, Justice-Depute.*]

≡laughter.

Jul. 9.—JAMES STEWART, Stewart-depute of Menteith; Duncane Stewart, his brother-germane, and others.³

Dilaitit of the Slauchter of vni^q^{le} Robert M^cphatrik Campbell, and vni^q^{le} Malcolm M^ccall; committit in Apryle last, vpon the landis of Dochallie, on Lochow-fyde.

INTRAN. *fmiliter.*

ALLASTER M^cPHATRICK VⁿALLASTER, in Balquhidder; Robert Dow M^ccondochie VⁿJames, thair; Duncane Oure Stewart Mⁿirie, thair; Archibald Stewart, thair; and Williame M^cphatrik Stewart, thair.

Dilaittit for the crimes aboue writtin.

PERSEWAR, Patrik Campbell, in Kenderoche, brother to vni^q^{le} Robert.

The Laird of Keir takis instrumentis of the entrie of the fourtene on pannell (Stewarts), and proteftis, in that respect, for his awin releif, as cautioner, &c.; and as to Duncane Stewart, declairis he hes fallin feik, fen his cuning to Edinburghe, and thairfoir could nocht compeir.—Sir Mungo Murray proteftis for his releif, as cautioner for the others, ‘the ftyve men of Balquhidder.’

THE JUSTICE, with consent of the perfewar, continewis this matter to ane xv dayis wairning; and Ordanis the pannell to find caution for thair entrie.—The Laird of Keir, and Sir Mungo Murray, of new become cautioneris.

¹ Strangled him to death. ² Burn-brae, a sloping bank, along the foot of which a *burn* or rivulet runs.

³ Their names are, Alexander Stewart, *alias* M^cean, in Glenfinglas; Johnne, Archibald, and Andro Stewartis, his thre fones; Patrik Stewart of Stragartay; Johnne Stewart, his brother; Robert Stewart, sone to Andro Stewart of Blairgarrie; Patrik M^cKyndlay Gill, in Glenfinglas; Walter M^candowie, *alias* Stewart; Johnne M^cintyre, feruitour to James Stewart; Gilliechreiff Dewar, Duncane M^ceane Vail, and Donald Reoch, fervand to the said James Stewart.

My Lord of Murray, present, obleist him to Warrant and releif the Laird of Keir of his former cautionerie, &c.

Breaking Gardens—Theft, &c.

Jul. 23.—**JOHNE RATE**, and Alexander Deane, cramer.¹

Dilaitit for the breking of the yairdis² of Barnetoun, Piltoun, Barnebongall, Craikernik, Cragyhall, Laughirdmeftoun, Carlowrie, and Libbertoun, and dyuerfe vtheris yairdis, within Eist and West Louthiane: Steilling and away-taking furth thairof, off dyuerse herbis, bie-keppis,³ fyboes,⁴ plantis, kaill-feid, artechoiflis,⁵ distilled watteris, plaittis and trunfcheouris,⁶ with aue tyn-floupe,⁷ furth of the place of Laughirdmeiftoune; committit at dyuerse tymes, within this moneth bygane.

The perfonen on pannell confessis the Dittay, and crymes thairin contenit.

VERDICT. Fand the saidis Johnne and Alexander, conforme to thair awin Judiciall Confessioun, to be flyet, culpable, and convict, &c.

THE JUSTICE Ordanit thame to be tane bak to waird, thair to remane quhill he be advyset with the Lordis of Secret Counfall, anent the Dome to be pronuncet aganis thame, for the saidis crymes.

Jul. 25.—**SENTENCE.** The Justice Ordanit the saidis Johnne Rait and Alexander Deane to be tane to the Burrow-mure of Edinburghe, and thair to be Hangit quhill thay be deid; and thair haill moveable guidis to be escheit, &c.: And that by virtue of the following **WARRANT** of the Lordis of Secret Counfall.

JUSTICE, Justice clark and 5our deputis. 5ow fall pronounce Sentence of daith against Johnne Rait and Alex^r Deane, cramer, who was convict of befoir in Muffilburghe, for the breking of 5airdis and steilling of findrie bie-kepis furth of the same; and who, since thair apprehensioun, haif of lait bene convict befoir 5ow of the same crymes; committit be thame since thair lait convictioun and pwnceifment following thairupoun. And that 5ow caufe the Sentence of daith be execute vpon thame: Quhairanent theife presentis fall be vnto 5ow ane sufficient Warrant. Gevin at Halyrudhous, the xxiiij day of July, 1623.

GEO. CANCELL^r. GLENCARNE. NITHSDAILL. OLIPHANT. HAMILTON.

ꝰorcery—Witchcraft.

Aug. 1.—**THOMAS GREAVE**.

Dilaitit of dyuerse poyntis of Sorcerie and Witchcraft following, viz.: For curing of the perfonen following, be Sorcerie and Witchcraft, to wit: ANE sone of Archibald Arnote in the Wayne, of ane heavie and vncouth⁸ feiknes: ANE sone of Andro Geddis in Freuchie, also hevilie disseist: ANE bairne of Thomas Kilgoures in Falkland, visseit with ane grevous feiknes. **ITEM**, ffor curing, be

¹ Huxter; one who keeps a petty booth for the sale of small wares. ² Gardens. ³ Bee-hives. ⁴ A young or small sort of onion. ⁵ Artichokes. ⁶ Trenchers. ⁷ Tin flagon. ⁸ Strange; unusual; unaccountable.

Sorcerie and Witchcraft, and making of certane croces and finges,¹ off Dauid Chahner in Lethame, and be caufeing wafche his fark² in ane South-rynnand watter, and thairefter putting it vpone him; quhairby he reffauit his helthe. ITEM, ffor cureing of ane woman in Ingrie, befeyde Leflie, of ane grevous feiknes, be taking the feiknes af hir and pnting it vpone ane kow; quhilk kow thaireftir ran woid,⁴ and deit. ITEM, ffor cureing off Alexander Laufones bairne, in Falkland, of grit feiknes, be Sorcerie, and making of certane fignes, and vttering of dyuerfe vknawin woirdis. ITEM, ffor cureing of ane woman, duelland befeyde Margaret Douglas, of ane grit and panefull feiknes, be drawing hir nyne tymes bakward and forward be the leg. ITEM, ffor cureing of Michael Glaffies wyfe, in the Mylnes of Forthe, of ane grevous feiknes, be cauffing brek ane hoill in the wall, vpone the North fyde of the chymnay, and putting ane hefp³ of yairne three feveral tymes furth at the faid hoill, and taking it bak at the dur; and thaireftir, caufeing the faid Michaelis wyfe ix tymes pafs throw the faid hefp of yairne, and thairby to procure hir help. ITEM, ffor cureing, be devillerie and Witchcraft, of Williame Kirkis bairne, in Tulliebule, of the feiknes callit *Morbis caducus*,⁵ be fraiking bak the hair of his heid, taking ane lang claith, with certane vnguent and vther inchantit matter, furth of ane buift,⁶ and rowing⁷ the bairne nyne tymes within the faid claith, vttering, at ilk tyme of the putting about of the claith, dyuerse wordes and croces and vther fignes; and be that meanis pat the bairne afleip; and thairby, throw his devillerie and Witchcraft, curret the faid bairne of the faid feiknes. ITEM, vnderftanding that Johnne Fifcher, in Achalanfkey, was hevielie difeasit of a grevous and vknawin fever, vpone aduerteifment gevin to him thairof, he canft bring the faid Johnne Fifcheris fark to him; quhilk fark being brocht, the faid Thomas, turning it over, cryit out at that infant, ‘Allace! the Witchcraft appointit for ane vther hes lighted vponne him!’ And, luiking at the breift of the fark, he tauld ‘that the feiknes was nocht cum as zit to his heart.’ And eftir fome croces and fignes maid be the faid Thomas vpone the fark, delyuerit the fark to Jonet Patoun, the faid Johnne Fifcheris mother, commanding hir, with all fpeid to ryn to him thairwith; and declairit to hir that ‘Gif fcho come thairwith, befoir his heart was affaulted,’ he fould convalefe: At quhais cuming to him with the faid fark, the faid Johnne hir fone was deid. ITEM, ffor practizeing of dyuerfe poyntis of Sorcerie vpone Williame Beveridge, in Drunkippie, in Salen, and cureing him thairby of ane grevous feiknes, be caufeing him pas throw ane hefp of yairne three feuerall tymes; and thairefter burning the faid hefp of yairne in ane

¹ Crosses and signs, ² Shirt. ³ Mad. ⁴ A hasp of yarn is equal to twelve ‘cuts,’ or six ‘heer.’ Each ‘cut’ goes six score times round the reel. ⁵ Epilepsy, or the falling sickness. Perhaps it may refer to consumption, ‘decay’ or ‘decline.’ ⁶ Out of a small box or chest. ⁷ Wrapping; rolling.

grit fyre, quhilk turnet haillilie blew. ITEM, ffor cureing of Margaret Gibfones ky,¹ in Balgonie, be putting thame thryfe throw ane helpe of yairne, and cafling of certane enchantit watter, enchantit be him, athort² the byre; and thairby making thair milk to cum to thame agane, quhilk thay gaif nocht ane moneth of befoir.³ ITEM, at Martimes, 1621, Elfpeth Thomefone, fifter to Johne Thomefone, portioner of Pitwar, being vilfiet with ane grevous feiknes, the faid Thomas com to hir hous in Corachie, quhair, eftir fichting and gripping of hir, he promeit to cure hir thairof; and fo this effect callit for hir fark, and defyret tua of hir nerrest freindis⁴ to go with him: Lykas, Johne and Williame Thomefones, hir brether, being fent for, pait with the faid Thomas, in the nicht feafone, fra Corachie towardis Burley, be the fpace of tuelff myles; and inoynerd the tua brethir nocht to fpeik ane woird all the way; and quhat cuir thay hard or faw, nawayis to be efrayed, faying to thame, ‘it mycht be that thai wald heir grit rumbling, and fic vncouth and feirfull apparitiones, bot nathing fould annoy thame!’ And at the furde be-cift Burley, in ane South-rymning watter, he thair wufche the fark; during the tyme of the quhilk watching of the fark, thair was ane grit noyfe maid be floullis,⁵ or the lyll beiftis,⁶ that arraife and flichtered in the water. And cuming hame with the fark, pat the famyn vpone hir, and curet hir of hir feikens: And thairby committit manifet Sorcerie and Witecraft. ITEM, ffor cureing of Williame Coufines wyfe, be Sorcerie and Witecraft, be caufing hir hufband heit the colter of his pleuch, and eule the famyn in watter brocht from Haly Well of Hillfyde; and thaireftir, making certane coniurationes, croces, and fignes vpone the watter, caufet hir drink thairof for hir helth; and thairby, be Sorcerie, curet hir of hir feiknes. ITEM, ffor cureing, be Sorcerie and Witecraft, of James Mwdie, with his wyfe and childrene, of the fever; and namelie, in cureing of his wyfe, be caufeing ane grit fyre to be put on, and ane hoill to be maid in the North fyde of the hous,⁷ and ane quik hen⁸ to be put furth thairat, at thre feuerall tymes, and tane in at the hous-dur, widderfehynnes;⁹ and thaireftir, taking the hen and puting it vnder the feik womanis okftar,¹⁰ or airme; and thairfra, cayreing it to the fyre, quhair it was haldin down and brunt quik thairin; and be that devillifch maner, practizet be him, curet hir of hir feiknes: ffor the quhilk, the faid Thomas refault xx lib. fra hir hufband. AND laft, ffor commoun Sorcerie and Witecraft, practizet be him, and abufeing the people thairby; expres aganis Godis devyne Law, and Actis of Parliament maid aganis Sorceraris.

VERDICT. The Affyfe, being ryplie advyfet thairwith, togidder with certane

¹ *Kine*; cattle.

² Athwart; across.

³ Which they had not yielded for the space of a

month.

⁴ Kinsmen; relations.

⁵ Water-fowl.

⁶ Little ‘beasts’; *Scotticé*, for some

sort of small birds or fowls, such as snipes, &c.

⁷ A hole to be made in the north wall of the

house.

⁸ A live fowl.

⁹ Backwards; contrary to the course of the sun.

¹⁰ Arm-pit.

Depositiones producet be Mr Johnne Cowdoun, Minister at Kynrois, Mr Edmond Myles, Minister at Cleifche, Mr Robert Coluile, Minister at Cleifche, ffor verification thairrof; thay, be the declaratioun of Williame Dempfstartoun, chancellor, fand, pronuncet, and declairit the said Thomas Greave to be ffylet, culpable, and convict of the haill poyntis of Dittay aboue writtin.—SENTENCE. To be taue to the Castell-hill of Edinburghe, and thair to be Wirreit at ane flaik, quhill he be deid; and his body thaireftir to be Bruut in afches, as culpable and convict of the saidis crymes of Sorcerie and Witchcraft.

Officers of the Clerkship of Justiciary-general and Master of the Ceremonies, &c.

NOV. 28.—SIR ARCHIBALD NAPER of Merchinstoun, kny^t, Thesaurer-depute to our souerane lord of this Kingdome, producet his Maieftis Gift, grantit to him, vnder his hienes Previe seall, of the Offices of the CLERKSCHIP OF JUSTICIARIE-GENERALL, and MAISTER OF THE CEREMONEIS at the Creatioun of all Erles, Lordis, and Barrones, and of all vther solemne Assambleis, quhair honourable ceremoneis ar accustomat and necessarie to be vsed, within the kingdome of Scotland; with all richtis, privileges, liberteis, feyis, casualteis, proffeitis, and deuteis quathsumeur, pertaining and belonging thairto; during all the dayis of the said Sir Archibaldis lyftyme: Vacand in his Maieftis handis, be dimiffioun of Sir Johnne Cokburne of Ormestoun, kny^t, last Justice Clerk, and Maister of the said Ceremoneis. Dated at Royftoun, the sext day of November, 1623.—Which Gift was ordanit to be infert in the Registeris of Adiorvall, *ad futuram memoriam*.

Commission of Justiciary,

IN FAVOUR OF SIR GEORGE ERSKINE OF INNERTEILL.

JAN. 23, 1624.—MY Lord of Innerteill, as Justice to our souerane Lord, producet his Maieftis Commissioun of Justiciarie; and desyret the samyn to be infert in the Register of Adjournal, *ad futuram memoriam*.

JAMES R.

JAMES, by the grace of God, King of Grite Britane, France, and Ireland, defender of the ffaith: To all and findrie our leigis and subiectis whome it effeiris, to whose knowledge thir our Letteris fall come, greating. FORSAMEKILL AS, the place and Office of the JUSTICE of this our Kingdome is now voyde, and the administratioun of Justice, in matteris proper to that judgement, ceasses by the absence of those who formalie suppleit that place: AND whear as, the frequent ocafionn, daylie occurring within this our kingdome, requyres a present choite to be maid of some sufficient and qualifeit persone to exerce the said place and office: And We, vnderstanding the goode affectioun of our trustie and weilbelouit counfaiour, *Sir George Erskine* of Innerteill, to do ws seruice, and that he is a persone of sound and vpricht judgement, and vtherways accompliechet and fureweit with giftis anfuerable to the

¹ From the peculiarity of this document, it has been thought right to preserve it entire, without abridgement.

dignitie of fuche ane employment : Thairfoir, We haif maid and constitute, and be the tennour heirof makis and constitutis, the said Sir George our JUSTICE, and geves to him the Office thairof, with all honnouris, digniteis, prevelegis, and prerogatives belonging thairto ; to be posselit, bruket, vsed, and exerceed be him als frelie and ample, in all respectis and conditiones, as ony vtheris his predicefouris in the said Office formerlie bruket the fame ; with power to him to sence and hald Justice-Courtis within the Tolbuth of our burghie of Edinburghie, and vtheris pairtis of our Kingdome, accourding as the necessitie of oure seruice schall requyre, and to proceed and minister justice in all and sundrie materis occurring in that judgment, and vponne all persones of quhatfomeuir qualitie, that fall be presentit in judgement befor him, to abyde thair tryell ; and accourding as thay fall be fund Guiltie or Innocent of the crymes to be obiectit vnto thame, and to be laid to thair charge, to caus justice be ministrat vponne thame, conforme to the lawis of our realme : Assyses neidfull, to this effect, vnder the vsuale and accustomed panes, to summond, waime, choofe, and caus be sornie ; and to creat officiaris and members of Court neidfull ; and all vther thingis neidfull towards the execution of this our Commiffioun to do and vse, whiche laughfullie, in such caises, may be done ; sferme and stable balding, and for to hald all and quhatfomeuir thingis fall be laughfullie done heirin. CHARGEING heirtoir yow, all our said leiges and subiectis, to renerence, acknowledge, and obey our said Justice, in all and everie thing tending to the execution of this our Commiffioun : As yow and everie ane of yow will answair to us vponne the contrair, at your perrell. This our Commiffioun, dureing our will and pleafour, and ay and quhill we discharge the same, to indure. GEVIN vnder our signet, AT ED^B, the tuentie day of Januare, and of oure reigne the lvij and xxj yeiris, 1624.

GEORGE CANCELL. MELROS. LAUDERDAILL. R. COKEURNE. KILSAYTH.
W. OLIPHANT. A. HAY. AR. NAPER. J. HAMILTON.

[*Sir George Erskyne of Innerteill, knyght, Justice.*]

Egyptians—Vagabonds—Sorners, &c.

JAN. 23.—CAPITANE JOHNNE FAA, Robert Faa, Samuel Faa, Johne Faa younger, Andro Faa, Williame Faa, Robert Brown, Gawin Trotter, all Egiptianis, Vagaboundis, and commoun Thevis, &c.

Being enterit vponne pannel be the Magistratis of Ed^B, dilaitit, accuset, and persewit be Sir Williame Oliphant of Newtoun, kny^t, of the cryme vnderwrittin, viz. FORSAMEKILL AS, sirst, be Act of Secreit Counfall, maid in the moneth of Junij, or thairby, in the yeir of God 1603, and Proclamatioun following thairupoun, commanding and chargeing the Vagaboundis, Soirneris, and commoun Thevis, commonlie callit EGIPTIANES, to pas furth of this Kingdome, and to remane perpetuallie furth thairof, and nevir to returne agane within the samyn, vnder the pane of daithie ; quhillik Act of Secreit Counfall, and Proclamatioun following thairupoun, be the 13 Act of our souerane lordis 20 Parliament, haldin at Edinburgh vponne the 24 of Junij, the yeir of God 1609 yeiris, is ratifeit, approvyn, and confirmet be his Maiestie and Estaitis of Parliament than convenit ; and the same Act ordanit to haif force and execution, eftir the first day of August nixt thaireftir following, in the foirsaid yeir of God 1^m.Vj. and nyne yeiris ; eftir the quhilk tyme, gif ony of the saidis Vagaboundis callit EGIPT-

TIANES, alsweill wemen as men, fall be fund within this kingdome, or ony pairt thairof, it fall be leafum to all his Maieftes goode fubiectis, or ony of thame, to caus tak, apprehend, impriffone, and execute to death, the faidis Egiptianes, ather men or wemen, as commoun, notorious, and condemned Theves, by ane Affyfe, only to be tryed¹ that thay ar callit, knawin, and repute and haldin Egiptians: In the quhilk caice, quhatfoeuir of the Affyfe hapins to clange ony of the foir-faidis perfones, Egiptianes, pannelled as faid is, falbe perfewit, handillit, and cenfuret as committeris of Wilfull Errorr. As the faidis Actis of Secreit Counfall, Proclamatioun following thairupoun, and Act of Parliament aboue writtin, deulie publeift, in the feiff proportis. Nochtwithftanding quhairof, it is of verritie, that the foirnamet aucht perfones impanelled, and ilk ane of thame, being Vagaboundis, Soirneris, cowmoun Thevis, callit, knawin, repute, and haldin EGIPTIANES, in plane contempt of his Maieftes lawis and Actis of Parliament, hes prouddie repairit to this kingdome, remanit and abiddin within the famyn, and nawayis depairtit nor paff furth thairof, fen the faid first day of Auguft, 1609 yeiris, appointit for thair away-paffing; incurring thairthrow the pane and pwneichment aboue writtin, mentionet in the faid Act of Parliament.

ASSISA.

James Lokhart, elder of Lie, Leith of Hairthill, Williamie Sydferff of Ruchelaw.²

VERDICT. The Affyfe, for the maift pairt, be the declarioun of the faid James Lokhart of Lie, chancellor, ffand, pronuncet, and declairit the faidis perfones (being all Vagaboundis, and repute and haldin for EGIPTIANIS) to be Giltie, culpable, and convict of contravening the tennour of the faid Act of Parliament, &c.

THE JUSTICE continewis the pronunceation of Dome, vpon the former³ conviction, to the morne; that in the meane tyme he may advyfe with the Lordis of Secreit Counfall thairanent: And ordanit the pannell to be tane bak to waird, in the meane tyme.

Jan. 24.—SENTENCE. To be tane to the Burrow-Mure of Edinburgh, and thair to be HANGIT quhill thay be deid; and thair haill moveabill guidis, gif thay ony haif, to be efcheit to his Maieftes vse, &c.⁴

Egiptians—Sorneris, &c. (Females.)

Jan. 29.—HELENE FAA, the relict of vniq^{le} Capitane Johnne Faa; Lucrece Faa, spous to James Broun; Elspeth Faa, brether-dochter to the Capitane; Katharene Faa, relict of vniq^{le} Eduard Faa;

¹ Proved; established.

² The remainder are burgesses of Edinburgh. James Hopper of Bourhouffis, the Laird of Coulter-Cuming, Ogilvie of Boyne, Maxwell of Cowhill, and six others, ('merehandis,') are 'vnlawit 100 merkis ilk ane of thame.'

³ Preceding.

⁴ See the following article, Jan. 29, and Mar. 22, where the proceedings against their helpless widows are recorded.

Meriore Faa, spous to James Faa; Jeane Faa, the relict of vniq^{le} Andro Faa; Helene Faa, the relict of vniq^{le} Robert Campbell; Margaret Faa, dochter to vniq^{le} Eduard Faa; Ifobell Faa, the relict of vniq^{le} Robert Broun; Margaret Valantyne, relict of Johnne Wilfoun; Elspeth Faa, dochter to vniq^{le} Henrie Faa.

Dilaitit for contravening the 13 Act of his Maiesteis tuintie Parliament, haldin at Edinburgh, the 24 of Junij, 1609 yeiris, maid aganis EGIPTIANIS, charginge thame, allweill wemen as men, to pas furth of this kingdome, and to remane perpetuallie furth thairof; and nevir to be fundin within the samyn, eftir the first day of Auguft thaireftir, in the said yeir of God 1609, vnder the pane of deid: And the foirnamet perfones, being all Theves, Vagaboundis, and Egiptianis, fa repute and haldin, and tane as people of that vnhappie race and societie, hes, be thair remaning within this kingdome eftir the tyme foirsaid, appointit for thair away-passing furth thairof, contravenit the tennour of the said Act of Parliament, and incurrit the pwneschment aboue writtin, mentioet thairintill.

VERDICT. Giltie, culpable, and convict of the contravening of the foirsaid Act of Parliament.—SENTENCE. To be tane to the place of thair executioun, in some convenient pairt, and thair to be DROWNED quhill thay be deid: and all thair moveabill guidis, gif thay ony haif, to be confiscat to his Maiesteis vse, &c.

(Mar. 22.)—THE above perfons, together with ALEXANDER FAA, sone to Eduard Faa, JOHNNE FAA and FRANCIE FAA, sones to vniq^{le} Capitane Johnne Faa, and HARIE BROUN, brother to vniq^{le} Robert Broun, being brocht furth of waird, and presentit of new agane vpone pannell, as thay that war convict of EGIPTIANES, and the Dome of daith pronouctet aganis ellevin of thame, vpone the xxix day of Januar last, the executioun quhairof was supercedit, be the Lordis of Secreit Counfallis Warrant and directioun, vnto the tyme our fouerane Lordis will and pleafour war knawin thairanent.

HIS MAIESTEIS *Letter and Directioun sent to the Counfall.*

To our right trustie and right weilbelouit counfalour, SIR GEORGE HAY of Kynfawnes, kny', our Chancellor, and to our right trustie and right weilbelouit coufinges and counfalouris, and vtheris our trustie and weilbelouit counfalouris, THE ERLS, LORDIS, and vtheris of our PREVIE COUNSELL, in our kingdome of SCOTLAND.

JAMES R.

RIGHT trustie and right weilbelouit counfalour, right trustie and right weilbelouit coufens and counfalouris, and vtheris our trustie and weilbelouit counfalouris, We greette yow well. We haue vnderstood, by your Letter of the 29 of Januar last, that a number of these Theeves and counterfooted Vagabondis, commonlie callit EGIPTIANIS, being apprehendit be your directioun, war theretir put to a Criminnall tryell, and being lawfullie convicted, that eight of the men wer executed, and that the rest, being either childrene and of lesse-age, and wemen with chyld, or geving sucke to childrene, 5c haue therfore committed thair perfones to prisone, superceding the executione of the Sentence pronouctet

agains thame, till yee should acquaynte ws, and know oure further pleafoure thairan. IN whiche regard, thefe are to certefie to yow, that as We allow well of the courfe taiken for executinge of the men, fo now, in colde bloode, (theſe children and weemen hauing bene foe long kepte priſoneris,) and cheſtie in reſpect of that which yee wryte to be the preſent eſtaite of moſt part of theſe weemen, We can not bot inclyne to pittie and compaſſion of them. WHEREFORE, as We ar willing that their luyes be ſpared, foe that nather thame felues, nor any others of that kynd may be therby emboldned to preſume vpon our clemencie, yee ſhall cauſ thame act them felues to depairt, with thair childrene, furth of that our kingdome, between and ſuch a competent day as yee ſhall think fitting, for that effect, to preferiue; vnder the payne of death, to be inflicted (without any forder proceſs or dome) vpon them, wherfoever they can be apprehendit within our ſaid kingdome, efter the ſaid day. AND for your putting them to libertie, (nochtwithſtanding the Sentence pronounced againſt them,) vpon condition foirſaid, theſe ſhalbe vnto yow a Warrant ſufficient. And foe We bid yow farewell. FROM our Honour of HAMPTON, the 13 of Merche, 1624.

THE JUSTICE, conforme to his Maieſteis Letter and directioun, cauſit the hail Egyptianis aboue writtin, preſented vpon pannell, act thame ſelfſis, lyk as thay and ilk ane of thame, of there awin frie motiue, and with the bleſſing of God to his Maieſtie and Counfall, become actit and obleiſt to depairt and pas away with thair childrene furth of this realme; and nevir to be fund thairintill, eftir the tuintie-tua day of Apryle nixtocum, vnder the payne and pwnieſchment of daith, without any further proces or doome, to be inflicted but fauour¹ vpon them, quhaircirthay fall befund or apprehendit, within this kingdome, eftir the ſaid day.

Treazonable and Maſterful Theft and Stouthreiff.

Mar. 3.—[DAME MARGARET OGILVIE, COUNTESS OF MARSCHELL,²

SIR ALEXANDER STRAUCHANE of Thornetoun, kny^t, (hir ſpouſe,) and Mr Robert Strauchane, Doctour in Phifiſk.

Dilaitit of the Maſterfull Thift and Stouth-reiſſ, ſfurth of the Place of Benholme, pertening to vni^o GEORGE ERLE MARSHELL, of certane his Lordſchipis jouellis, ſiluer-plait, houſhold-ftuff, gold, ſiluer, euidendis, writtis, and vtheris guidis, at lenth expreſſit in the criminall Letteris direct thairupoun, at the inſtance of our fouerane lordis Aduocat; committit in October 1622, a littill befor the ſaid Erles deſeiſe.³

PERSEWAR.

Sir Williame Oliphant, kny^t.

PRELOCUTOURIS in defence.

Mr Thomas Hoijp, Mr Lueis Stewart.

The perſones enterit on pannell takes inſtrumentis of thair entrie, and proteſtis for releif of Sir George Affle of Balmanno of his cautionerie. There was preſented the following

WARRANT of the Lordis of Secreit Counfall.

APUD ED^b, ſecundo die menſis Martij, 1624. THE Lordis of Secreit Counfall, ffor ſome ſpeciall

¹ Without favour or mercy.

² Daughter of James, ſixth Lord Ogilvy of Airly. She was the ſecond wife of George, fifth Earl Marſchal.

³ He died at Dunottar Caſtle, Apr. 2, 1623, in the ſeventieth year of his age. He had ſtudied at ſeveral foreign Universities, and was an accompliſhed and learned individual. Besides his Embaſſy, he had filled the high office of Lord High Commiſſioner to the Parliament of Scotland, by Commiſſion under the Great Seal, Jun. 6, 1609.

confiderationes moving thame, Ordanes and commandis the Justice, Justice-clerk, and thair deputis, to continew the dyet appointit to DAME MARGARET OGILVIE, COUNTES OF MARSHELL, Sir Alexander Strauchane of Thornetoun, hir spous, and vtheris persons specifeit in the Criminall Letteris raisit pairpoun, ffor pair compeirance befor þe Justice, vpon the thrid day of Marche instant, to vnderly the Law for the crymes of Thift and Stouthe-reiff of the houthald stuff, insight plenifing, siluer plait, and vtheris goodis pertening to the lait Erle of Merchell, and at lenth specifeit in the saidis criminall letteris raisit at þe instance of his Maistreis Aduocat, vntill the secound day of Julij nextocum; takand new caution of þe defenderis, for pair compeirance that day, conforme to the ordour. Quhairanent þe Extract of þis Act fall be vnto þe said Justice, Justice-clerk, and thair deputis, ane sufficient Warrant.

EXTRACTUM de Libris Actorum Secreti Consilij, f. d. n. Regis, &c. JACOBUS PRYMOIS.

Sir George Afflek of new becomes cautioner for the saidis Dame Margaret, &c., vnder the panes contenit in the Actis of Parliament.

[*Mr Alexander Colvile of Blair, Justice-Depute.*]

(Jul. 2.)—ANOTHER Warrant, dated ' at Halyrudhous, the first day of July'—and signed by ' Geo. Cancell^r. Mar. Morton. Linlithgow. Melros. Lauderdale. Aw. Carnegie'—directs the case to be continued ' vntill the xxvij of July instant, vpon new caution:—' And that yow dispens with the personall compeirance of the Lady Marchell and Doctour Strauchane.'

(Jul. 27.)—A THIRD Warrant, dated ' at Halyrudhous, the xxij of July,' and subscribed, ' Geo. Cancell^r. Mar. Melros. Lauderdale. J. Kokburne. Kilsyth.'—David Levingstoun of Donypace becomes cautioner for their entry on the aucht day of December next.

(Dec. 8.)—No procedure is entered in the Record of this date.

[*Sir George Erskine of Inuerteill, knyt, Justice.*]

Treasonable and Masterful Theft, &c.

Mar. 3.—JAMES KEITH of Benholme.

Dilaitit of airt and part of the treffonabill¹ and theftious steilling, be way of Maisterfull-thift and Stouthe-reiff, in the moneth of October, 1622 yeiris, fforth of the Place of Benholme, off ane grene coffer, pertening to vniq^{le} GEORGE ERLE MARSELL, with the jowellis and vtheris vnder writtin being thairintill, als pertening to his lordschip, viz. of Portugall ducattis, and vtheris spaces² of foreigne gold, to the avaiil³ of tuentie thowfand pundis, or thairby; threttie-six duflane of gold buttones; ane ritche jowell, all set with dyamontis, quhilk the said vniq^{le} Erle ressaunt as ane gift gevin to him the tyme he was Ambassadour in Denmark, worth sex thowfand merkis; the Quene of Denmarkis pictour in gold, set about with ritche dyamontis, estimat to fyve thowfand merkis; ane jasp stane for

¹ *Treasonable*, as being committed by a landed Gentleman, in terms of an Act of Jac. VI. ² Species. ³ Worth; value.

fteeming of bluid,¹ eftimat to fyve hundreth French crownes; ane chenzie² of equall perle, quhairin was foure hundreth perles gritt and fmall; tua chenzeis of gold, of tuentie-foure vnce wecht; ane vther jowall of dyamontis fet in gold, worth thre thoufeand merkis; ane grit pair of bracelettis, all fett with dyamondis, pryce thairof fyve hundreth crownes; the vther pair of gold bracelettis, at fex hundreth pundis the pair; ane turcas³ ring, worth ten French crownes; ane dyamond fet in ane ring, price xxvij French crownes; with ane number of vther fmall ringis, fet with dyamondis and vtheris ritche ftanes in gold, worth thre hundreth Frenche crownes; mair, fextene thoufeand merkis of filuer and gold, reddie canzeit,⁴ quhilk was within the faid grene coffer; togidder with the hail Tapeftrie, filuer-work, bedding, and vther guidis, geir, and pleniffing, being within the faid Place, particulerlie fpecifeit and fet down in the Criminnal Letteris direct aganis the faid James Keyth of Benholme and his complices.⁵ AS ALSO, for airt and part of the thiftious fteilling and away-taking, be way of maifterfull Thift and Stouthe-reiff, in the moneth and yeir of God foirfaid, furth of the faid Place, of ane grit clothe bag, with the faid vmq⁶ Erle his haill evidendis⁶ and writtis of his landis and leving of Benholme, and vtheris his landis and barroneis, being thairintill; and remanent capitall crymes contenit in the faidis Criminnal Letteris, &c.

Andro Barclay of Vnthank, as cautioner, is decernit and ordanit to be in ane amerciamment, viz. for nocht entrie of the faid James Keyth, in the pane and vulaw of ane thoufeand merkis: And ficlyk, that the faid James be denuncet our fouerane lordis rebell, and put to his hienes horne; and his haill moveabill guidis to be efcheit and inbrocht to his Maiefteis vfe, as fugitiue fra his hienes lawis for the faidis crymes.

Stealing Corn, &c.

Mar. 24.—HARIE MENTEITH of Panfteid; James and Williame, his tua fones; Andro Menteith, fone-naturall to the faid Harie; Johnne Menteith, callit of Balderftoun; and fix others.

Dilaitit of the thiftious fteilling and away-taking, furth of Thomas Kincaid of Warieftoun his barnes of Saltecoittis, in the Eift-Kerfe, lyand in the barrony

¹ Various virtues were anciently attributed to certain precious stones, such as the present, (*stomping* of blood,) as antidotes against poison, &c. The following curious entry occurs in the Books of the Lord High Treasurer of Scotland, Feb. 9, 1504.—'ITEM, to the faid Williame [Foular, potingary,] for ANE BLUDESTONE, and thre vnce vjir stuf, for THE QUENE, for bleding of þe nefte; efor ane R. (*recipe*) of Maifter Robert Schaw, xxij l.' ² Chain, or string. ³ Turquois. ⁴ Ready coined.

⁵ The above highly interesting detail shows, in a very striking point of view, the immense wealth which was accumulated and enjoyed by many of the Scottish Nobility at this period. Other portions of this Collection prove that considerable riches were possessed by some of the smaller Gentry, where such a display might not have been expected. ⁶ Title-deeds.

thairof, and feherefdom of Sterling, off threttie bollis of aittis, faxtene bollis of peis, and tuentie bollis beir, pertening to the said Thomas Kincaid.

The perlawer producet our foueraue lordis Letteris, be vertew quhairf the fadis perfones, and ilk ane of thame, ar denuncet rebellis, and put to the horne, for nocht finding of cautionn to haif compeirit, &c.; and protellit for relief of Johnne Kincaid portioner of Gogar, his cautioner.

[*Mr Alexander Colvile of Blair, Justice-Depute.*]

MURDER.

Jun. 5.—JAMES GALBRAITH, in Lekkie.

Dilaitit of the Murthour and Slauchter of vniq^{le} James Broke in Kirkpatrick, his brother-in-law; committit vnder nycht, betuix Kirkcliftoun and Corstorphin, in thair cuming furth the hie-way togidder towardis Edinburgh, in the moneth of Apryle last, in the begynning thairof.

ASSISA.

James Tennent of Lynhous,
Johnne M^cFarlane of Arrochar,

James Burnet of Barnes,
Alexander Lokhart of Braidshaw.¹

The pannell confessis, in prefens and audience of the Assyse, the Murthour and Slauchter contenit in his Dittay.

VERDICT. The Assyse being ryplie and at lenth advyset with the Dittay, togidder with the said James Galbraith his awin Confessioun maid in judgement, with his Depositionn maid be him, vpon the thrid day of Junij instant, in prefens of the haill lordis of Counfell and Sessioun, confessing the Murthour aboue writtin, thay all in ane voce stand, pronunet, and declairit the said James to be ffylet, culpable, and convict.—SENTENCE. To be tane to the Mercat-croce of Edinburgh, and thair his heid to be strukin frome his body; and his haill guidis and geir to be efcheit, &c.

Theft—Slaughter—Fire-raising—Intercommuning with the MacGregors, &c.

Jul. 17.—JOHNNE ROY M^cFARLANE, sone to Andro of Gortane, and others.²

Dilaitit of the feuerall crymes of Thift and Slauchter following, viz. The said *Johnne Roy M^cFarlane*, ffor airt and pairt of the Slauchter of vniq^{le} Williame M^cclane in Blairvak, fseruand to vniq^{le} Duncane M^cfarlane of Blairvak, for the tyme; committit vpon the thrid day of October lastbypast, 1623 yeiris: And

¹ The rest of the Assise were tradesmen. James Tennent, chancellor. ² The remainder of the pannels were, 'Johnne Beg M^ccaulife M^cfarlane (in Stukewa), Duncane M^ccorrie M^cewin (M^cfarlane in Ardlowie), Johnne M^cinnair M^cfarlane in Garboyle, Thomas Moir M^cfarlane, (sone to Duncane Dow M^cfarlane in Morlagane,) Allaster Blair (in Brachairne), Johnne (Dow) Blair, his sone, Johnne Gar M^cgilliemichell, (serntour to Robert Abroche M^cGregour,) Duncane Bayne M^ccartnay, (fseruand to Robert Abroche M^cgregour.)'

ficyk, for airt and pairt of the tressonable Raifing of ffyre, and Burning of the houfe of Abervrchill, pertening to vmq^{le} Colene Campbell of Abervrchill, being in company with Johnne Dow M^cCondochie Bayne, his maifter, and vtheris his complices, at the faid Burning; committit a ten yeir fyne, or thairby. ITEM, the faid *Johanne Beg M^cCanife M^cfarlane*, ffor the thiftions refetting of ane blak kow, quhilk was ftowin be Johnne Roy M^cWilliame M^cfarlane, furth of the landis of Balliemoir, fra Andro M^cWilliame M^cfarlane, in the moneth of December laft: And ficyk, for airt and pairt of the fleilling of tua ky furth of the landis of Clofwrak, pertening to Callum M^cfarlane, indueller thair: And alfe, for airt and pairt of the thiftions fleilling, at the leift refetting, of ane blak horfe, ftowin be Duncane M^ccorriche M^ceane M^cfarlane, furth of the cuntrie of Argyle; committit in Marche laft. ITEM, the faid *Duncane M^ccorrie M^ceane M^cfarlane*, ffor airt, pairt, and being in company with Johnne Roy M^cWilliame M^cfarlane, at the fleilling of ane broun kow, a four yeir fyne, or thairby: And for airt and pairt of the fleilling of nyne lambes, pertening to Johnne M^ccorrie M^cfarlane and Patrik M^ccorrie M^cfarlane in Ardmulrig, furth of the Mure of Ben-Mourlig, in the moneth of Junij I^m.Vj^c.xxij yeiris: And alfo, for airt and pairt of the fleilling of ane gait¹ furth of the landis of Glencroe, in the moneth of October, the yeir of God I^m.Vj^c. tuentie tua yeiris: And in lyk maner, for airt and pairt of the fleilling of ane blak horfe out of Argyle, in the moneth of Merche laftbypaft: And for thiftions fleilling of ane fcheip fra vmq^{le} Malcolm M^cfarlane, in Inner-naimet,² in the moneth of Julij, 1616 yeiris. ITEM, the faid *Johanne M^cInnair M^cfarlane*, ffor airt and pairt of the fleilling of ane broun kow furth of the landis of Glencroe, furth of ane grit number of vther ky, in dryveing thame to the Mercat, to be fauld; committit a fevin yeir fyne, or thairby: And ffor airt and pairt of the fleilling of ane blak kow, a four yeir fyne, furth of the faidis landis of Glencroe. ITEM, the faid *Thomas Moir M^cfarlane*, fone to Duncane Dow, ffor airt and pairt of the fleilling of fyve ky, pertening to George Maidlanes in Letter, and vtheris, the Laird of Killythes tementis: And ffor airt and pairt of the fleilling of nyne lambes, furth of Craigcoftane,³ pertening to Patrik Glas M^cfarlane thair, in the moneth of Junij, 1623 yeiris: And ffor airt and pairt of the thiftions refetting of ane ftowin kow, quhilk was ftowin be Callum M^ccaufe in Clakbowie, fra Colene Campbell of Ardkinglas, in the moneth of November, 1622 yeiris: And ffor ane commoun foirner⁴ and oppreffour, vpone dyuerfe his Maiefteis fubjectis: And for commoun Thift and Refset of thift. ITEM, the faidis *Allajfer Blair* in Bracherie, and *Johanne Blair*, his fone, ffor airt and pairt of the fleilling of foure ky, furth of the landis of Difcher, in Menteith, a

¹ Goat. ² Inversnaid?

³ Afterwards the residence of Rob Roy M^cGregor, who acquired this property in anno 1705.

⁴ One who oppressively takes free quarters, &c. by violence.

fyve yeir fyne, or thairby, quhilk pertenit to . . . Logane, fervand to the Laird of Auchinbrek. ITEM, the said *Allajfer*, ffor the fleilling of tua oxin fra the Laird of Buchamane, furth of the landis of Salloche, a fyve yeir fyne, or thairby. ITEM, the saidis *Allajfer*, and *Johne Dow Blair*, his sone, ffor the thiftious fleilling of thre ky, furth of the landis of Drongie, pertening to Robert Campbell of Drongie, a foure yeir fyne, or thairby: And forder, for the thiftious recept¹ of tua flowin horse, flowin be the said Robert Abroche, furth of the North partis of this realme, a yeir fyne, or thairby. ITEM, the said *Allajfer*, ffor the thiftious refletting of ane grit quantitie of the guidis and geir rest, flowin, and away-tane furth of Balwill, be Robert Abroche, Johnne M'cairtour, Donald Darleith, and vtheris thair complices, quhilkis pertenit to Johnne Fallafdaill, bailzie of Dunbartane: And last, the said *Johne Blair*, ffor fleilling of ane kow, furth of the landis of Clofrak, pertening to Parlen M'neill, thair, a foure yeir fyne, or thairby. ITEM, the said *Johne Gar M'gillienichell*, ffor airt and pairt of the thiftious fleilling, be way of Maisterfull Thift and Stouth-reiff, furth of Murray, in the North, fra dyuerse of the Inhabitantis thairof, in the moneth of Julij last, of ffyftie ffyve oxin and ky, with dyuerse horse, scheip, gait, inficht and pleniffing, quhilk war drewin² be the said Johnne Gar. and be Robert Abroche, his maister, and vtheris thair complices, to the Wast partis of this realme, quhair the samyn was found and disponsit vpon to thair vse: And ficyk, for ane commoun Soirner and Oppreffour, in keeping daylie and nychtlie company with Robert Abroche M'gregour, and passing with him throw dyuerse partis of the cuntrie, foirning and committing oppreffion vpon dyuerse his Maiefteis fubiectis, inhabitantis thairintill; forcing and compelling thame to furneife meit, drink, and vther prouiffion, aganis thair will, and without payment of ony money for the same; in hie and manifest contempt of his Maiefteis auctoritie and lawis. ITEM, the said *Duncane Bayne M'cartuay*, ffor ane commoun Soirner and Oppreffour; speciallie, for cuming to the duelling-hous of Neill M'claren in Inuernandie, in the heid of Balquhiddel, in May last, and thair foret and compellit him to furneife to the said Duncane, meit, drink, and vtheris necessaris; and becaus ane kid was refusit be the said Neill to be flane and cittan, at the said Duncanes defyre, the said Duncane thairupoun maist crewallie inuidit the said Neill for his slauchter, gaif him ane crewall and deidlie wound in the heid, to the effusion of his bluid in grit quantitie; quha, be occasioun of the said fraik, being irritat with rage and furie, with ane grit caber³ in his hand, rymmand at the said Duncane in revenge thairof, strak Donald M'Intyre (quha was ane redder⁴) in

¹ Reset.² Driven.³ A large rafter, beam, or joist.⁴ A peace-maker, who, in this

instance, got the *redding-strail*, the proverbial recompense of those who, through their good nature, endeavour to separate angry combatants. The foregoing details afford a highly unfavourable picture of the state of society, in 'Rob Roy's country,' at the close of the reign of James VI.

the foirheid, and fellit and flew him thairwith; and sa, the said Duncane was airt and pairt of the Slauchter of the said vni^{le} Donald M^cIntyre: ITEM, ffor cuming to the said Neill M^cClarens hous, vnder nycht, and steilling furth thairof of his haill inficht pleniffing, guidis, and geir, to the avail of fourtie pundis money.

The foirnamet haill perfones, dilaitit and accufet of the crymes *respectiue* above writtin, haifing denyit the samyn to be of verritie, war put be the Justice to the knowlege of the perfones following.

ASSISA.

Johnne M ^c farlane of Arrochar,	Duncane M ^c Innoyer in Gortane,	Parlane M ^c Corrie in Ardlieich,
James Garbraithe in Garbell,	Patrik Roy M ^c Innoyer,	Patrik M ^c farlane in Pullochre,
Dougall M ^c farlane in Tulliehin-taill,	Andro M ^c farlane in Drumfad,	Johnne Dow M ^c farlane,
Thomas M ^c farlane,	Malcolme M ^c Williame in Downe,	Donald Dow M ^c farlane,
Johnne M ^c farlane in Kenmore,	Duncane M ^c farlane in Port-Chapell,	Harie Dow, fermittour to Johnne Erl of Mar, &c.
Duncane M ^c farlane, thair,	Johnne M ^c Innoyer,	

VERDICT. The Affyse, all in ane voce, be the repoint and declaratioun of the said Andro M^cfarlane in Drumfad, chancellor, ffind the saidis perfones on pannell, and ilk ane of thame, to be flylet, culpable, and convict of the feuerall crymes aboue writtin.—SENTENCE. To be tane to the Burrow-mure of the burgh of Edinburgh, and thair to be Hangit quhill thay be deid; and all thair moveable guidis to be efcheit to his Maieftis vsé, as giltie of the saidis crymes.

Sheep and Cattle Stealing, &c.

Jul. 21.—ADIE VSCHER, borne in Birkinhauch, in Liddifdail, servand to Robert Ellote of Reidhenche.

Dilaitit of airt and pairt of the steilling of sex ky (*cattle*) furth of Schewingfcheill-Castell, pertening to Williame Heroun of Chipchefe, in the moneth of November last: ITEM, ffor airt and pairt of the steilling of sextene gaitis (*goats*) furth of Emmetilhauch, pertening to Will Charletoun of Emmetilhaugh; Will V^cher, his sone, being in company with him at the steilling thairof; committit in September last: ITEM, ffor airt and pairt of the steilling of tua ky furth of Hafilsyde, in Ingland, the ane blak, the vther broun, pertening to Williame Chairletoun of Hafilsyde; committit be him and the said Will V^cher, his sone, in October last: ITEM, ffor airt and pairt of the steilling of an yellow brandit ox, furth of the landis of Heifilefyde, in the said moneth of October last, pertening to the said Will Chairletoun; the said Will V^cher, his sone, being in companie with him at the committing thairof: ITEM, ffor airt and pairt of the steilling of sextene gaitis furth of the landis of Leipieleifche, in October last; quhillk pertentit to Mathew Robfoun of Leipieleifche; the said Will, his sone, being with him at the steilling thairof: ITEM, ffor steilling and away-taking, about Hallowmes last, of tua fcheip

furth of Richartoun-fute, pertening to Archie Henderfoun, and Johnne Robie-foun, thair; committit be him and the said Will, his sone: ITEM, for airt and pairt of the steilling, furth of Burnemouth, of fyve scheip, pertening to Johnne Nixyne, thair; the said Will Vfeher being at the steilling thairof: LAST, for airt and pairt of the steilling of fyve scheip, about St Thomas-Evin laft, fra Johnne Ellote, callit *the Dod*, and Johnne Elliot, callit *the Gyle*: AND for common Thift and Reffet of Thift.

PERSEWARIS, Mr (William) Heroun of Chipchefe, Will Chairletoun of Hilliefyde, Sir Williame Oliphant of Newtown, kny^t, Aduocat.

ASSISA.

The Laird of Riddell,	Ragnell (Reginald?) Bennell,	Johnne Govane of Cardrono,
Williame Middlemeff of Chapel,	The Laird of Mertoun,	James Douglas of Cowthroppill.
George Ker of Newhall,	Andro Ker of Brounlandis,	Patrik Craufoun of Corbie,
Andro Douglas of Priefton,	W ^m Trumble of Phillopehauche,	Robert Edger of Wodderlie,
Williame Bennet,	James Naytmyth of Poffo,	Robert Lauder of that ilk.

VERDICT. The Affyse, all in aue voce, in respect of the said Adie his Judiciall Confessioun of the crymes foirfaidis to be of verritie, be the mouth of the said Laird of Riddell, chancellor, stand, pronuncet, and declairit the said Adie Vfeher to be fylet, culpable, and convict of the crymes foirfaidis.—SENTENCE. To be tane to the Burrow-mure of Edinburgh, and thair to be Hangit quhill he be deid; and all his moveabill guidis to be efcheit, &c.

Sheep and Cattle Stealing, &c.

Jul. 21.—WILL VSCHER, sone to the said Adie Vfeher.

Being presentit vpon pannell, in presens of my Lord Justice, Confessit him selff to be Giltie and culpable of the particular Thiftis contenit in his ffatheris convictioun: And offerit him selff in his Maieftie and Counfallis will for the samyn.—SENTENCE. The Justice, in regard of the said Will Vfeher his minoritie, nocht being past saxtene yeiris of age, with advyse of the Lordis of Secret Counfall, ordanit the said Will to be Baneischet his Maiefteis hail dominions, and nocht to be fund thairintill in ony tyme cuning, without his Maiefteis Licence, vnder the pane of deid, &c.

[*Sir George Erskine of Innerteill, kny^t, Justice.*]

Murder under trust—Stouthreif—Piracy, &c.

Nov. 3.—JOHNNE BROUN, skipper in Bruuteilland; Robert Broun, mariner, his sone, thair; David Dowie, burges and awner thair; and Robert Duff, in South Quenis-ferrie.

Dilaitit and accuset of airt and pairt of the schamefull, crewall, and vnmerciefull Murthour vnder trust of thre Spanische mercheand young men; and steilling

and appropriating to thame selffis, be way of Maisterfull Thift, Southle-reiff, and Peiracie, off the guidis and mercheandice being within their schipis-boddome, pertening to the saidis Mercheandis ; committit a thre yeir fyne, or thairby, in their cuming fra the Poirt of S^t Johnnes, in Spayne, to Callife, be casting the saidis thre Spanifche Mercheandis over-burde, and thaireftir appropriating of thair guidis and mercheandice to thame selffis, and making money thairof, to thair awin vse.

PERSEWAR, Sir Williame Oliphant of Newtown, kny^t, Aduocat.

DITTAY against the persons on pannell.

JOHNE BROUN, skipper in Bruntieland, maister and owner of ane quarter of the schip vnderwritten, ROBERT BROUN, your sone, awner of ane vther quarter thairof ; DAVID DOWIE, mariner, burges of Bruntieland, awner of the half thairof ; and ROBERT DUFF, indueller and mariner in South Queniflerrie, YE ar indytit and accuset, FORSAEKILL AS the traffique and commerce betuix mercheand and mercheand, in exporting of commoditeis frome ane cuntrie to ane vther, hes, in all well-governet Kingdomes and Commoun welthis, bene estimat the ground and fundamentall caus, nocht only of grit welfth and ritches to the inhabitantis, but alsò ane grit help and furtherance to intertene freindschip and correspondence betuix Princes ; quhairthrow mony loveabill Lawis, vpon guid advyse and deliberatioun, hes bene publeift and fet furth be thame and thair estaitis, for advancement of thair tred, and reiking out of schipis and veschellis for the better vphald and continuance thairof ; and thairupoun, the art of Nauigatioun, with the perones expert thairintill, allweill for thair skill and dexteritie in sailling, as fidelitie in that tred, be the said conveying of the merchandis and passangeris, with thair mercheandice and guidis, committit to thair trust, hes becum famous and of goode estimatioun throw the hail world : LYK AS, the failleris of this Kingdome, being, for thair skill and fidelitie in that tred, nathing inferior to ony vther cuntrie, people, or natioun, haif commonlie, in regard thairof, bene sa respectit be strangeris in forayne partis, that thay, with thair schipis, hes bene preferrit in feruice to ony vther people quhatfumenir. Nochtwithstanding quhairof, it is of veritie, that ye and ilk ane of yow, schaiking of all feir of the Omnipotent and Almychtie God, regard to the ancient goode fame of this cuntrie and kingdome of Scotland, quhairof ye ar namet maist vnworthlie to be inhabitantis and natiue borne people ; as also, to the grit obloquy, schame and reproche, and oppin discredet of the hail failleris of this kingdome resorting to forayne partis, prejudice and disapointing of all lanchfull commerce and tred with ony of the Mercheandis of the samyn, and employment of the hail seafairing men with thair schipis and barkis in tyme cuming, a thre yeir fyne or thairby, ye being in S^t Johnnes, a Sie-poirt within the Kingdome and dominion of Spayne, togidder with the schip callit, quhairof ye, the said Johnne Broun, was maister and awner of ane quarter, and ye, the said David Dowie, awner of ane half, and ye, the said Robert Broun, awner of the fourt quarter ; and being franchted be ane Gilzeane Thaftone, a Spangaird, to pas fra the said Poirt of S^t Johnnes to the Poirt of Callife, with ane laiding of Walnuttis, chesttauis,¹ and certane Spanifche irne ; and according thairto, haifing tane in the said laiding, togidder with thre Spanifche young men, quha war directed be the said Mercheand to await vpon the discharge of the said Mercheandice, and to make mony thairof at the said schipis arryvell at hir appointit Poirt aboue writtin,² ye, befor your cuming abuid of the said schip in S^t Johnnes, plottit, contrivet, and devyset the crewall and barbarous Marthour of the saidis thre strangeris, and the appropriating to your selffis of the hail guidis and mercheandice imput within the said schip ; and drew vp ane Baud to that effect, quhairvnto ilk ane of yow, with the remanent equippage of the said schip put to your handis ; and thaireftir, cuming all aboid, heaft vp sail, and past to the Sea : And being in the middis of Sea, far frae ony land, ye, vpon schamefull and damnable greid and covetoufies, vpon fet

¹ Chestnuts.

² As supercargoes.

purpois, deliberatioun, and floirthocht felony, fulfchilic apprehending that the al-feing eie of the Almychtie did nocht luik down, nor wald bring to licht your maill horrible and detestable Murthour and Pirracie, ye being also fecundit, aidit, and assistit be James Hall in Kirkeuldubrycht, Johnne Gibfoun in the Erles-sterrie, James Carrane in Tradache, in Ireland, Robert Kincauill, cuik of the schip, with ane Irithe boy, namet Thomas Cur; all of yow, being nyne in number, within schip-buird, ye maist crewallie and vnaturallie, aganis the Lawis of Natioues, haifing the saidis thre straingeris in your power, and for the vnlauchfull acqwyreing and appropriating to your selfis of the saidis guidis and merchandice, violentlie, and but¹ pitie or commiseratioun, threw them all thre ouerbuird, ane eftir vther, in the raging seas; and thairby crewallie and vnmerciefullie, vnder trufft, credeit, and assurance, Murdreit and bereft thame of thair naturall lyves; thay haifing na refudge nor bak-dur to eschew your crewallie: Quhilk being done, ye, in plane mokage² and skorne of the Almychtie, as gif his deuyne Maieftie had approvyn that your horrible fact, maid ane Prayer, and sang vp ane Psalme: And thaireftir, as Thevis and maisterfull Sea-robberis, divertit your curse fra Callie,³ and pait with your said schip and lading thairof to Myddilburgh in Zeilland, quhair the saidis walnuttis and chettanes war fauld and maid money of, be ane or vther of yow, in name and to the behuf of the haill company and equippage⁴; and the samyn money, thaireftir, was pairtit amangis yow: Lyk as, the irne was brocht hame to Brvntieland, quhair the samyn was fauld, for reddie money.—Committing thairby maill horrible Murthour and Slauchter vnder trufft and credeit, the saidis thre straingeris being vnder your power and command, within your schip; and lykways Maisterfall Thift, Stouthe-reiff and Pirracie, in appropriating of thair guidis and merchandice to your selfis: Off the quhilkis, ye, and ilk ane of yow, ar and war speciall actouris, airt and pairt; and thairfoir, aucht and fould, in maist exemplarie maner, be pwnest, to the terrour of vtheris.

My lord Aduocat, eftir reiding of the Dittay, and the pannellis accusatioum of the saidis crymes, at length fet down thairintill; and that in respect na obiectioun was maid be the pannell or ony vtheris in thair names, aganis the relevancie thairof, desyret my lord Justice to put the samyn to the tryell of ane Assyse of the perfones summond to that effect.

My lord Aduocat takis instrumentis of the sweiring and admissioun of the Assyse, and that na obiectioun is maid aganis thame be the pannell. And for Verificatioun of the poyntis of Dittay and crymes thairin mentionet, product the Depositionn maid be the foure perfones on pannell, viz. the said Johnne Broun, Robert Broun, and David Doweis Depositiones, maid be thame in prefens of the Laird of Bombie, the Commissar of Kirkeuldubrycht, and the Bailleis thairof, vpone the xxvij day of August last, confessing the Murthour and thiftious taking and appropriating of the guidis and merchandice to thame selfis. Togidder with the said Johnne Broun and David Doweis Depositionn, tane in prefence of the Erle of Melrois, vpone the xv of September last. Produces also the Depositiones of Robert Duff, tane in prefens of the said Erle of Melrois, on the vij day October last, beirand the said Johnne Broun, and David Dowie, to be casters of the first Mercheand overburd. Produces the pannellis haill Depositiones maid be thame in prefens of my Lord of Melrois, vpone the nynt day of October last. Togidder with the Depositionn of Robert Kincauill, cuik of the schip, and ane of

¹ Without.² Mockery.³ Calais.⁴ Crew.

the equippage thair of in that veadge,¹ tane in prefens of James Weymes of Bogy, Vice-Admirall at Kirkecaldie, vpon the 28 of Junij laft. With the Depofitioun of the faid Robert Duff, maid in prefens of my lord Aduocat him felff, vpon the 27 of October laft. And laft, vfes and produces the Declaratioun of Robert Meluill and Robert Cellok, vnder thair hand-writt and mark put thairto, detecting and oppening vp the pannellis giltienes of the haill poyntis contenit in thair Indytement. And vpon the production of the verificationes aboue writtin, askit instrumentis: And proteftit for Wilfull-Error aganis the perfones of Affyfe, gif thay acquit the pannell of the detestable crymes aboue written.

VERDICT. The Affyfe, all in ane voce, be the repoint and declaratioun of Stewin Philp, elder, mercheand in Dyfert, chancellor, ffind, pronunect, and declairit the haill foure perfones on pannell to be Giltie, culpable, and convict of the crymes aboue fpecifeit.—SENTENCE. To be tane to the Mercat-Croce of Edinburgh, and thair to be Hangit vpon ane gibbet, quhill thay be deid: And thaireftir, thair heidis to be ftrukin fra thair bodeyis: And tua of them to be fet vp vpon prikis of irne at *Leith*; and the vther tua to be fent to *Brunteil-land*, to be fet vp vpon prikis thair: And thair haill moveabill guidis to be efcheit to his Maiefteis vfe.

[*Mr Alexander Coluile, Justice-Depute.*]

MURDER, &c.

Nov. 13.—HARIE LISTOUN, indueller in the bak of Plefance (of Edinburgh), callit the Bak-Raw.

Dilaitit, fforfamekill as the faid Harie, haifing, without ony juft caus, confauct ane deidlie haitrent and evill will againft vmq^{le} James Mayne, feruitour to Robirt Young, maltman, burges of Edinburgh, with ane fettillit purpois and refolutioun to bareiff him of his lyffe, be on meine or vther; laitlie, vpon the laft day of Auguft laftbypast, come in the twielicht, eftir fetting of the fone, betuix fevin and aucht houris at evin or thairby, to the faid Robert Young, his peife-land, befyde the Seanis,² near to the Burrow-mure of the faid burgh, quhair the faid vmq^{le} James was in fober and quyet maner for the tyme, keiping his faid maifteris peife, and vtheris his coirnes, than growand and ftanding ftonkit³ vpon the ground of the faidis landis; and thair, the faid Harie, being bodin with ane grit rung or battone in his hand, and with knyves and vtheris invafive wappones, firft vpbraidit the faid James Mayne with woirdis, alledging that he was ane commoun Theiff, and had ftowin ane grit number of the faid Harie his beanes and peife, growand neir to the faid Robert Youngis land, and lyand contigue

¹ One of the crew in that voyage.

² Sciennes, so called from a religious house dedicated to St Katherine of Sienna, in the immediate vicinity of Edinburgh.

³ Cut down and put up in *stooks*, ricks, or shocks.

thairto; and thaireftir, becaus the faid James purget him felf of that calummie, and anfuerit him, be word, that he was als honeft as him felf; and the faid Harie, thairupoun, ran vpon the faid James, and rwfchet him (being ane aget man of threfoir fourtene yeiris of age) to the grund, dang him in the heid, craig,¹ fchoulderis, and fydis with the faid battoun, lap vpon his breift and bellie with his feit and kueyis, punchet him as alfo vpon the heart, and thairby brak and birfet his intrallis and noble pairtis; in maift infolent maner cuttit his cleithing in peices with kuyves, and thaireftir harrellit and drew him be the heillis the fpace of ane quarter of ane myle af the faidis landis, to ane laich volt in S^t Geillie Grange, and impriffonet him thairintill, *tanquam in privato carcere*, he being in the deid-thraw:² Lyk as, within thre houris efter his imputing within the faid volt, he deceiffit of the faidis ftraikis: And the faid Harie, vnderftanding of his daith, to fuppres the Murthour of the faid pair man fra the warld, caufit him to be bureit fecreitie in the nycht, in ane obfcure place. And fa, the faid vmq^{le} James Mayne was fchamefullie, crewallie, and barbaruffie Murthouret, and thairefter fecreitie bureit, be the faid Harie and his complices; and he is airt and pairt thairof; committit vpon fet purpois, prouiffoun, and foirthocht fellony.

PERSEWARIS.

Jonet Watfoun, the relict; Euphame Cuninghame, fister-dochter;³ Sir Williame Oliphant, knycht; Robert Young, as maifter.

PRELOCOUTOURIS in defence.

The Laird of Innerleyth, The Laird of Lugtoun, Mr Lucis Stewart, and Mr Johane Oliphant, Aduocatis.

It is allegit be the pannell, and be Mr Lucis Stewart, his prelocoutour, eftir reiding of the Dittay, that the famyn is nawayis relevant to pas to the kuawlege of ane Affyfe, as it is fett down: nawayis affirmeing thairin, that the pannell was the actual committer of the flauchter lybellit; and fua, nocht concludand, *de homine occifo*, the famyn can nocht pas to ane Affyfe.—It is anfuerit be my lord Aduocat, the allegiance aucht to be repellit, in refpect of the Dittay beir- and *per expreffum*, that the defunct reffautt dyuerfe ftraikis with ane battoun in the heid, and was punchet in the breift and bellie, and his hail noble pairtis brokin within him; and be occaffioun thairof the defunct deceiffit; quhilk was gevin to him be the pannell, and that he deceiffit off the famyn ftraikis gevin to him be the pannell, the tyme lybellit.

It is allegit, that the Dittay contenis dyuerfe and feuerall⁴ memberis, ilk member thairof being ane cryme be the felf, viz. firft, that the defunct was ftruikin with a battoun: 2. His clathis cuttit with knyves: 3. The defunct was harrellit be the heillis af the landis lybellit, to the Grange: 4. Was caffin in ane laiche volt, *tanquam in privato carcere*, quhairin he was detenit captiue and priffoner; quhairin, it is affirm, that the defunct deceiffit: Quhilkis, being feuerall crymes,

¹ Throat; neck ² Half dead; in the throcs, or agonies, of death. ³ Niece. ⁴ Separate.

man (*must*) be discusst feuerallie. The Aduocat declairis that he conjoynes the hail crymes togidder, and deuydis na pairt of the Dittay; and fayis, that the famyn is verrie relevant, as it is fet down, to pas to the knowlege of ane Affyse.

It is allegit be the pannell, that the famyn can nocht pas to ane Affyse, becaus he offeris him to prove, be sufficient Witnesses present at the bar, that the said James Mayne deceffit be hanging himself within ane laiche volt in the Grange, eftir he was committit thairin for steilling of certane beanis and peife, and eftir he had remanit thairin the space of tua or thre houris; quha was brocht thairto, frie of ony hurt or woundis, in ony pairt of his body.—It is anferit, aucht to be repellit, in respect the allegiance consistin*g in fact*o; and gif ony probatioun be tane, it may be proponit to the Affyse, quha, for thair information, may tak the Witnesses declaratioun, gif thay fall think it expedient, or reject the famyn.¹

THE JUSTICE Ordanis the Dittay to pas to the knowlege of ane Affyse; And the exceptionn proponit be the pannell, anent the defunctis putting handis in him self, seing it consistis *in fact*o, REMITTIS THE TRYELL THAIROF TO THE ASSISE; AND THE PROBATIOUN TO BE VSET BEFOIR THAME.

ASSISA.

Mr Johne Cant of the Grange,	Johne Stevinfoun, maltman,	Robert Wilfoun, beltmaker,
Johne Marfchell, burges of Edr,	Johne Lowrie, maltman,	James Johnnestoun, maltman.
Adame Marfchell, maltman thair,	Adame Bar, tailzeour,	Frances Stevinfoun, chirurgane,
Johne Campbell, faibler thair,	Robert Moubray, fuordflipper,	Johne Flaiker, chirurgane,
Johne Bordland, luter,	Johne Ahannay, baxter,	Johne Clarkfoun, fnyth.

It is allegit be the pannell aganis frances Stevinfoun and Johne fltuiker, chirurganes, that nather of thame can be admittit vpon this Affyse, becaus thay haif behavet thame selfis as pairteis, in passing, at the desyre of the perfewaris, and for guid deid gevin to thame, to the defunctis graiff, sevin dayis eftir his buriall, and taking him vp and fichting the deid corpis, ffor ane pre-

¹ This Case is most important, as being the first on Record, where the Lord Advocate voluntarily admits of WITNESSES being examined before THE ASSISE, in relation to facts arising out of the assertions contained in the Dittay. The practice formerly was for the Advocate, as public prosecutor, previous to framing the Dittay, to examine the pannell and such witnesses as could be obtained, immediately after the commission of the crime, before the Lords of Privy Council, or a Commissioner; and the Declarations, Confessions, and other evidence so produced, were founded upon in Court. They were there held as conclusive, and not liable to be redargued by leading of fresh evidence at the time of the Trial. The want of attention to this circumstance, or rather the ignorance of the ancient mode of procedure in matters Criminal, would induce any one, at first sight, to form a very erroneous estimate of the policy, and more particularly of the administration of our Laws. The notion seems anciently to have been, that it was an act of flagrant contempt in a pannel to dispute the validity of the evidence led before so high a tribunal as that of the Privy Council, and probably in the face of his own repeated Confessions or Declarations, on being examined, previous to trial. The Justice, therefore, repelled any attempt on the part of Counsel for the pannel bringing forward Witnesses in proof of his innocence; until, at length, the voice of the country prevailed, and THE ASSISE WERE MADE JUDGES OF THE LAW AS WELL AS OF THE FACT. It is not a little singular to observe here, that one of the Assise (the very Justice of the Peace in the vault of whose house the alleged suicide took place, and who was afterwards chosen Chancellor of the Assise) is brought forward as the principal evidence, along with three of his servants!

cognitioun in fauouris of this perfewar, anent the tryell of this mater.—It is anferit be the Aduocat, the allegiance is nawayis relevant to stay thame to be admittit vpon this Assyse; becaus, quhatevir was done be thame in raising and fighting of the corps, was done be command of the Bailles of Edinburgh.

Robert Young, perfewar, being suorne, gif he has just cause to perfew this Dittay as it is sett down, declairit, that he has just caus to perfew, vpon this reasone only, becaus he, haifing gottin knowlege of James Maynes daith, and cuming to the Grange to vnderstand the forme thair of, and haifing seene the deid corps, desyret Mr Johne Cant to keip him vnburit quhill the morne at nyne houris, that his wyfe and freindis (nicht) come to sie him; quhilk the said Mr Johne promeit fould be done; and nochtwithstanding thair of, he was burit, be the pannellis servandis, lang befor sex houris in the moirning: And thairfoir, in respect of his buriall, secreitly, by¹ promeis, he had just caus to perfew the pannell, as giltye of the said James Maynes daith.

The Aduocat takis instrumentis of the sueiring of the Assyse, and of the production of the defunctis claithes be the relict, all cuttit be the pannell, the tyme contenit in the Dittay: And protestis, in caice thay acquit, for Wilfull Errour.—The pannell protestis in the contrair, gif thay fyfle; and that the Witnelles may be tryit for proving that the only cause of the defunct his daith proceedit fra his putting violent handis in his awin persone, be his feirfull and crewall hanging him self, and thairby deuoiring him self to daith, within ane laich volt of the Grange, pertening to Mr Johne Cant, ane of the Assyse, eftir the pannell had apprehendit him in his peise, and tane him with tua grit wallat-full of scheillit beanis, stowin be him af his peise-rig, and brocht him to the said Mr Johne Cant, as Justice of Peace, to haif remanit with him vnto the tyme he had bene tryit and pwneit for the said Thift. And for clearing of the veritie of the foirsaid allegiance to the said Assyse, desyret the Witnelles following, all present at the bar, viz. the said Mr Johne Cant, ane of the Assyse; Robert Stark, James Scott, and James Wallace, his thre servandis; James Borthuik, indueller in Edinburgh; James M'Corne, in the Seanis; Williame Mure, seruant to Robert Young, ane of the perfewaris, and Johne Girdwoid, also his seruant, to be callit vpon and examinat be the said Assyfouris, eftir thair inloifeing.²

VERDICT. The saidis persones of Assyse thaireftir remouet altogidder furth of Court to the Assyse-houfe, quhair, be pluralitie of voittis, thay electit and chuifet the said Mr Johne Cant in chancellor: And thaireftir, the saidis haill

¹ Contrary to. ² This seems an extraordinary step. The Assise, *after they are enclosed* in the Assise-house, call before them and examine the Witnesses offered, without the direction of the Judge, or the interrogation of Counsel for either party.

WITNESSES being fuorne and examinat be thame, thay all, but¹ difcrepance, cleir-
lie verifeit be thair declarationes, that the said James Mayne come vpone his feit,
without ony hurt, as appeirit, in ony pairt of his body, to the Grange, a littill
afoir sex houris at evin, the day contenit in the Dittay, being brocht thairto be
the pannell, for the caufe contenit in his exceptioun; and being put in the laich
volt, at the defyre of the pannell, to be keipit thairin be the said Mr Johnne
Cant, as Justice of Peace, vnto the tyme he war tryit, and that Robert Young,
his mafter, war brocht to that effect; he, within tua houris thaireftir, the volt
dur being lokit vpone him, was fund hingand in tua horfe girthes or coirdes,
deid, and his mouth fameand;² and thairby, that he had devoiret³ him selff. Eftir
qubais tryell and examinatioun, the saidis perfonis of Affyse reffonit and voittit
vpone the poyntis of the said Dittay, and being ryplie and at lenth advyset thair-
with, togidder with the DEPOSITIONES aboue writtin, maid be the saidis WIT-
NESSES, thay re-enterit agane in court, quhair thay all, in ane voce, be the repoint
and declaratioun of the said Mr Johnne Cant, chancellor, ffand, pronuncet, and
declairit the said Harie Liftoun to be Cleane, innocent, and acquit of the flauchter
and murthour of the said James Mayne; and of airt and pairt thairof.

Quhairvpoun the said Harie Liftoun and his prelocoutouris akit infrumentis.

Incest.

Nov. 19.—JAFFRAY IRWING of Robgill.

Dilaitit of the filthie and detestable cryme of Incest; committit be him with
Agnes Cairletoun, spous to vni^{lc} George Irwing of Bonfchaw, his brotheris
wyfe; quha buir to him, in that filthie copulatioun, thre fones, namet Frances,
George, and Edward Irwingis, and ane dochter; quhilkis war all baptizet in
England; contrair the tennour of the Actis of Parliament.

My lord Aduocat takis infrumentis of the pannellis Confessioun; and pro-
testis for Wilfull Errorr, gif thay acquit.

VERDICT. The Affyse, all in ane voce, in respect of the said Jaffra his Judi-
ciall Confessioun, ffand, pronuncet, and declairit, be the repoint and declaratioun
of Raulff Ker, burges of Lauder, chancellor, the said Jaffra to be ffylet, culpable,
and convict of the said cryme of Incest, contenit in his Dittay.—SENTENCE.
To be tane to the Mercat-croce of Edinburghe, and thair his heid to be strukin
from his body; and all his moveabill gudis to be effcheit, &c.

¹ Without difference in their testimony.
devorare.

² Foaming, or frothing.

³ Destroyed. Lat.

GENERAL APPENDIX.

APPENDIX.

* * * SINCE the preceding Volumes were sent to Press, various important PAPERS having been discovered by the Editor, illustrative of facts narrated in the Trials, it has been thought proper to preserve a selection from them in this APPENDIX.

No. I.

PAPERS RELATIVE TO THE DEADLY FEUD BETWEEN THE EARLS OF EGLINTON AND GLENCAIRN, &c.

I. LETTER, *the King to the Privy Council*, 'for tryall of the anthrowis of the Conflict betwix Erle of Glencairne and the Maister of Wintoun, at St Johnefloun.'¹ August 6, 1606.

RIGHT trullie and welbelouit Cousins and Counselloris, We greet 3ow well. The report of that broyle whiche did fall furth in THE TOUN OF PERTH, betwix THE ERLL OF GLENCAIRNE and THE MAISTER OF WINTOUN, immediatlie befoir the last sessioun of Parliament keipit thair, did offend ws muche; speciallie, in respect of þe circumtances of þe tyme and place, quhen as, (beside the greit bazard in bringing many of THE NOBILITIE then present in the toun, to haue enterit in blood with vperis, and thairby to haue revied that new mortified monstres of DEIDLIE FEED,) it was a reddie way to haue flayit the progres of þat sessioun of Parliament, to þe greit preiudice and hurt of þe Eitait, and to þe hinderances of all our services thair. Quhairvpoun, We ar moved the moir ernestlie to desire the knowledge of þe beginning of þe misdemeanour, and quhairvpoun the famin procedit, and whiche pairtie was first author thairof. And thairfoir, haue thoct meet, heirby, to will 3ow to tak particuler tryell befoir 3ow of þe first beginning of that truble, how the famin fell furth, and whiche of the tuo pairteis began the invasioun; and thairwith to try, whidder it was vpoun a precogitat or foir-thocht intentionn, or if þe fame fell furthie be mere accident, or *chaud melle*, vnintendit be ony of the tuo pairteis against the vper? And heirof, willing 3ow to certifie ws, particularlie, of the whole treuth of that matter, in all the circumtances of the famin, oure pleisour is, that, in the mein tyme, speciale direction be gevin be 3ow to OUR JUSTICE GENERALL, HEICHE CONSTABLE, or thair deputies, or to ony vper Judges appointed by Commissioun to proceed criminallie in the tryall of that matter. to

¹ From MS. *Collection of State Papers*, by Sir Thomas Hamilton, afterwards Earl of Melrose and Haddington.

defert all dayis, and to suspend and continew all proceses intendit befor thame be ony of these pairteis againsi vper, ay and quhill our forder plesour be significit vnto thame, efter We haue dewlie considerit the tryall takin be 5ow in that matter. And fo We bid 5ow richt hairtlie fairwell. FROM our MANOUR of GREENWICHE, pe 6 of August, 1606. [JAMES R.]

TO our traffic and welbelouit cousins and counsellouris, THE ERL of DUMFERMLING, our Chancellour, and remanent Lordis and vperis of our COUNSALL OF ESTAIT, in oure kingdome of Scotland.

II. LETTER, *the Privy Council to the King, as to Deadly Feud between the Earls of Eglington and Glencairn, and Lord Sempill, &c.*¹ Aug. 27, 1606.

MOST SACRED SOVERANE,

ACCORDING to 5our hienes direction, signified vnto ws by 5our MA^{TIES} faithfull counsellour THE ERL of DUMBAR, we did call and conuene befor the Counfell the ERLIS EGLINTOUN and GLENCAIRNE, and THE LORD SEMPILL, with a nwner of thair freindis, whome we knew to haue cheifest interes in the present FEED standing betuix thame, and efter that we had declarit vnto thame the greit paines and travellis whiche 5our sacred MAIESTIE took in 5our awin persone, for extinguifcheing of the name and memorie of DEIDLIE FEEDIS, what good succes had followed vpoun 5our MAIESTIES travellis, in sum of the greittest FEEDIS of this kingdome, and how that 5our MA^{TIES} had now recommendit vnto THE COUNSELL the removing this FEED, whiche hes bene of so long continuance, and be refuision of pe minoritie of THE ERL of EGLINTOUN could not whill now tak effect, we burdinit thame with a Submissioun, conforme to the Act of Parliament. The ERL of GLENCAIRNE pretendit that thair was a quartell betuix him and EGLINTOUN, and that a Submissioun wes vnnecessar; and, in end, he directlie refuist to submitt, becaus the Submissioun imported aganis him of the Slauchter of vniq^{ue} THE ERL of EGLINTOUN, which he wald never tak vpoun him; bot offeris him redly to tak tryall of the lawis for that Slauchter; whiche tryall, in his pairt, aucht to preccid the Submissioun. We rememberit him of ane Submissioun subscrybit be himself in this sam matter, agreable, in evrie word, to that whiche wes now desirid when this matter wes lat in handis afore THE COUNSELL, in Februar 1604. Bot he, standing vpoun his innocencie of that Slauchter, refuist to submitt. EGLINTOUN maid no refuissal, bot pretending some excufe vpoun the schortnes of the warning, he only craved a continuatioun to be advit with his freindis, becaus this wes the first tyme that ever he wes chairgit in this matter, for his MAIESTIE; and THE LORD SEMPILL very frelie, for 5our MA^{TIES} satisfactioun and obedience, without ony ceremonie, offerit to submitt. We have grauntit vnto EGLINTOUN, with his awin consent, the 20 day of November nixt, to be advyfit with his freindis, and to come prouydit in this matter. We have no assurance of THE ERL of GLENCAIRNES obedience, bot we hope that he will conforme himself to 5our MA^{TIES} plesour: And THE LORD SEMPILL will be obedient.

We had lykways in hand the proces of GLASGOW, whairin we haue fund verrye greit insolence and ryatt committit be MYNTO and a number of the commonis of the toune; and hes committit the persones guiltie to waird within the burgh of Linlithgow, whill 5our MA^{TIES} plesour be knowin.

This is all we haue done at this meeting, wherof we haue thoct meet to mak 5our sacred MA^{TIES} acquainted; to the effect 5our hienes may give directioun thairin, as 5our MA^{TIES} fall think good; which we fall prosequite and follow out. And sua, praying God to blis 5our sacred MAIESTIE with a long, happy, and prosperous reigne, We ret

5our Ma^{TIES} maist humble and obedient subiectis and servandis.²

LYNLITHGOW, 27 of August, 1606.

¹ From the same MS. Coll. as the preceding. Hamilton, in his transcript.

² The subscriptions have not been transcribed by Sir Thomas

No. II.

SOCIETIE AND COMPANIE OF THE BOYES.

LETTER, *from the Privy Council to the Marquis of Huntly*.¹ Jan. 20, 1607.

EFTER our verry hairty commendationis to your good lordschippis, We ar informed of a verry greit infoleneye begvn and lyk to grow to a greiter heicht within the boundis of your ll. office be JOHNE GORDOUN, *callit of Geyphe*, FORBES *of Corfindae*, PATRIK MFINNEIR, and sum vperis, quho, having affociat vnto thame feluis ane number of dobotchet and lawles lymmeris, calling thame feluis YE SOCIETIE AND COMPANY OF BOYES, thay haue mozt vulanfullie and feditioullie bund thame feluis in ane fellowschip, with aithis, vowis, and protestationis of mutuall defence and persute; and pat every one of pair quarrellis false comoun to all; and that the purpose and interpryse of any one of thame false profequeted, bakkit, and followed out, be the hale SOCIETIE, against all and quhatfumeur, without respect of persons. Lykas, thir same lymmaris keipis thame sellis togidder, committing oppin and avowed reiffis, heir-schippis, and vperis enormities, in all pairtis, quhair thay may be mailteris and commanderis. QUHILK proud and detestable attempt, as it is odious to be hard of in a peceable estait, subiect to a PRINCE whome GOD hes airmit with power and force able to suppres the same; so the same caryes with it no lyttill sclander and preiudice to your ll. honour and credit, that within your boundis, quhair your ll. may commaund, such ane handfull of lymmaris dar presume to attempt suchie interpryses; and We ar certane pat the knowledge heirof being brought to HIS MA^{TIE}, will mak his hienes wonderfullie till admeir your ll. long patience and connivance, in not apprehending, punisheing, and suppressing of thir lymmaris; and quhat contructionis may be maid heiryvoune to HIS MA^{TIE} against your ll., we remit to your ll. consideration. Always,² we ar heirby to requieit and desire your ll. that, with all convenient speed, you tak ordour for apprehending of the saidis persons, and some vperis THE CHYFTANES of that laules SOCIETIE, and put thame heir befor THE COUNSELL; and that your ll. profequete *with fyre and sword* the hail rest of thair followaris, and never leue of pe persute of thame whill they be apprehendit, pruit, and altogidder suppres; as you respect HIS MA^{TIES} seruice, the peace of pe cuntry, and your awin credite, honour, and reputation, and as your ll. wald eschew that hard censure and contruction which HIS MA^{TIE} man³ mak of your behaviour, in this point. Sua we commit you to God. FROM EDINBURGE, the 20 of Januar, 1607.

To our verry honourable good Lord, THE MARQUISE OF HUNTLY.⁴

No. III.

TRIAL OF THE MURES OF AUCHINDRANE.⁵

LETTER, *the Earl of Cassillis to the King*.⁶ Dec. 3, 1608.

MAIST SACRED SOUERANE,

It may pleis your gracious MA^{TIE}, I haue taikin this bauldnes, vpon the farder tryall of the

¹ From *Haddington's MS. Coll.* ² Nevertheless; at all events. ³ Must. ⁴ A Letter from the Privy Council, 5th Feb. 1608, directs him, by HIS MAJESTY'S command, between and Mar. 10 next, to prepare to depart out of the kingdom; and to give assurance for discharge of his offices, during his absence. ⁵ See this Collection, III. 124, &c. ⁶ From *Dunmoyne MSS.* Adv. Library.

trechrous MURTHOURIS of my vicle THE LAIRD OF CULZEAIN, and of the boy¹ quha careit the Lettir of his dyett, committet be THE LAIRD OF AUCHINDRAINE and his fonne; and now farder cleirit, be the greit paine and cayr of MY LORD CHANCELARE, quha hes broicht them to sik contrarietie in thair DEPOSITIONIS, that all indiffernt men may be perwadit off thair gyltlines of bayth thais Murthouris. Nochtwithstanding quhairof, thai still continue in ane denyall. I wald maift humelie befek 3our MA^{TIES} that it nicht be 3our MA^{TIES} gracios plefoure to graunt ane WARRANT to THE CHANCELLER and COUNSALL OF SCOTLAND to PUTT thame to YE BUITTIS,² quhairthrow thai may be broicht to 3e mair evident Confeffioun. So, mait hartlie vyffing 3our MA^{TIES} lang profperitie and happinels for euer, I remane,

3our MA. mait humbill feruant and subiect,

EDINBURGHE, the thrid of December, 1608.

CASSILLIS.

TO THE KING his mait excellent MAIESTIE.

No. IV.

PAPERS IN FARTHER ILLUSTRATION OF THE TRIAL OF MR THOMAS ROSS.

(See Vol. III., p. 445.)

[THE circumstances attending the Case of MR THOMAS ROSS are so very remarkable in their nature, that it was deemed proper to institute a still more rigorous search after the grounds and Warrants upon which his almost unexampled Trial was founded. After having carefully examined the Acts of the Privy Council, and many other authentic sources, the Editor has the satisfaction of having at length discovered the identical copy of his Trial, which had been transmitted to Court, for the information of KING JAMES VI. Besides the proceedings which have already been printed, it contains a translation of the offensive THESIS and ANNEXA, which, as has already been seen, were ordered to be taken up by the public prosecutor, and upon no account to enter the Records. Annexed to it are the DEPOSITIONS of the unhappy man, which, in expectation of a free pardon, he voluntarily emitted before the Privy Council of Scotland. The original draught of the KING's Letter to the Secret Council, to bring him to Trial and execution; and, in compliance with the King's known wish, their cruel recommendation, that ROSS should suffer an ignominious death, have also been obtained. These interesting documents were found in a Volume of *Sir James Balfour's* invaluable *M.S. Collections*, in the Advocates' Library, which had accidentally been mislaid when the Editor conducted the former enquiry.

The reader has here the painful satisfaction of finding, that the conduct of KING JAMES and his COUNCILLORS was still more inexcusable than had at first been conjectured. It is now clearly proved, beyond the shadow of a doubt, that the PASQUILL, or THESIS in question, had not been *printed* or industriously *dissimulated* by its unhappy author; but that it had merely been affixed on the door of the College,—that, *de facto*, no person had read it, excepting the Vice-Chancellor of Oxford, to whom it had been brought by a student,—that this student, instantly on the Thesis having been hung up, had only perused a few lines of the Paper, and brought it, without delay, to his superior,—and that, after the examination, confession, and imprisonment of ROSS, the Vice-Chancellor had transmitted the THESIS to Court, requesting instructions how the poor man should be disposed of.

¹ William Dalrymple.

² The torture of the boots. The younger Auchindrane was put to the torture, which he bore with remarkable fortitude.

That ROSS was *insane*, as well as in the most abject poverty, there can now be no doubt. Altogether, indeed, his Case is one of the most pitiable on record.

It only remains to the Editor to state, that he is indebted to GEORGE SMYTHE, Esquire, Advocate, for the following authentic information, regarding THE FAMILY OF ROSS of Craigie, at and shortly previous to the period of Mr Thomas Ross's execution, Sep. 10, 1618. Such additional notices and evidence as have fallen under the Editor's observation are inserted in the foot-notes, along with the verifications of Mr Smythe's memoranda.

I. JOHN ROSS OF CRAIGIE appears to have been the father of (1.) *John Ross of Craigie*. (2.) *James Ross of Creytoun*, who acquired certain lands at the East end of Forgundenny from Walter Oliphant of Newton, in Feb. 1539:¹ He married *Marjory Stewart*; by whom he left a daughter, *Janet*,² who married Patrick Lyndfay of Dowhill.³ (3.) *Thomas Ross of Maitlands*, who was killed at the battle of Pinkie.⁴ *Grissell Duncanson*, his relict, afterwards married Alexander Crichton of Forgound.⁵ His son, *James*, was killed in an affray with the Oliphants, Nov. 12, 1571.⁶

II. JOHN ROSS OF CRAIGIE was infeft in the Lands of Hilton Malar, Sep. 17, 1539.⁷ He was served Tutor-at-law to *Janet Ross*, his niece, Mar. 17, 1543.⁸ He is mentioned by KNOX, in his History of the Reformation,⁹ along with "the pensionars of the Prelates, Oliver Sinclair, and utheris, who were faithful to them in all things," and informed them of all proceedings at Court. He married *Isobel Liddell*,¹⁰ who had previously borne a number of children to Patrick Hepburn, Bishop of Moray, so notorious for his gallantries. He was killed at Pinkie, and left four sons and three daughters.¹¹ (1.) *Thomas*. (2.) *John*. (3.) *James*, who had a Charter of the Lands of Pitheveles to him and *Catharine M'gie*, relict of umq¹² Alexander Menzies of that Ilk, his spouse, Apr. 7, 1566.¹³ He afterwards married *Janet Robertson*, relict of umq¹⁴ Thomas Fowlis, burges of Perth.¹⁵ He left no issue; for his brother, *John*, was served heir to him, Nov. 3, 1582.¹⁶ (4.) *William*. (5.) *Barbara*. (6.) *Alison*. (7.) *Grissell*.

III. THOMAS ROSS of Craigie married *Jean Hepburn*; by whom he had one daughter, *Margaret*,¹⁷ who married John Seytoun, apparent of Lathrisk. Jean Hepburn was infeft in the lands of Hilton Malar, in liferent. After the death of Thomas Ross, she married Peter Oliphant of Turings.¹⁸

IV. JOHN ROSS of Craigie succeeded, as heir of entail, to the lands of Craigie, upon the death of Thomas. He married *Agnes Hepburn*; and had by her, (1.) *Patrick*, who married *Beatrix Charterhouse (Charteris)*. She was infeft in the lands of Hilton Malar, in liferent, Apr. 9, 1575.¹⁹ After his death, which took place before that of his father, his relict married Robert Leckie, apparent of Kypdarroch.²⁰ (2.) *Mr Robert Ross*,²¹ who was infeft in the estate of Craigie, and was designed "fiar of Craigie" before his father's death, which took place about 1601.²² He married *Margaret Eriot*. He seems to have sold the lands of Craigie to Mr David Moncreif, son of William Moncreif of that Ilk, before 1620. (3.) *Mr Thomas Ross*, the unfortunate subject of the preceding Trial. (4.) *Andrew*.²³

¹ *Sherrif Records of Perthshire*, Jan. 12, 1573.

² May 20, 1588, James Lindsay, apparent of Dowhill, was served heir to *Janet Ros*, his mother, in a piece of land and orchard in the barony of Forgundennie; and fishing in the Water of Earn.—*Inquisit. Return*. Perth, (1055.)

³ *Sh. Rec.*, Jan. 12, 1573.

⁴ *Ibid.* Apr. 22, 1573.

⁵ *Ibid.* Jan. 12, 1573.

⁶ See this Collection, l. 25.

⁷ *Sh. Rec.*, Nov. 3, 1591.

⁸ *Ibid.*

⁹ Knox's Hist. of Ref., p. 28.

¹⁰ *Sh. Rec.*, Mar. 14, 1550.

¹¹ *Ibid.* Jan. 5, 1549.

¹² *Ibid.* Apr. 28, 1573.

¹³ *Ibid.* Jun. 12, 1577.

¹⁴ *Ibid.*

¹⁵ She was returned heir to her father, in the lands of Mayler, lying within the barony of Craigy, Feb. 19, 1574.—*Inquis. Return*. Perth, (36.)

¹⁶ *Sh. Rec.*, Jan. 15, 1574, and Apr. 20, 1575. ¹⁷ Apr. 16, 1600, *Peter Oliphant of Turings*, having acquired an annual-rent of 130 merks out of the Maynis of Malar, Barclay's-hauch, &c., in the barony of Craigy, from *John Ros of Croy*, and *Agnes Hepburn*, his spouse, under reversion of 1400 merks, with their joint consent, sells his right to Mr John Moncreif of Easter Moncreif, and Jane Spens, his spouse. This was confirmed by Charter under the Great Seal, Jun. 28, 1602.—*R. g. Mag. Sig.*, XL111., 262.

¹⁸ *Sh. Rec.*, Jun. 9, 1596.

¹⁹ *Ibid. eod. loco.*

²⁰ It appears, by the Great Seal Register, that, on May 21, 1602, *Robert Ross of Croy*, in consideration of the price of 1150 merks, sold to Christian Moncreif, eldest daughter of William Moncreif of that Ilk, the Mill of Craigy, with the Mill-lands, and three quarters of the town of Craigy, lying in the Barony of Craigy and Sheriffdom of Perth. This Charter of Sale was confirmed by King James VI, Jun. 28, 1602.—*Reg. Mag. Sig.*, XL111., 261. ²¹ *Ibid.*, Oct. 13, 1598, and Jan 13, 1601.

²² *Ibid.*, Oct. 9, 1591.

To these notices, the following additional information may be annexed.

V. MR ROBERT ROSS of Craigie, above mentioned, seems, from entries in the Kirk Session Records of Perth, to have been reduced to a state of the utmost poverty and destitution. Mr James Scott, in his Extracts from these Records, has the following melancholy entry:—'On the 21st of November, 1620, *Andrew Ross*, in name of *Mr Robert Ross*, *some time of Craigie*, his brother, produced before the Session the said *Mr Robert's* Supplication, showing his present misery, and divers diseases wherewith he is vexed, craving support. Three pounds were taken out of the Thesaury and delivered to the said *Andrew*, to give this brother.'¹

The Editor has not been fortunate enough to obtain any material information regarding the personal history of *Mr Thomas Ross*. From his own DEPOSITIONS,² however, it is abundantly clear, that he must have endured great privations while in England. In that document he actually asserts, in the most solemn manner, that he was driven, by his desperate circumstances, to adopt the unhappy step which ultimately proved the cause of his destruction, in the vain hope, that the wit and talent he had thus exhibited in so bad a cause, would not only plead his apology with the King and Court, but become the means of his future advancement. *Mr Scott* merely remarks, as in reference to this matter, that 'it appears, from a Supplication to the [Kirk] Session, a considerable time before, that *Mr Thomas Ross* had been a long time in the Prison of Edinburgh.'

In conclusion of the disagreeable subject, it is only necessary to add one other entry, from the Kirk Session Records of Perth. It is pleasant to remark, that that charitable body had all along acted in the kindest manner towards this truly unfortunate family; and farther, that they appear to have been actuated by the same pious feelings, in numerous other cases of a similarly distressing description.—'Jan. 9, 1621. Mr John Guthrie, Minister, reported, that he had given *thirty shillings*, which he had received from the Thesaury, to *Andrew Ross*, to bear his expenses, when he passed to the visitation of [*his brother*] unquhil *Mr Thomas Ross*, before his execution.'³

The Editor has failed in tracing the period when ROSS was admitted a Master of Arts, and at what University, although he was politely assisted in his enquiries by the REVEREND DR LEE, who gave him access to the Rolls of the Universities of St Andrews and Glasgow. He fears he has already encroached too much on the limits of this work, and now leaves the reader to draw his conclusions as to the usage and cruel fate of the unfortunate Mr Thomas Ross.]

I. LETTER, *the King to the Privy Council of Scotland, with instructions as to Mr Thomas Ross's.*⁴ [*Sine data.*]

RIGHTIE truflic and rightie welbeloned cofen and counfellour, and truflic and welbeloned counfellour, WEE greete yow well. WEE fende yow here enclosed, a LIBELLE, (written by a villanous caytiffe, or rather moniter, of our owne contrie,) whiche, in time of Disputations at OXFORDE, was affixed vpon a gate of one of the Colleges, as THESES to haue bene disputed: And a scholler, hauing taken doune and red the firll fix lines, (not daring to be confious to him felle of reading furdur of such purpos,) presentlie caried to the VICE CHANCELLOUR; who, suspecting who mighte be the pener, fente for him; and hauing gotten his CONFESSION, that not onlie he was the author, but likewise, that he wolde maintayne all to be trew which he had fette doune therein, the Vice Chancellour discreetlie and dewtifulle committed him cloffe prifoner to the Caste of Oxforde, and fente the Libelle to vs, that WEE mighte declareoure pleafour, bothe concerning it and the author. Whiche, his discreete cariage, hath, in our iugement, defered to be, by a Letter of thanks frome our wholle COUNSELLE,

¹ Mr James Scott, Minister at Perth's Extracts from the Kirk Session Records of Perth, II., 8, &c. See this Appendix, p. 588, &c. ² Scott's Extracts from Kirk Session Records of Perth, II., 8. ³ From the Original draught, preserved amongst the *Dennyne Papers*, Adv. Library. It is carefully corrected, and interlined in many places.

there acknowledged. WEE likewise fende yow the perfon of the man, to be censured by yow, willing yow firste to examine him, and thereafter aduefe of the forme of punishment whiche yee fall thinke fite to be inflicted vpon him. For, although by the Lawes of this our kingdome, it be not permitted for to vse extraordinarie punishmentes, yat hath it euer bene lawfull for the KINGES there, to deuise and inflict punishments, according to the qualitie and nature of the offence, which in this particulare can be no lesse then Treafon [!] For if no man make question but that the writing of an inuective¹ againste THE KING and his progenie is Treafon, in the highest degree, and in our opinion it is a grevous faulte, (and WEE could more easilie forgine the writinge againste our selfe,) then² againste the whole Nation from whence WEE ar sprunge. And if it wer a mater capitall in Germanie for STARCORUS³ (being a German, a mere stranger to Scotland, and one who, perchance, had bene hardlie vsed by some particulare perfon there) to haue written against that whole Kingdome, how much more muite it be capitall to this fellow, who, being Scottes borne, hath so villanoulie, filthilie, yea, and fallie, defamed his owne contrie, by writing in such forte againste his contriemen, the spcialler of our seruantes, [and persuaded a courte to be taken against them, which possible could not be performed, without manifest danger and manifest violence against our selfe,⁴] and so much the more is his offence greenous, as that, by the space of two monethes before, he continually vaunted that he wolde do such a feate. It is therefor our pleafour, that yee aduise vpon his punishment, and hauing resolved, that yee aduertise vs with all expedition. So fare yee well.

II. LETTER, *the Privy Council of Scotland to the King.* Jul. 30, 1616.

MOST SACRED SOUERANE,

WE reftaue youre MAIESTIES Letter, with the infamous LIBELL writtin be that wretched and vnhappy fellow ROSSE, and we imparted the same to youre MAIESTIES COUNSELL; who, with all dew reuerence and most humble thankis, doe acknowledge youre MAIESTIES singular cair and prudent directioun, alweill in this, as in all otheris thingis importing the credite and reputation of this youre MAIESTIES Kingdome; and thay haif writtin thair awne thankis to *The Vice Chancellaire of Oxfoorde*, for his wyfe and kynd resolouionn and proceedingis, in that mater.

We haif aduised WITH THE LIBELL, and with the Lawis and Constitutiounis of this Kingdome, maid aganis the writtaris and fettaris oute of suche infamous Libellis; and we find the same to be capitall, and pncithable in the heighest degree. This fellow is not as yitt come heir; and becaus of the apptoching vacance,⁵ and dissolueing of THE COUNSELL, we haif geuin directioun to THE MAGISTRATIS OF EDINEBURGH, howfoone he fall arye, to commit him cloife prisounair in thair *Irne-Houfe*,⁶ and to lay him in irnis; and vpon thair aduerteifment, we fall conueene and examine him; and accordingle, we fall gif directioun for his tryall and convictioun, and fall superceid the pronouncing of Doome, till we vnderstand youre MAIESTIES farder pleafour, anent the forme of his pynithment. Oure opinioun is that he falbe HANGED at the *Mercat-Croce of Edinburghe*, and his heade affixt on one of the *Portis*. But in this we submitt oure selfis to your MAIESTIES directioun; quhairunto we fall conforme our selfis. And so, praying God to blisse your MAIESTIE with a lang and happie reigne, we rest

Your Maiefties most humble and obedyent subiectis and seruitouris,

AL. CANCELL'. BINNING. S. W. OLIPHANT.

HAILYRUDHOUS, penult July, 1616.

TO THE KING his most sacred and excellent MAIESTIE, &c.

¹ The original words had been 'such an execrable inuective.' ² On the margin, 'that one should write against his own country.' ³ See the Introduction to *Ross's Trial*, III., p. 145, &c. ⁴ The words within brackets are added on the margin. ⁵ Vacance; vacation. ⁶ Their strong iron room, or 'cage,' as it was afterwards called, in which desperate criminals were confined previous to their execution.

III. *Followis* THE THESE, *with* THE APPENDICES *adionet thairto, translated.*¹

THAT all SCOTTISMEN aucht to be throwin furthe and expellit out of THE COURT of ENGLAND, (excepting his gracious MATHE, his sone, and few vtheris,) and that þe INGLISCHMEN ar nichtliele blindit, deceavit, and fylet, albeit thay be vtherways ane Natioun full of evis, and quick-sichtit, that sufferis fo vnprofittable and pernicious a multitude and puddle of rafkallis to rage and bear dominion within thair entrallis and bowellis. Off quhilkis blasphemis (3e haif writtin) that 3e wald rander and follow out the maist iust reasones, by Godis grace, at ane vther occasioun, moir lairglic and accuratlic, bothe by profe and verfe. Bot now 3ow put furth 3our finger to schaw only the fontanes, and theafe in few number, be refone 3e inlaikit lafer² and helpis to performe the famyn.

I. SANCT JEROME, AUGUSTIN, and STRABO wryttis, that SCOTTISMEN of auld war men-eitteris, or eatteris of menis flesche; and trewlie, (as 3e beleve,) for as 3it the flesche whilk the ancient Scottis swallowed sliks in the jawis and teith of the Courtiours, qubairly thay ar provoikit to fuche ane insatiabile avarice and intollerable pryde.

II. JOSEPHUS wryttis, in his booke against Appion, that, in the tyme of Amenophis, King of Ægypt, thair raget and rauaget vp and down tua hundred thousand lipperis in Ægypt, quba, by vnlauchfull means, and by mervellous craftines and subtiltie, emptied and pillicked³ all þe subttance and riches of Ægypt; whilk wald haif bene haillie vndone, gif this vnhallowt menzie⁴ had nocht, by the wilfdome of the King and Nobillis, bene casin out and expellit: Sua, peace and peace,⁵ THE KING and COUNSALL of ENGLAND fall be vndone, and go down, iff this compaunie or band that robbis Kingdomes and landis be nocht sent bak to thair wounted feattis and stallis.

III. THE seven leane ky⁶ of Pharoa confwmet and d froyit the seven fatt and weill fed ky, and 3it war nocht satisfet; and the seven deaff and toome⁷ earis of corne, blasted with the East wind, fswallowed vp the seven big and fatt eares, and war nocht filled: Sua, these Courtiours, by thair begynning, and off-spring, and first estait, being moit miserabile, thay diltroy, overturnes, and confumes ENGLAND, ane maist plentifulle contrie; and ar nocht 3it filled with so grit and evill conqueifit⁸ ritches, acqyret by the schipwrak of þe haill Kingdome of England.

IV. THAY quha, in þair 3outh-heid,⁹ war trwbillit with famine and hunger, can nocht, quban thay ar cum to thair full growne aige, by no plentie, be fatiat:¹⁰ Sua, it befallis vnto these, quha of maist sklender begynning, by mad mirriement and sport of Fortoun, ar cayreid vp to the heichest top: 3ea, gif þair war gevin vnto his maist bountiefull and liberall MAJESTIE ane thousand philofophik itones, qubairly the haill Oceanus nicht be convertit in gold: 3itt, these wald nocht be filled, gif the Cantabrik or Bilkay Sea of Spayne, war gevin vnto thame to drink; thay wald nocht suffer ane thristie bird to drink ane droppe thairof.

V. THAY spend more in þair gairtanes, and ribbens¹¹ in the latches of thair schooes, than þair fatheris bestowis in þe intertenement of þair haill famelic. O quhat tymes ar these! O quhat maneris be thefe! O the infamy of the world and reproche of the earth! Now þair is mony Smerde Magiens, but thay vaunt thame selfis fa to be.

VI. THESE Scottis Courtiours (verrie few exceptit) haif the disloyaltie or vnfaithfulness of the Carthaginians; the menfwrone aithes of the Phrygians or Trojanes; the luxurie of the Persians; the avarice of Mydas, King of Phygia; the crewaltie of the Efedonis, ane people of Sythia; (quhilk people singis at þair parentis funerallis, and drinkis in 3air skullis, and eattis þair flesche mingled with vther beifis;) the prophaneitie of Epicurus; the deceat of Synon; mair wyld than a carian, a bettill, or clok vnder the wings of ane Eagle; thay vse the spuizeis¹² of Spartacus, (this Spartacus was a Thra-

¹ From the identical copy of the Dittay, which had been transmitted for THE KING'S inspection, preserved among Sir James Balfour's MS. Collections, Adv. Library, Edinburgh. ² Wanted leisure. ³ Pillaged; plundered. ⁴ Train; company; gang. ⁵ So, or in like manner, piece-meal. ⁶ Seven lean kine. ⁷ Empty. ⁸ Ill-gotten, or acquired. ⁹ Youth; minority; less-age. ¹⁰ Satiated. ¹¹ Garters and ribands. ¹² Spoils.

cian fenner¹ quha with Chyfus and Oenomaus brak out of the Fence-Scole of Lentulus, and drestlie ane army of fervaunds, and overcame Clodius Glaber his army, and spulikit all Campania, and overthrew Lentulus army and Calfus troups, bot was defeat by Craffus.) and the fearcenes of Virratus (the Portugall Lusitanus, quha frome pailor become ane hunter, and pairfeir the chiftane of ane army, trublet the Romayne, and defeat thame in Spayne, and at lenth was slayne be treafone, procureit be Copio), and the leaings of the Candians or Cretes.

VII. Vnto his schyueing and royall MATHE, he vntrublet health and increse of glorie ! Bot God, frome the heaunes, persue these Courtiours with blak fyre and brimstone ! I thall, so long as I leave, for thair distruction, fclaw my self Coriolanus, and nocht Themistocles ; that is to say, ane oppin ennymie, and nocht ane secreit freind.

VIII. O ENGLISCHE ! Inglishche ! The most expert and wyfely Natioun in weir,² the terror of the Spaniard, triumphis over France and Gayene by so long a tyme, in quhat benumbes or droufines ar ze fallin ? Ze, quha in weir and battell ar intometable,³ now ze fall so doune quiklie by dissait, at vayne appeirances of imaginarie matteris, and by the toyis of fals accusaris and delatouris, in quhome thair is nocht so muche favoris or witt as in the quhyte of ane egge ! Zitt all the wealth and commodities of your most flurischeing kingdome, is rayreit away in boittis and crearis,⁴ thifftoullie, to Scotland ; and incontinent, being helpit with your awin commoditeis, thay will vterlie trampill vnder fute your Natioun and countrie, and will cut your throttis with your awin sward, befor ze be awar ! Quhat a patient Socrates will indure theise iniuris ! Quha may nocht sinff or sinell gritter schortlie to follow ?

IX. Ze haue gottin out of Scotland ane most worthie PRINCE ; nocht ane thousand Kingis, counterfete Stage-playeris, quhyttet tombes !⁵ Thair is hingand aboue your heidis, or lying vpon your schouldris, ane moir hard ferveitide and schearpar captiuitie than over Natiounes quhilkis ar subdeuid and overcom by weir ! For, efor the Romanes had overthrawn, in weir, the Syrianis and the Ægyptianes, thay gave thame to be governet be thair awin cntriemen ! Thay exactit only tribute dew frome the vanquished ! Sall thairfor, those barbarous people possels and enjoy the first places, in Courte, in Counsale, in Kirk, in Nobilitie, in Landis, offices, functiones, and gittis of Ingland ? Thair surlie, the libertie and glorie of England is evanished ! Now, England is baillyly⁶ delyuerit over in the handis of Scottis Contriouris, and the Judges haif enterit pair nokis vnder the zoke of theiffis ! O, the World is turned vp fyde doune ! We ar now overturned vnto the auld mafs and chaos of confusoun ! Lett sum revengde spring out of my bones, that may cheltize with fyre and suord the Scottis Court and her possellours. Geve thankis, ze Scottis Courtiours, vnto my povertie, and nocht vnto the barrames and penurie of my ingyne, gif I airme nocht all Ingland to cut your throttis. Bot the Lord preserue ever more his awin annoynted, both weilbelouit and electit !

X. REMOVE this stinking pompe, pudle, and trifles of the Scottis Court, and pride of this hautie, felkes,⁷ and impotent commontie. Thane, fall thair be few in your boundis that fall be begeris, midie,⁸ ragget—than, the treyis, gibbettis, and gallouffis of all the cuntrie fall nocht be laiden with the wecht of the langit vp carcades !⁹ The Scottifmen, as loch-leitches, and wormes in coirnes, drinkin out the sap of your cuntrie, and foukis out your merche,¹⁰ by inlaik quhairfo so many ar led and drawin to thift and robbery ! Those Courtiours draw out gritter welthe furth of your bowellis, by your knowlege,¹¹ than France, Germany, and Spayne, is able to afford ; quhilkis guidis, whan thay ar thus pullet¹² away, quhat fall be maisterfull and uiedie commontie¹³ of Ingland do or vnderstat, bot to call thame

¹ Fencer ; gladiator. ² War ; the art military. ³ Indomitable. ⁴ Boats and *cr. ars.* ⁵ Crears were a sort of vessel much in use in the Western Islands, to which they appear to have been peculiar. ⁶ Whited sepulchres. ⁷ Wholly ; entirely. ⁸ Weakly ; feeble, &c. ⁹ Needy. ¹⁰ Carcasses. ¹¹ Sucks out your marrow. ¹² Without your knowledge ; secretly ; by stealth. ¹³ Perhaps, for ' *pilleit* ; pillaged ; plundered. ¹⁴ Destitute and needy ' commonalty,' or common people.

felisheidlong in ane golf,¹ quihilk mycht leave² sufficientlie, without manis hearne, gif thofe howlattis and fymeis³ war schote⁴ away.

O, worthieft Inglichmen ! Wey the force and reafones of this my Counfall, quhairof I haif skairec recited the tent pairt ; and 5e fall perfave that I am come to 5our cuntrey as ane helthfull start, quihilk thir Courtiours haif drowned with the fea wallis, as the Lycaonian Starr, or Vria Maior, to quhome it war ane villanie to have fo drowned fuche ane start.

Bot we fall noch all die to day vnrevendget !

IV. *Followis the tenuour of THE DEPOSITIONES of Mr Thomas Roifs.*

AT EDINBURGH, the elevint day of August, 1618. In prefens of Sir Williame Oliphant of Newtown, his Maiefties Advocat.

MR THOMAS ROISS, humblet on his kneis, and deiple fuorne vpon his folempne oathe, fayis, that he will declair the treuthe in all and everie thing that fall be demandit of him. Demandit, yf THE THESIS, and APPENDICES pairof, product and schawin vnto him, and writtin on thre fydis of paper, be his awin hand-writ ? Depones and grantis, that thay ar his awin hand-writt—and that na vther perfone wrait ane word or Lettir pairof.

Demandit, quhat moved him to wryte them ? Depones, that he, being ane gentilman borne, depryved of all beneift that he nicht expect of his fateris estait, and being reduct to the extreme point of miserie and povertie, and havinge reslaueit mony infortuntable miureis of his cuntry men, at Courte ; he, being eschamed to beg, and distancing to steill, and havinge no meanis quhairby to intertene⁵ him selff, findinge no comforte nor releif of his contriemen at Courte, he pairfoir, being in dispair and mad, out of his distemperat humour and frenyie, and fair aganis his heart, without ony fetled resolution, and without ony purpos to do evill, bot to schaw the greif of his heart, and to move pitie and compassioun towardis him, wrait thir THESES ; thinking, that the wryting pairof, in this his mad humour and disposition, wald raper procure pitie nor⁶ wraithe, at HIS MA^{TIES} handis ; and that God, peradventure, wald mone HIS MA^{TIES} heart, who is a prudent and wyfe Prince, to think that the deponer was drevin, vpon plane miserie and necessitie, to wryte thame ; and pat pairfoir HIS MA^{TIE} wald pitie his distres and miserie, and help him : And he apprehendit that some weill-myndit Courtiours wald interceid for him, and schew HIS MA^{TIE} that he quho had done so weill vpon a evill subiect, wald do far better vpon a goode subiect, gif he war employed ; bot, yf it fould pleis God to move HIS MA^{TIE} to think vtherways of this matter, and to tak it in evill pairt, it behooved the deponer to abyde Godis will and THE KINGIS MA^{TIES}.

Demandit, quhat he did with thir THESES, eftir the wryting thairof ? Deponis, that he affixt thame on a dur of the Kirk, callit ST MARIES KIRK, at OXFURDE, vpon Twifday, being a preiching day, in the moneth of July last, immediatlie as the people war dissolueing frome the Sermon, and as DOCTOR GODWENE, VICE CHANCELOUR of THE VNIERSITIE OF OXFURD, was cominge out of the Kirk. And depones, that immediatlie eftir pai war affixt, ane man, quhome the deponer knowis noch, tooke thame down, and cayreid thame to be Vice-ChanceLOUR. And grantis, that THE THESES now product and schowne vnto him ar be fame verrie Thefes, and that fame Paper quihilk he wrait and affixt, as said is.

Demandit, yf at ony tyme afoir be wryting of THE THESES he was in conference with ony perfones pairanent ? Depones, that ane moneth afoir the affixeing of THE THESES, he was in conference with be Vice-ChanceLOUR ; and regrated vnto him his hard estait and condition, and the vnthankfulness of his cuntry men, the Courtiours, quho wer his gritt vnfreinds,⁷ And he schew the Vice-ChanceLOUR that he had a purpos to go to France, and intreated him that he mycht haif a *viaticum*⁸ to transf-

¹ Gulf. ² Who might five, &c.

³ Owls and bats.

⁴ Thrust ; driven.

⁵ Support ; maintain.

⁶ Than. ⁷ Enemies.

⁸ In this sense, *viaticum* seems to have been a term employed to denote a charitable contribution raised by authority, within the Universities, for enabling poor students to undertake journeys to foreign parts, &c.

point him. Quhairvnto the Vice-Chancellor 3eildit. Bot the deponer being efchamed to go through the Colledges to collect the fame, he reflaut only foure or fyve pund Sterling, and 3pendit it as he gat it; quhairas, gif he had reflaut all that wald haif bene gevin, in caice he had tane panes to go throuche the Colledges to haif collectit it; or yf he had gottin ony *viticum* frome HIS MA^{TIE}, he wald nocht haif writtin thir THESES, bot wold haif gone to France.

Grantis also, that he regratit the vnkyned deilling of the Scottis Courtiouris towardis him, to Sir Harie Schaveill, Principall of Eittin Colledge, befyde Wyndfoir; bot denyis, vpon his gritt aithe, that he impairit his purpois to wryte THE THESES, outh^r to the Vice-Chancellor or to him.

Demandit, he whole advyfe he wrait thir THESES? Or, yf he had conference with ony perfone thairanent? Depones, vpon his grit oathe, that he had no advyfe, counfall, nor informatioun gevin to him in that matter; bot being at Greenwitche, a littill eftir he went to Oxforde, he addrest him selff to one of THE KINGIS Chaiplaines, quho is a heiche^t tall man, and was walking in Grenewitche Hall for þe tyme. His name he knowis nocht. And he itreited the Chaiplane to tell THE KINGIS MA^{TIE}, that he was borne away; and that he had long waited on, without ony help or suppoirt; and that he was now drevin to grit povertie; and that he wald pray God for the weilfair of HIS MA^{TIE} and his childrene—bot, for his emtriemen, the Courtiouris, quha had bene fo vnthankful vnto him, he fould rather be lyk Martius Coriolanus vnto thaim, nor² Themistocles.

Grantis also, that afoir his passing to Oxforde, he forgaderit with on Johnne Line, Scottifman, a taillour, duelland in Tittler itreit; and that he tauld him, that wer not for þe respect and reuerance that he cayred to HIS MA^{TIE}, he was halflingis myndit (yf he gat nocht fome suppoirt to carye him to France) to fett vp fome THESES, either in Oxforde or in France, against the Scottis Courtiouris, and that it was goode for THE KING to fend fome of thame away. And the deponer defyret Johnne Line to aequent THE KINGIS MA^{TIE} heirwith, be Petitioun; and he craved Johnne Lynes advyce, how he micht efchew the wryting of thes THESES; bot Johnne Lyn had no advyce in the matter. And fayis, vpon his grit oathe, that he nevir reveillit forder of this matter to ony perfone, bot fo far as he hes confest, concerning the Chaiplane and Johnne Lyn. And denyis, vpon his oathe, that evir he gave out or disperit ony coppeis of thir THESES.

Demandit, yf at ony tyme eftir he had meditat vpon the wryting of THE THESES, and afoir his affixing of the fame, he communicat the matter to ony perfones, or fchew þe THESES vnto thame? Depones, that he only reveillit the matter to his oilt³ in Oxforde, callit Johnne Ewing, taillour, and to his wyffe, in this maner, to wit, that he was going to wryte fomething quhairof the haill scollaris of Oxforde wald schortlie get knowlege, and wald heir of it; thairfoir, let me be quyet a quhyle, and lett no man truble me. And this was xxiiij houres afoir þe affixing of the THESES.

Demandit, how it was knowne that he had writtin and affixt the THESES? Depones, that the Vice-Chancellor knew his hand-writt, and fend for the deponer within a quarter of ane hour eftir the affixing of the fame, and askit of the deponer, 'Gif he had writtin thame?' Quhilk the deponer grantit. Quhairvpon the Vice-Chancellor fend him prisoner to the Castell of Oxforde; quhair he was itraidit thair ten dayis; till thre Scottifmenne of the Gaird war fend to bringe him to Courte. Denyis that, during his abode in Oxforde Castell, he had speiche with ony perfones anent this matter, bot⁵ with his keipparis and vtheris prisoneris; quho askit of him, the cause quhairfoir he was wairdit? To quhome he anfuert, becaus he had writtin fome littill thing aganis his cuntrie-men, the Courtiouris, advyseing THE KING to fend fome of thame hame.

Depones, that quhen he come to Courte, he was putt in a Inne, befyde Charing Croce, quhair he flayed thre nychtis and two dayis; and that he was examinat be the Duke of Lennox,⁶ the Marquis

¹ Either. ² High. ³ Than. ⁴ Host; landlord. ⁵ Unless; except. ⁶ Ludovick, second Duke of Lennox, who had held some of the highest honours in Scotland. He was Great Chamberlain, Lord High Admiral, and Lord High Commissioner to the Parliament of Scotland, 1607. The Duke of Lennox was successively created Earl of Richmond, Oct. 6, 1613.) Earl of Newcastle and Duke of Richmond, (May 17, 1623.) Master of the Household, first Gentleman of the King's Bedchamber, and one of the Knights Companions of the Order of the Garter. He died Feb. 16, 1624, *atæt* 50, without being survived by any of the issue of either of his three marriages.

of Hamiltoun,¹ the Vicount Fentoun,² the Lord Hay,³ and Sir Williame Alexander.⁴ And pat pair-
 after he was convoyed to (a) felip of Prestoun, lyand at Southwark, be Mr Johnne Broun and Patrik
 Logane, Scottifinne, and be ane Ingfishman of the Gaird. M. T. ROS,⁵ with my hand.

T. W. OLIPHANT.

No. V.

DOCUMENTS RELATIVE TO THE 'EGYPTIANIS,' OR GIPSIES.

[IN many parts of the preceding Volumes, TRIALS have been inserted, from time to time, regarding the remarkable Asiatic people, commonly known in early times, in Scotland, by the name of EGYPTIANS. It seemed to the Editor to be desirable to afford to the enquiring reader some traces of their wanderings in Scotland, during the fifteenth and sixteenth centuries; and for that purpose, he has examined as many of the earlier Records as his opportunities have, at present, permitted.

It is sufficient, for the purposes of this Collection, to remind the reader, that, from whatever country that singular race took their origin, (which, though there be much room for difference of opinion on the general question, was assuredly Oriental,) and whatever the causes may have been which prompted their emigration, or occasioned their expulsion, from their native soil, this wandering people first made their appearance in Europe early in the fifteenth century. They succeeded, in spite of numerous decrees of expulsion and persecution, in making good their settlement in various kingdoms, and especially in the countries of Poland, Germany, Hungary, France, Spain, Italy, England, and Scotland. It is very remarkable, that, although they have now been resident in Christendom for nearly *four hundred years*, they have preserved themselves as a separate and peculiar race, in *all* the countries where they have sojourned; and have all along been characterised by their distinctive manners, customs, language, and superstitions, which have been kept almost pure and unimpaired, from the date of their first emigration. Indeed, few instances have occurred, in any country, where any considerable portion of them have steadily settled in towns, or followed any

¹ James, *second* Marquis of Hamiltoun, a great favourite of King James VI. He was created an English Peer, by the titles of Baron of Ennerdale, in Cumberland, and Earl of Cambridge, June 16, 1619; was a Gentleman of the Bedchamber, Steward of the Household, and Lord High Commissioner to the Scottish Parliament, 1621; and Knight of the Garter, Jul 7, 1623. Died Mar. 2, 1624-5, *at et* 36.

² Alexander, Viscount of Fentoun, eldest son of Sir Thomas Erskine of Gogar, created Earl of Kellie, Mar. 12, 1619; and father of Thomas, *second* Earl of Kellie. Obiit, Feb 1633.

³ John, *eighth* Lord Hay of Yester, created *first* Earl of Tweeddale, Dec. 1, 1646. ⁴ Of Menstrie, the celebrated Peer, who obtained a Grant of Nova Scotia, in America, by Charter. Sep. 10, 1620. He was created Viscount of Stirling, &c., Sep. 4, 1630; and Earl of Stirling, Viscount of Canada, and Lord Alexander of Tullibody, June 14, 1623; and died at London, Feb. 1610, but was buried at Stirling, Apr. 12, 1611.

⁵ MR THOMAS ROSS, present Minister at *Cargill*, obtained a GIFF, under the Privy Seal, of THE VICARAGE OF CARGILL, with the fruits, rents, teinds, &c., and with the Manse and gleib thairof, lying within the diocese of Dunkeld, and sherrifdom of Perth; 'during all the dayis of his lyfytyme.'—*Register of Presentations to Benefices*, Vol. III, Jul. 26, 1606.

sedentary or useful handicraft. On the contrary, they have literally wandered from place to place, seldom remaining above a few days in one spot, "living in tents," and subsisting by plunder or knavery.

In those kingdoms, where they have effected a steady footing, they have all along been distinguished by the name of BOHEMIANS, GITANOS, ZINGARI or CINGARI, ZIGEFNERS, TZINGANYS, GIPSIES, and EGYPTIANS.

As so much has been written regarding the origin and history of the Gipsies, by *Hoyland, Grellmann, &c.*¹ it is only necessary to premise these facts, in the briefest manner. The reader will find several very curious and interesting essays on the history of the Scottish Gipsies, written in a popular and entertaining form, in the two first volumes of *Blackwood's Magazine*, and also in the *Encyclopædias*. The Editor has just been informed, that a work is at present preparing for publication, which professes to embrace all that is known regarding the history of these wanderers, especially in the various districts of Scotland, which renders it still less necessary to enlarge in this place.

It may be remarked, that in the fifteenth century, THE EGYPTIANS uniformly, in the numerous countries to which they migrated, gave themselves out to be *Christian Pilgrims*—and their leaders assumed the titles of KINGS, DUKES, COUNTS, or LORDS of LITTLE EGYPT; from which country they always pretended they had been expelled by the *Saracens*, on account of their RELIGION. Certain it is, that at present they appear to profess *no religious belief whatever*, and they lead the most immoral lives, and herd together like hordes of savages, in a promiscuous state, wholly unknown to any other race now extant in Europe, living "without God and without hope in the world." With their characteristic cunning, it is likely that this assumption of the appearance of *Pilgrims* was only in accordance with the superstitious and prevailing customs of the times. Under this character they had the address to impose upon almost all the Sovereigns of Europe, and obtained passports and privileges from them; and even THE POPE himself was not protected from their artifices, by his boasted *infallibility*.

In examining the Books of the *Lord High Treasurer* of Scotland, the following entries occur. They are here laid before the reader, without further comment.

• Jul. 17, 1492. Item, to Peter Ker to paffe to THE KING² to the Hwnthall,³ to get the Letteris subferivit to THE KING OF ROWMAIS, iij l.

• Jul. 19. Item, to THE KING OF ROWMAIS meffinger, at the Kingis command, xx li.

• Maij 2, 1501. Item, to *Peter the Moryene*,⁴ quhen he paffit his way to France, iij li. x f.

¹ *Hoyland's Survey of the Gipsies—Grellman. Home on Crimes. Mackenzie's Obs. on the Statutes, &c.* See also *Acta Parl.*; *Burnet's Hist. of Reformation, &c.* ² JAMES IV. ³ Of Glenfynlas, or Glenartnay, where the King was in use to resort at that season of the year. ⁴ It appears by other entries in the Records, that this person, and certain *More laffes*,⁵ were minstrels and servants to the Queen.

‘ Maij 10, 1502. Item, to THE ERLE OF GRECE, be the Kingis command, xiiij f.

‘ Jun. 28. Item, to ANE KNYCHT OF GRECE, be the Kingis commande, vij lib.

‘ Item, for ane ring of gold, fet with ane dyamant, and tua rubyis, in maner of *flour de lice*, iiij lib.

‘ Feb. 24, 1503. Item, in Drumfreife, to *Peter the Morieue*, ix f.

‘ Dec. 11, 1504. Item, quhen *the More las*¹ wes cristinit, giffin to put in the caudill, ix f.

‘ Apr. 22, 1505. Item, to THE EGYPTIANIS, be THE KINGIS command, vij lib.

‘ 1530. Item, to THE EGIPTIANIS that danfit before THE KING, in Halyrudhous, xl. f.’

These are the only early notices the Editor has hitherto met with, in that valuable Record. It is very probable, however, that some of them have no reference to Egyptians. A variety of other documents have been obtained from the Records of the Privy Seal, &c., which follow this brief and imperfect notice.]

I. LETTER *from King James IV. to the King of Denmark, in favour of Anthony Gavin, Earl of Little Egypt, &c. Anno 1506.*²

ILLUSTRUSSIME, &c. ANTHONIUS GAWINO, EX PARVA EGYPTO COMES, et cetera ejus comitatus, gens afflictata et miseranda, dum Christianam orbem peregrinationes studio Apostolicæ Sedis (ut refert) iusti, fuorum more peregrinans fines nostri regni advenerat, atque in fortis sue et miseriarum hujus populi, refugium, NOS pro humanitate imploraverat ut nostros limites sibi impune adire, res cunctas, et quam habet societatem libere circumagere liceret. Impetrat facile quæ postulat miserorum hominum dura fortuna. Ita aliquot menses bene et catholice, (sic accepimus,) hic veratus, ad te, REX et AVUNCULE, in DACIAM transitum parat. Sed Oceanum transmissurus nostras Literas exoravit, quibus celsitudinem tuam horum certiores redderemus, simul et calamitatem ejus gentis Regiæ tuæ munificentie commendaremus. Ceterum errabundæ EGYPTI fata, moreque et genus eo tibi quam nobis credius notiora quæ EGYPTUS tuo regno vicinior, et major hujusmodi hominum frequentia tuo diverfatur imperio. Illustrissime, &c.

II. LETTER, *under the Privy Seal, by King JAMES V. in favour of 'Johnne Faw, Lord and Erle of Little Egypt.'*³ Feb. 15, 1540.

JAMES, be þe grace of God, King of Scottis: To oure Schereffis of Edinburghe, principall, and within the contabularie of Hadingtoun, Berwik, Roxburghe, Selkirk, Perth, Forfar, Fife, Clakmanane, Kinrore, Kincardin, Abirdene, Banf, Elgin and Fores, Narne, Innernefe, Liulithq^v, Peblis, Striviling, Lanark, Renfrew, Dunbertane, Air, Drumfreis, Bute, and Wigton; Stewartis of Annanderdale, Kirkcudbrycht, Mentethe, and Stratheme; Baillies of Kile, Carrik, and Cunyngbame; and paire deputis; Proverfiss, aldermen, and baillies of oure burrowis and cieteis of Edinburgh, Hadingtoun, Lawder, Jedburgh, Selkirk, Peblis, Perth, Forfar, Cowper, Sanctandrois, Kincardin, Abirdene, Banf,

¹ Dec. 2, 1512, she is styled the ‘*QUEENS blak madin*,’ and on Feb. 1612-13, ‘*Blak Elene*.’ And on Jul. 19, 1513, ‘*Blak Margoret*’ gets a payment of xlvij s. They do not appear to have been Egyptians, but Negroes. The notices, however, are so curious that they are given along with the rest. ² *MS. Reg.* 13. B. 11. Taken from *Pinkerton’s Hist. of Scotland*, quarto, Lond. 1797, vol. ii. p. 444. ³ *Reg. Scer. Sig.* xiv., 59. A very unfaithful transcript of this document had formerly been published in the Appendix to *Maclaurin’s Criminal Trials*.

Elgin and Fores, Narne, Innernefe, Lindithq^w, Struiling, Lanark, Glasg^w, Rutherglene, Renfrew, Dunbertane, Air, Drumfreis, Wigtoun, Irwyne, Kirkeudbright, Qulhitterne; and to all v^{er}is Sche-
reffis, Stewartis, provellis, aldermenne, and bailleis within oure realme, greting. FORSAMKILL as
it is humilie menit and felhewin to ws be oure louit, JOHNNE FAW, LORD AND ERLE OF LITILL EGIPT;
That quhair he obtenit oure Lettres vnder oure grete seile, direct to 50w, all and findry oure faldis
Schierellis, Stewartis, baillies, pronellis, aldermen, and baillies of burrois, and to all and findry v^{er}is
havand autorité within oure realme, to assit to him in executione of justice vpon his company and
folkis, conforme to þe lawis of EGIPT, and in punisshing of all þaim þat rebellis aganis him: NEUR-
PELES, as we ar informyt, SEBASTIANE LALOW, Egiptiane, ane of þe said Johnnis company, with his
complices and pairt-takariss vndir-writtin, þat is to say, ANTEANE DONEA, SATONA FANGO, NONA
FINCO, PHILLIP HATFEYGGOW, TOWLA BAIL5OW, GRASTA NEYN, GELEYR BAIL5OW, BERNARD
BEIGE, DEMER MATSKALLA, NOTFAW LAWLOWR, MARTYNE FEMINE, rebellis and confpiris aganis
þe said JOHNNE FAW, and hes removit þame alhutterly out of his company, and takin fra him diuerse
fomes of money, jowellis, claitis, and v^{er}is gudis, to þe quantité of ane grete fomme of money, and
on na wyfe will þais hame with him, howbeit he has biddin and remanit of lang tyme vpon þame,
and is bunding and obblit to bring hame with him all þame of his company þat ar on live, and ane testi-
moniale of þame þat ar deid: And als, þe said JOHNNE hes the said SEBASTIANIS Obligatioune, maid
in Dunfermling, befor our Mailer houffald, þat he and his company suld remane with him, and on na
wyfe depart fra him, as the famin beiris. In contrar þe tenour of þe quhilk, þe said SEBASTIANE, be
finitler and wrang informatioun, fals relatione, and circumventioun of ws, hes purchest our writtingis,
dischargeing him and þe remanent of þe personis aboue writtin, his complices and pairt-takariss of the
said JOHNNIS company, and with his gudis takin be þame fra him, causis certane our liegis assit to
þame and þair opiniouis, and to fortify and tak þair pairt aganis þe said JOHNNE, þair lord and mailer;
fua þat he on na wyfe can apprehend nor get þame to haue þame hame agane within þaire awin cuntré,
estir þe tenour of his said Band, to his hevy dampnage and skaithe, and in grete perell of tynfall of his
heretage, and expres aganis justice. OUR WILL IS HEIRFOR, and we charge 50w thairlike, and com-
mandis, þat, incontynent þir our Letteres sene, 5e and ilk ane of 50w, within þe boundis of 50ur Offices,
command and charge all our liegis þat nane of þaim tak vponne hand to reflet, assit, fortify, supplé,
manteine, defend or tak pairt with þe said SEBASTIANE and his complices aboue writtin, for na
buddis nor v^{er} way, aganis the said JOHNNE FAW, þair lord and mailer; bot þat þai, and 5e, inlikwile
tak and lay handis vponne þame quhareneir þai may be apprehendit, and bring þaim to him to be p^{er}mitt
for þair demeritis, conforme to his lawis: And help and fortify him to p^{er}mit and do justice vponne
þame for þair trespassis: And to þat effect, len to him 50ure p^{er}sonis, stokis, fetteris, and all v^{er}
things necessar þairto, as 5e and ilk ane of 50w, and all v^{er}is oure liegis, will anfuert to ws þairvponne,
and vnder all heiffit pane and charge þat estir may follow; fwa þat þe said JOHNNE have na caus of
complaynt heirvponne in tyme cuming, nor to refort agane to ws to þat effect, nochtwithstanding ony
oure writtings finitlerly purchest, or to be purchest, be þe said SEBASTIANE, in þe contrar. AND ALS,
charge all oure liegis, þat nane of þaim moleit, vex, inquiet, or trouble þe said Johnne Faw and his
compny, in doing of þair lesull besynes, or v^{er} wayis, within our realme, and in þair passing, remanyng,
or away-ganging furth of þe famyne, vnder þe pane aboue writtin: And sielike, þat 5e command and
charge all ikippars, mailteris, and marinaris of all schippis within oure realme, at all Portis and Ha-
vyonis quhair þe said JOHNNE and his compny fallappin to refort and cum, to resane him and þame
þairin, vponne þair expenses, for furing of þame furth of oure realme to þe partis bezond sey: As þai
and ilk ane of þame sielike will anfuert to ws þairvponne, and vndir þe pane forsaid. SUBSCRIT with
oure hand, and vnder oure Priue Seile, AT FALKLAND, þe fiveteine day of Februar, and of oure reigne
the xxviij 5e ir.

Subscript. per Regem.

[JAMES R.]

¹ *Reg. Sec. Sigg. XIV. f. 59.*—Vide also Apr. 25, 1553, and Apr. 8, 1554, Remission of Andro Faw, &c., for murder of Ninian Smill.

III. PRECEPT to the *Earl and Lord of Little Egypt*; granting power to him to hang and punish all Egyptians within the Kingdom of Scotland. Dated, May 26, 1540.

PRECEPTUM LITERE JOHANNIS WANNE, filii et heredis quondam JOHANNIS FALL, MINORIS EGIPTI COMITIS ac DOMINI, et MAGISTRI EGIPTIORUM, infra REGNUM SCOTIE existent.—DAN. sibi potestatem predictos EGIPTIOS ad sibi obediend. et parend. plectere et punire, &c. APUD ST ANDROS, Maii 26, 1540.¹

IV. ACT of the *Lords of Council*, relative to JOHN FAW,² &c. Jun. 6, 1541.

THE quhilk day, anentis the complaintis gevin in be JHONE FAW, and his brether, and SEBASTIANE LOWLAW, EGIPTIANIS, to THE KING'S GRACE, ilkane pleinzeand vpon vther of diverse falsis and injuris: And that it is agreit amang thame to passe hame, and to haue the same decydit before THE DUKE OF EGYPT: The Lordis of Counsaile, being avisit with the pointis of the saidis complaintis, and vnderstanding perfiltie the gret thittis and feathis done be the saidis EGIPTIANIS vpon our soverane lordis legis, quhairer thair cum or refortis: ORDANIS Lettres to be direct to the Provellis and Ballies of Edinburgh, Sanct Jhonstoun, Dundee, Monrofe, Aberdene, Sanct-androis, Elgin, Forrese, and Invernefe; and to the Schirefis of Edinburgh, Fif, Perth, Forfair, Kincardin, Aberdene, Elgyn, and Forefe, Banf, Crummary, Innernefe, and all vtheris Schirefis, Rewartis, provelis, and ballies, quhair it happimis the saidis EGIPTIANIS to refort,—to command and charge thame, be oppin proclamatioun at the mercat croces of the heid Burgh of the Scheredomes, to depairt furth of this realme, with their wis, barnis, and companeis, within xxx dayis efter thair be charget therto, vnder the pane of deid: Notwithstanding ony vtheris Lettres or privilegis grantit to thame be the Kingis grace: Becaus his Grace, with avise of the Lordis, hes dischargit the famin, for the causis foirfaidis; with certificatioun, and³ thair be fundin in this realme, the saidis xxx dayis being past, thair falbe tane and put to deid.

V. RESPITE, granted to the *Captain of the Egyptians and his three sons, for the Slaughter of Ninian Smail*.⁴

ANE RESPITT maid to ANDRO FAW, CAPITANE OF THE EGIPTIANIS, GEORGE FAW, ROBERT FAW, and ANTHONY FAW, his fous; for airt and pairt of the Slauchter of unquhile NINIANE SMAILL, fervand to John Lard, Smith; committit and done in the moneth of Marche, the yeir of God 1540. V. liij yeiris, upon suddantie: and for all actioun and cryme that may follow thairupoun: And for the space of six yeiris to indure. AT LYNLYTHGOW, the xxij day of March, 1553.

VI. RESPITE to *John Faw, and other Egyptians, for the above-mentioned Slaughter*. Apr. 8, 1554.⁵

ANE RESPITT maid to JOHN FAW, EGIPTIANE, ANDRO GEORGE, NICHOLAH GEORGE, SEBASTIANE COLYM, GEORGE COLYM, and uthers EGIPTIANIS, now being within this realme; for arte and parte of the Slauchter of unquhile Niniane Smail; committit within the toun of Lintoun—19 years. AT LYNLYTHGOW, Apr. 8, 1554.

VII. ACT of *Privy Council*, 'anent some Egyptians.' Nov. 10, 1636.⁶

APUD ED^B, 10 Novembris, 1636. FORSAMEIKLE AS SIR ARTHURE DOUGLAS of Quibittinghame haveing laticie tane and apprehendit some of the vagabound and counterfat thieves and liumars, callit EGYPTIANIS, he presentit and delyverit thame to the Shereff-principall of the shirefdom of Edinburgh, within the constabularie of Hadington, quhair they have remained this month, or thairby; And

¹ This short entry is all that occurs in *Reg. Scr. Sig.*, under the above date. ² *Acta Dom. Con.*, XV., 155. ³ *Reg. Scr. Sig.*, XXVII., 3. ⁴ *Reg. Scr. Sig.*, XXVII., 36. ⁵ *Reg. Scr. Concilia*.

qulhairas, the keeping of thame longer within the said Tolboith, is troublefome and burdeuable to the *town of Hadington*, and fosters the saids thieves in ane opinion of impunitie, to the incouraginge of the rest of that infamous hyke! of lawles limmars to continow in their theivith trade: THAIRFOIR, the *Lords of Secret Counsell* ORDANS the *Shirreff of Hadintown* or his deputs to pronounce DOOME and SENTENCE OF DEATH aganis fo manie counterfoot Thieves as ar men, and aganis fo manie of the weomen as wants children, ORDANING the men to be HANGIT, and the weomen to be DROWNED: and that fache of the weomen as hes children to be SCOURGIT throw the burgh of Hadintown and *Brunt in the cheeke*: And Ordanis and commandis the Proveit and Baillies of Hadintown to caus this doome be execute vpon the saids perfons accordingle.

No. VI.

OFFICES OF THE CLERKSHIP OF JUSTICIARY-GENERAL AND MASTER OF THE CEREMONIES, &c.

(See Vol. III., p. 558.)

[IN reference to the preceding entry in the Record, it may be interesting to insert the following singular Letter from Mr Alexander Colville, Justice-Depute, to Viscount Annan, which has been recovered from *Sir James Balfour's MS. Collections*, on account of its throwing some farther light on those important appointments; and besides, it is a curious document, and is highly characteristic of the parties concerned, and of the spirit of those times. It has also been thought proper to present to the reader a notice which occurs in the Books of Adjournal, containing the appointment of Sir George Elphinstoun of Blytheswood, knight, as Sir Archibald Napier's successor, in the first year of the reign of KING CHARLES I.]

I. LETTER,² *Mr Alexander Colville, Justice-Depute, to Viscount Annan.*³
Dec. 20, 1622.

RIGHT HONORABLE,

YOUR LO. shall be advertitied that he who is presentlie JUSTICE CLERK, (*the Lord of Ormeistoun*) is so afflicted with extreame age, blindnes, and vther infirmitie, that he is altogether disinabled ather to walk abroad, or discharge his place; and by all appearance, is not long to furvive. And becaufe it concernes me fo neir, that feruis HIS MA⁷¹² as Justice deput, to be veil or ewill yoked,⁴ in case it pleis God that I live, I haue adventured thir few lynis, being confident of your lo. goodnes, that HIS MA⁷¹², by your lo. informatioun, might be the better prepared aganis the importunite of visitt futors⁵ for that place (of Justice clerk), quhilk aucht nocht to be giwen to thois that futt⁶ it, bot to thois that

¹ Usually applied to denote a hive or nest of wasps, wild bees, or hornets.

² *Dennybne MSS.* Adv. Library.

³ Sir JOHN MURRAY, a *protégé* of the Earl of Morton, and a distinguished favourite at Court, was successively Gentleman of the Bedchamber, and Master of the Horse, &c to James VI. He acquired great wealth and estates; and was created VISCOUNT OF ANNANE, and Lord Murray of Lochmaben; and afterwards EARL OF ANNANDALE, Mar. 13, 1621-5. ⁴ Well or ill yoked; having a good or bad partner, or coadjutor. ⁵ Suitors; applicants. ⁶ Petition for.

ar vorthie of it. And as the lywis of men ar mor pretious then their goods, fo lett the vorthines of him be respected, to quhome the lywis of men ar to be trusted; for if he quho is to be inclofed with Allyfors, (quha for the moit ar rud and ignorant,) depending much vpon the (Lord Justice) CLERC his informatioun; if he, I say, be not a found conscientious man, and frie of baife brubrie, he may prove a pernitiuous instrument, and be the cawfe that iniquitie may be committed; as wee haue zit in memorie, of on THOMAS SCOT of *Abotjhall*, quho was Justice Clerk to KING JAMES THE FYFT, of happie memorie, quho being strukin with a terror of conscience, at the hour of his death, for his ewill cariage in that place, dyed in disperatioun, crying, ‘I am damned! I am damned!’ Zit among all vjeris, young men, and men of great CLANNIS ar moit dangerous for that place. Ceacing farther to fasche your lo. earis, and referring all to your lo. prudence; vithing, that, by a happie election of such ane Officiar, God may gett glorie, HIS MA^{TIE} contentment, and the people securitie, by getting right quhen thair lywes shall be in queition, and your lo. prairie and thankis for being a good instrument. Thus, resting confident that your lo. will tak my boldnes in good part, I rest,

Your lo. affectioned and humble feruitour,

ED^S, 20 Dec. 1622.

A. COLVILLE.

To the right honorable his speciall good lord, MY LORD VICOUNT OF ANNAN.

II. EXTRACT *from the Books of Adjournal, Dec. 2, 1625.*

(Dec. 2, 1625.)—SIR GEORGE ELPHINSTOUN of Blythifwoid, kny^t, ane of the Lordis of his Maiestieis Previe Counfall, productet ane Gift, grantit to him be our lait fouerane lord, James the saxt, of moit happie memorie, vnder his hienes Previe Seill, off THE OFFICES of ‘CLERK of OUR JUSTICIARIE GENERALL, AND MAISTER of CEREMONEIS at the Creatioun of all Erles, Lordis, and Barrones, and of all vther soleme Assambleis, quhair honourable Ceremoneis ar accustomed and necessar to be vsed, within this our said Kingdome of Scotland.—Qubilkis Offices ar now vacand in our handis and at our gift and dispositioun, be dimissiou maid thairof in our handis be SIR ARCHIBALD NAPER of Merchilloun, kny^t, thesaurer deput of our said kingdome of Scotland.’ Dated ‘AT BISSAME, the nyue and tentie day of August, the 5eir of God 1624, and of our regne the 58 and 22 5eiris.’

The said Sir George gais his aithe *de fideli administratioue* in the said Clerkship of Justiciarie, in presence of the said Justice depute.

No. VII.

REMARKABLE EXAMINATIONS AND CONFESSIONS OF PERSONS ACCUSED OF WITCHCRAFT, SORCERY, &c.

[AMONG the circumstances which peculiarly characterize the earlier Criminal proceedings of SCOTLAND, as well as those of ENGLAND, FRANCE, and GERMANY, &c., none are more prominent than the unmitigated rigour with which the profession as well as the practice of Witchcraft, Sorcery, and Necromancy, were punished. The hecatombs of innocent victims, whose lives were sacrificed to satisfy the gloomy superstitious of Nations termed Christian and civilized, but

who, in reality, were only emerging from a state of semi-barbarism, sufficiently attest the justice of this observation.

After the period of the Reformation from Popery, the Legislators of those countries which had embraced the new Religion, seemed to vie with each other in the zeal which they manifested in 'rooting out from the land' every vestige of the professors of these 'works of darkness.' In Scotland, as the reader has already had sufficient opportunity of remarking, great exertions were made during the reign of KING JAMES VI, when hundreds of helpless creatures were destroyed, under form of law,—for those who were tried before THE HIGH COURT OF JUSTICIARY bore a very small proportion to the very great numbers who were tried and condemned by the LORDS OF REGALITIES, BARON BAILLIES, and by the ROYAL COMMISSIONERS. A very striking fact, mentioned by *Baron Hume* in his valuable Commentaries,¹ may be here briefly noted, that 'no fewer than, *fourteen* Commissions² for Trial of Witches were granted, for different quarters of the country, *in one sederunt*, of the 7th of November, 1661; which year seems to have been the most fertile period of this sort of accusation!' It is proper to remark, that such Commissioners had very ample powers granted to them; for their Commissions were expressly conceived for the examination and trial, &c. of so many persons, *nomination*, and a large blank was commonly left for the insertion of such other persons as might be 'de-limited,' or accused, during their sittings. Besides this, their jurisdiction extended over considerable districts of country. As one unhappy creature was almost universally induced to accuse *several others* of the same crime for which he or she was to suffer, and as the evidence taken in one Trial was held to be conclusive in other cases, where the pannels were thus proved to be 'notour Witches,' it was competent for these Commissioners to try any number of persons, and to 'justify them to the death;' a practice which they were by no means slack of performing.

Many very painful Trials for Witchcraft, &c. have already been laid before the reader; but perhaps there cannot be adduced a more touching proof of the nefarious wickedness which must have been perpetrated in Scotland, during the reign of KING JAMES VI, than the following memorandum, which is preserved by *Thomas, Earl of Haddington*, (a noted instrument of the King in all cases, of whatever description,) in his Minutes of Privy Council proceedings.³ He relates, under date December 1, 1608,—'THE ERLE OF MAR declairit to THE COUNSALL, that fiv women wer tane in *Broichtoun*, as WITCHES; and being

¹ HUME on *Punishment for Crimes*, II., 559.

² Granted by the Lords of Privy Council.

³ *Haddington MSS.*, A. 4, 22. Adv. Library. While *Sir Thomas Hamilton*, he held the great Offices of *Secretary of State*, *Lord Advocate*, *President of the College of Justice*, &c.; and in all of those stations forwarded his master's views with unremitting zeal and ability.

put to ane Afflyfe,¹ and convict, albeit thay perfeverit constant in thair denyell to the end, *ȝit thay wer BURNIT QUICK,² eftir sic ane crewell maner, that sum of thame deit in despair, renounceand³ and blasphemand; and etheris, HALF BRUNT, brak out of the fyre, and wes cast in QUICK in it agane, quhill⁴ thay wer brunt to be deid.*

It is hardly necessary to remind the reader, that matters were no better in ENGLAND; where, as he must perfectly recollect, the most shocking atrocities were perpetrated, during the reigns of CHARLES I and CHARLES II, and also under the Puritans of OLIVER CROMWELL'S time. The infamous proceedings, publicly authorized, of HOPKINS the *Witch-finder*, and other worthless impostors, who pretended to be able, by certain cruel means practised by them, to detect real and counterfeit Witches, are also well known, and are highly calculated to bring discredit on the judicial proceedings of any country. Upon the evidence of these wretches, added to that of the ignorant and superstitious peasantry, and of the equally superstitious Clergy of those times, the lives of hundreds were wantonly sacrificed, to satisfy their diseased appetite for the marvellous; while other misguided individuals, conscientiously no doubt, thought, that by acting thus, they were 'doing God service.'

SIR WALTER SCOTT having so largely discussed this extraordinary subject in his recent work on Demonology and Witchcraft,⁵ it would be as presumptuous as it is unnecessary for the Editor to enter farther into the matter. In that curious and able work, the learned author, in his usual felicitous style, notices numerous Examinations and Confessions of persons accused of Witchcraft, in Scotland, in the sixteenth and seventeenth centuries. Of these, the most remarkable documents unquestionably are the Confessions of ISSOBELL GOWDIE and of JANET BREADHEAD; which, indeed, may safely be pronounced to be by far the most *unique* and wonderful, in the Records of this, and perhaps of any other country. The Editor has been induced, in compliance with the repeated desire of literary friends, contrary to his own private opinion, to annex to this work the CONFESSIONS of these unhappy women, and a few other similar EXAMINATIONS. Such declarations were commonly taken before Presbyteries, or certain Special Commissioners, who usually ranked among their number the leading Clergy of those districts where their hapless victims resided. The details of all such cases, and, in particular, those which are now annexed, are repulsive and shocking to every well-regulated mind; but, as recording the superstitions and crimes common at the period in question to all the civilized

¹ Before the Baron Bailie of the Regality of BROUGHTON, near Edinburgh; one of the most extensive jurisdictions, of that description, in Scotland. ² ALIVE; *i. e.* without having been previously 'wirreit', or strangled. ³ Renouncing their baptism. ⁴ Until. ⁵ LETTERS on Demonology and Witchcraft, by *Sir Walter Scott, Bart.* Lond. 1830.

nations of Europe, they will by many be deemed, in some measure at least, of historical importance; although at same time, it must be confessed, they afford a lamentable exhibition of the human mind, at its lowest ebb of degradation.]

I. DEPOSITION of *John Kincaid (Witch-finder)*,¹ relative to the *Devil's mark found on Patrik Watson and Manie Halliburton*.²

AT DIRLTON,³ 5eiris. The quhilk day, in prefence of All(exan)der Levingtone of (Salt)coitis, James Borthuik, Chalmerlane of Dirlton, Johne Stalker, bailzie thair, James Fairman, Drem, Mr James Achefoun, in North Beruik, and Williame Daliell, notar, PATRIK (WAT)SON, in West Fentoun, and MENIE HALLYBURTON, his spous, bruided and long suspect (of) Witchcraft, of thair awne fre-will, vncompellit, heiring that 1, *Johne Kincaid*, vnder subfcriyvand, wes in the tonne of *Dirlton*, and had some skill and dexteritie in trying of THE DIVELLIS marke, in the perfonis of such as wer suspect to be WITCHES, came to the *Broadhall, in the Cystill of Dirlton*, and desyrit me, the said *Jo. Kincaid*, to vse my tryall of thame, as I had done on vtheris; whilk when I had done, I fand the *Divellis marke* vpon the bakfyde of pe said PATRIK WATSON, a little vnder the point of his left shoulder, and vpon the left fyde of the said MENIE HALLYBURTON hir neck, a little aboue hir left shoulder; whairof thay war not sensible, nether came furth pairofany bloode, efter I had tryed the famen als exactlie as ener I did any vthers. This I testifie to be of veritie, vpon my credite and confciencie. In witness quhairof, I have subfcriyvit thir presentis with my hand, day and place foirsaid, befoir thir witness aboue specifit.

(Sic subfcribitur.) J. K. ALEX. LEVINGTON, witness. JA. BORTHUIKE, witness.
JOHNE STALKER, witness. JAMES FORMAN, witness. M. J. ACHESONE, witness. W. DALIELL, witness.

(Indorsed.) Testificat of J(ohne Kincaid), finding the witches mark vpon Manie Halliburtonne.

II. CONFESSION of *Manie Halliburton*.⁴

AT DIRLTON, the 5. of 1649. In prefence of Johne (Stalker) bailzie of Dirlton, James Levington, thair, Joⁿ in Lawhill, thair, James Speir, Richard Fergusson, Wa. Hanady, and Wa. Daliell. Compeirit MANIE HALLYBURTON, prisoner within the *Cystill of Dirlton*, suspect of the cryme of Witchcraft, dilaited guiltie be AGNES CLERKSON, lait fullerar for the said cryme, as allo be PATRIK WATSON, spous to the said Meue, who lykevyle sufferit thairfoir; and confessit, that auchtein yeir fyne, or thairby, hir dochter being feik, scho first sent for *Patrik Cryffijoue in Abirtadie*, to cum and cure hir dochter, and he refusing, went hirself for him, who refused to cure hir; and within 6. days thairefter came the DEVILL, in likenes of a man, to hir hous, calling himself a phisition, and said to hir, that he had goode salves (and namelie oylstipek) whairwith he wold cure hir dochter; and aggrieving with him for some of his salves, quhilk he gave hir, sho gave him tuo Inglis shillingis: He than departed, and promised to come agane within eight dayes, whilk accordingly he did; bot or⁵ he went away the first tyme, sho gave him milk and breade; and *Patrik Watson* coming in, he sent for a pynt of Ale: Bot at the second coming, he stayit all night, and vpon the morne airle (*Patrik* being furth) in came the DIVELL and lay down with hir, (sho being zit in bed,) and had carnall copulation with hir, his nature being cold: He desyreit hir to renounce Christ and hir baptisine, and become his fervand; quhilk scho did: And sayes, that hir dochter had

¹ From Original, in General Register House, Edinburgh.

² He is elsewhere designed 'the common pricker.'

³ Obliterated in Orig.

⁴ From Orig. Gen. Register House.

⁵ Obliterated.

⁶ Left blank in Orig.

⁷ Oil of spike or spikenard.

⁸ Ere; before.

the wyte¹ of all hir wick(nefs)²; wiffing sho had nevir bene borne.—THIS Deposition was renewed, in all the particulars, by the said *Manie*, in the forsaid place, on Sunday the first of Julij, 1649, before Alex^r Levingtoun of Saltcottis, James³., Johne Stalker,, W^m Dalieil, and Mr Joⁿ Mc'Ghill, minister at Dirltoun.

M. J. MAKGHILL, ALEX. LEVINGTON, witnesses; J. BORTHUIK, JAMES LAUDER, JOHNNE STALKER, W. DALIEL, WILLIAME DALIELL, WALTER MARSHALL.

Jul. 2, at HADINTOUN. Whilk day, THE PRESBITERIE, having red and considered the former DEPOSITIONS and CONFESSION of *Manie Haliburton*, find the samyne a sufficient ground for futing⁴ the Judge competent to grant a Commission for trying and judging her according to Law.

J. STIRLING, Cl^k.

III. ACT OF PRIVY COUNCIL *anent Geillis Johnnstoun, suspected of the crime of Witchcraft.*⁵

ANENT our fouerane lordis Letteris, resait at the instance of GELIS JOHNSTOUN, relief of vniquhill Johne Duncane in Mussilburgh, makand mentioun, That quhair some malicious personis, hir vnfreindis, hauing dilaitit her to THE PRESBITERIE OF DALKEITH, as a person suspect of WITCHCRAFT, the said Prilbiterie hes thairvpone conuenit hir before thame, and hes haldin hir in proces before them, thir sevin outkis⁶ bigane; albeit it be of veritie, that the said complenair is ane honest woman, who hes leuit thir threttie yeiris in the toun of Mussilburgh, in gude fame, credeit, and reputation; and wes nevir suspected nor bruted⁷ with ony siche deuelishe and detestabill doingis; and scho hes at all tymes presentit hir self before the said PRISBITERIE, quhan thay callit for her self to thair tryall-examinationis, and quhatsumeur forme of procedoure thay pleast vse aganis hir: And althocht the cryme of Witchcraft be ane of the heich pointis of the Crowne, proper to be tryit before his Maiesteis Justice and his deputis, and quhairin the said PRISBITERIE can haue no warrand, auctoritie, nor iurisdiction to cognosce or determine, neurtheles, thay continewalliche sache⁸ the said complenair with citationis and summondis to compeir before thame, purpoillie, as appeiris, to bring hir fame, credeit, and reputation in questioun, and to lay vpoun hir this foull and haviie sclander of sa detestable a cryme, quhairof scho is most innocent; and gif thay had ony presumptionis aganis the complenair of hir guiltynes of the said cryme, thay fould haue gevin information thairof, outhir⁹ to THE LORD OF REGALITIE quhair scho duellis, before quhome the said complenair hes fund caution to be anferable for this fame deid, quanevir scho falbe callit; or then, to his heyneis JUSTICE GENERALL and his deputis; and fould haue concurrit, be thair information, to the persute of hir, and fould not haue vit siche a preposterous forme of proceeding before thame selfis, qulich can produce na kynd of sentence nor determination. IN respect quhairof, THE MINISTERIS of the said PRISBITERIE aucht and fould be dischargit of all proceeding aganis the said complenair, in the mater above writtin, for the causis foirsaidis. AND anent the charge gevin to Mr Andro Blakhall, Minister at Invertek; Mr Patrik Turnour, Minister at Borthuik; Mr William Penman, Minister at Creichtoun; Nathaniell Harlaw, Minister at Ormestoun; Mr Alexander Ambroise, Minister at Newbotle; Mr Johne Nymbill, Minister at Craunstoun; and Mr George Ramlay, Minister at Lesiwaid; all MINISTERIS of THE PRESBITERIE OF DALKEITH, being conuenit for the tyme within the Kirk of Dalkeith, to haue compeir be ane or tua of thair number, sufficientlie instructit, for the rest, before THE LORDIS OF SECRITE CONSALE, this present day, to haue hard and sene thame dischairgit of all proceeding aganis the said complenair in the mater foirsaid, and of thair officeis in that pairt: Lyke as, at mar lenth is content in the saidis Letteris, executionis, and indorsationis thairof. QUHILKIS being callit, and the said persewar com-

¹ Blame. ² Wickedness. ³ Obliterated. ⁴ Suiting; petitioning. ⁵ *Acta Secreti Consilii*,
General Register House, Edinburgh. ⁶ Weeks. ⁷ Reported. ⁸ Trouble. ⁹ *O. Fr. fascher.* ⁹ Either.

peirand, be William Duncane hir sone, and Mr George Ramfay, Moderatour of the Presbiterie of Dalkeith; Nathaniell Harlaw, Minister at Ormestoun; Mr Patrik Turnour, Minister at Borthuik; and Mr William Penman, Minister at Creichtoun; with some vtheris of the said Prilbiterie being personallie present, the reasonis and allegationis of the pairteis present being hard and considerit be the Lordis of Secrite Counsale, and thay syplie aduifit thairwith, the Lordis of Secrite Counsale DISCHARGEIS the *Ministeris of the said Presbiterie* of all proceeding aganis the said Geillis Johnstoun, in the mater foirlaid, and of all thair officeis in that pairt; and REMITTIS the said Geillis to be perewit and tryit, outher before the Justice-Generall and his deputis, or before the Lord of the Regalitie of Dunfermling, as accordis of the Law; but¹ preindice alwyfe to the said *Presbiterie* to vse all ordinar and lauchfull meanis, quhairby thay may get tryall, be vtheris, of the said *Geillis Johnstoun* hir practiceis and dealing in the said cryme of Witchcraft; and to gif informationn thairof to the said Justice Generall and his deputis, or to the Lord of the Regalitie of Dunfermling and his deputis, before quhome justice falbe ministrat, conforme to the lawis of this realme.

IV. CONFESSION of *Jonet Watsone*; and Notices relative to *Chriplane Watsone* and *Jonet Pajstoun*, all accused of Witchcraft, June 1661.²

JONET WATSONE confessed, that in Apryle last bypass, or thairby, thoe being at the buriell of the *Lady Dalhousie*,³ ther was ane six-dollar given to *Jean Baghane*, to be pairted among a certain number of poore folks, wherof thoe was one. And the said *Jean Baghane* did run away with the said money, fo that schoe gott no part of it. And schoe come home to hir awne houfe, being verrie grieved and angrie at it, wishid to have a mendle of *Jean Baghane*. Vpon the which THE DEVIILL apired vnto her, in the liknes of ane *prettie boy*, in *grein clothes*; and atked, ‘What aild her?’ And what amendle thoe wold have, he should give her.’ And at that tyme THE DEVIILL gaue hir his markis; and went away from her in the liknes of ane *blak dong*:—And constantlie, for three dayis thairefter, ther was a *great bee* come to her; and vpon ane morning, when thoe was cleinging her schirt, it did fit down vpon her shoulder, (thoe being naked,) wher thoe had one of the markis.

As also, about the tyme of the last Baille-fyre night, thoe was at a Meitting in *Newtoun-dein* with the DEAVILL, who had *grein clothes* vpon him, and ane blak hatt vpon his head; wher schoe denyd Christ, and took her self to be the fervant of THE DEVIILL. Wherfor thoe acknowledged that schoe was, from her heart, sorrowfull for the doeing of it. And likewise, he then gave her a new name, and called her ‘WEILL-DANCING JENOT’—and promised her money at the next Meitting.

And also, that vpon ane vther night, THE DEVIILL was verrie heavie vpon her in her bed. As also, schoe confessed that *Bessie Moffit*, *Eljzeth Grahame*, and *Jenot Mikeljohn* come to her houfe, and tooke her away to that Meating; when they all danced togither: At which tyme, when schoe renounced her baptisme, THE DEVIILL laid his hand vpon her head, and bad her ‘give all ower to him that was vnder his hand,’ and thoe did fo. Quhilk hailt promiffes thoe confessed, in prefens of the vnder subscrivers, without compulsione.

W. CALDERWOOD, (Minister of Dalkeith,) WILLIAME SCOTT, (Baillie of Dalkeith.)

AND. MACMILLONE, witness. ROB^t HARDIE, witness. JOHNE FOORD, witness.

HENRIE WILSONE, witness. JA. CALDERWOOD, witness. ALEX. A:D DICKSONES mark.

WILLIAM BRYSON, witness. JA. VTERSIDE, witness.

¹ Without. ² Original in *MS. Coll. of Soci ty of Antiquaries of Scotland*. This Proof was led under a Commission, June 6, 1661, ‘direct be THE KINGIS MAJESTIE, with consent of the Estates of Parliament,’ to Sir William Murray of Newtoun, Sir James Richardson of Smeiton, Patrick Scott of Langschaw, Major John Bigger of Woolmot, &c.; who examined a great variety of WITCHES. Their CONFESSIONS, howevver, are uninteresting and commonplace, with the exception of this and the other EXTRACTS which follow. ³ LADY MARGARET CARNEGIE, daughter of David, Earl of Southesk, spouse of William, Lord Ramsay, created *Earl of Dalhousie*, June 29, 1633.

V. DEPOSITION *as to the Devil carrying off a Witch in a Whirlwind, &c.*

AT DALKEITH, the 10 of Junii, 1661.—THE quhilk day, WILLIAM SCOTT, Bailiffe, havinge ordained fome of the neighbours in the toune of Dalkeith to be in redines, the morrow eftir, for guardinge of CHRISTIANE WILSONE, a Witch, to Nidrie, to be confronted their by ane vther Witche; and Johne Steivin, being one of the number ordained to be in redines, said to JENNOT COOKE,¹ that he wes ‘goinge the morrow to convoy the said CHRISTIANE to Nidrie,’ as afoirsaid, and that he wold goe and mak his gun cleane, for that purpose; to the which Jennot answered, ‘Will not yow think it a sport, if THE DEVILL raise a whirrell of wind, and tak her away from among yow by the gette² the morrow!’ And it fell out, that in passing a burne,³ when they wer nigh Nidrie, their arose futch a sudden tempest of wind, which was like to blow the compaignie off their foot—and it did blow the said Christiane Wilfone down in the water . . .⁴, so that for a long tyme they could not gett her vp againe—it being a faire and calme day, both befor and efter. WITNESSES, Johne Steivin, James Wilfone, candill maker, Thomas Richardfone, wright, Bessie Waker, Jonett Bruntoun, and James Blaikie, baxter.⁵

JOHNE STIWENE, witnes. James I. W. Wilfones mark.

VI. DEPOSITION *of Johne Kincaid, in Traenut, ‘the comon pricker,’ as to finding the Devil’s mark on Jouet Paisfoun.*

DALKEITH, 17 Junij, 1661.—THE quhilk day, JONET PAISTOUN, being dilaitit, as is afoirsaid, THE MAGISTRAT and MINISTER caused *Johne Kincaid*,⁶ in Traenut, the comon pricker, to prik her—and found two marks upon hir, which he called THE DEVILL his markis, which appeared indeid to be so, for shoe did nather find the prein⁷ when it was put into any of the said markis, nor did they blood when they were takin out again. And quhan thoe was asked, ‘Quhair thoe thought the preins wer put in?’ Shoe pointed at a pairt of hir body distant from the place quhair the preins wer put in—they being preins of *thrie inches*, or pairabout, in lenth. Quhilk *Johne Kincaid* declairis upon his oath, and verifies by his subcription to be true. WITNESSES jairto, Mr W^m Calderwood, Minister at Dalkeith, and Williame Scott, Bailze; Martin Stevinfone and Thomas Calderwood, Elders; Major Archibald Waddell, Johne Hunter, David Douglas.

I. K. W. CALDERWOOD, Minister. WILLIAME SCOTT, Bailzie.
MARTIN STEVENSON, Elder. THOMAS CALDERWOOD, Elder.

VII. CONFESSIONS *of Issobell Gowdie, spous to Johne Gilbert, in Lochloy.*

(I.) ISSOBELL GOWDIES FIRST CONFESSION.

AT AULDERNE,⁸ the threthain day of April, 1662 yeiris. IN PRESENCE OF MASTER HARIE FORBES, Minister of the Gospell at Aulderne; WILLIAM DALLAS of Cantrey, Shereffe deput of the shereffdom of Nairne; THOMAS DUNBAR of Graing; ALEXANDER BRODIE, Y^r of Leathin; ALEXANDER DUNBAR of Boath; JAMES DUNBAR, appairant therof; HENRIE HAY of Brightmabbey; HEW HAY of Newtowne; WILLIAM DUNBAR of Clnne; and DAVID SMITH, and JOHNE WEIR, in Aulderne; WITNESSES to THIE CONFESSION efter specifeit, spokia furth of the mouth of ISSOBELL GOWDIE, *spous to Johne Gilbert, in Lochloy.*

THE quhilk day, in prefence of me, JOHNE INNES, *Notar Publicus*, and Witnesfes abnawmet, all vnder subferywand, the said ISSOBELL GOWDIE, appairing penitent for hir haynows finnes of Witch-

¹ Another Confessing Witch.

² By the way.

³ Rivulet.

⁴ Obliterated—but it looks like ‘*streyne*.’

⁵ Baker.

⁶ The counterpart of the English *Mathew Hopkins*, the Witch-Finder, whose villainous impostures deprived many poor creatures of their wretched existence.

⁷ A long pin, or bodkin, which this fellow used for pricking.

⁸ A Parish and Burgh of Barony in the Shire of Nairne, on the Murray Frith.

craft, and that tho haid bein over lang in that service; without ony compulitoris,¹ proceedit in hir CONFESSIONE, in maner efter following, to wit. As I was going betnix the townes² of *Drumdevein* and *the Headis*, I met with THE DIVELL, and ther covenanted, in a maner, with him; and I promeit to meit him, in the night time, in the *Kirk of Alderne*; quhilk I did. And the first thing I did ther that night, I denyed my baptisime, and did put the on of my handis to the crowne of my head and the vther to the sole of my foot, and then renuncet all betnix my two handis, ower to the *Divell*. He wes in the Readeris datk, and a blak book in his hand,³ *Margret Brodie*, in *Aulderne*, held me vp to the *Divell* to be baptifed be him; and he marked me in the fhowder, and fuked owt my blood at that mark, and spowted it in his hand, and, sprinkling it on my head, said, ‘*I baptijè thé, JANET, in my awin name!*’ And within a quhill we all remooved. The next tym that I met with him ves in the *New Wardis of Lufloch*, and haid carnall covepulation and dealing with me. He wes a meikle, blak, roch⁴ man, werie cold; and I found his nature als cold within me as spring-wall-water. Sontymes he haid butis and sometyms thoes on his foot;⁵ but still his foot ar forked and cloven. He vold be fomytes with ws lyk a dear, or a rae. *Johne Taylor* and *Janet Breadhead*, his vyll,⁶ in *Belmaketh*, *Douglas*, and I my fell, met in the *Kirk-giurd of Nairne*, and ve raifed an ynchristened child owt of its greaff; and at the end of *Breadleyis* corn-field-land, just oppoist to the *Milne of Nairne*, we took the said child, with the nailis⁷ of our fingeris and toes, pikles of all fortis of grain, and blaidis of keall,⁸ and haked⁹ thaim all verie finall, mixed altogether; and did put a part therof among the muk-heapes¹⁰ of *Breadleyis* landis, and thereby took away the fruit of his cornes, &c.; and we painted it among two of our COVENS,¹¹ When we tak cornes at *Lambes*,¹² we tak bot abowt two sheawes, whan the cornes ar full; or two itokis of keal, or therby, and that gives ws the fruit of the corn-land, or keall-yaird, whair they grew:¹³ And it may be, we will keep yt while *Ycell* or *Paec*,¹⁴ and than devoy it amongt ws. Ther ar thretten perfones in my COVEN.¹⁵

The last tyme that OUR COVEN met, we, and an vther COVEN, wer dauncing at the *Hill of Earlyfeet*; and befor that, betnix *Mojnes* and *Borgholl*; and befor that we ves beyond the *Meikle-burne*; and the vther COVEN being at the *Dowie-hillis*, we went from beyond the *Meikle-burne*, and went befyd them, to the howffis at the *Wood-end of Lufloch*; and within a quhyll went hom to our howffis. Befor *Candlemas*, we went be-eaft *Kirkloffe*, and ther we yoaked an plewgh of paddokis.¹⁶ THE DIVELL held the plewgh, and *Johne Youngie* in *Melgystoerne*, our Officer, did dryve the plewgh. Paddokis did draw the plewgh, as oxen; quwickens wer fowmes,¹⁷ a riglen’s horne wes a cower,¹⁸ and an piece of an riglen’s horne wes an fok. We went two feneral tymes abowt; and all we of the COVEN went still vp and downe with the plewgh, prayeing to THE DIVELL for the fruit of that land, and that thifles and brieris might grow ther.

When we goe to any hous,¹⁹ we tak meat and drink; and we fill wp the barrellis with owr oven²⁰

¹ Indicating, in the outset, that no TORTURE or compulsion had been resorted to, for the purpose of extorting Confession; but that she came forward, and voluntarily made her Declaration, bewailing her former offences. ² Farmsteadings.

³ It is a singular circumstance, that in almost all the CONFESSIONS of Witches, their initiation, and many of their meetings, are said to have taken place within CHURCHES, Churchyards, and consecrated ground; and a certain ritual, in imitation, or mockery, of the forms of the Church, is uniformly said to have been gone through.

⁴ Tough; hairy; *hirsute*. ⁵ Throughout this Confession, *foot* is used for *feet*. ⁶ See her Confession, which follows this. (No. VIII.) ⁷ Parings of the nails. In such incantations, the nails and joints, &c. of dead men were commonly made use of. ⁸ *Kail-blades*; the leaves of colewort. ⁹ *Hacked*; chopped. ¹⁰ Dung-heaps; *manures*.

¹¹ Companies; Witches’ Conventicles. Perhaps from Lat. *convocare*. The word *cove* is still in use (in the Gipsy, flash, or slang Vocabulary) as an associate, *chum*, or companion, &c. ¹² *Lanmas*: 1st August.

¹³ This syncretical mode of taking the fruit, crop, or produce of land, &c., is frequently alluded to in Witch-Trials. The soil apparently bore only straw and empty ears; but the real produce was, in due season, conveyed to the barns of the enchanter. The milk of a dairy was taken by means of a hair tether, rope, or halter, passing under the door, and attached to one of the stalls where the cattle stood, &c. The Witch procured the entire produce by *milking the tether*.¹⁴ Another method is afterwards recited in this CONFESSION. ¹⁵ Until Christmas or Easter. ¹⁶ The number thirteen is still proverbially called ‘*the Devil’s dozen*,’ in Scotland. ¹⁷ Yoked a plough of frugs. ¹⁸ Dog-grass, or quick-grass, served for *soorns* or *sooms*; being the traces, chains, or iron links, by which, of old, the oxen were yoked to the plough. The *soornu* (*soymie*) was fastened by a hook to the *soole* or *sole* (swivel.) ¹⁹ The coulter of the plough was formed of the horn of a half-castrated ram, called a *riglen*; q. d. a *ridglet-ram*. ²⁰ Enter by stealth.

²⁰ *Awin*; *awn*.

pill again; and we put boofomes¹ in our beds with our husbandis, till ve return again to them. We wer in *the Earle of Murrayes*² hous in *Derway*, and ve gott anewgh ther, and did eat and drink of the beif, and brought pairt with ws. We went in at the windowes. I haid a little horfe, and wold fay, 'HORSE AND HATTOCK, IN THE DIVELLIS NAME!'³ And than ve void die away, quhair ve void, be ewin⁴ as firaues wold flie upon a lie-way. We will flie lyk firaues quhan we pleas; wild-firaues and come-firaues wilbe horfes to ws, and⁵ ve put thaim betwixt our foot, and fay, 'HORSE AND HATTOCK, IN THE DIVELLIS NAM!' An quhan any fies thes firaues in a whirlewind, and doe not fancitie them felnes,⁶ we may thoot them dead at ovr pleafour. Any that ar thot be vs, their fowell will goe to Hevin, bot ther bodies remains with ws, and will flie as horfis to ws, als fmal as firaues.⁷

I was in *the Downie-hillis*, and got meat ther from THE QWEIN OF FEARRIE, mor than I could eat. *The Quein of Fearrie* is brawlie clothed in whyt lincens, and in whyt and browne cloathes, &c.; and THE KING OF FEARRIE is a brow man, weill favoured, and broad faced, &c.⁸ Ther wes elf-bullis rowting and skoylling wp and downe thair, and affrighted me.⁹

¹ *Bosoms*; brooms. ² Alexander Stewart, fourth Earl of Moray. ³ The following remarkable circumstances were communicated to the ingenious *John Aubrey, Esq.*, F.R.S., by one *Stewart*, a tutor in the family of JAMES, second LORD DUFFUS; from whose recital, *Stewart* states, he had it, and that his lordship had it from his father, *Alexander*, first *Lord Duffus*, who had, in like manner, heard the tradition from *William Sutherland of Duffus*, grandfather of *James, Lord Duffus*, who died about the year 1626. It closely corresponds with the particulars contained in the Depositions of *Isabel Gowdie* and *Janet Breadhead*, in reference to this branch of FAIRY SUPERSTITIONS. As *Aubrey's* work is now exceedingly scarce, little apology is required for quoting the interesting communication, which he has, fortunately, preserved at length:—

"As soon as I read your letter of May 21, (1694,) I called to mind a story which I heard long ago, concerning one of the LORD DUFFUS (in the shire of Murray) his predecessors; of whom it is reported that, upon a time, when he was walking abroad in the fields, near to his own house, he was suddenly carried away, and found the next day at Paris, in the FRENCH KING's cellar, with a silver cup in his hand. That, being brought into the KING's presence, and questioned by him, "Who he came thither?"—and "how he came thither?" He told his name, his country, and the place of his residence; and that on such a day of the month (which proved to be the day immediately preceding), being in the fields, he heard the noise of a whirlwind, and of voices crying "HORSE AND HATTOCK!" (this is the word which the FAIRIES are said to use when they remove from any place;) whereupon he cried "HORSE AND HATTOCK!" also; and was immediately caught up and transported through the air, by the FAIRIES, to that place: Where, after he had drank heartily, he fell asleep, and before he awoke, the rest of the company were gone, and had left him in the posture wherein he was found. It is said THE KING gave him the cup which was found in his hand, and dismissed him.

"This story (if it could be sufficiently attested) would be a noble instance for your purpose; for which cause I was at some pains to enquire into the truth of it, and found the means to get the present *Lord Duffus's* opinion thereof; which shortly is, that there has been and is such a tradition; but he thinks it fabulous. This account of it his Lordship had from his father, who told him that he had it from his father, the present Lord's grandfather. *There is yet an old silver cup in his lordship's possession still, which is called "THE FAIRY CUP,"*—but has nothing engraven upon it except the arms of the Family.

"The gentleman by whose means I came to know the *Lord Duffus's* sentiment of the foregoing story, being tutor to his lordship's eldest son, told me another little passage of the same nature, whereof he was an eye-witness. He reports, that when he was a boy at school, in the town of FOARIS, yet not so young but that he had years and capacity both to observe and remember that which fell out, he and his school-fellows were, upon a time, whipping their tops in the Churchyard, before the door of the Church. Though the day was calm, they heard a noise of a wind, and, at some distance, saw the small dust begin to arise and turn round; which motion continued advancing till it came to the place where they were: Whereupon they began to bless themselves. But one of their number (being, it seems, a little more bold and confident than his companions) said, "HORSE AND HATTOCK WITH MY TOP!"—And immediately they saw the top lifted up from the ground, but could not see what way it was carried, by reason of a cloud of dust which was raised at the same time. They sought for the top all about the place where it was taken up, but in vain; and it was found afterwards in the Churchyard, on the other side of the Church. *Mr Stewart* (so is the gentleman called) declared to me that he had a perfect remembrance of this matter.—*Aubrey's Miscellanies*, p. 209.

⁴ Like; even as; in like manner as. ⁵ And; if. ⁶ The children in the kirkyard of FORRES (see the preceding Note on HORSE AND HATTOCK) appear to have been adepts in this branch of the Fairy creed; which was, no doubt, familiar to all classes of the peasantry of Scotland, as numerous traces of it are to be found in various districts, at the remotest distance from each other. ⁷ The above details are, perhaps, in all respects, the most extraordinary in the history of WITCHCRAFT of this or of any other country. Any comment would only weaken the effect of such very remarkable descriptions. ⁸ It is a thousand pities that the learned Examinators have so piously declined indulging the world with the detailed description of these illustrious personages. Under the singularly descriptive powers of *Isabel Gowdie*, much might have been learned of FAIRY-LAND and its Mythology. ⁹ It is evident that *Isabel's* gossiping had again been cut short here, as irrelevant. Not so the more objectionable parts of her Confession, which were obviously drawn out of her, and listened to with the utmost complacency by her reverend inquisitors.

When we tak away any cowes milk, we pull the tow, and twyn it and plaitt it in the vrong way, in *the Divellis* name; and we draw the tedder (fua maid) in betuixt the cowes hinder foot,¹ and owr betuixt the cowes forder foot, in *the Divellis* name; and therby tak with ws the kowes milk. We tak theipeis milk ewin io. The way to tak or giew bak the milk again, is to cut that tedder. Whan we tak away the ftreuth of anie perfones eall,² and givies it to an vther, we tak a litle quantitie owt of each barreil or stand of eall, and puts it in a ftopp, in *the Divellis* nam; and, in his nam, with owr awin handis, puttis it amougnt an vtheris eall, and givies her the ftreuth and fubftance and heall of hir neighbouris eall. And to keep the eall from ws, that we have no power of it, is to fanctifie it veill. We get all this power from *the Divell*; and when ve feik it from him, ve call him 'owr LORD!'

Johne Taylor and *Janet Breadhead*, his wyff, in Belluakeith, *Bessie Wiljone*, in Aulderne, and *Margret Wiljone*, spows to *Donald Callam* in Aulderne, and I, maid an pictur of clay, to diftroiy *the Laird of Parkis* meall³ children. *Johne Taylor* browght hom the clay, in his plaid newk;⁴ his wyff brak it verie fmall, lyk meall,⁵ and lifted it with a fiew,⁶ and powred in water among it, in *the Divellis* nam, and vrought it werie fore, lyk rye-bowt;⁷ and maid of it a pictur of *the Lairdis* fones. It laid all the pairtis and merkis of a child, fuch as heid, eyes, nofe, handis, foot, mouth, and litle hippes. It wanted no mark of a child; and the handis of it folded down by its fydes. It was lyk a pow,⁸ or a flain gryce.⁹ We laid the face of it to the fyre, till it ftrakned;¹⁰ and a cleir fyre round about it, till it ves read lyk a cole.¹¹ After that, we wold roft it now and then; each other day¹² ther wold be an piece of it weill roften. *The Laird of Parkis* heall mail children by it ar to fuffet, if it be not gotten and brokin, als weill as thes that ar borne and dead alreadie. It ves fill putt in and taken out of the fyre, in *the Divellis* name. It wes hung wp wpon an knag. It is yet in *Johne Taylor's* hows, and it hes a cradle of clay about it. Onlie *Johne Taylor* and his wyff, *Janet Breadhead*, *Bessie* and *Margret Wiljones* in Aulderne, and *Margret Brodie*, thair, and I, wer onlie at the making of it. All the multitud of our number of WITCHES, of all the COEVENS, kent¹³ all of it, at owr nixt meitting after it was maid. And *the Witches* yet that ar vntaken, haw thair awin poweris, and owr poweris quhilk we laid befie we wer takin, both.¹⁴ Bot now I haw no power at all.

Margret Kyllie, in, is on of the vther COVEN, *Messie Hirdall*, spous to *Alexander Rofs*, in Lonheid, is on of thaim; hir fkin is fyrie. *Ijjobell Nicoll*, in Lochley, is on of my COEVEN. *Alexander Elder*, in Earleseat, and *Janet Finlay*, his fpows, ar of my COEVENS. *Margret Illybein*, in Moynes, is on; *Margrat Brodie*, in Aulderne, *Bessie* and *Margrat Wiljones*, thair, and *Jean Marten*, ther, and *Elyjpet Nijhie*, spows to *Johne Mathow*, ther, ar of my COVEN. The faid *Jean Mairten* is MAIDEN¹⁵ of owt COVEN. *Johne Young*, in Mebeflowne, is OFFICER to owt COEVEN.

Elyjpet Chifstolme and *Ijjobell More*, in Aulderne, *Magie Brodie*,, and I, went in to *Alexander Cunings* lutt-hows,¹⁶ in Aulderne. I went in, in the likenes of a kea,¹⁷ the faid *Elyjpet Chifstolme* wes in the fhape of a catt. *Ijjobell Mor* wes a hair, and *Magie Brodie* a catt, and¹⁸ We took a threid of each cullor of yairne that wes in the faid *Alexander Cunings* his lutt-fatt,¹⁹ and did caft thrie knots on each threid, in *the Divellis* name; and did put the thriedis in the fatt, wither-fones²⁰ about in the fatt, in *the Divellis* name; and thairby took the heall ftreuth of the fatt away,

¹ Feet. ² Strong ale. ³ Male. ⁴ In the nook, or corner, of his plaid. ⁵ Pounded, or powdered it, like meal. ⁶ To make the plaster fine, and free from earthy particles. ⁷ Probably a sort of stir-about, or hasty-pudding, made of rye-four. ⁸ In another Deposition it is thus expressed, 'lyk a pow or fadge.' A *fadge* was a sort of scene, or roll, of a pretty large size. Perhaps this term signifies, as large as the quantity of dough or paste necessary for making this kind of bread. ⁹ A flayed sucking pig, after being scalded and scraped. ¹⁰ Shrivelled with the heat. ¹¹ Red like a coal. ¹² Each alternate day. ¹³ Knew. ¹⁴ This is something new in Witch stories, and lets in additional light on these charms. ¹⁵ Each COVEN appears to have had an OFFICER for the men, and a MAIDEN for the women; but whether the province of these personages was to preside over them, or to act as messengers, to call them together, does not seem so certain. ¹⁶ Dye-house. ¹⁷ Jackdaw. ¹⁸ This and the preceding spaces are left blank in the Deposition. ¹⁹ Dying-vat. ²⁰ *Wildershins*, contrary to the direction and ordinary course of the suu.

that it could litt nothing bot onlie blak, according to the color of the *Divell*, in quhoes nauw we took away the threth of the rycht colouris that wes in the fatt!

ALL quhilkis of the premiffes, fwa spokin and willinglie Confeit and declairit furth of the mowth of the said *Iffibell*, in all and be all thingis as is abow fett downe, I, the said *Johne Innes*, Notar Publict, haw writtine thir prefenttis; and with the saidis Witneffes abow namet, in farder testimonie and witneffing of the premiffes to be of weritie, We haw fabrierywit the famen with our handis, day, yeir, and place aboue spicifeit.

JOANNES INNES, Notarin Publicus.¹

MR HARY FORBES, Minister at Auld Earn, Attestis.

W. DOLLAS of Cantray, Sheriff-deput, Attestis.

A. BRODIE, witness to the said Confessione.

HEN. ROSE, Minister at Nairne, Attestis the forsaid

HAW HAY of Newtown, Attestes.

Declaratione, as to the principal substantialis.

W. SUTHERLAND of Kinsterie, Attestis these Confessionis.

GEORGE PHINNIE, in Kirkmichael, Attestis.

JO. WEIR, in Alderne, Attestis.

(2.) ISSOBELL GOWDIES SECOND CONFESSION.

ATT ALDERNE, the third day of May, 1662 yeiris, abowt the bowris of two or thrie in the efternoon, or therby: IN prefrence of MASTER HARRY FORBES, &c.²

THE quhilk day, in prefrence of me, *Johne Innes*, Notar Publict, and Witneffes, all vnder-subferywand, the said ISSOBELL GOWDIE, professing repentance, &c.³ Efter that tyn ther vold meit bot fomytymes a COVEN, fomytymes mor, fomytymes les; bot a Grand Meitting vold be about the end of ilk Quarter. Ther is thretein perfones⁴ in ilk Cooven; and ilk on of vs has an SPERIT to wait wpon ws, quhan ve pleas to call wpon him. I remember not all the Spritis names; bot thair is on called 'SWEIN,' quhilk waitis wpon the said Margret Wilfon in Alderne; he is still⁵ clothed in grafs-greyn; and the said Margret Wilfon hes an niknam called, 'PIKLE NEIREST THE WIND.' The next Sprit is called 'ROBIE,' who waitis wpon Bessie Wilfone, in Alderne; he is still clothed in yellow; and hir nikname is 'THROW THE CORNE YAIRD,' [.].⁶ The third Sprit is called 'THE RORING LYON,' who waitis wpon Iffobell Nicoll, in Lochlow; and [he is still clothed] in fea-greyn; her niknam is 'BESSIE RULE.' The fowrth Sprit is called 'MAK HECTOR,' qwho [waitis wpon Jean] Martein, dawghter to the said Margret Wilfon; he is a yowng-lyk Devill, clothed still in grafs-[green. Jean Martein is] MAIDEN to the Coven that I am of; and hir nikname is 'OVER THE DYKE WITH IT,' becaus THE DIVILL [always takis the] Maiden in his hand nix him, quhan ve daunce Gillatrypes;⁷ and quhan he vold lowp from he and the will fay, 'Ower the dyk with it!' The nam of the fyft Sprit is 'ROBERT THE [RULE,' and he is still clothed in] fadd-dun, and feimis to be a Comander of the rest of the Spritis; and he waitis wpon Margret Brodie, in Alderne. [The name of the saxt Sprit] is called 'THEIFF OF HELL WAIT WPON HIR SELFE,' and he waitis also on the said Bessie Wilfon. The name of the sevynth [Sprit is called] 'THE READ REIVER,' and he is my owin Sprit, that waitis on my felfe, and is still clothed in blak. The aucht Sprit [is called] 'ROBERT THE JACKIS,' still clothed in dune, and feimes to be aged. He is ane glaiked gowked Sprit! The woman's [nikname] that he waitis on, is 'ABLE AND STOWT!'⁸ The nynth Sprit is called 'LAING,' and the woman's nikname that he waitis wpon is 'BESSIE BAULD.'⁹ The tenth Sprit is named 'THOMAS A FEARIE,' &c.¹⁰—Ther wilbe many vther Divellis, waiting wpon [our] MAISTER DIVELL; bot he is bigger and mor awfull than the rest of the Divellis, and they all reverence him. I will ken them all, on by on, from vtheris, quhan they appeir lyk a man.

¹ His Latin *docquet*, with his motto, '*Amor meus cruci figus*. 1661,' are affixed. It is unnecessary to preserve this, as it is in common form. ² As in preceding Deposition. ³ The same preamble is repeated, with the account of her baptism and carnal dealing, &c., in similar terms as in her preceding Confession. ⁴ The DELL's dozen. ⁵ Ever; always. ⁶ This paper is unluckily very much mutilated at the ends of the lines; which mutilation commences here. Where the sense can be made out, the words are conjecturally supplied, within brackets; if not, a small blank is left in this transcript. ⁷ Probably a dance then popular among the vulgar. ⁸ Viz. Bessie Hay. ⁹ Viz. Elspet Nisbie. ¹⁰ Issobell, as usual, appears to have been stopped short here by her interrogators, when she touched on such matters.

Quhen we reafe the wind, we tak a rag of cloth, and weitts¹ it in water; and we tak a bectle² and knokis the rage³ on a ftone, and we fay thryfe ower,

‘ I KNOK this ragg wpon this ftone,
To reafe the wind, in THE DIVELLIS name;
It fall not lye⁴ untill I pleafe againe!’

[Whan] we wold lay the wind, we dry the ragg, and fay (thryfe ower)

‘ WE lay the wind in THE DIVELLIS name,
[It fall not] ryfe quhill we (or I) lyk to reafe it again!’

And if the wind will not lye infantlie [after we fay this,] we call wpon owr Spirit, and fay to him,

‘ THIEFFEL THIEFFE! conjure the wind, and caws it to [lye].’

We haw no power of rain, bot ve will reafe the wind quhan ve pleas.—He maid vs believ [.] that ther wes no GOD befyd him.

As for Elf-arrow-heidis, THE DIVELL shapen them with his awin hand, [and fyne deliueris thame] to Elf-boyes, who whyttis and dightis⁵ them with a tharp thing lyk a paking neidle; bot [quhan I wes in Elf-land?] I faw them whytting and dighting them. Quhan I wes in the Elfes howllis, they will haw werie them whytting and dighting; and THE DIVELL giewes them to ws, each of ws fo many, quhen Thes that dightis thaim ar litle ones, hollow, and bot-baked!⁶ They fpeak gowitie⁷ lyk. Quhen THE DIVELL giewes them to ws, he fuyes,

‘ SHOOT thes in my name,
And they fall not goe heall hame!’

And quhan ve thoot thefe arrowes (we fay)—

‘ I SHOOT you⁸ man in THE DIVELLIS name,
He fall nott win heall hame!
And this falbe alfwa trw;
Thair fall not be an bitt of him on lieiw!’⁹

We haw no bow to thoot with, but fpang¹⁰ them from of the naillis of our thowmbes. Som tymes we will miiffe; bot if thay twitch,¹¹ be it beait, or man, or woman, it will kill, tho’ they had an jack¹² vpon them. Quhen we goe in the thape of an haire, we fay thryfe ower:

‘ I SALL goe intill ane haire,
With forrow, and fych, and meikle caire;
And I fall goe in THE DIVELLIS nam,
Ay wbill I com hom [againe!].’

And infantlie we ftart in an hair. And when we wold be owt of that thape, we will fay—

‘ HAIRE, [haire, God fend thé caire!]
I am in an hairis liknes juft now,
Bot I falbe in a womanis liknes ewin [now.]’

When we wold goe in the liknes of an cat, we fay thryfe ower,

‘ I SALL goe [in till ane catt,]
[With forrow, and fych, and a blak]thot!
And I fall goe in THE DIVELLIS nam,
Ay quhill I com hom again!’

¹ Wet. ² A piece of flattened wood, somewhat resembling a cricket-bat, which washerwomen use for knocking clothes, in cleansing them. ³ Rag. ⁴ Be allayed. ⁵ Shapes and trims them as a carpenter, with edged-tools. ⁶ Boss also signifies hollow, or empty. Perhaps this expresses that these Elves were diminutive and hump-backed creatures resembling the *trows* or *trolls* of FAIRY SCENETITION; whose propensities are uniformly described as being malignant, and hostile to mankind. ⁷ Roughly; crossly; gruffly. ⁸ Yonder. The preceding and following rhymes are probably *unique*, even in the history of Trials for WITHECRAFT, and show, in a very forcible manner, the criminality of the bigoted, though learned and well-intentioned, individuals who dragged forward such wretches to public trial and an ignominious death. ⁹ On life; *alive*. ¹⁰ Jerk. ¹¹ Touch. ¹² A coat of mail; defensive armour.

And if ve [wold goe in ane craw, then] we fay thryfe ower :

‘ I SALL goe intill a craw,
With forrow, and fych, and a blak [throw] !
And I fall goe in the Divellis nam,
Ay quhill I com home again !’

And quhen ve vold be owt of thes shapes, we fay :

‘ CATT, catt, (or craw, craw,) [God] fend thé a blak flott ! (or blak throw !)
I wes a catt (or craw) juft now,
Bot I falbe [in a woman’s liknes evin now.]

Catt, catt, (or craw, craw,) God fend the a blak flot ! (or a blak throw !)

Giff we, in the [shape of an catt, an craw, an] haire, or ony vther liknes, &c., go to any of our neighbouris howflis, being Witches, we will [fay.]

[‘ I (or we) CONJURE] thé Goe with ws (or me) !’

And presentlie they becom as we ar, either cats, hearis, crowes, &c., and goe [with ws whither we wold. Quban] we wold ryd,¹ we tak windle-ftrawes, or been-flakes,² and put them betwixt owr foot,³ and fay thryfe,

‘ [HORSE] and hattok, horfe and goe,
Horfe and pellattis, ho ! ho !’⁴

And immediatlie we fie away whair [eur we wold] ; and least our husbandis fould misf vs owt of owr beddis, we put in a boofom, or a thrie [leggit ftoole befyde thame,] and fay thryfe ower,

‘ I LAY down this boofom (or ftooll.) In THE DIVELLIS name,
Let it not fleir [Quhill I] com again !’

And immediatlie it feimis a voman, befyd owr husbandis.

Ve can not turn in the lik[nes⁵ of] Quhen my husband fold beeff, I vfed to put a fwelloses feather in the hyd of the beaft, and [fay thryfe,]

‘ [I] PUTT owt this beeff in THE DIVELLIS nam,
That meikle silver and good pryce com hame !’

I did ewin fo [quheneur I putt] furth either horfe, noat,⁶ vebs,⁷ or any vther thing to be fold, and fill⁸ put in this feather, and said the [famin wordis thryfe] ower, to caws the comodities fell weil,
&c. thryfe ower,

OWR Lord to hunting he [is gone]
. marble stone,

He fent vord to Saint Knitt⁹

[Quhan we vold heall] ony for, or brokin limb, we fay thryfe ower,]

.
.

He pat the blood to the blood, Till all vp flood ;

The lith to the lith, Till all took with ;

Owr Ladie charmed hir deirlic Sone, With hir tooth and hir towng.

And hir ten fingers—

In the name of THE FATHER, THE SON, and THE HALIE GAIST !¹⁰

¹ Ride. ² Bean-stalks. ³ For feet. ⁴ See Note to ‘ Horse and hattock,’ p. 604. ⁵ There is a tradition in MORAYSHIRE, that Witches could not appear in the shape of a dove or a lamb ; the one being emblematical of THE HOLY SPIRIT, the other being the emblem of the AGNUS DEI. Perhaps the hiatus might not improperly have been so supplied. ⁶ Nolt, cattle. ⁷ Webs of cloth. ⁸ Uniformly ; constantly ; always. ⁹ After this fragment, a considerable portion of the MS. is unfortunately torn off. It is probable that the two first lines of the next Charm are mutilated. ¹⁰ It has been often remarked by the Editor, in the course of the numerous WITCH TRIALS which occur in this Collection, that a great proportion of the charms, in use to be repeated by the unhappy women, were actually paraphrases of portions of the Mass-Book—and in some cases, such as in the Case of ANNE SAMSON, there appears to have been used dogrel versions of THE CREEED, &c. ! Others were taken from ancient popular rhymes and songs, such as the above fragment, ‘ Our Lord to hunting he is gone,’ &c. ! Others, which, unfortunately, is mutilated.

And this we fay thryfe over, fraiking¹ the for, and it becomes heall. ²4th, For the BEAN-SHAW,⁵ or pain in the heance,⁶—WEE ar heir thrie *Maidens* charming for the bean-flraw; þe man of the Mille-earth, blew beaver, land-feaver, maneris of flooris, the Lord fleigged⁴ the Feind with his holy candelles and yord foot flone!—Thair the fittis, and heir the is gon!—Let hir nevir com heir again!—³4th, For the FEAVERIS, we fay thryfe over, ' I FORBID the qwaking-feavers, the fea-feaveris, the land-feaveris, and all the feaveris that ewir God ordained, owt of the head, owt of the heart, owt of the bak, owt of the fydis, owt of the kneysis, owt of the thieghes, fra the pointis of the fingeris to the nebes⁵ of the toes; owt fall the feaveris goe, [fom] to the hill, fom to the hap, fom to the flone, fome to the flok. In Saint Peiteris nam, Saint Paullis nam, and all the Saintis of Hevin: In the nam of THE FATHER, THE SONE, and of THE HALIE GOST!⁶—AND when we took the frwit of the filles from [the] filtheris, we went to the flore, befor the boat wold com to it; and we wold fay, on the thore-fyd, thrie fenerall tymes ower,

' THE filtheris ar gon to the fea,
And they will bring hom filthe to me;
They will bring them hom intill the boat,
Bot they fall get of thaim bot the finaller fort !'

So we either steall a filh, or buy a filh, or get a filh from them [for rowght,] an or ma.⁷ And with that we haw all the fruit of the heall⁸ filthes in the boat; and the filthes that the filthermen tham felues will haw, will be bot froath, &c.

The first voyag that ever I went with the rest of owr COVENS wes [to] Plewghlandis; and thair we thot an man betuixt the plewgh-flitlis, and he pretentlie fell to the ground, wpon his neife⁹ and his mouth; and than THE DIVELL gaw me an arrow, and cawted me thoot an voman in that feildis; quhilk I did, and the fell down dead.¹⁰ In Winter 1660, quhen Mr Harie Forbes, Minister at Aldernde, wes feik, we maid an bagg of the gellis, flesh, and guttis of toadis, pickles of bear,¹¹ pairingis of the naillis of fingeris and toes, the heiver of ane hair, and bittis of clowtis. We steipit this all together, all night among watter, all laked¹² throw vther. And whan we did put it among the watter, SATAN wes with ws, and learned ws the wordis following, to fay thryfe ower. They ar thus,

' HE is lying in his bed,—he is lyeing feik and fair;
Let him lye intill his bed two monethis and [thrie] dayes mair !
²3, Let him lye intill his bed,—let him lye intill it feik and fore ;
Let him lyne untill his bed monthis two [and] thrie dayes mor !
³3, He fall lye intill his bed, he fall lye in it feik and fore ;
He fall lye intill his bed [two monethis and] thrie dayes mor !'

Quhen we haid learned all thes wordis from THE DIVELL, as fald is, we fell all down [wpon owr] kneis, with owr hear down ower owr shoulderis and eyes, and owr handis lifted wp, and owr eyes

¹ Stroking; gently rubbing. ² The *boneshave* or *boneshawe*, signifies the SCIATICA. From an amusing, published specimen of THE ENMOOR DIALECT, Devonshire, it appears, that the term is also known in England. The peasantry of that district use a singular *Charm* for its cure. ³ The patient must lie upon his back, on the bank of the river or brook of water, with a straight staff by his side, between him and the water; and must have the following words repeated over him, viz.

" Boneshave right—Boneshave straight—
As the water runs by the stave—Good for Boneshave !"

They are not to be persuaded but that this ridiculous form of words seldom fails to give them a perfect cure. *Exmoor Scolding*. P. S. Note. ⁴ Haunched. ⁵ Affrighted; terrified. ⁶ Nibs; extremities. ⁷ It appears very singular to us who live in the Nineteenth Century, that SATAN should have taught his servants to invoke the SAINTS, and even the HOLY TRINITY. The charms recited by his disciples are usually fragments of ancient Monkish rhymes; and most of them were such as many good Roman Catholics of the lower orders, even in these times, would not scruple to use, for the supposed cure of their bodily ailments.

⁸ One or more. ⁹ Whole. ¹⁰ Nose. ¹¹ Issobell previously explained, that these poaching excursions took place, when the Witches were careering in mid-air, mounted on windle-straws and bean-stalks, &c. The DEVIL usually made them pick up such of the Elf-arrows as fell short of or missed their mark. ¹² Hacked; minced into small pieces.

[stedfastlie fixed wpon] THE DIVELL; and said the forfaisis wordis thryfe ower to THE DIVELL, frisklie, against Maister Harie Forbes [his recovering from the said feiknes.] In the night tym we cam in to Mr Harie Forbes chalmre, quhair he lay, with ovr handis all fineared [. out] of the bagg to fwing it wpon Mr Harie, quhair he wes feik in his bed; and in the day tyme [. ane of ovr] nwmber, quho wes moft familiar and intinat with him, to wring or fwing the bagg [wpon the said Mr Harie, as we could] not prevail in the night tym against him; quhilk wes accordinglie done. Any of [.] comes in to your howfies, or ar fet to doo yow evill, they will look vncowth lyk, thrawn [.] hurlie lyk, and thair clothes standing owt. The Maiden of ovr Coven, Jean Mairten, wes [. We] doe no great mater without ovr Maiden.

And if a child be forspoken,¹ we tak the cradle [.] throw it thryfe,² and than a dowg³ throw it; and then flakis the belt abow the fyre [.] and then cast it] downe on the ground, till a dowg or catt goe over it, that the feiknes may com [. wpon the dowg or] catt.

ALL quhilkis wer swa spokin furth of the mouth of the said ISSOBELL GOWDIE, &c.⁴

[Indorsed] ED⁸, 10 July, 1662. Considered and found relevant be THE JUSTICE DEPUTE.

‘ Tak cair of this peaper. See the Justice deputis judgement of it. Show this to the Commiffioneris.’

HAVEING read and considered THE CONFESSIONS of ISOBEL GOWDIE, within contened, as particulare SATHAN, Renunciacion of Baptifim, with diverse malefices, I find that a Commiffion may be verie justlie paid, for hir last Tryall. (Sic subscribiter) A. COLVILLE, (Justice-depute.)

(3.) ISSOBELL GOWDIES THIRD CONFESSION.

AT AULDERNE, the fyften day of May, 1662 yeiris, In prefence of Maister HARIE FORBES, Minifter of the Gospell at Alderne, Mr HEW ROSSE, Minifter at Nairn; JOHNE INNES of Edingeith; HEW HAY of Newtown; Mr ALEX DUNBAR, Schoolmaster and Session Clerk of Alderne; GEORGE PHINNEY, in Kirkmichaell; and Johne Weir, and Androw Easie in Alderne; and many vtheris, WITNESSIS TO THE CONFESSION efter sett down, spoken furth of the mouth of ISSOBELL GOWDIE, spous to Johne Gilbert in Lochloy.

THE quhilk day, in prefence of me, JOHNE INNES, Notar Publict, and Witneffes all vnder subferywand, the said ISSOBELL GOWDIE, appeiring to be moft penitent for hir abominable finnes of Witchcraft, moft ingenwollie procedit in hir CONFESSION therof, in maner efter following; to witt. First, as I wes going betwixt the townis of *Drumderwin* and *the Headis*, THE DIVELL met with me, and thair I covenanted with him, and promeisit to meit him, in the night tym, in *the Kirk of Alderne*; quhilk I did. He stood in the Readeris dask, and an blak book in his hand; quhair I cam befor him, and renuncet JESUS CHRIST and my baptifime; and all betwixt the soale of my foot and the croum of my head. I gaw frielie wp and over to THE DIVELL. *Margaret Brodie*, in Alderne, held me wp to THE DIVELL, untill he re-baptifed me, and marked me in the shoulder, and with his mouth facked out my blood at that place, and spowted it in his hand, and sprinkling it wpon my head and face, he said, ‘ I baptife ye, JANET, to my self, in my own nam!’ Within a whyll thereafter we all removed. And within few dayes he cam to me, in *the New Wardis of Inyloch*, and thair haid carnall cowpulation with me. He wes a verie meikle blak rock man. He will lye als hevie wpon ws, quhan he hes carnall dealling with ws, lyk an malt-fecke. His memberis ar exceeding great and long; no mans memberis ar so long and bigg as they ar. He wold be amongst ws lyk a weath horse amongst mears. He wold lye with ws in prefence of all the multitud; neither haid we nor he any kynd of shame; but

¹ Dewitched. ² This seems to allude to passing the child, &c., through an enchanted hoop, ring, or belt, a very common popular charm in these days. ³ Dog. ⁴ The same form and subscriptions as in the preceding Confession, with the Notarial Attestation, &c. of JOHN INNES.

efpeciallie he hes no shame with him at all. He wold lye and hawe carnall dealing with all, at enerie tym, as he pleafed. He wold haw carnall dealing with ws in the fhape of a deir or any vther fhap that he wold be in. We wold never refufe him. He wold com to my hows-top in the fhape of a crow, or lyk a deir, or in any vther fhap, now and then. I wold ken his voice, at the firft heiring of it, and wold goe furth to him and haw carnall couplatioun with him. The youngeft and lwtstief women will haw verie great pleafour in their carnall couplatioun with him, yea much mor than with their awin hufbandis; and they will haw a exceiding great defir of it with him, als much as he can haw to them, and mor; and never think fhame of it. He is abler for ws that way than any man can be (Alace! that I fould compair him to ane man!) onlie he ves heavie lyk a malt-feck; a hudge nature, verie cold, as yee.

He wold fend me now and then to *Aulderne* fom earandis to my neightbouris, in the fhape of ane hair. I wes on morning, abovt the break of day, going to *Aulderne* in the fhape of ane hair, and *Patrik Pappeyis* ferwardis, in *Kilhill*, being goeing to ther labouring, his houndis being with them, ran efter me, being in the fhape of ane haire. I ran verie long, bot wes foreet, being wearie, at laft to take my own hons. The dore being left open, I ran in behind ane chift, and the houndis followed in; bot they went to the vther fynd of the chift; and I was foreet to run furth agane, and wan into ane vther hows, and thair took leafour to fay,

‘ HAIR, hair, God fend thé cair !

I am in a hearis liknes now,

Bot I fall be ane voman ewin now !

Hair, hair, God fend thé cair !

And fo I returned to my owin fhap, as I am at this infant, again. The dowgis will fom tymes get fom byttis¹ of vs, quhan ve ar in hairis,² bot will not get ws killed. Quhan ve turn owt of a hairis liknes to owr awin fhap, we will haw the byttis, and rywis, and ferattis³ in owr bodies. Quhan we vold be in the fhap of cattis, we did nothing but cry and wraw,⁴ and rywing, and as it ver, wirrieing on ane vther; and quhan ve com to owr awin fhapes again, ve will find the ferattis and rywes on our kins, werie for. Quhan on of vs or mor ar in the fhap of cattis, and meit with ony vtheris owr neightbouris, we will fay,

‘ DIVELL SPEID THÉ—GOE THOW WITH ME !’

And immediatlie they will turne in the fhape of ane catt, and goe with ws. Quhen we wilbe in the fhap of crows, we will be larger than ordinar crows, and will fit upon branches of treis. We went in the fhape of rewkis⁵ to *Mr Robert Donaldjones* hows, *THE DIVELL*, and *John Taylor*, and his wyff, went in at the kitchen chimney, and went down upon the crowk.⁶ It wes about *Lambes*,⁷ in anno 1659; they opened ane window, and (we) went all in to the hows, and gott beiffie and drink thair; bot did no more harme.—We went in to *the Downie-hillis*; the hill opened, and we cam to ane fair and lairge braw rowme, in the day tym. Thair ar greet bullis rowtting and fkyolling ther, at the entrie, quhilk feared me.⁸

Bot that quhich troubles my confcience moft, is the killing of feveral perfones, with the arrowes quhich I gott from *THE DIVELL*. The firft woman that I killed wes at the *Plewgh-landis*; also I killed ane⁹ in the East of *Murrey*, at *Candmas*¹⁰ laft. At that tyme *Bessie Wiljón*, in *Alderne*, killed on thair; and *Margaret Wiljón*, ther, killed ane vther; I killed also *James Dick* in *Canniecauill*: Bot the death that I am moft of all forrie for, is the killing of *William Bower*, in *the Miltoene of Moynes*; *Margaret Brodie* killed ane voman, wathing, at *the Burne of Tarres*; *Bessie Wiljón* killed ane man at the *Bayle of Strutheris*; *Bessie Hay* in *Aulderne* killed ane prettie man called *Dunbar*, at the Eift

¹ Bites.

² In the fhape of hares.

³ Tears and scratches.

⁴ *Caterueal*, like cats.

⁵ Rooks.

⁶ *The crook*, on which the ‘kail-pot’ hangs, over the fire.

⁷ *Lammas*, the 1st day of August.

⁸ Alarmed.

frightened me. See her CONFESSIOH, Apr. 13, 1662, page 604.

⁹ *Ane*; one.

¹⁰ The purification of the blessed Virgin Mary, Feb. 2d.

end of the *Towne of Forres*, as he was coming owt at an gaitt; *Margaret Brodie* in Alderne killed on *David Blok*, in Darnvay. *Janet Breadhead*, ipows to *Johne Taylor*, told me, a litle befor the wes apprehendit, that *Margaret Wiljone* in Alderne shot *Alexander Huchcon*, in Alderne; *Janet Breadheid* shot *Johne Falconer*, in the Park. The moit of ws all wer ther, at that tyme. *Bessie Wiljone* killed on *William Man*, at Burgie; *Margaret Wiljone* killed on *Johne Lee*, and *Janet Breadheid* killed a fuyrn¹ at Burgie; *Bessie Wiljone* in Alderne, on an first Monday of the Reath, took a bagg maid of hairis lieweris,² the fletth, guttis and gallis of toadis, naillis of fingeris and toes, and fwinged it on an young man called *Thomas Reid*, and he died. *Bessie* and *Margaret Wiljones* in Alderne, *Johne Taylor* and his wyff, *Margrat Brodie* and I, and *THE DIVELL*, wer together, and *Mr Harie Forbes*, Minister at Alderne, goeing to *Moynes*. *THE DIVELL* gaw *Margret Brodie* an arrow to shoot at him, quhilk she did; bot it cam thort; and *the Divell* cawfed tak it wp again. We desifret to shoot again, bot *the Divell* said, 'No; we wold not gett his lyff at that tyme!' *The Divell* cawfed me to shoot at *the Laird of Park*,³ as he was croceing *the Burne of the Bouth*; bot I missed him.

We wold goe to feuerall howffis, in the night tyme. We wer at *Candlemas* last in *Grainehill*,⁴ quhair we gott meat and drink anewgh. *THE DIVELL* sat at the heid of the table, and all the *COVEN* about. That night he desifret *Alexander Elder*, in Earleseat, to fay the grace befor meat, quhilk he did; and is thus:

' WE eat this meat in *THE DIVELLIS* nam,
With sorrow, and fych,⁵ and meikle thame;
We fall destroy hows and hald;
Both theip and noat in till the fald.
Litle good fall come to the fore
Of all the rest of the litle store!'

And than ve began to eatt. And quhan ve haid endit eattin, we looked stedfastlie to *THE DIVELL*. and bowing owrfelwes to him, we said to *the Divell*,

' WE thank thé owr Lord for this!' &c.

The wordis which we spak, quhan we maid the pictur, for ditroycing of *the Laird of Parks* meall-children, wer thus:

' IN *THE DIVELLIS* nam, we powr in this water among this mowld (meall),⁷
For lang dayning and ill heall;
We putt it into the fyre,
That it may be brunt both flik and flowre.
It falbe brunt, with owr will,
As any flikle⁸ wpon a kill.'

THE DIVELL taught ws the wordis; and quhan ve haid learned them, we all fell downe wpon owr bare kneis, and owr hair about owr eyes, and owr handis lifted wp, looking stedfast wpon *THE DIVELL*, still faying the wordis thryfe ower, till it was maid. And then, in *THE DIVELLIS* nam, we did put it in, in the midit of the fyre. Efter it had tkrukned⁹ a litle befor the fyre, and quhan it ves read lyk a coale, we took it owt in *THE DIVELLIS* nam. Till it be broken, it will be the deathe of all the meall children that *the Laird of Park* will ewer gett. Cast it ower an Kirk, it will not brak quhill¹⁰ it be broken with an aix, or fom such lyk thing, be a man's handis. If it be not broken, it will last an hundreth yeir. It hes ane cradle about it of clay, to preferue it from skaith;¹¹ and it ves roffen each vther day, at the fyr; fom tymes on pairt of it, fom tymes an vther pairt of it; it vold be a litle wat with water, and then roffen. The bairn vold be brunt and roffen, ewin as it ves by ws. It wanted

¹ Sow. ² Hares' livers. ³ John Hay of Park. ⁴ Belonged to Brodie of Lethin. ⁵ Sighing; lamentation. ⁶ The rest was probably omitted in writing down the Confession, as being blasphemous. ⁷ It is writtin *meall* in the other Confession; and the metre (such as it is) requires this liberty. *Mowld* signifies 'earth' or 'dust.' ⁸ Stubble. ⁹ Parched; shrivelled. ¹⁰ Untill. ¹¹ Harm; injury.

no mark of all the pairtis of an child, little lippis, &c., and the handis of it folded downe by its fydis, *John Taylor* and *Janet Breadheid* his wyff, *Bessie* and *Margret Wiljones* in *Aulderne*, and I my selfe, with THE DIVELL, wer oulie at the making of it; bot all the multitud of all ovr COEVENS got notice of it, at the next meitting: for all ovr actis and deidis, betuixt grett Meittingis, mozt be geven accompt of, and notted¹ in his booke at each Grand Meitting—bot all my owin COVEN got notice of it were felorthie. THE DIVELL him self cam to me, to my awin hows, and bad me meitt him in *John Tayloris* hows, to help thaim to mak the said pictur. All THE COVEN did flie lyk cattis, keas, hairis, and rewkis, &c. bot *Barbara Ronald*, in *Brightmanney*, and I, still² read on an horfe, qulich ve vold mak of a ftraw or becin-stalk.³ *Bessie Wiljone* was still in the liknes of a rewk.

Quhan we ar at meat, or in any vther place quhateuir, the *Maiden* of each COVEN fittis abow the reft, dixt THE DIVELL; and the ferwis THE DEVILL, for all the old peopill that he cairis not for, and ar veak and wumeit for him. He will be with hir and ws all lyk a weath-horfe efter mearis; and fomytes a man, bot werie wilfull⁴ in carnall cowpulationn at all tymis; and they ewin so als wilfull and defrows of him. Som tymis, among ovr felwis, we wold be calling him 'BLAK JOHNE,' or the lyk, and he wold ken it, and heir ws weill aneughe; and he ewin then com to ws, and fay, 'I ken weill aneugh what ze wer faying of me!' And then he vold beat and buisset ws werie for. We wold be beattin if ve wer absent any tyme, or neglect any thing that wold be appointit to be done. *Alex^r Elder*, in *Earlseat*, vold be werie oft beattin. He is bot soft,⁵ and cowlde never defend him self in the leil, bot greitt and cry, quhan he vold be scourging him. Bot *Margret Wiljon*, in *Aulderne*, wold defend hir self fynlie, and cast wp hir handis to keip⁶ the stroakis off from hir; and *Bessie Wiljone* wold speak crastie with hir townges, and wold be belling again to him flowtlie. He wold be beating and ferugeing ws all wp and downe with cardis⁷ and vther tharp scourges, like naked gwahais; and we wold be still cryeing, 'Pittie! pittie! Mercie! mercie, ovr Lord!' Bot he wold haw neither pittie nor mercie. Whan he vold be angrie at ws, he wold girne at ws lyk a dowge, as iff he wold fwellow ws wp. Somtym he vold be lyk a stirk, a bull, a deir, a rae, or a dowg, &c., and haw dealling with ws; and he vold hold wp his tail untill we wold kisse his arce. And at each tyme, quhan ve wold meitt with him, we behoowit to ryfe and mak our cuftefie; and we wold fay, 'Ze ar welcom ovr Lord!'—and 'How doe ze, my Lord!' &c. Quhan we wold tak the fruit⁸ (fruit?) away of anie perones midden or dunghill, we wold fay thus, (when we wold putt haiked flesh of an vchritned child, dowgis and theipis flesh, and pairings of maillis, &c., all haked throw-vther):—

' WE putt this intill this ham,⁹
In our Lord THE DIVELLIS nam.
The first handis that handles thé,
Braut and scalded fall they be!
We fall ditroy hows and hald,
With the theip and nou¹⁰ intill the fald,
And lile fal come to the fore
Of all the reft of the lile-flore!¹¹

We killed an ox, in *Burgie*, about the dawing of the day, and we brought the ox with ws hom to *Aulderne*, and did eat all amongst ws, in an hows of *Aulderne*, and feated on it.

THE DEVILL wold giv ws the brawest lyk money that ewer ws coyned; within fowr and twantie houris it vold be horfe-muke.¹² Alace! I deferw not to be fitting heir, for I haw done so manie evill

¹ Noted; recorded. ² Constantly; always; uniformly. ³ Bean-stalk. ⁴ Wanton. ⁵ Uncourageous; simple; unresisting. ⁶ *K p.*, ward off. ⁷ Scourges made of cords—not 'raids,' or instruments used in carding wool, flax, &c. ⁸ The Editor never before met with this word; it evidently means strength, spirit, 'fashion.' (Fr. *raison*); that is, the fertilizing power. ⁹ Home; home; destination. ¹⁰ Nolt; cattle. ¹¹ The last four lines are the same with the conclusion of the WITCH-GRAVE, in this Confession, p. 612. ¹² Horse-dung. In other Witch cases, money thus procured is usually said to have been turned into 'scalt-stanis.'

deidis, eſpeciallie killing of men, &c. I deferw to be reivin wpon iron harrowes, and worfe, if it culd be devyfit !

And quhan we tak away the fruit of cornis, at *Lambes*,¹ we tak an wooll-theeir, and cuttis or clips onlie thrie ſtakis² of it, and plaitis vther thrie rudis together, and fāyes,

‘ We cutt this corne in our Lord THE DIVELLIS nam,
And we fall law the fruit of it ham !’

And this thryfe ower ; and fo we haw the fruit of that field. Erwin fo, quhan we tak keall or the lyk, &c. And we lay all vp till *Yevell*, *Pace*, or Halie dayes ; and pairtis it among vs, and feattis on that together.

Wpon the quhilkis all and fundrie of the premisses, fwa spokin and willinglie Confest be the faid *Ijjobell Gowdie*, I, the faid *Johne Innes*, Notar publict, haw wretten thir presentis, and with the Witneſſes abow and vnder namet, haw ſubſcryuit the ſamen with our handis, day, moneth, place, and yeir abow fett down.

JOANNES INNES, Notarius Publicus.³

MR HARY FORBES, Minister of Auld Earb, Attestis.

HEN. ROSE, Minister at Nairne, Attestis the foirsaid Declarationn, as to the principal substantials.

HEW HAY of Newtown, Attestes.

JO. WEIR, in Auldearne, Attestis.

GEORGE PHINNEY, in Kirkmichael, Attestis.

(4.) ISSOBELL GOWDIE'S FOURTH CONFESSION.

AT ALDERNE, the tuantie ſevinth day of May, 1662 yeiris. IN prefrence of MASTER HARIE FORBES, Minister at Alderne ; PATRIK CAMPBELL of Boath ; MR ALLEN⁴ DUMBAR, School-maſter and Clerk of the Session of Alderne ; GEORGE PHINNEY, in Kirkmichael ; HEW HAY of Newtowne ; and JOHNE WEIR, in Alderne ; WITNESSES TO THE CONFESSION OF ISSOBELL GOWDIE, ſpows to Johne Gilbert, in Lochloy.

The faid day, the faid ISSOBELL, profeſſing repentance for hir former finnes of Witchcraft, and that the had been ower long in THE DIVELLIS ſervice ; without ony compulſitoris, proceedit in hir CONFESSION, in maner efter following : That is to ſay. I acknowledg, to my great grieff and tham, that fyftein yeiris ſince I denyed FATHER, SON, and HOLIE GOST, in *the Kirk of Alderne* ; and gaw ower my bodie and fowll to THE DIVELL ; he ſtanding in the Readeris Daik of *Alderne*, and an blak book in his hand : *Margret Brodie*, in Alderne, held me wp to THE DIVELL, quhill⁵ I did this, and quhill he marked me one the ſhoulder, and fowked out my blood thairat, and ſpitted it in his hand, and ſprinkled it on my head, and baptifed me ‘ JANET,’ in his owin nam. Efter that, he had carnall copulation with me, in *the New Wardis of Inſhoeh* ; and ſtill thairefter, fra tym to tym, at owr pleaſour.

The names of THE COEVEN ar thes.⁵ *Beffie Wilſone*, in Alderne ; *Janet Burnet*, ther ; *Elyſpet Nijſlie*, ther ; *Margret Brodie*, ther ; *Margret Wilſone*, ther ; *Beffie Hay*, ther ; *Johne Taylor*, in Belmakeith ; *Janet Breadhead*, his ſpous ; *Barbara Ronald*, *Ijjobell Nicoll*, in Lochloy ; my ſelf, with *Jean Muirten*, our MAIDEN ; and *Johne Young*, in Mebeſtoun, owt OFFICER. THE NAMES OF OWR DIVELLIS, *that waited upon us*, ar thes. Firſt, ROBERT, the *Jakis* ; SANDERIS, the *Read Reaver* ; THOMAS, the *Fearie* ; SWAIN, the *roaring Lion* ; THIEFFE OF HELL, *Wait upon hir ſelf* ; MARCHETOUR ; ROBERT, the *Rule* ; and RORIE. We wold ken them all, on by

¹ *Lambes*, 1st August ; *Festum S. Petri ad Vincula*.

² Stalks ; stems.

³ The long Latin *docquet* and

motto, before referred to, are annexed.

⁴ Until.

⁵ The principal purpose of this renewed Examination seems to have been to get a more detailed account of the persons composing her COEVEN, &c., besides getting a solemn Confirmation of her former Declarations ; so that the rest of that unhappy Society might in due time be brought to Trial and punishment.

on, from vtheris. Sou of thaim apearit in fadd-dun, fom in grassé-grein, fom in fea-grein, and fom in yallow. THE NIK-NAMES that THE DIVELL gaw unto ws wer, PIKELL NEIREST THE VIND, this wes *Margret Wiljones* niknam; *Bessie Wiljones* niknam ves THROW THE CORN-YAIRD; *Eljbet Nijhies* niknam ves BESSIE BALD; *Jean Mairtenis* niknam, quho ves MAIDEN, is OWER THE DYK WITH IT; *Bessie Hayes* nickname is ABLE AND STOUT.

I haw sein the Elf-arrows maid. The *Divell* dights¹ them, and the *Elf-Loyes* qahytes² them. We got everie on (of) ws fo many of thaim from the *Divell*, to shoat at men.³ I my self killed on *William Bower*, at Mitoun of Moynes. This griewis me mor than any thing that I ever did. *Margret Brody* killed an woman, washing, at the *Burn of Tarras*. *Bessie Wiljón* killed an man, at the *Bush of Strutheris*. *Bessie Hay* killed on *Dunbar*, at the East end of the town of *Forres*, coming owt at a gait. *Margret Brodie* thot at on *David Blok*. *Margret Wiljone* killed on *Alex^r Huchon*, in Aldern. *Janet Breadheal*, now in prison, killed *Johne Falconer*, in Park. Ther wer thrie killed East the cowtairie, at *Candlmas* last: I killed on, *Margret Brodie* on, and *Bessie Wiljón* on. I thot on *James Dik*, in Connicavell; *Margret Brodie* killed on *W^m Cruikshank*; *Margret Viljón* killed on *Johne Ley*; *Janet Breadheal* killed a fuyr,⁴ also she killed an vther man at *Burgie*; and *Bessie Wiljón* killed on thair, namet *W^m Man*. We killed an ox, and brought it to *Bessie Hayes* hows, in Alderne; and we did eat him thair. I thot at the *Laird of Park*, as he ves crofing the *Burn⁵* of Boath; bot, thankis to God now, that he preferwit him. *Bessie Hay* gaw me a great cuffe,⁶ becaus I misled him.

Margret Brodie^c thot at *Mr Harie Forbes*, at the Standing-stanes, bot the misled; and fpeirit, ‘If he shold thoot again?’ And the DIVELL said ‘Not!’—For we wold nocht get his lyf at that tym.’ We intentit⁷ feuerall tymes for him, quhan he ves feik. *Bessie Hay*, *Jean Mairten*, the Maiden, *Bessie Wiljón*, *Margret Brodie*, *Eljbet Nijhie*, spows to *Johne Muthow*, and I myself met in *Bessie Wiljones* hows, and maid an bag againit him. The bag wes maid of the fesh, guttis, and gallis of toadis, the liewer of a hear,⁸ pikles of corn, and pairings of naillis of fingeris and toes; we steipit all night among water. The *Devell* learned ws to say thes wordis following, at the making of the bag:—

‘He is lying in his bed—and he is feik and fair,

Let him ly in till that bedd monthes two and dayes thrie mair!

He fal ly in till his bed, he falbe feik and fair—

He fall lye in till his bedd monethes two and dayes thrie mair!’

And quhan we haid said thes wordis, we wer all on our kneiyis, our hair about owr thowlderis and eyes, holding wp our handis to THE DIVELL, that it⁹ might destruy the said *Mr Harie*. It ves intentit that ve, coming in to his chalmere, in the night tym, we shold swing it on him. And becaus we prevailed not at that tym, *Bessie Hay* vndertook and cam in to his chalmere to wifit him, being verie intimat with him; and the brought in of the bag in hir handis, full of the oyll thairof, to haw swowung and casten dropis of it on him; bot ther wer fom vther worthie persons with him at that tym, by quich God prevented *Bessie Hay*, that the got no harm don to him, bot swang a litl of it on the clothes of the bed quhair he lay.

Johne Taylor and his wyff, *Bessie* and *Margret Wiljones*, and I, maid a pictur for the *Laird of Parkis* maill children.¹⁰ *Johanne Taylor* brought hom the clay in his plaid newk; his wyff sifted it; we powred in vater in a cowg¹¹ amongit it, and wrought it for,¹² and maid a pictor of it, lyk a child, als big as a pow. It wanted no mark of the imag of a bairn, eyes, nose, mouth, litle lippies, and the hands of it folded down by its fydis. The vordis that we said, quhan we maid it, ver thes:—

¹ Dresses. ² Blocks them out. ³ See the CONFESSION of Apr. 13, 1662, where *Isobell* tells us they were licensed to sport, in this manner, when riding on straws through the air; and that they had power to kill all who did not sanctify themselves, &c.

⁴ A sow. ⁵ On good authority, *Isobell* and her master ought to have known, that the Laird was out of their power while crossing a running stream. ⁶ A smart slap, or blow.

⁷ Tried; essayed. ⁸ A hare's liver. ⁹ Viz. Their charmed bag. ¹⁰ See the former CONFESSIONS.

¹¹ A sort of wooden dish. ¹² Sore; extremely.

' We put this water among this meall,
 For long dwyning¹ and ill heall;
 We put it in intill the fyr,
 To burn them vp both stik and flour,
 That be brunt with our will,
 As any stikill² on an kill!'

THE DIVELL fitton on an blak kift. We wer al on our kneysis, and owr hair about our eyes, looking on THE DIVELL stedfastlie, and owr handis lifted vp to him, saying the vordes ower. And by this the bairnis died, &c. All this, with a great many mor terrible thingis, the saidis Witneffes and Notar hard the said *Iffobell* CONFES, and mozt willinglie and penetently speak furth of hir ovin mouth. In witnes quhairof, WE haw subscriuit thir presentis, with owr handis, day, yeir, and place, abow sett down.

ITA EST Joannes Innes, Notarius Publicus, in fidem premifforum, rogatus et requisitus, subscribo.

JOANNES INNES, No^{ti}us Publicus.

MR HARY FORBES, Minister of the Gospel, at Old Earn, Attests.

W. SUTHERLAND of Kinsteffie, Attestis. HEW HAY of Newtoun, Attestes.

ALL DUNBAR, Schoolmaster and Clerk to the Session of Oldearne, Attests.

GEORGE PHINNE, in Kirknichel, Attests. Jo. WEIR, in Auldearne, Attestes.

VIII. CONFESSION of *Janet Breadheid, spouse of Johu Taylor, in Belmakeith.*

AT INSHOCH, the fourteenth day of Aprill, 1662 yeiris. In prefence of PATRIK DUNBAR of Bonaferrie,² Shereff principall of the Shereffdome of Elgin and Forres; HEW HAY of Newtoun; ARCHBALD DUNBAR, in Meikle Penick; ARCHBALD DUNBAR, in Lochloy; WALTER CHALMER, in Balaferrie; JAMES COWPER, in Inshoche; JOHNE WEIR, in Aulderne; and ane great multiud of all fortis of vther perfones; WITNESSES TO THE CONFESSIONS and DECLARATION after sett downe, spokin furth of the mowthe of JANET BREADHEID, spous to Johne Taylor, in Belmakeith.

THE quhill day, in prefence of me, JOHNE INNES, Notar Publict, and Witneffes abownamet, vnder subscriyuan, 4[the said] JANET BREADHEID, professing repentance for hir former finnes of Witchcraft, and that the haid bein over long in the [samin] service; without any preffuris,⁵ proceidit as followis, to witt. FIRST, I knew nothing of Witchcraft untill I wes mari[et with] my husband, Johne Taylor; andsit wes he, and Elspet Nithie, his mother, that entyfed me to that craft. And the first [thing] that we did wes, we maid some drowgries,⁶ of dowgs flesh and theipsis flesh, against Johne Hay, in the Mure; and therby took away his cornes, and killed his horse, noat,⁷ sheip, and vther guidis; and layed it about his hows, to tak away his awin lyffe; and thereafter, he shortly died. Onlie my mother-in-law and my husband did this, to learne me; and this wes my first [lesson] from them, &c.⁸ When they gott me to consent to this craft; first, they haid me to the Kirk of Nairne, in the nycht [tyme;] and THE DIVELL wes in the Readeris dask, and an book in his hand. And at that meeting, Bessie Wilfone, in Auld[erne;] Margret Wilfone, spows to Donald Callam, thair; Margret Brodie, thair; Barbara Friece, ther; Helen Inglis, spows to William [. . .] thair; Janet Burnet, thair; Elspet Makbeith, thair; Elspet Nithie, spows to Johne Mathew, in Aulderne; Mariore Taylor, [spous] to Robert Barrie, ther; Bessie Hay, ther; Archibald Man, ther; Mariore

¹ Pining; lingering sickness; gradual wasting away.

² Stubble.

³ The Dunbars of Balaferrie and

Westfield were *hertable* SHERIFFS of Murray.

⁴ A considerable part of this paper having been destroyed by mice, the Editor has supplied the blanks from conjecture, after a careful comparison with other similar Examinations. The words so supplied are put within brackets.

⁵ Without the application of TORTURE, or other 'legal compulsiours'; voluntarily.

⁶ Drugs; enchanted charms.

⁷ Nolt, cattle.

⁸ Farm stock; 'bestial.'

⁹ A pretty experiment, indeed, for enticing a novice to be initiated!

Man, his daughter, ther; Elfpet Makhonie, relict [of] wmq¹ Alexander Huchefon, ther; Bessie Friece, spous to Johnie Gilbert, ther; Ifobell Friece, spous to Andrew Miller, ther; Agnes Torrie, spous to William Young, ther; Elfpet Chisolme, spous to vmq¹ Makhonie, ther; Alexander Elder, in Earliest; Janet Finlay, his spous; Elfpet Laird, in Miltoun of Moynes; Johnie Robertson, in Leathin; Grifall Sinklar, his spous; Alexander Sheipheard, in Miltoun of Moynes; Janet Man, his spous; Maiorie Dunbar, in Brightmanney; Kyllie, in Vester Kinfray; Alexander Ledy, ther; Elfpet Gilbert, in Leathinbar; Agnes Brodie, in Leathin; Janet Smith, spous to Robert Frazer, in Arry; Bessy Peterkin, in Torrich; Alexander Bell, in Drumdewin, a charmer; Ifobell Nicoll, in Lochloy; Bessie Young, ther; Elfpet Falconer, spous to James Inglis, in Penick; Bessie and Margret Huchcons, ther; Walter Ledy, ther; wer all ther that night. Johnie Taylor, my husband, wes then Officer; bot Johnie Young, in Mebelloune, is now Officer to my COE[VEN.] Quhan I cam first ther, THE DIVELL called thaim all be thair names, on the book; and my husband, than [OFFICER,]¹ called thaim at the dore. And when that was done, Bessie Wilfon, in Alderne, fat down nixt THE DIVELL.² [Bessie] Hay, thair, fat nixt him, on the vther sid; Janet Burnet fat nixt hir; and Elfpet Nilhie, spous to the said Johnie [Mathew,] fat nixt Bessie Wilfon, hir mother. She wes THE MAIDEN to hir motheris Coeven. All the rest fat downe [as] they to cam.³

The nixt thing, efter quhat wes done that night, THE DIVELL lay with them all about. And then for me, my husband presented me, and he and Margrat Wilfon, in Alderne, held me vp to THE [DIVELL to] be baptised: And efter I had put my on hand to the foalis of my foot, and the vther hand to the [crown of] my head, and renunced my baptisme, and all betuixt my two handis to the Divell, the Divell [marked me] in the shouler, and fuked out my blood with his mouth, at that place; he spowted it in his hand, and [sprinkled it] on my head. He baptised me thairvith, in his awin nam, 'CHRISTIAN.' And than immediatlie thairefter, [they all returned] each to ther awin howffis. Within fyv dayes thairefter, he cam to me to my hows, quhan my huth[and] was furth, in the morning, at the plewgh, to sie the mark quich he gaw me; and he did lye with me in the naked [bed,] and had carnall cowpulation with me; and gaw me ane piece of money, lyk a restain. He was a meikle, roch, blak man, cloven footed, werie cold; and I faud his nature within me als cold as spring-well-water. He promiseit to sie me again, within eight dayes, quihik he did, and had carnall cowpulation with me again, and gaw me an vther piece of money, lyk the first; bot they both turned read,⁴ and I got nothing for thaim. He can again within twantie dayes, and still⁵ once in the twantie dayes, and lay with me at each tym continually.

[We] met in the place of Darvay⁶ nixt that, and thair we did eat and drink, &c. Efter that, we vold still meit [euerie] ten, twelve, or twantie dayes continually.

When we had Great Meittingsis, Walter Ledy, in Penick, my [huf]band, and Alexander Elder, nixt to THE DIVELL, wer Ruleris; and quhan ther wold be but fewar, I my self, the decessit Jean Suthirland, Bessie Hay, Bessie Wilfons, and Janet Burnet wold rule thaim. The first thing that we did, except the taking of meat, wes taking of the cornis of Drumdewan, and [then] paired that amouft ws. 2dly, We shoat noat⁷ in plewghes. 3dly, Agnes Grant, who wes brunt on the hill of,⁸ gott hyre from Elfpet Monro, to destroy the Lairdis of Park and Lochloy, and thair [posteritie.] And then I and my husband, Elfpet Nilhie, and Bessie and Margret Wilfons, in Alderne, con[veened] our felwes with THE DIVELL, in Elfpet Nilhies hows; and then took dowgis flesh, and theipis flesh, and [haked] it werie small with an aix, and feithed it an hail fornoon in a pot, among water: And than I took it owt; and THE DIVELL, with his awin hand, did put it in a theipis

¹ See *Isobell Gowdie's CONFESSIONS*; where it is stated that this worthy was OFFICER to a Coeven. ² She being MAIDEN to the Coeven. ³ As they happened to come in; promiscuously. ⁴ Red. ⁵ Uniformly; constantly. ⁶ The seat of THE EARLS of MORAY. See *Isobell Gowdie's CONFESSIONS*. ⁷ Shot nolt, or cattle, in ploughs, with elf-arrows. ⁸ Left blank, in the original.

bagg, and he feiring it fill¹ about with his handis. We wer wpon our kneyes, owr hair about owr eyes, and owr handis lifted up, and we looking stedfastlie wpon THE DIVELL, praying to him, repeating the vordis quich he learned vs, that it fould kill and destroy the Lairdis of Park and Lochloy, and thair meall-children and posteritie. And then we cam to Inthoch, in the night tym, and skatered it wpon, and down, abow, and about the gait, and vther places quhair the Lairdis and thair fones wold moif haunt; and then ve, in the lyknes of crowes and rewkis flood about the gait, and in the treis opofit to the gait. It was apointed fo, that if any of them fould twitch² or tramp wpon any of it, als veill as it or any of it to fall on thaim, it fould strik thaim with byllis,³ &c. and kill them: Quhilk it did; and they thortlie died. We did it to mak that hows airles.⁴ It wold wrong non els bot they. And it was Keathren Sowter, that was brunt,⁵ that [shot] William Hay, the laif Laird of Parkis brother, for⁶ on Gilbert Kinley. It was only that bagg that was the death of both the laif Lairdis of Park,

Alfo, four yeir since, I and my husband, Hfobell Gowdie, spows to Johne Gilbert, in Lochloy, and Bessie and Margret Wilfones, in Alderne, maid [a pictur] of clay, lyk the Laird of Parkis eldfest fone. My husband brought hom the clay in his plaid [newk. It] ves maid in my hows; and THE DIVELL him self with vs. We brak the clay werie fsmall, lyk meil, [and] lifted it with a fiew, and powred in water amongft it, with vordis that THE DIVELL learned vs, [in the Dr]VELLIS nam. I brought hom the water, in a pig,⁷ out of the Rud-wall.⁸ We wer all wpon owr [kneyes,] and owr hair about owr eyes, and owr handis lifted vp to THE DIVELL, and owr eyes stedfast looking [vpon him,] praying, and faying vordis which he learned ws, thryfe ower, for destroyeing of this⁹ Lairdis [meall] children, and to mak bis hows airles. It was werie fore wrowght, lyk rye-bowt. It was about the bignes of a feadge or pow. It was juft maid lyk the bairne; it vanted no mark of any mail child, fuch as heid, face, eyes, nose, mouth, lippes, &c., and the handis of it folded downe byr its fydis. It ves putt to the fyre, first till it ferukned,¹⁰ and than a cleir fyre about it, till it ves hard. And then we took it owt of the fyre, in THE DIVELLIS nam; and we laid a clowt about it, and did lay [it] vp on a knag, and sometimes vnder a chift. Each day we vold water it, and then roit and bek¹¹ it; and turn it at the fyre each other day, whill¹² that bairne died; and then layed it vp, and feired¹³ it not wntill the nixt bairne was borne: And then, within half an yeir efter that bairn was borne, [we] took it owt again out of the cradle and clowt, and vold dip it now and than among water, and beek [it] and roit it at the fyre, each other day once, as ve did againft the vther that ves dead, wntill that bairn [died] also. ALL quhilkis of the premisses, fwa spokin and willinglie Confessit and declarit furth of the mouth of the said JANET BRED[HEID,] in all and be all things as is abow fett downe, I, the said JOHNE INNES, Notar Publict, haw writtine thir presentis, and with THE WITNESSES abownamet, in farder testimonie and witnessing of the premisses to be of veritie, We haw fubfcriuit the famen with owr handis, [day, month,] yeir, and place abow fpecifeit.

JOANNES INNES, *Notarius Publicus*.¹⁴

HEW ROSE, Minister at Nairne, Attestis thir premisses, confessed in my presence, Aprile 15, 1662.

MR HARY FORBES, Minister of the Gospel at Old Earb, Attestis.

ARCHIBALD DUNBAR, witness, Attestis. W. SUTHERLAND off Kinsterie, Attestis the premisses.

[JOHNE WE]IR, in Alderne, Attestis; Confessed in my presence, Apryll 15, 1662.

J. COUPER, Attestes. W. CHALMER, witness to the premisses, confest in my presentis, 15 of Apryll.

HEW HAY Attestes the premisses, Confest 15 Apryll, 1662.¹⁵

¹ Ever; constantly. ² Touch. ³ Boils. ⁴ Heirless. ⁵ For Witchcraft. ⁶ At the instigation of. ⁷ Earthen jug, or jar. ⁸ The ROOD, or HOLY-CROSS, well. ⁹ The present Laird's male children. The last two Lairds are stated to have been destroyed by the charmed bag. ¹⁰ Got parched, or shrivelled; *shrunke*. ¹¹ Bake. ¹² Every alternate day, until that child died. ¹³ Stirred. ¹⁴ The long Latin docket is annexed. ¹⁵ Some farther marking had at one time been on the margin; but only a few of the letters at the end of each line now remain. It appears to have been the Judgment of the Justice-depute, from a fragment of a Memorandum on the back of the CONFESSION; so that it is probable she had been tried at one of the 'JUSTICE-AIRS'—and of course would, on her own Confession, be condemned to be burnt.

No. VIII.

CONTINUATION OF NO. XVIII. OF THE GENERAL APPENDIX OF
DOCUMENTS ILLUSTRATIVE OF GOWRIE'S CONSPIRACY.

(See VOL. II. pp. 299 to 313.)

WHEN the Editor was in the progress of completing his collection of materials for illustrating the truth of the EARL OF GOWRIE'S CONSPIRACY against KING JAMES VI, one of the Volumes of *Sir James Balfour's* MSS. had been misplaced. Since that time, however, the Editor has had the advantage of again inspecting that truly valuable repertory of historical information, and now submits a few more of those highly interesting Papers, which, he is happy to notice, place the conduct of the celebrated *Mr Robert Bruce* in a much more favourable point of view. In justice to the memory of that eminent individual, it has been thought proper to insert them in this Appendix. Throughout the protracted controversy between *Bruce* and THE KING, the latter, obviously, had the worst of the argument—and tyrannically put down his able but dauntless and pertinacious antagonist by a most unlawful stretch of arbitrary power, after he failed in all his attempts at foiling him with his own weapons.

The relentless persecution of *Bruce* must, assuredly, be accounted an additional blemish in the character of KING JAMES VI, by every unprejudiced person. The reader is once more referred to the text, and to the documents and authorities formerly quoted, in reference to this subject.

(18.) LETTER, *Mr Robert Bruce* to THE KING.¹

PLEAS 5OUR MAIESTIE,

WPOX the direccione fend to me by 5our hienes CONSELL, I thought it meitt be my awin letter to tellife my resolucione to 5our M. in that mater of GOWRIE. 5our M. can not be ignorant in quahat termes I paffit my resolucione at *Sanct Jonnestoune*.² That resolucione is as 5itt extant, subferywitt be monie honest vitneffis. To that resolucione, both in mater and maner, I adhear; and fra it I am nott myndit to pas, be GOD his grace. This resolucione gaue 5our M. perfytt contentment than, and I doubt nott bott itt vill do the lyke 5itt. So luing that 5our MAIESTEIS scruple falbe fullie fatiffed, in that mater, I reft,

5our M. his most humble and obedient subiect,

TO HIS MAIESTIE.

ROBERT BRUCE.

(19.) LETTER, *Mr Robert Bruce* to THE PRIVY COUNCIL.³

PLEAS 5OUR HONORIS,

I RECEAUED 5OUR Letteris on Setterday the 13 off this instant; and for satisfacionne thairoff I haue directed my Letter, containing my avin⁴ resolucione in that mater, unto his M. My resolucione nov is relative to my resolucione att *Sanct Jonstoun*, quhilk vas dyttit⁵ by HIS MAIESTEIS felf, and subferywet by monie honest vitneffis (befyd me) quha ar 5itt liewing. This resolucione gaue his M.

¹ From Orig. preserved among the *Decaylie MSS.* Adv. Lib. A. 2. 52. No. 25. It is undated. ² Perth, having been dedicated to St John as Patron Saint, was long known by this name. ³ From the same Coll. No. 26; also undated. ⁴ Own. ⁵ *Endited*, composed.

peryt contentment then, and I doubt nott bot itt will do the lyk ȝitt; for vnto thatt refolutioun I adhear both in matter and maner; and I am readdie to testifie the fame, fo oft as his M. pleases, by my awin hand wreitt. Sa, lukiſg that ȝour honoris fall not be forder trublit in that mater, I refl,

ȝour honoris to be commandit to his povar, in God,

To HIS M. moſt honorable PRIVE CONSELL.

ROBERT BRUCE.

(20.) LETTER, *Mr Robert Bruce to the KING.*

MAY IT PLEIS ȝOUR M.

HEIRING that my coming to *Aberdeine* was interpret to ſpring of contempt, I thoct it my bundin dewtie to purg my ſelfe to þe vttermoſt thairof, for I compt contempt of GOD and his Lewtemen þe heigheſt cryme that is; And thairfoir, for purgation, I ſay, that qualſoever is done with ane warrand of GOD and man can nocht incur þe ſuſpition of a contempt, lat be ane actual; and in deid, gif thair had bene ane preferioun or limitation of tyme in any Licience, I had failȝeit in paſſing þe boundis thairof; ȝea nocht onlie that, but I avaitit upon þe proper tyme qhairfoir my Licience was gevin me, and tuik þe beneifeit quhen þe neceſſitie of my infirmitie conſtranit me; and being moir reſpectiue than that, I tuik it nocht quhill THE BISCHOP OF MURRAY brocht me þe adwyſe of þe BISCHOPPIS OF SANCT ANDROS and GLASCOW to do fo: And gif I had reſanit þe meimeſt ſignification that culd be, that þe imbracing of þe beneift at that tyme wald nocht ſtand with ȝour HENESS contentment, I wald moſt glaidlie haif abſtanit thairfra; for I haif layed my compt, be GODIS grace, never to involue me in that giltines. So, to end, thair is no thing done be me qhairfoir my former beneift fuld be reſtrechit; and moſt humilie I cieve that ȝour M. cenſure go nocht befoir my procuriſg, but that my repariſg to *Aberdene* for my better belth and confort of my wyff and childrin may ſtand with ȝour M. fauor. So reſting ever,

ȝour M. moſt humbill ſubiect and orator,

INDERNES,¹ ye 20 viij of Merche (1606 7)

ROBERT BRUCE.

To THE KINGIS moſt excellent MAIESTIE.

(21.) SUPPLICATION, *Mr Robert Bruce to the PRIVY COUNCIL.*²

MY LORDIS OF SECREIT COUNSALL, vnto your lordſchipis humble menis and ſchawis I, your ſeruitour, MR ROBERT BRUCE, Miniſter, That qhair, the laſt day when I was brocht befoir your ll., I wes commandit and ordaneit be ȝour ll. to addreſſe my ſelf to the burgh of *Invernes*, and thair to remane and within four myllis abute the fame, duriſg his MAIESTEIS will and pleaſour; lykeas, the tyme for my addreſſe thair daylie apptochis; qhairvnto, althocht I acknowledge my ſelf bundin in conſcience befoir GOD and in my alledgeance to THE KINGIS MAIESTIE, my Souerane, to gif all dew obedience, as by GODIS grace I mynd neur to be diſobedyent to HIS MAIESTIE or your ll. in any of your ll. directionis, in this kynd; yitt, the indiſpoſitioun and inhabilitie of my perſone, conioyned with my grite aige, forcis me humbly to ſchew vnto your ll. how vnable I am to vndertak and to vnderly ſuche a jorney and charge; for I am become ſo feible and waik,³ and my aigeit and weyryed⁴ perſone is ſo far worne and waitied with greif, cair, and vtheris viſitationis qhairwith it heſt pleait THE LORD in his mercye to chaſtice me, that hardlie dow⁵ I travell any qhair, without haifard of my lyff: And yf it fall pleas GOD to viſite me with ſeiknes, outhat at *Invernes* or be the way, it is not liklie that I fall overcome⁶ the fame. And tuotchiſg the imputation layed vpon me, whilk wes the caus of HIS MA⁷IES offence,⁷ and of this hard courſe tane with me, I thank GOD I was frie and innocent thairof, and I cleirit my ſelf of the fame in your ll. preſence, it being a poynt verrie far fra my profelioun to be a movair or ſteirair⁸ vp of Seditioun, as HIS MA⁷IS wes informed of me; and fra my hairt I deteaif ſuche Seditious practizes, as being moſt impious and wicked, and repugnant to the

¹ Invernes. ² It is uſigned, and no delivrance indorsed, but it is evidently the original, having the marks of the ribbon uſually paſſed through Letters and bills, &c., when ſealed and ſent to a diſtance. ³ Weak. ⁴ Weary; ſpent. ⁵ Am I able to travel. ⁶ Survive, recover. ⁷ Diſpleaſure. ⁸ Stirrer.

Holy Ordinanceis of God, quhairby we are commandit to gif all dew obedyence to our superioris. And as I fchew vnto your ll., my conuincing to this burgh the tyme of the Parliament wes vpon a meere necessitie, and to fchew the danger of horneing, quhairwith I wes threathned, for xxij merkis. And during the fchorthe tyme of my aboade heir, whilk wes not xxxvj hours, I tpak not with a Parliament man, except *the Lord Kiljaght*,¹ whome I employed to be cautioner for me; and had no kynd of meddling with the affairis of the Parliament, becaus thay concernet me not; bot kepit my selff very quyet till my away-going. And during the tyme of my Warding in *the Capiell of Ed.*, my cariage wes so modest, calme, and peceabill, withoute meddling with thir matteris of THE KIRK now in question, as I hoip nothing can be obiecit vnto me. And yf HIS MA^{TIE} wald be gratioillie pleasit to fuller me spend the few remanent of my aigeit and weyrysome dayes at my awne house, I wilbe verrie glaid and willing to be perpetuallie confynned thair, and tua myllis thairabout; and I fall neir tranfced that boundis, nor meddle with ony matter concerneing the pollicie and government of THE KIRK. Most humble befeiking your ll. to haif consideration of this my estate; and outhere be your selffis, or be your intercessioun at HIS MAJESTIES handis, to grant me some ease and releiff in this heaue charge layed vponne me, whilk wilbe my vtter ouerthrow and wrak. And your ll. aufer.

(22.) LETTER, *The Archbishop of St Andrews*² to THE KING.

MOST SACRED SOVERAINE,

It may please your most excellent MA^{TIE}, I haue seene your MA^{TIES} direction feut to THE EARLE OF DUNBAR about MR DAVID LYNDSAYE his intemperance in preachinge. I haue tane baldnes to give aufer and avyse, in waitt humble and submittie maner. The man was input³ be your MA^{TIE} vpon my rasche and oft repeated fate. He hes oft done veill aganes the feditious, albeit incontantlie. The vorties he fpak, to my gryt greiff, wer to reprehend your MA^{TIE} for toleration and advancinge off PAPISTES, quha ever foght your MA^{TIES} wrak; and this was efter jat I had congratulat to the peipill your MA^{TIES} lait wonderfull delyverie.⁴ Efter Sermon, I convened *the Bailleis*, and *Counsaill*, and sent jame to him to querrell him for his vnvenerent ufage; quilk wrocht this effect that the daye followinge he preached aue palinod,⁵ fa impudentie flatteringe to your MA^{TIES} praife, and vilpindinge all the Princes of Europe be name, in your MA^{TIES} respect,⁶ that all men efteimed he vas makand penance for the former dayes infolence, with fupererogationn.

This his foolie⁷ is nocht wortlie of your MA^{TIES} wrathe; and as for me, I will nocht give advyfe to honour sick ane⁸ with publick censure, at sic ane tyme. I haue advyfed with your MA^{TIES} most trustie servantis of our societie, quha thinkes meit to transport him, but noyce,⁹ to a landwart¹⁰ Kirk; and to affume to me ane¹¹ mor vyfe¹² and fait,¹³ quhilk your M. fall see accomplished, but your MA^{TIES} empeschement.¹⁴

My Lord of Dunbar hes employed him selff fa faythfullie, eafaldie,¹⁵ and fortunatlie, in this lait fervice, that I presume to advyfe your MA^{TIE} to give him credit in your MA^{TIES} fervice, in our gryteft turne, in this Parliament; for quhatfomever is glaused to your MA^{TIE} in the contraire, is either *paucie terrores*, or prevaricationn.

SIR, I lacke moyen to do quhat I wald in your MA^{TIES} fervice. I heir, daylie, foule vanities quhilkis I think I am called to repreffe. I want formall rycht and rent. Supplie this, SIR, in this your approachinge Court, and than se fall nocht neid to wreit hither; but the punifched fall feik thair to your MA^{TIE} for obteneuinge pardone. Finallie, your MA^{TIES} erandis in the credit off *the Earle of Dunbar*, or of ane off lyk difpositioun, is heir possibill and eafie. *Non debet sub tali tantogre*

¹ Sir William Livingston, one of the Ordinary Lords of Session, who succeeded Sir John Preston, Lord Fentonbarns, Jun. 6, 1609. His son was created Viscount of Kilsyth and Lord Campsie, by patent, Aug. 17, 1661.

² George Gladstones, translated from the See of Cathness anno 1606, but not consecrated till anno 1610. Died May 2, 1615.

³ Inducted, put in. ⁴ From the Earl of Gowrie's Conspiracy. ⁵ Lat. *palinodium*, recantation after professions of repentance. The term is still used both in the Civil and Ecclesiastical Courts. ⁶ In comparison to the King. ⁷ Folly. ⁸ Such a one. ⁹ Translate him without bustle or noise. ¹⁰ To a country or landwart Parish Church.

¹¹ One, viz. another Minister. ¹² Wise. ¹³ Steady, sure. ¹⁴ Without hindrance or trouble to your Majesty. ¹⁵ Sincerely, without duplicity, (q. d. *one-foldly*.) in contradistinction to *two-fold*, double, deceitful. The word is now nearly obsolete.

principe precarium esse imperium. This,¹ I humble recommend your MATIES perfour and effait to God his mercifull Providence, I remaine,

Your MATIES mail humble oratour and obedient fervant,

EDINBURGHE, nynt of Februar, 1606(-7.)

To THE KINGIS most excellent MATY.

SANCTANDROIS.

No. IX.

BOND by JOHN fifth EARL OF CASSILLIS, to his Brother HEW KENNEDY, commonly called THE MASTER OF CASSILLIS, to pay him and his accomplices 1200 merks yearly, &c. to commence from the date of their taking the Life of THE LAIRD OF AUCHINDRAYNE.

(See VOL. III. pp. 124, 581, &c.)

[In the preceding Collection, and also in the 'Historical and Genealogical Account of the principal FAMILIES of the Name of KENNEDY,' recently published,² all the incidents then discovered relative to the accumulated acts of villainy perpetrated by the LAIRD OF AUCHINDRAYNE and his son have already been disclosed. The public being likewise in possession of the leading features of this extraordinary case, from the graphic pen of SIR WALTER SCOTT, who has prefixed an introductory notice to his dramatic poem, 'AUCHINBREATH, or the Ayrshire Tragedy,' it is altogether unnecessary to attempt even a brief sketch of their lives and crimes in this place.

The Historical Account above referred to, and the present Collection, contain a great variety of Documents which have been brought forward, alike to illustrate the Trials of the Lairds of Auchindrane, and the extraordinary state of society and manners in the important district of Carrick and the adjoining shires. But no Papers which have hitherto been discovered appear to the Ed. or to afford so striking a picture of the savage state of barbarism into which that country must have been sunk, as the following BOND by the EARL OF CASSILLIS to his brother and heir apparent, HEW MASTER OF CASSILLIS. The uncle of these young men, SIR THOMAS KENNEDY of Culzean, TUTOR OF CASSILLIS, as the reader will recollect, was murdered, May 11th, 1602, by Auchindrayne's accomplices.

The MASTER OF CASSILLIS, for many years previous to that event, was in terms of open personal hostility to his brother. During all that period, however, the Master maintained habits of the closest intimacy with Auchindrayne and his dissolute associates, and actually joined him in various hostile enterprises against his brother the Earl.³ The occurrence of the *Laird of Culzean's Murder* was embraced by their mutual friends as a fitting opportunity to effect a permanent reconciliation between the brothers; "but (as 'the Historie' quaintly informs us) the country thought that he wald not be eirnist in that cause, for the auld luiff betuix him and Auchindrayne."⁴ The unprincipled Earl, (whose *sobriquet*, and that of some of his ancestors, was *King of Carrick*, to denote the boundless sway which he exercised over his own vassals and the inhabitants of that district,) relying on his brother's necessities, held out the infamous bribe contained in the following Bond, to induce his brother, the Master of Cassillis, to murder his former friend, the old Laird of Auchindrayne. Though there be honour among thieves, it would seem that there is none among assassins; for the younger brother insisted upon having the price of blood assured to him by a written document, drawn up in the form of a regular Bond!

Judging by the Earl's former and subsequent history, he probably thought that, in either event, his purposes would be attained, by "killing two birds with one stone." On the other hand, however, it is but doing justice to the Master's acuteness, and the experience acquired under his quondam preceptor Auchindrayne, that we should likewise conjecture that, on his part, he would hold firm possession of his bond, to be used as a checkmate against his brother, should he think fit afterwards to turn his heel upon him, or attempt to betray him into the hands of justice.

The following is a correct copy of the Bond granted by the Earl, as transcribed from the original.]

WE, JOHNE EARLE OF CASSILLIS, Lord Kennedy, &c., Bindis and Oblissis ws, that howfove our broder HEW KENNEDY of Brounfoun, with his complices, takis THE LAIRD OF AUCHINDRAYNEIS lyf, that we fall mak gaid and thankfull payment to him and jame of je fowme of twelf hundreth merkis, 5eirlie, togidder with corne to fex borlis, ay and quhill⁵ we reffaw⁶ jame in houhold with our self: Beginning je first payment immediatlie after pair committing of je said deid. ATTOUR,⁷ howfove we reffaw jame in houhold, we fall pay to je twa ferwing gentillmen je feis, 5eirlie, as our awin houhold ferwandis. And heirto we Obliss ws, vpon our honour. SUBSCRIVIT with our hand, AT MAYBOLE, je ferd day of September, 1602.

JOHNE ERLE OFF CASSILLIS.

¹ Thus. ² The Quarto Edition, Edin. 1830. ³ For the confessed purpose of taking his life, in following out their deadly Feud. ⁴ Historie of the Kennedies, p. 59. ⁵ Aye and until. ⁶ Receive. ⁷ Moreover.

GENERAL INDEX.

GENERAL INDEX

TO CRIMINAL TRIALS, &c.

DURING THE REIGNS OF

KINGS JAMES IV AND V, MARY QUEEN OF SCOTS, AND KING JAMES VI.

* * THE reader, in consulting the following INDEX, is requested to remark, that owing to the Editor's having been under the necessity of sending the TRIALS which occurred during the reign of KING JAMES VI. to press, before the introductory portions of this work were compiled, it became requisite for him to page the earlier reigns in Vol. I. thus, * 1, * 2, &c. In order to avoid the annoyance and trouble of consulting *separate* INDICES of persons and matters, the Editor has bestowed a great deal of time and labour in constructing an extremely copious GENERAL INDEX, which he may venture to say embraces every circumstance contained in the work, which is at all likely to be esteemed interesting and useful to the historian, lawyer, antiquary, or genealogist. The most prominent of the ancient words and phrases, and the leading historical facts, superstitious, &c., have also been incorporated, so as to render the work more acceptable, and also as useful as possible to the public, as a book of reference.

- ABBOT OF UNREASON, I. * 116, * 121. * 123 ;
Insurrection in Edinburgh, * 409 ; in the
Mearns, &c., 15, 81. See Robin Hood, &c.
- ABBREVIATOR OF THE KING'S HOUSEHOLD BOOKS, I.
* 313.
- ABDUCTION, FORCEIBLE, I. * 104, * 180, * 182 ;
Kincaid, &c. * 421 ; Oliphant, 24 ; Carnacroce,
244 ; Gray, 297 ; Aikenhead, 362 ; Fleming,
377 ; Laird of Corhouse, 378 ; Laird of Thorn-
nydykes carried off, when 14 years old, and
married against his consent, III. 402. See
Rape, Forcing, &c.
- ABERBROTHOCK, Abbot of, I. * 127 ; David, * 136,
* 185 ; Ambassador to France, 281 ; Geo., 16 ;
John, 89 ; Ja., II. 575.
- ABERCORN, LORD (EARL OF), Ja., II. 496, 544 ;
III. 138 ; his activity as to the Laird of Auch-
indrane's being brought to justice, *ib.* 168, &c.
- ABERCROMBY OF GOURDY, Dav., I. * 405 ;—of that
Ilk, Alex., I. * 441 ; Tho., II. 60 ; III. 318 ;—
of Ley, Alex., slain by Witchcraft, I. 206 ;—of
Murtldie, Tho., II. 49 ;—of Pitmedden, Alex.
Bigamy, Adultery, I. 110 ; his place burnt,
160 ; most barbarously Murdered, III. 78 ;—

- Mr Ro., Jesuite, I. 312, &c.;—of Straruthie, And., II. 534;—of Westhall, Hector, III. 78.
- Aberdeen, General Remission to Inhabitants, I. * 113; Bailies and community remitted for abiding in the Armies of Solway and Werk, &c., * 242; Bailies forced, * 250; burgesses exempted from Assises of Barons, &c., * 377; III. 379; absolved for not taking Mr Ja. Gordon, &c. I. 343;—Bishop of, Wm., I. * 162; Elect (Bishop of), I. * 263;—Raid of, I. 183.
- ABERNETHY, LORD, of Saltoun. See Saltoun.
- Abertarf, Raid of, I. * 392.
- Abernchill, burnt, III. 232, 250, 566.
- Able and Stowt,' a Witch's nickname, III. 606.
- Achallader, Castle of, burnt by the MacGregors, III. 114, 232, 249.
- Achannane of Murdochat, Gilb., III. 118.
- Achesoun of Gosford, Alex., I. 2, 156;—of Inveresk, Jo., portioner, III. 9, 452.
- Achyle, Baron of, III. 552.
- Adam, Geo., beheaded, I. 95.
- Adamesoun of Scouringburne, Gilb., III. 180.
- Adder's-skin, used in Witches' charms, I. 245.
- Adiesoun, Dav., hanged for horse-stealing, &c., II. 357.
- Adjournal, Books of, I. * 477, *et passim*.
- Administering the Holy Sacraments, in the Popish manner, &c. See Sacraments, &c.;—enchanted drink, III. 68.
- Admiral, Lord High, his jurisdiction, I. * 129, 93.
- Adois, business, II. 185, &c.
- Adreiche, III. 265.
- Advocate, King's, I. * 315, 101;—Faculty of, not liable to pass on Assises, II. 112;—for the poor, I. * 315.
- Adultery, James Davidstone, I. * 27; Mr John Elphinstoun, * 356, * 459; Lady Elphinstoun and Drummond of Medope, * 465; Pat. Virquard, II; Wm. Carnebye, 13; Amullekyne, 78; banished, 80; Eliz. Prestoun, 83; and Poisoning, And. Glencorse, burnt, 84; Abercrombie, 110; Ja. Myllar and Marjory Blaikie, 167; Hay of Dalgattie, II. 46; curious pleadings recorded in this case, *ib.*; Gray banished, 369; Norwall banished, 387; Heislop and Gray carted through Edinburgh, and banished the burgh, 401;—and Child-Murder, Ryburne of that ilk, 415; Roise of Dunskellie beheaded, 481; Jardine of Birnok, 491;—and Incest, Ja. Stewart, * wirreit and brunt,' III. 248; Jo. Guthrie, hanged, 428; Alex. Thomson and Jonet Cuthbert, banished, *ib.*
- Afald, sincere, &c., III. 275, 395, *et passim*.
- Aflek. See Auchulek.
- Agnew, Patrick, Sheriff of Wigtoun, taking bribe to discharge a Murderer, I. * 63; Oppression, &c., * 89; prevents Court being held, * 91; remitted for Slaughter, * 252, 141;—of Mureis-haith, Gilb., III. 328;—of Trong, Alex. *ib.*
- Aguirre, Mr Fra., Spaniard, I. 329.
- Ahanay of Kirkdail, Pat. Provost of Wigtoun, slain, III. 119, Pat. *ib.* 477;—of Sorby, I. * 95; Jo., Provost of Wigtoun, II. 540; Marg., stealing a purse, III. 552.
- Aiken, Bessie, condemned for Witchcraft, II. 25; pleads pregnancy, and is, after long imprisonment, banished for life, 29, 52.
- Airdry, Laird of, III. 245; his lands in Lewis burnt and wasted, *ib.*
- AIRLY, LORD. See Ogilvy.
- Airth of Smetoun, Geo., I. * 201.
- Aitchison of Aitchison's haven, Mark, denounced, I. 276;—of Gosford, Alex., 2, 156;—of Inveresk, Jo., portioner, III. 9, 452.
- Aitchison's haven, Witch convention there, I. 245.
- Akergüll, Fortalice of, besieged by E. of Cathness, &c., I. * 394; taking, 283.
- ALBANY, Alex., DUKE of (brother of K. JA. III.), Intercommuning with, I. * 16, * 17, * 18, * 40, * 71; John, Governor of Scotland, * 231; fielding against, near Glasgow, * 237, * 238, * 241, * 264; sends a great horse to the King, * 275;—Arthur, PRINCE, (youngest son of K. JAMES V,) his birth, I. * 309; baptism, death, *ib.*; cups and chalice made at his birth, *ib.*; Albany Herald, III. 86.
- Alchemy, I. * 120.
- Aldermen (Bailies of burghs), a term formerly in common use, in Scotland, I. * 10, * 418, &c. &c.
- ALDOBRANDINE, CARDINAL, II. 589.
- Ale, price of, I. * 389; enchanted, II. 524; Witches' mode of taking, III. 605.
- Ale-cellar, King's, yeoman of, I. * 313; groom of, *ib.* See Yeoman, &c.

- ALEXANDER, PRINCE OF SCOTLAND, I. * 232; — of Drummeldrie, Tho., portioner, II. 368; — of Menstrie, Sir Wm. (the poet), III. 590.
- Allakayis (lackeys), I. * 289.
- Allan of Corsford, Ro., I. 35.
- Allanedonnand, burning Castle of, I. * 256.
- Allerdes of that ilk, Jo., II. 362; Jo., fiar, fined, 363; — of Skadowie, III. 453.
- Allhallowmass, I. * 391, &c.
- Almerie, what, III. 239.
- Almosar, Master (Elemosinar or Almonar), I. * 289.
- Almous-gowns, the King's public Almous, I. * 278, * 305, * 312, &c. See Bedesmen.
- Allouris (allars), cutting, II. 522; III. 221.
- Alschunder, Jo., swindler. a curious case, III. 209.
- Altar, King's and Queen's. I. * 320.
- ALTRIE, LORD, I. 178; Ro. 283, 284; II. 50.
- Ambassadors from Alman, I. * 283; — Emperor. I. * 304, * 306; — of England, I. * 273, * 276, * 283; — expenses, * 285, * 284, * 301, * 318; — at K. James VI. baptism, * 479; — to demand redress for Kinnoul Will being taken by force from Castle of Carlisle, 364; — from Q. Eliz. as to Gowrie's Conspiracy, II. 313, 315; — of Flanders, I. * 243; — of France, I. * 262, * 263, * 274, * 281, * 283; — at baptism of K. JAMES VI. * 479; — Palsgrave, I. * 301.
- Amisfield burnt, I. * 318.
- Amullekyne of Dempstartoune, Cuth., Adultery. I. 78; banished, 80; Jo., hanged, III. 223.
- Amzerk wine, I. * 389.
- Anrum Mure and Moss, Army of, I. * 332, * 359; Raid of, I. * 332.
- And, an', if, III. 75, &c.
- Andersmes, II. 437.
- Andersonne, Jonet, drowned, I. * 162; Thomas, hanged for coining, * 397.
- Andesoune, Paul, hanged, I. * 409.
- Angel-nobiliss, III. 178.
- ANGUS, EARL OF, Stouthreif of his horses, I. * 23; of his lance, * 25, * 78; Raid against Border Thieves, * 134; raising Siege of Newark, * 139, * 188; battle of Kittierochhill, * 237, * 238, &c.; * 266, * 269; — Arch. * 382, 75; Treason, 96; outlawed, 97; Forfeited for Raid of Ruthven, 119, 178; Arch., bewitched to death, 216, 240, *note*, 243; III. 61; — Wm., I. 275; Commission of Justiciary, &c., to use fire and sword against the Clanchattan, &c., 280; act to apprehend him as a Conspirator against 'the trew Religion,' 281; Officers presented by him, 301; to abide trial, &c., 303, 306; trial for Conspiring against the Religion, 310; summons of Treason, 314; doom, 316; the 'Spanish Blanks,' &c., 317; II. 67; his Raid of Dumfries, 105, 371, 423, 474, 510; III. 318; — Da. (7th Earl), 390; his daughter La. Marg. married to Sir Walt. Scott of Branxholm, *ib.*; Bond by Border Barons to assist, I. * 127; — Bell the Cat. * 187, &c.; Intercommuning with and assisting, * 160, * 187, * 201; John Mathesone, beheaded, * 202, * 209, * 243, * 244, * 246, * 254; — COUNTESS OF (Dame Jean Lyoun), charm to secure her favour, 240; accused of Witchcraft, 241, *note*, * 242; — MASTER OF, Geo., * 78; — Wm., his liferent forfeited, 258; — of Hoprig, Alex., * 84.
- ANNAN, VISCOUNT, Jo., III. 595.
- Annandale, Portuys (Porteous-roll) of, I. * 321.
- ANNE OF DENMARK, QUEEN, impeded by storms on her passage to Scotland raised by Witches, I. 211, 218, 222, 236; taxation of 100,000*l.* on account of her approaching accouchement, 306; her pearls and jewels abstracted; curious trial of Marg. Hart-ycde, II. 544.
- ANSEYE (Royal Standard), I. * 268, * 324; — bearing one called the 'Haly Gaist,' * 330.
- Anstruther of that ilk, Jo., I. * 111, 60, 72; younger, 255; — Magistrates of, assisting E. of Bothwell, 310.
- ANTRIM, MARQUIS OF, III. 2; Randal, *ib.*
- Anysle, Ralph, Intercommuning with D. of Albany, I. * 17.
- Ape, I. * 285.
- Apotesyde, Place of, burnt, &c., II. 510.
- Apparel, curious list of, carried off from Kilbirny, II. 508; III. 478. (See also under each article of dress.)
- Appeal to the Deity, in cases of Murder, III. 184; form of the ceremonial, *ib.* &c.
- Apprising, Forgery of, I. * 255.
- Aqua vitæ, flagon of, I. * 308.

- Aquaviva, Claudius, General of the Jesuites, III. 378.
- Aqueus, Stephanus, French Ambassador, I. * 281.
- Archers of the King's Guard, I. 299;—do. of France, II. 380; duel in France, *ib.*
- Archery, I. * 272, * 274, * 278; trial of skill between King JAMES V. and 5 English Archers. * 283, * 285; pellok-bows, * 293, * 297; cross-bows, &c., * 305; English bows and arrows, * 307; gainzies (bolts for cross-bows), * 309; bow, arrows, &c., to Q. MARY of Guise, * 324.
- Archebald of Blackhall, Wm., I. * 404.
- Armorial bearings embroidered on King's robes, &c., I. * 301;—of Forfeited Traitors, publicly torn and defaced, * 490; II. 241; their dead bodies exhibited in Court at forfeiture, *ib.* &c.
- Armour. See under each separate article; South-reef of Horse and, II. 453.
- Arm-pits, a girl tortured by burning under, &c., to detect Theft, II. 45.
- Arms, banners, &c., at Funerals, I. * 288, * 297; &c. &c.
- Arras-werk (Tapestry), I. * 274, * 293, &c.; New Tapestry from Flanders, * 298, * 310; 'Chalmer of the antique Historie,' * 312, * 318, * 320.
- ARTHUR, PRINCE, son of K. JAMES V. See Albany;—Sir Ja., baptizing, &c., in fashion of Papistry, I. * 420.
- Armstrang of Hairlaw, Ade, I. * 398; Christie callit *the Bull*, I. * 398; Ro. callit *Rattas*, III. 396; Wm. callit *Bald*, *ib.*;—of Gilnockie, Jo. I. 152, &c. See Johnnie A.;—of Qubithauch, Simon, hanged, I. * 251; Simon, murdered, * 137; 93; Simon, yr. tried for Raids of Falkland, &c. 293; denounced, 306; Lencie, III. 396;—of Kinnmont, Wm., freed from irons in Castle of Carlisle, and carried off by Buckleugh, I. 363; Q. ELIZ. demands redress by her Ambassador, 364; Relations of this event, II. 504; Fra., III. 396; Wm. his son, *ib.*; Tho., son to 'Sandeis Ringane,' Murder of the Warden of the West Marches, II. 363; his right hand struck off and hanged at Cross of Edr., and his body gibbeted in irons on Burrowmure, 364; Da., son to 'Sandeis Niniane,' hanged, 441; Ingrie and 12 others burn Castle of Langholm, &c. 450; 479; Ringane, callit *New-maid Ringane*, Resisting King's Guard, hanged, 452; Tho., called *the merchant*, 567; Niniane's Thome hanged for Intercommuning with Lord Maxwell, III. 223;—of the Langholme, Johnne, II. 451; Burning Castle of L., &c. *ib.*; And., slaughter, 567;—of Rowanburne, Will, hanged for Resisting King's Guard, &c. II. 452; Alex., hanged for Murder of Warden of the West Marches, 505; of Flaskholme, Archie, Fire-raising, &c. II. 479;—of Arkiltounne, II. 491; his wife ravished, *ib.*;—of Tweidane, Ninian, Slaughter, &c. II. 509;—of Kirktonehill, Ebbie, Slaughter, II. 567; And., III. 396;—of Cannabe, Ja., Slaughter, II. 567;—of the Gygellis, Wm., III. 11, 43; Tho., 396;—of the Holme, Jo., his purse stolen, III. 441; Arch., Intercommuning with, I. * 17, * 101, * 172, * 271; Richard, Resetting, I. * 34, * 36; *Blak Joh*, hanged, I. * 152; John hanged, * 172; Francis, &c. 93; *the Lairdis Joh*, II. 520; Christopher and 16 others, I. * 171; Simon hanged, I. * 172; gift of his escheat, * 250;—Clan of, respited for a year, I. * 235;—Johnnie, notices relative to, I. * 152; gift of his escheat, * 245;—of Mangertounne, Thomas, I. * 152, &c., * 171, * 245; II. 509.
- Armstrang's 'Good night,' II. 505.
- Army of Norhame, I. * 35.
- Armitage (see Hermitage), Castle of, I. * 281; Captain of, III. 220.
- Arbitration, Judicial, to compromise Feud between Lairds of Playne and Cammismort, I. * 167.
- Ardross, Laird of, tears the King's Letters, I. * 271.
- Ardendraucht, Place of, burnt, I. * 98.
- Ardochbeg, burnt, I. * 225.
- Ardwell, burning of, I. * 56.
- ARGYLE, EARL OF, Colin, I. * 2; Arch., * 78; Remitted for Resetting the Master of Montgomery, &c. I. * 105; appointed Justice-General and Master of Household, * 244; remission for Fire-raising in Mull, &c. 247; * 263; resigns Mackane's lands in Isles to the Crown,

- * 312, * 353, * 441, * 461, * 478, * 503, * 505, &c. * 512; Colin, 88, 114, 116; Arch., 263, 289; Commission of Fire and sword against Jesuites, &c. 336; Lieutenant, 312; liability for the Campbells and Macgregors, II. 62, 63; sits as Justice-General, 428, 491; his conduct in reference to the Clan-Gregor, 431; shamefully betrays MacGregor, 434; flight to Spain, III. 3; proceedings against those who opposed him as King's Lieut., 79;—MARQUIS OF, alleged prodigies at Dunune, III. 199; detail of infamous barbarities committed by his followers, *ib.*
- Arrow-schot, II. 536.
- Arran, Office of Justiciary of, I. * 103; the Bastard of, (see Hamilton,) * 227, &c.
- ARRAN, JAMES, EARL OF, I. * 227; respited, * 232, * 237; 'held furth' at the Netherbow Port of Edr., * 241; arraying Battle against Duke of Albany, *ib.*; Gift of monastery of the barony of Hamilton, * 255; Gift of nonentry of Finnart, &c. *ib.*;—REGENT, * 267, * 268, * 310; * 462, 116;—(Stewart.) Ja., slain by Sir Ja. Douglas of Parkhead, III. 66.
- Artillery, breaking King's, at Glasgow, I. * 234; firing against King, &c. * 255; dragged by oxen, * 260, &c. (see Oxen); stones formerly used in place of metal-bullets, *ib.* * 263, * 265, * 267, * 295; imported, * 307, * 310; sent to Hermitage, * 324;—Master of, I. * 268, * 286; his fees, * 315.
- Arrot of that Ilk, Geo., I. * 180.
- Arnot of Chapel, Da., III. 9;—of Fairny, Ro., III. 316;—of that Ilk, Jo., I. * 94; Jo., Provost of Edr., I. 170; Sir Jo. examined as to Logan's Treason, II. 288; Treas. depute, III. 10;—of Wodmylne, Jo., yr., Slaughter, Shooting Pistolets, &c. curious arguments recorded, II. 53; finds caution for 10,000 *l.*, 60, 73;—of Incheek, Da., II. 63.
- Arbuthnot of Lyntusk, Jo., I. 119;—of that Ilk, Ja., I. * 402, 284; Ro., fiar, II. 362;—of Brichtie, Jo., I. * 402;—of Fyndowrie, Dav., II. 362;—of Carnedaw (Carnegaw), Jo., II. 387; III. 478.
- Ardebattan, Commendator of, Jo., invaded, I. * 465; Prior of, III. 14.
- Aroy, Peter, Highland robber, tortured to discover his accomplices, III. 195.
- Arroquhar, Burning of, I. * 240.
- Assessors to the Justice-depute, II. 3; declined on account of relationship, deadly feud, &c. *ib.*, 82.
- Assises, Exemption from, pleaded, I. * 418; granted to Inhabitants of Perth, * 418; burghesses of Aberdeen exempted from Assises of Barons, &c., * 577; III. 379; Ministers claimed exemption, 21; protest for expenses, 94; Advocates exempted from, II. 112; full exceptions against an Assise, 143; three of King's Guard sit on Assise, 559; instance of a large number (19), III. 57; trial of a *fact* remitted to Assise, 'and the Probation to be vlet befor thame,' 574; two 'chirurganes' sit on Assise, *ib.*; Proof led by Assise *after they were enclosed* in the Assise-house, 575.
- Assise declared Infamous and Perjured for Wilful Error, I. * 72; Protestation against a Verdict, * 449; Assise tried for acquitting a Witch, 244; see *Error*; confined till Verdict returned, * 131; imprisoned for year and day, I. * 203; wine brought to, at Sir Jas. Hamilton's Trial, * 305; Great (*Magna Assisa*), * 391; often considered as witnesses in the cause, III. 60, and *note*, 107, 280, &c.
- Assoinzie (Fr. *essoyné*), excuse for absence, &c. II. 65.
- Asound, swooning, II. 525.
- Assinloss of that Ilk, Ja., I. * 420.
- Aslowne, Laird of, I. 65;—of Garroche, III. 253; Mr Geo. his son, assists in a Mass, *ib.*
- Assurance, judicial, I. * 144.
- Assythment, for Mutilation, I. * 335; for Slaughter, * 371; for cutting off the ears, * 475; II. 74, 403; III. 537.
- Ashintullie, Place of, besieged, II. 63.
- Assisting Thieves and Rebels, I. * 144; Traitors, * 160, * 187, * 201, * 202, * 205; the English, * 332, * 337, * 338 See *Intercommuning*, &c.
- Askomell, in Kynntyre, burnt, III. 5.
- Assembly of the Kirk, convoking an unlawful, II. 3; Moderator and Ministers tried, 494; banished, 503, &c.

- Assignment, Forging, Perjury, &c. III. 208.
 Assoilzie, II. 466, &c.
- ATHENS, ARCHBISHOP OF, and of the Isles of Scotland, I. * 387.
- Athole, Royal Hunting in, I. * 279.
- ATHOLL EARL OF, John, I. * 78, * 190, * 391, * 469; appointed Justiciar of Atholl, 83, 178, 284, 309; denounced, 310; Commission of fire and sword against Jesuits, &c., 336; II. 63, 97, 235, 297, *note*; III. 14, *note*, 22.
- Atkinson of Sleichhousis, Henry, Oppression, &c., I. * 179.
- AUBIGNY, LORD, present of horses and hounds to him and 'Madame Dobinze' sent by the King to France, I. * 277; Esme, * 337.
- Auchinames, Laird of, waylaid, I. * 204.
- Auchincassel burnt, I. * 348.
- Auchincraw of East Restoun, Geo., I. 270;—Wm. and Hary, tried for Slaughter of Geo. Home of Spott, II. 99.
- Auchindoune, Mass celebrated, II. 530. See Gordon.
- Auchindrane, Laird of (John Mure), I. * 130, * 138, &c.;—And. Sinclair, his half-brother, III. 139;—bond betwixt Earl and Master of Cassillis for Murdering him, 622;—Lady, III. 138, 149. See Mure.
- Auchinleck of Balmanno, Geo., I. 57; wounded, 98, 100; III. 207; Sir Geo., III. 562;—(Afhlek) of Cumlege, Arch. I 99;—of that ilk, Gilb., I. * 404, 74;—of Schethin, Wm. * 454; of Tuedy, Ja., * 404.
- Auchinloss of that ilk, Ja., I. * 420.
- Auchinsoull burnt, III. 176.
- Auchmowtie, Ro., surgeon, curious case of trial for, II. 112; beheaded, 113, *note*, 124.
- Auchnacoy. See Gordon, I. * 150.
- Auchterallane, Laird of, II. 453.
- Auchterlony of Cairny, Wm., Resetting Johnnie Faa, III. 307.
- Aulderne, remarkable proceedings against Issobell Gowdie, &c., for Witchcraft, III. 602, &c.;—Kirk of, the Devil initiates Witches in 'the Readeris dask' there, III. 602, &c.
- Auldjoyes, Jonet, forcible Abduction of, I. * 421.
- Aurum potable, I. * 120.
- Auto da fe, I. * 209, &c. (See Heresy.)
- Avenger of blood, III. 183.
- Avery, King's, Yeoman of, I. * 313.
- AVONDALE, ANDRO, LORD, I. * 78, * 224; respited, * 237; Keeper of Dumbarton Castle, * 241, * 268.
- Ayfeld, what, II 30, *et passim*.
- Ayr, Insurrection between inhabitants and neighbours, I. * 204; Justice-aire of, I. * 56, * 73; Doctrines of Reformation preached at, I. * 407; Sheriff of, slays the Earl of Cassillis, I. * 136; Intercommuning with him, * 137. See Campbell of Loudon.
- Aysoun, 'Baron' of Tullymet, Jo., slain, I. * 334.
- Aytoun, of Dinmure, And., II. 53, 60;—(of that ilk) Laird of, Warden Depute of East Marches, I. * 323;—Raid of, I. * 110, * 112, * 117.

B.

- BACHILLANE naig. what, III. 78.
- Pages, for Witch-charms, &c., III. 609 *et seq.* 618.
- Bair-recht, or law of the bier, touching the corpse of murdered persons to discover the murderer, III. 183, &c. See Corpse and Touching.
- Baillie-Court, drawing knives and stabbing in, I. * 330.
- Baillies of Edinburgh tried for freeing a Homicide, I. * 442 to * 450; Jurisdiction of, II. 43;—of Leith wounded, I. * 403;—of Renfrew wounded, * 458.
- Baillie (Baillie) of Bagbie, Wm., I. * 127; Feud with Lord Somerville, * 382;—of Carplin, James, yr., * 385, 35;—of Chapelgill, Ja., * 81;—of Cornestoune, Tho., slain, * 175; Wm., * 404;—of Gervestoun (Jerristoun), Ro. * 167; Tutor of, Tho., 36, 87; Ro., II. 541;—of Hillis, Ja., II. 562;—of Lammington, Wm., I. 36, 87;—of Littlegill, Alex., 149; and Rachael, his daughter, slain, &c. 184; II. 491; Math., *ib.*, 555; III. 54, 101, 264, 478, 493; Mr Ja., his son, *ib.*; Slaughter,

- 498;—of St John's Kirk, Jo., II. 368;—Wm. one of King's Guard, slain, II. 559.
- Baird of Auchmadly (Auchmedden). Geo., I. * 454; Gilb., II. 394; Hen., beheaded for Slaughter, III. 499;—of Kilquhinzie (Culleinzie), III. 119; Jo., his brother, Slaughter, *ib.* 172, 475;—of Posso, Geo., I. * 81, * 87, * 133.
- Baiser-stanes, what, III. 100.
- Balance, Ordeal of the, III. 184.
- Balcasky, Martin, using Heretical books, I. * 219; remitted, * 252.
- Balanquall, Mr Walt., one of the banished Ministers, I. * 137; II. 5, &c.
- Balcomie, Laird of, III. 245; his lands in Lewis burnt and wasted, &c., *ib.*
- Balfour of Bandone, Peter, I. 27, 255;—of Bello, Da. I. 255;—of Burley, David, remitted, I. * 240; Mich. * 345; Sir Mich., 280; Da., brother to Laird of, II. 135; Mr Wm., brother to, Housebreaking, &c., 383, III. 9; Sir Ja., his brother, *ib.*; Mich., 391. See Burley;—Geo., Prior of Charterhouse, I. 48; Treason, 86;—of Kirktonne, Dav., 28;—Laird of (of that Ilk), 74;—of Makcormastounne, Geo., 392;—Marg., Witch, 373; Alison, 374; tortured with the 'caschielawis,' 375; the inhuman torture of her husband, son, and daughter to extort confession, *ib.* 376; her declaration at the place of execution, *ib.*;—of Mountquhanie, III. 82;—of Pitculloch, Mr Pat., II. 343, 430;—of Pittendreich, Sir Ja., Captain of Edr. Castle, I. * 479, * 512; and Dep. of 'French Paris,' &c.; Intercommuning with, 33;—Mr Wm., Rioting to restore Popery, * 416.
- Bale-Fires, 'Balis' of Fire for raising the country, in case of invasion, I. * 269, * 280, &c.
- Balhagartye, Laird of, I. * 454.
- Ballagane, Laird of, (Dunc. Hunter.) Intercommuning with, I. * 369.
- Ballatt against King of England, I. * 295.
- Ball-cood, III. 496.
- Ballengden of Auchnoll, Sir Louis, Justice Clerk, I. 142; Sir Jo., II. 459, *note*; Sir Jo., Justice-Clerk, III. 391;—Sir Ja., II. 413. See Bannatyne and Bellenden.
- Ball-green, III. 214; playing 'the boilspell,' *ib.*
- Ballingall of that Ilk, Wm., I. * 401, * 425; Arch., his brother, slain, *ib.*; of Riggis, Ja., * 404.
- Ballogy, fortalice of, destroyed by King's command, I. 344.
- Balmune, Laird of, I. * 284.
- Balmunno of that Ilk, Alex., I. 100.
- BALMERINOCH, LORD, Ja., Secretary, II. 274, 456;—496, 542, 514; tried for treasonable correspondence with THE POPE in King's name, 568; his Declaration and Confession, 575; sentenced to be beheaded, 580; Documents illustrative of his Trial, *ib.*; Narrative by himself, 588; his Speech when convicted, 600; Calderwood's account, 601, &c.;—Jo., restored in blood, 569.
- Balnamoon, Laird of. See Collesse.
- Balrines (or Glenlivet), battle of, I. 361.
- Balsonit, sorit, horse, I. * 400.
- Band (Bond), General, breaking the King's, I. * 208, 205; liability as to, II. 521;—of Association, by the Rebels in Orkney, III. 293; torn by Ro. Stewart, 304, 395.
- Bandene, alias Ruthvene of that Ilk, Wm., yr., II. 397; funeral of, 473.
- Bandis (bans), proclamation of, III. 413.
- Band-mutus, what, (perhaps Lat. *mutus*, implying secrecy,) III. 83;—of Maurent, I. * 373; III. 83, *note*, &c.;—betwixt the Scotts, III. 381; betwixt them and the Kerrs, 390; the Border Barons, &c., 391.
- Bannachira, Castle of, Sir Humphrey Colquhoun Murdered at, by the MacFarlans, II. 431.
- Bannatyne of Coig, John, I. * 405;—of Corhous, Jo., Slaughter, I. * 179; respited for Mutilation, * 241, 65, 72; Wm., forcible abduction, 378; II. 108, 131; III. 145;—of Gairsey, Wm., slaughter, I. 393; III. 82;—John, exempted from Hosts, warding, &c., I. * 247;—Ja., in Chapell Donald, Murder of the Laird of Culzeane, II. 461, &c. See Muir of Auchindrain and his Trial, III. 127, &c.; Proposed to murder him when in Ireland, 139;—Tho., Lord Newtyle, I. 9; Tho., Justice-depute, 41, &c.; Alex., Justice-depute, 58, &c.;—of Kames, Hector, Slaughter of Laird of West-

- ter Kames, II. 131; III. 144;—of Newtyle, Tho., I. 9; Mr Ja. II. 460; appointed Justice-depute, III. 426. See Bellenden and Ballanden.
- Bane, King and Queen of. See Bene.
- Banner, Royal, I. * 114, * 267;—to the Trumpets, I. * 308. &c. See Standard.
- Bannerman (Heritable Banner-bearer), I. * 268.
- Banishment to county of Aberdeen, I. * 203;—from Cranstoun, III. 540;—from Edinburgh, I. * 399;—from Scotland, * 157, * 161, * 366, * 375, * 388, * 394, * 396, * 402, * 406; and right hand struck off, * 432, *ib.*; for Adultery, 80; shooting in King's palace, 187;—England, Ireland, and the Isles, II. 40; III. 544, 542, &c.;—beyond sea, I. * 160;—from Stratheme, * 346.
- Baptising, in the fashion of Papistry, I. * 420; after excommunication, 189;—a cat (by Witches) 218; a more remarkable instance, 237; II. 543.
- Baptism of PRINCE JAMES (eldest son of King James V.), I. * 302; painting his arms, &c., *ib.*;—of PRINCE ARTHUR, * 309;—KING JAMES VI. at Stirling, * 479;—of PRINCE HENRY, 338; preparations for, and expenses of, 339, &c.;—renouncing, III. 601;—form of Witches' baptism, &c., *ib.*, 603, 610, 611, 617, &c. See Witchcraft, *passim*.
- Bar of Justiciary Court, how kept, I. * 2.
- Barbarous slaughter and maiming of sheep, III. 380.
- Barbed harnessing for King's horse, I. * 321.
- Barclay of Cullarnye, Dav. I. 60;—of Johnstoun, Jo., III. 268;—of Ladyland, Da., I. * 451; Hew, 281;—of Martheris, Dav. * 190, * 199;—of Rynd, Tho., * 158;—of Stercovy, Rob., * 88;—of Strowy, Jo., 25;—of Towie (Tollie), Walt, 65; Pat., slaughter of a Messenger-at-arms, 381; acquitted, 385; Sir Pat., II. 348; his brother Wm. tried for Perjury, hearing Mass, &c. *ib.*; Walt, III. 486; Tho. Dempster of Muresk beheaded for Forging a Bond in his name, *ib.*; Sir Pat. and Pat. yr. *ib.*;—of Touche, Wm., remitted, I., * 250;—of Vnthanck, Andrew, III. 564;—of Syde, Alexander, I. * 404; Geo., II. 130; Jo., his son, tried for Slaughter, *ib.* 134;—of that ilk, Walter, * 441.
- Barclow, Laird and Lady of, &c. See Hamilton.
- Barholme, Laird of, slain, I. 81; II. 523.
- Bark, King's little, a ship, I. * 298.
- Barmkine, (barmekyne), what, III. 13, 17, &c.
- Barnhill, burnt, III. 223.
- Barras See Tournament, III. 42.
- Barrett, Capt., English Pirate, III. 100.
- Barroune of Kynnaid, Geo., II. 128;—Jo. *alias* McDuff, Officer of Strathbraan, hanged for Gowrie's Conspiracy, II. 153, &c., 246. See Macduff, and 394, *note*.
- Barsalloch, burning of, I. * 104.
- Barskeocht, attempt to restore Popery at the Place of, I. * 430.
- Bary, Tho., forging Regent's signature, right hand struck off, I. 19.
- Basane (Bison) skins, I. * 221.
- Basin of solid gold, weighing 10 lb. 1½ oz. I. * 295. See Gold, &c.
- Bass, Laird of. See Lauder.
- Bassoned-meir, a soird, III. 265.
- Bastie, Sir Anthony D'Arcie de la, Guardian and Lieutenant of Lothian and the Merse, &c., slain, I. * 235, * 261, * 265, * 267.
- Batard, what, III. 293.
- 'Batounnis and roungis,' striking with, a Minister, II. 416; naked people, 454, &c. See Hurting and Wounding.
- Battery, *pendente lite*, I. * 73.
- Battiesoune, Jo., *alias* *Jok of the Scair*, *Prikil up Archie*, and Adie, his brothers, hanged for Slaughter, Horse and Cattle-stealing, II. 443.
- Battle, Dunkeld, I. * 98; Stirling, 100; Glasgow-Muir, * 114; Corriche, * 183; Kitty-crochhill, near Glasgow, * 237; Haddenrig, * 324; Ancrum-muir, * 332, * 359; Pynkie-cluuche, * 360, * 378, 51; Langside, I. 1, 5, &c.; Inveresk or Musselburgh, 51; Balrimnes, or Glenlivet, 361; Dryffe-Sands, III. 30. See Field; Fight, &c.
- Banche straikis, what, II. 84; III. 485, &c.
- Bauld, Bessie, a Witch's nickname, III. 606.
- Baver (beaver hat) to K. JAMES V., I. * 305.
- Bawbeis (Balbeis), forging, I. * 364, * 365, * 392;

- Forbes of Monymusk and Pitsligo, * 442.
See Forgery.
- Baw-field, III. 277.
- Baxter, King's master, I. * 313.
- Bayne of Logie, Alex., II. 98; III. 252;—of Wester Logie, Alex., II. 484;—of Tullich, Dun., yr., I. 200, 204; Alex., 353; Dun., III. 134.
- Beads, golden, for K. JAMES V., I. * 301; amethyst, * 307; pearl, *ib.*, &c.
- Bean-shaw (boneshawe), charm for, III. 609 and *notes*.
- Bear-leader of England, I. * 118.
- Bear-tooth for THE PRINCE, I. * 307.
- Beatoun (Betoune, Bethune), Abbot of Abbrbrothok, Ja., II. 575;—of Bailiescraigs, Jo., I. * 137;—of Balf ur, Ja., * 136, 60, 191; Da., II., 60;—of Capildra, Arch., * 328;—CARDINAL, * 310, * 318; goes to France, * 323; Murder of, * 337;—of Creich, Ro., * 345; Dav., 60; Ja., 308; Jo., III. 394, *note*;—Mr James, aiding English at Broughty, I. * 345;—Lady Buckcleuch, Janet, III. 394; of Falay, Jo., 264;—of Melgund, Ja., I. * 136, * 157; David, 79;—of Westhall, (*alias Belouche*), Ro., a declared rebel, 74.
- BEDFORD, EARL OF, at K. JAMES VI. baptism, I. * 479.
- Beds, the King's 'Lettacamp' (*Lit de camp*), I. * 273; price of, at Justice-aires, * 390, &c.
- Bedesmen, the King's, I. * 263, &c.
- Beef, price of, at Justice-aire, I. * 390.
- Beggars, 'strang and idill,' I. 303.
- Beheading, capital punishment. see Treason, Murder, &c. *passim*;—with a sword, I. * 425.
- Beill, House of, to be kept against the English, I. * 280.
- Beil-Fyres. (See Bale-fires), I. * 262.
- Beirope of that Ilk, Ro., II. 515.
- Bek, Jo., Slaughter, II. 523.
- Bell, alarm, II. 31;—of Alby, Wm., I. * 431;—the Cat. See Angus;—for Prince's Chapel, * 306;—Wm., hanged for Rape, II. 475.
- BELLARMINE, CARDINAL, answers K. JAMES VI., II. 570, &c. See Balmerinock.
- Bellenden of Auchnoll, Mr Tho., Justice-Clerk, I. * 254;—of Ervie (Ervie), Tho., 377; Sir Pat., III. 82;—Maister John, translating of the 'Cronykill,' I. * 274, * 276, * 279; 'Titus Lenius,' * 279, * 282;—Jo., Slaughter, III. 497. See Ballenden and Bannatyne.
- Belts, I. * 307, &c.
- Ben, what, III. 509, *note*.
- Bene, King of, I. * 115, * 278; Queen of, * 278.
- Bernardino, Seigneur Don, I. 332.
- Berge, Jaques de la, a Fleming, robbed between Edinburgh and Leith, II. 441.
- Bernehill, Burning of, I. * 36.
- Bertoun of Over Barntoun, Robert, absence from the Armies of Arran and Angus, the 'King's Lieutenants,' I. * 237.
- BERRIEDALE, MASTER OF, Jo., I. 368;—LORD, Wm., 368; III. 231; Feuds between E. of Caithness and E. of Sutherland, *ib.*; imprisoned, &c., 310. See Caithness and Sinclair.
- Berwick, English Herald, I. * 283.
- Berwickshire, Inhabitants of, get Remission. I. * 14; Barons fail in their Bond, * 146.
- Besieging house of Summerdaill, I. * 225, (See Dumbarton, &c.); Frenndraucht, * 328; Coldingham, * 331; Lochmaben Castle, * 332; Dumbarton Castle, * 334; St Andrews, *ib.*; Langholm, * 338; town of Haddington, * 342; Akerhill, * 391; house of Penkill, * 403; Wauchtroune, &c. Jo., Leyis beheaded, S; Dupplin, 25; Edinburgh, 30; House of Strechin, 65; Warriston, 81; Kirkhill, 174; Fedderat, 205; King, &c., in Tolbooth of Edinburgh, II. 29; Place of Ashintillie, 63; Auchmedden, and deflowering the Laird of Yrinoch's daughter, 394; Tower of Newbie, &c., 464.
- Besetting the way. See Umbesetting.
- Bestiality, Jo. Jak, *alias* Scott, 'wirreit and brunt in ashes,' II. 491.
- Beverage, John, a Dominican Friar, burnt for Heresy, I. * 210, * 211, &c.
- Bewes, Mons., Ambassador, I. * 281, * 283.
- BEWLIE, LORD, Ja., II. 581, 604. See Hay.
- Bible, in English, persons burnt for using. See Heresy, Reformation, &c.
- Bie-skeppis, robbing a garden of, III. 555.
- Bier, law of the, *Bahr-recht*, III. 183, *et seq.*
- Bigamy, I. 110; Jo. Guthrie hanged, III. 428;

- Alex. Thomson and Jonet Cutlbert, banished, III. 428. See Adultery, Incest, &c.
- Biggar of Woolmot, Major Jo., III. 601, *note*.
- Bikkertoun of Casch, Wm., shooting Laird of Balmanno near King's person, I. 98;—Hen. beheaded, * 162.
- BINNING, LORD, Tho., III, 14, 312, 452, &c., *passim*. See Haddingtoun and Hamilton.
- Bintoich, Fight of, III. 112. See Clan Gregor.
- Birgeame, Raid of, I. * 338.
- Birlingis, what, III. 368.
- Birnie, of Browbrie, Ja., III. 475.
- Birsay, Palace of, III. 273, &c. See Trials of E. of Orkney and his base son, 272, 308, and illustrative documents.
- Birth-pains, Witch-charm to allay, I. 237.
- Bishop of Brechin, Alex., I. 392;—Captain. English Pirate, III. 105.
- Bischoptoun, Laird of, invades Provost of Glasgow, I. * 361.
- Bissett, Habakkuk, W. S., assaulted, &c. I. 286; his curious form of process, *ib. note*, 298.
- Biting off a finger, I. 34. See Demembration and Mutilation.
- Black, Henry, hanged, Common Theft, &c., I. * 413; Hen., Captain of the Castle of Kirkwall, and II others, Slaughter, III. 53; Tho., chamberlain to E. of Orkney, 273; hanged, 283; his Deposition, 296; John, Dominican Friar, disputation with Willox the Reformer, I. * 417; Freir, John, wounded, in the Cowgate of Edr., * 475;—Saturday, what, I. 56, *note*.
- Blackadder of that Ilk, And. (Laird of), I. * 42; Felony and Slaughter in the King's Palace, * 100;—Hume of, * 413, &c. See Hume;—of Tulliallan, Joha, beheaded, * 151; * 271; * 275; * 347;—Castle of, besieged by the English, * 269;—Capt. Wm., invaded for his slaughter, * 488; hanged and quartered for K. HENRY (Darnley's) Murder, * 489, * 509;—of Taissis, Wm., 59.
- Blackhall of that Ilk, Alex., I. 382.
- Black-maill, Scott of Tuschelow beheaded, I. * 145; Johnnie Armstrang, * 153; Messengers taking, hanged, * 356. See Skatt.
- Blaiklok, Adam, hanged for Perjury, &c., III. 358.
- Blackness, Castle of, its Dungeon and kitchen—Tower, I. * 312.
- Blair of Adamtounne (Edentounne), Dav., yr. I. 71; Da., II. 106;—of Ardblair, John, I. * 371; And., 166; Pat., II. 63;—Athole, Castle of, man starved to death in the Pit of, III. 491; dead body hanged on a gibbet, *ib.*;—of Bagray, Alex., unbesetting, &c., II. 103;—of Balgillo, Wm., I. * 157; II. 49; Jo., 105;—of Balthayok, Alex., yr., Deposition as to Gowrie's Conspiracy, II. 188, 241; Tho., remitted, I. * 254, * 343; Feud with Laird of Kinfauns, &c. * 424; Alex., * 452; Alex., yr., II. 49, 60, 166;—of Freitounne, Alex., I. * 452;—of Fynnech, Walt. II. 439;—of Gairdrum, And., III. 443; Peter, his brother, slays young Laird of Monyvaird, &c., *ib.*;—of that Ilk, John, I. * 331, 50, 71, 87, 282; II. 390, 433; Jo., yr., *ib.*;—Ja., bailie of Ayr, III. 345;—of Melgynche, Jo., I. * 452; of Middle Auchindrain, Jo., * 457, 71;—of the Stroud, 56.
- Blanerne, Laird of, I. * 413.
- Blanks, the Spanish, Trials for conspiring against the Religion, &c., I. 310; Tract asto, 317, &c.
- Blantyre, Commendator (Prior) of, Walt., I. 267, 372; II. 496, 581;—LORD, Walt., II. 3, 273, 274, 327, 496.
- Blawin-hornis (for the chase), &c., sent by K. HENRY VIII. to K. JAMES V., I. * 270.
- Bleeding of Corpses, on the touch of the Murderer, III. 143, 165; curious illustrations of this superstition, 182, &c. See Corpse and Touching.
- Blind Harry, the Minstrel, I. * 116.
- Blinkscale, Dav., hanged for Theft, I. * 151.
- Blood, opinions of the ancients as to the *life* residing in, III. 182, &c. See Touching;—alleged spring of, at Dunoon, 199;—Devil baptizes his converts with, 602, &c. See Witchcraft;—'steming of,' Jasp-stane for, III. 564, &c., and *note*.
- Blood-hound, III. 548.
- Bludwyte, what, II. 468.
- Bluidie-hand, II. 376, *note*.
- Bluid-stane, used as a charm for 'bleeding of the nese,' III. 564, *note*.

- Blynschelis, Mr Humph., Justice-Depute, I. 179, *et seq.* &c.
- Bodin in feir of weir, what, I. 49, *et passim*.
- Bodies, dead, of Traitors produced in Judgment before passing sentence of Forfeiture, II. 241, 277, 105;—man starved to death, and his dead body afterwards gibbeted, III. 491.
- Boig of Geicht, Mass celebrated, II. 530.
- Boird-stane, used in Witchcraft, I. 252.
- Boilspell, the, III. 214.
- Boitkyn, hett, the tongue pierced with, for Perjury, &c. III. 539.
- Bone bleeding on a Murderer's touch, III. 183. See Touching, &c.
- Bonar of Balgirscho, Alex., II. 65;—of Kelty, Walter, remitted, I. * 240; Wm., 28;—of Rossy, Wm., I. * 408; II. 103;—Ja., burnt for Incest with his sister, I. 22;—Wm., Murderer, acquitted, II. 531.
- Boice, (Boece), Mr Hector, Pension to, I. * 279.
- Bonnet-caice, III. 478.
- Bonspeill, what, III. 214.
- Bonyalla, III. 2.
- Bonyngtoun, Laird of. I. * 470. See Wylie, Wod;—house of, broken into by the young Laird; title-deeds stolen, II. 340; is hanged, 347;—Laird of Latoune remitted, *ib. note*; accomplices hanged, *ib.*
- Bonkle, Tho., beheaded, &c. I. 158;—Jos., beheaded, II. 417.
- Bontyne of Ardoch, John, I. * 178, * 361; II. 439; III. 114, 233, 250.
- Bonfires, for rejoicing, I. * 262;—to alarm the country, * 269, &c. See Beil-Fyris.
- Books, using heretical, I. * 209, * 216, * 217.
- Border Barons, Bond by, to assist Earl of Angus, I. * 127; neglected to be fulfilled, * 146;—Bonds betwixt them, III. 381, 390, 394;—expedition to, I. * 307, 302;—by King in person, 303;—Thieves, Raid against, I. * 184;—Resetting, * 208.
- Borderers, complaint of, against the English, I. * 279; received as Cautioners, * 467.
- BOTHWELL, (*Ramsay*), LORD, John, Treason, I. * 3, * 4, &c. (—*Hypburn*). LORD, Patrick, * 188; remitted, * 243; Gift of nonentry, * 255, * 379;—James, * 412;—EARL OF, James, Conspiracy to seize on person of MARY QUEEN OF SCOTS, * 461; notices of his first marriage to Lady Jane Gordon, *ib.*; his summons of Treason, * 462; challenged by Arran to Judicial combat, * 463; breaks ward from Castle of Edr., * 464; Laird of Qubitsum's protest against outlawry, * *ib.*; his servant slain, * 468, * 470; tried for K. HENRY'S (Darnley) Murder, * 489; Narrative written by him after his flight from Scotland, * *ib.*, 95, 145;—Francis, High Treason, 171; Forfeited, 181; uses charms and Witchcraft to take the King's life, 240, *note*; acquitted, 258; forfeited, 259; proclamation for his pursuit, 260, *et seq.*; forfeited for invading King in Holyroodhouse, &c. 272, 274; his posterity forfeited, *ib.*; his resetters and assisters, &c. 287; tried for Conspiracy against the King at Holyroodhouse and Falkland, 293; doom of forfeiture, 297; Act that none backbite him, &c. 302; again charged with Treason, 303; denounced, *ib.*; Proclamation, 308; another rehearsing his Treasons, 340; taking Leith, II. 21; Resetting one of his adherents, 124;—COUNTESS OF, Dame Mary Douglas, convicted for High Treason, I. 218; ordered to be apprehended, 281; her Letter recalled by the King, 350, 362, &c.;—Mr Fra., (brother to Jo., L. Halruidhouse,) II. 92; III. 9, 264, &c. See Lord H.
- BORTHWICK, LORD, Wm., I. * 78, * 311; John, * 336, * 363, * 412, * 425, * 454, 27; Adultery, 83, 84;—Ja., feud with Laids of Craigmillar and Bass, 352; Riot at his apprehension, &c. —Jo., III. 482;—Tutor of Wm., Murder committed by him, II. 423;—of John-stonburne, Wm., III. 539;—of Newlyres, Ja., III. 497;—MASTER OF, Thomas, remitted for Intercommuning with Rebels, I. * 242, * 468;—LADY, Incest and Adultery, I. 84;—of Crnikstoun, Wm., I. * 143; Assise for, * 266;—Ro., the celebrated founder of Cannons, (artillery), I. * 267;—of Adestoune, Da., I. * 425;—of Collielaw, Bern. I. 381;—of Prynecado, T., I. * 166, * 434;—of Glengelt, Mich., I. * 434;—of Raschaw (Rillschaw), Ro., I. * 166;—Jo.,

- 27;—Mr Mark, Justice-depute, I. 349;—of Loehhill, Da., King's Advocate, I. 47;—Ja., III. 252;—of Gordonshill, Jo., I. 60;—of Middleton, Tho., I. 84.
- Borthwickshells, Place of, burnt, I. * 37.
- Boswell of Auchinleck, David, I. * 201, * 369, 148;—Ja., 46;—Jo., 72;—Ja., fear of, II. 130;—Jo., 355;—Ja., 390;—of Duntrine-
Jemen, Jo., II. 130.
- Boss-baked, hump-backed, III. 606.
- Bonn, what, III. 466.
- Bourdeaux, Piracy committed there, I. 37.
- Bourtrie-buss, what, II. 458.
- Bouskat, (Bukkat), Captain Johanne, Commissioner of the Artillery, I. * 261, 262.
- Bower, Laird, concerned in the foreknowledge of Gowrie's Conspiracy, II. 257, &c. See Sprott and Logan.
- Bows and Arrows, &c. See Archery.
- Bowmaker of Cardone, Ja., I. * 166;—English, * 278.
- Boy, Slaughter by a, of eight years, I. * 16; Silver, belonging to K. James V. * 302.
- Boyman, Jonet, Witchcraft, burnt, I. 38.
- Boyd, Adam, brother to Kilmarnok, II. 555;—of Bauhathie, Ro., I. 171;—of Boneschaw, Sir Tho., III. 345;—Jo., acquitted of Poisoning, I. 399;—Quintin slain, II. 515;—of the Kyppis, Ja., I. 171; wounded, 187;—LORD, Rob., I. * 451, * 453, * 478, 55, 171; III. 339;—MASTER of, Tho., Slaughter, I. 171;—of Penkill, Adam, besieged in his house by Laird of Bargany, I. * 403, 55;—of Pet-kindy, Rob., I. * 288;—of Portincorse, Ro., I. 420;—Mr Ro., Principal of Glasgow College, III. 338.
- Boyes, heavy irons for the legs, III. 3.
- Society of the, II. 532; Jo. Forbes beheaded, 535, 581.
- Boyle of Kelburne, Jo., II. 430;—Ja., scourged through Edr., and branded on the cheek, for Suborning witnesses, III. 358.
- Braemar, stealing wild horses from, I. * 247.
- Braidis, Andro, hanged, III. 382.
- Bracelets, I. * 295, * 307, * 321, &c. See New Year's gifts.
- Brakanhill, supplying the English at, I. * 344.
- Branding, punishment of a female, I. * 346; three persons scourged, branded, and banished for Perjury, &c. III. 358, 445, 595.
- Brand, Mr Jo., Minister, I. * 500, * 511; Jo., student, his son, beheaded for Slaughter, III. 360.
- Breach of Trust, pleadings relative to, II. 549, &c.
- Brechin, Feud between citizens of, and Tenants of Balmamoon, I. * 431;—BISHOP of, And., II. 261, 274.
- Bread, selling light, I. * 360.
- Breadhead, Janet, Witch, III. 614; her Confessions, 616 *et seq.*
- Breadhouse, Yeomen of the King's, I. * 313.
- Breame, Mons. de, French Ambassador, I. * 479.
- Breaking on the Wheel (or *row*), I. 241.
- Bribe, taking a, to discharge a Murderer, I. * 63.
- Bridal, Slaughter at a, III. 471; Jo. Swyne, beheaded, *ib.*
- Bridge of Dee, Army at, I. 176.
- Bridles, scourging with, I. * 454; barbarously scourging naked people with bridles, &c., 455, &c. See Scourging.
- Brigancy, I. * 91, * 469, 145; II. 70, &c.; Tho. Canninghame, sword-slipper, hanged, 359, 458.
- Brigantynes, I. * 289.
- Bringing in the English, I. * 17, &c. See Englishmen.
- Brisbane of Bishoptoun, John, I. * 163, * 382;—of Raslene, Math., III. 134;—of Middil Walkinschaw, Jo., slain, I. 69.
- Broadick Castle, burnt, I. * 139; Capt. of, 286.
- Brocheing, what, III. 526.
- Brodestar (Embroiderer), King's, I. * 315, * 320, &c.
- Brodie of that Ilk, Alex., Feud with the Laird of Alyre, I. * 356, 68;—Dav., II. 71;—Chamberlain of Kindloss, Alex., III. 485;—of Leathin, Alex., yr., 602;—Margt., Witch, 606, 614, &c.
- Broke, Ja., Murdered, III. 565.
- Broken men, outlaws of no clan, &c., II. 70, 432; III. 364, 537. See Sorners, &c.
- Bronkard, Sir Hen., sent as Ambassador from Q. ELIZ. to JAMES VI., to congratulate him on his escape from Gowrie's Conspiracy, II. 315.
- Brood-mares, King's, I. * 316.
- Brothersyde, Wm., beheaded, I. * 160.

- Broughton, Regality of, I. 185; barbarous treatment of Witches at their execution, III. 598.
- Broughton-craig, supplying English at, I. * 344, * 345, &c. * 361.
- Broune, Thomas, beheaded for Slaughter, I. * 15; Ro., Brigancey, * 469; Jo., beheaded for Slaughter, III. 493; Jo. and three others hanged, &c., for Piracy and Murder under Trust, 569;—of Carslatyre, Jo., yr., 477;—Bessie, murdered by her husband, 481; Jo. Moitt beheaded, 482.
- Brounfield (Bruntfield), Adam, Slaughter, II. 506;—of Eastfield, 480; Nicol, his son, Slaughter, *ib.*;—of Greenlawlene, Steph., yr., slain, I. * 451; Steph., II. 405;—of Hardaikeris, Adam, I. * 451; Alex., Slaughter, II. 480;—of Qhlythous, Nicoll, 480;—of Todrig, Ro., fiar, 480;—Geo., beheaded, I. 77; Stephen, Captain of Tamtallon, slain, III. *note*; 'Singular combat' between his brother and Jo. Carnichael, *ib.*; Jo., yr., slain, II. 480.
- Brown of Colstoun, Mr Wm., Tutor of, I. * 243; Geo., * 388, * 426; Jo., brother to, II. 456;—of Cultermannis, Rich., I. * 76, * 175;—of Carsleuch, Jo. Langside, I. 10; Slaughter, 81;—of the Land, Jo., II. 492;—Jo., bailie of Musselburgh, II. 555;—Geo., hanged and forfeited for Horse and Cattle-stealing, 98;—Jonet, hanged for Child-Murder, III. 269;—Jo., scourged and branded for stealing a purse, 445;—of Coulter, Ro., slain, 51; the Laird of Birnok and his son beheaded, 58;—of Mullenis, Jo., 93.
- Bruce of Airth, Jo., slain, I. * 98; Ro., Stout-threif, * 132, * 167; Sir Alex., 304, 351; Feud with Lord Levingstoun, &c., 352; II. 297; Sir Jo., 457;—of Bofark, And., III. 475;—of Braklammir, And., I. * 148;—Brakanhill, supplying the English at, * 344;—of Bynning, Ro., * 204; slain, * 399; Ro., 27, 153;—of Carnok, Geo., II. 457; Sir Geo., III. 479;—of Clackmannan, Sir Dav., I. * 42; Ro., 276; quarrel with Bailies, &c., of Perth, 277, 292; Sir Ro., III., 318;—Colin, Intercommuning with MacGregors, II., 456; banished, under pain of 5000 merks, 457; banished of new for life, III. 437;—of Colp-
- malindeis, Hector, I. * 88; Laurence, Feud with Lord Oliphant, * 488, 375; Mr Alex., fiar, 457; III. 82; Laur., yr., and Alex., his brother, Slaughter, &c., 443, 465; Offers for reconciling Feud with Laird of Monievairst, 480;—of Earlshall, Sir Wm., I. * 427; Peter, 24;—Mr Edward, Justice-depute, 110; Capt. And., II. 484;—of Fyngask, Jo., I. * 158; Pat., Slaughter, II. 427, 457;—Capt. Harie, Duell while on foreign service, a remarkable case, III. 502; illustrative Papers, 504;—History of the Valiant, 418;—of Kinloss, Edw. See Kinloss;—of Kynaird, David I. * 343; Mr Ro., Minister, 261, 304; reprimands the King, 360; II. 9; his conduct as to Gowrie's Conspiracy, 234, 299, &c.; III. 619, &c.;—of Mungowellis, Ja., I. * 132;—of Pitfowlis, Arch., 382;—Mr Ro., Seminary Priest, 167, 328, 329, &c.;—Helen, burnt for coining, &c., II. 74.
- Bruier, Ralph, the English Captain of the Castle of Roxburgh, I. * 379.
- Brunstoun, Laird of, sent with horses to KING of FRANCE, I. * 322.
- Bruntisland, Pirates' heads affixed there, III. 572.
- BUCCLUCH, LORD, Walt., II. 581; his Regiment, III. 164. See SEOT.
- BUCHAN, LORD JA., Tresson, I. * 2; Jo., * 190; Rob., 88;—EARL OF, II. 133; Jo. III. 486;—(Bucquhane) of Auchnacoy, Alex., I. * 454;—MASTER OF, Ja., II. 413; Ja., his son, Slaughter, *ib.*
- Buchanan of Auchmar, Pat., yr., III. 564;—of Balloch, Ro., I. * 451;—of Blairlock, Tho., I. 285;—of Buchlyvie, Jo., murdered by Macgregors, II. 432;—of Camroue, J., I. * 441;—of Drumakill, Rob., * 167; Jo., yr., *ib.*; Walt., * 441, * 451;—of Drumfold, Jo., 285;—of Gartnavertane, James, remitted, * 253;—Mr George (the Historian), * 290; dress, &c., to him on Q. MARY of Guise's entry into Edr., * 294;—of Ibert, Jo., II. 438;—of that Ilk, George, I. * 150; besieging Castle of Dunbarton, &c., * 236, * 344, * 385; Geo., 289, 306; Jo., III. 318; Geo., yr., 550; Offers to submit the case of torture and Murder of one of his Clan, *ib.*;—

- of Lany, I. * 441, * 453;—of Spittal, Ed-
mund, * 386; Robert, 306;—of Stanyflat,
Pat., * 166;—Robert Waltersoune, II. 439;—
Jo. (Sir), 544; his wife (Margt. Hertsyde)
tried for abstracting Queen's jewels, *ib.*; de-
clared 'Infamous,' 556; sentence recalled,
557; Jo., servant to L. Madertie, III. 250;
Marg., her Deposition as to Orkney Rebellion,
304; Wm., barbarously tortured, and then
Murdered, in the most savage manner, by
MacFarlanes, 545, &c.
- Bucht, what, III. 221.
- Buckholme, Keeping House of, I. * 338.
- Buist, a box or chest, I. 253;—'to keip hostis
in' for the PRINCE'S Chapel, * 306.
- Buitis, boots or bootikins, instruments of torture,
I. 219, 222, 376; 57 strokes inflicted, *ib.*
- Bukkat, Capt. (See Bonskat.)
- Bullets, using *poisoned*, I. * 90; Lord Maxwell
traitorously murders the Laird of Johnstone
with two, 337.
- Bantene. See Bontyne.
- Burgundy, Herald, I. * 277.
- Burne, Simon, executed, I. * 264.
- Burning of Minto, I. * 19; Place of Fastheuch,
* 23; a 'Pele' in Bothill, * 25; Covantonne,
* 26; Hirdmanstoune, * 27; Qulhitsuide,
* 30; Place of Riddale, * 34; Town of Sel-
kirk, * 35; Borthnikscheillis, * 37; Town
of Dumfreis, * 39; Drumskey and Ardwell,
* 56; Newby, * 60; Blindhauche, * 61;
Branxholme and Ancrum, * 69; Dunskey,
* 95, 103; Ardendraucht, * 98; Thurestoun,
* 99; Lochfergus, * 100; Kirk of Mony-
vaird, * 101; Lochaber, *ib.*; Weyme, * 103;
107, 116; Barsalloch, * 104; Immermessane,
* 124; Broadick Castle, * 139; Cousland,
* 141; Lag, * 160; Howpaslot, * 172;
Davy, Dykes, Ardrossir, &c., * 175; Cun-
zeerstoun, * 201; Ardochbeg, * 225; Gre-
nok, * 232; Town of Bute, * 240; Arro-
quhire, *ib.*; Craigy, *ib.*; Peill of Knocksche-
noch, * 242; Roseneath, the Lennox, and
Craiginche, * 246; Mull, Tyree, and Morvern,
* 247; Kirkmaquho, * 249; Castle of Allane-
donand, * 256; Balbegys, * 334; Town of
Durrisddeer, Amisfield, &c., * 347; New-
bottle and Dalkeith. by the English, * 349;
corns of Sprowstoune, * 375; Kirkmichael,
* 405; Dornoch, 68; place of Littlegill, 108;
place of Pitmedden, 160; Moit, Davidshaw,
and Littlegill, 184; place of Dumbirsell, and
Murder of the E. of Murray, 284; Baber-
toun, 290; Kirk of Lochmaben, 305; Luss,
&c., by the Macgregors, II. 432; house of
Langholm, &c., 450; Littlegill, 491; Askom-
nell, III. 5; Castle of Achallader, 114;
Glenlochie, *ib.*; Tolbooth of Lauder, 116;
Auchinsoull, 176; Barnehill, 223; Auchal-
lader, Glenlocha, &c., 232; Abernchill, *ib.*,
250, 566; Island of Lewis burnt and wasted,
244; Comerie, 537; 27 houses belonging to
the Archdean of Ross, 540.
- Burning of Corns, I. * 27, * 375, * 405; Wm.
Donald, hanged, 45.
- at the stake, punishment of death, for Females,
I. * 190; husband, for murder of his wife, 14;
Jo. Bonar, burnt for Incest with his sister, 22;
And. Thomesou, Burning corns, 70; Andro
Glencorse, for Poisoning and Adultery, 84;
—Mr Adam Colquhoun, hanged and burnt for
Poisoning, &c., * 419. See Murder, Witch-
craft, &c.
- Burnet of Barns, Wm., I. * 422; II. 430; Ja.,
III. 565;—of Leyis, Alex., I. * 470;—Janet,
Witch, III. 614, &c.
- Burntisland, Expenses of King's Ships there, I.
* 324.
- Burdeons (*Bourdeoux?*) Wines, I. * 349, * 377;
price of, * 389.
- Burriow, an executioner, III. 474, 548, &c.
- BURLEY, LORD, Mich., II. 274, 587; III. 9;
Sir Ja., his brother, *ib.*, 370. See Balfour.
- Busche, what, III. 101.
- But the house, what, III. 509.
- Bute, Remission to Inhabitants, I. * 113; Town
burnt, * 240;—Pursnivant, * 277, * 278,
* 286, * 305.
- Butter of Gormok, Pat., I. * 88; Jo., Slaughter,
* 367; * 371; Pat., II. 63; besieging the
place of Assintulle, 67.
- Bylis, a game, I. * 117.
- Bynnie of that ilk, Thio., I. * 127.
- Bynning, Jo., hanged and quartered for the Mur-
der of K. HENRY (Darnley), I. 95. See K.
Henry, &c.

C.

- Caball, Geo., hanged and quartered for uttering forged money. I. * 137.
- Caber, ane grit, III. 567.
- Cache-puill, (Tennis,) game of. I. * 271.
- Cachet, (Cashet.) King's, counterfeited, I. 157.
- Caddell of Aslowne, Ja., I. * 172; Jo., * 454.
- Cadgearis, what, II. 385, 444.
- Cadenhead, Wm., hanged for Horse-stealing, I. * 411.
- Cage, or Iron-house for felons, III. 293, &c.
- Cairns, what, III. 204. *note*.
- Cairns of Barnbanchill, Rich., I. * 85;—Wm., of Orchardtoun, * 131.
- Cairleton, Agnes, wife of the Laird of Benschaw. Incest with her husband's brother, Jaffray Irvine of Robgill, who was beheaded. III. 576.
- Cairness of Allanschaw, Ja., I. * 432;—Robert, callit *Mchill Hob*, Ravisching' or Forcible abduction of Lady Warreistoun, 244;—of Calfhill, Nic., * 2, 244; II. 368;—of Birk-sneip, Cha., III. 453.
- CATHNESS, BISHOP OF. And., I. * 79, 149;—Robert Bishop Elect, * 337; seizing Teinds, &c. *ib.*; his Bailie imprisoned, * 395;—Commissary of, imprisoned, * 222;—Postulate of, Alexr., * 337;—hawks brought from, * 297, * 298;—EARL OF, George, Murder, &c. * 394; Imprisoning his brother David, * 395; Convocation at Water of Elmsdene, * 395, 200, 367; III. 12, 31; assaults Geo. Lord Gordon on the streets of Edr., 32; betrays his kinsman Lord Maxwell to the Privy Council, *ib.*; Submission betwixt him and E. of Sutherland, 231; appointed King's Lieutenant for quelling Rebellion in Orkney, (*q. v.*) 273; dispatches to the King, &c. from Orkney, 286; got pension of 1000 Crowns for his services, 309, *note*; sketch of his career, *ib.* 310; stripped of his ill-gotten fortune, and dies in obscurity, *ib.*; Murder under trust, 498; fugitived, 499;—COUNTS OF, (L. Jean Gordon,) III. 32;—MASTER OF, Jo., I. 368.
- CAJETANE, CARDINAL, II. 576, 589.
- Cake, charmed, made of meal got from 9 *maryit madyunis*, &c., II. 537.
- Caldcleuch, Mr Jo., Letter from the King to him as to Gowrie's Consp. II. 317; III. 97.
- Caldwell, Laird of, Intercommuning with, I. * 357; slain, 17, &c. (See Muir.)
- Calder, Wm., scourged and banished, II. 94.
- Caley, Oppressing Laird of, (Lennox,) I. * 53.
- Callandar of Ballinloche, Ro., I. * 130.
- Calmis, (moulds for casting base money,) II. 75.
- Calp paid by Laird of Arducuple to MacGregor, II. 436, *note*.
- Calumnious speeches against the King, an Englishman hanged, I. 385. See K. JA. VI.
- Cambuskenneth, Adam, Commendator of, I. 88, 119.
- Cambusnethane, Laird of, I. * 480.
- Cameroun of Glennevas, Allaster, slain, III. 258;—Jo., alias Bodache, slain, III. 258;—of Locheldy, (Lochjell or Lochell,) Allan, II. 68;—Allan McEandowie, Murder, &c. III. 258. See Clan Cameroun.
- Cammsiskeyth, attempt to restore Popery at the Place of, I. * 430.
- Campbell of Abernchill, Colin, II. 438; III. 223; Hereschip and burning of Aberuchill, 232, 250, 566;—of Ardkindlas, Colin, I. * 224, * 229, *note*;—Ja., * 431, 68, 100;—Jo., 285; assaulted, 286; acquitted for slaughter of Laird of Calder, 263; tried and diet deserted, 391; betrays Laird of MacGregor, II. 433; Argyll attempts to get MacGregor to slay him, 436;—of Ardgarnay, Arth., I. * 223;—of Ardoch, Jo., * 164;—of Auldornok, Jo., * 138;—of Ardintinny, Don, * 227; Sir Arch., III. 22, 23;—of Auchinbrek, Sir Doug., III. 10, 23, 26;—Prior of Ardchattan, Ff;—of Auchinveiling, Jo. I. 285;—of Ardis, Vthreid, III. 477;—of Bothe, Dun., I. 68;—Colin, II. 528; III. 258;—of Bargour, Charles, I. * 353;—of Blair-kaith, Alex., respited, * 241;—of Blairmerne, Colin, 392;—of Breachlie, Mr Wm., his cattle

- houghed, &c. III. 251;—of Balmagowne, Hew, 252;—of Clwnes, Colin, 251; his Place burnt, &c. *ib.*; his horses houghed, &c. 257; taken prisoner, &c. 266;—of Crwnan, Geo., II. 63;—of Cesnock, Geo., I. * 84, * 352; John, * 136; George, II. 106;—of Calder, (Caddell,) Sir John, * 217, * 224; Archibald, * 359; John, 68; Sir John, slain by Laird of Ardkinglas, 363; trial, 391; Jo., II. 517; III. 12, 14, 22; King's Lieutenant in Yla, 364, 370; Archibald, brother to Laird, 553;—Captain of Carrik, Dunc., 233;—of Clewis, Ja., I. * 84;—of Dowchall, Geo., I. 46;—of Clovingall, Dav., * 58;—Mr Dougall, Dean of Brechin, 285;—of Easter Denhead, Da., II. 63;—of Glenurquhar, (Glenorchy,) Jo., * 223; Sir Duncan, 282; Colin, yr., II. 433; Robert, son of Sir Dun., slays Duncan Abroch MacGregor, and others of the Clan, at the Chase of Ranefroy or Fight of Bintoich, III. 112; Colin, yr., 233;—of Glenfionne, Arch., I. * 223; Colin, 260, 263, II. 403; Dunc., Murder, &c. III. 481;—of Glenco, I. 263;—of Horsclenche, Geo., (Cha.?) II. 128; Charles, 129, 426; III. 54;—of Gelt, Geo., II. 406;—of Glenfalloche, Ro., III. 233; Hereschip and burning of his property, *ib.*;—of Innerlevene, John, I. 68;—Commandator of Halywod, Tho., II. 507;—Hew, (son of Commendator of Halywod.) Slaughter, II. 507;—Mr Jo., Justice-depute, I. 366;—of Garallane, Hew, III. 54;—of Innerlewir, Dunc., I. 391;—of Glencarradale, Arch., III. 481;—of Inmerraw, Tutor of, II. 62; Mr. Jo., Jesuite, resetting, III. 371; Ro., Slaughter, 465;—of Kinzeanclenche, Ro., I. * 369, * 407, * 485;—of Knoknane, Alex., I. 31;—of Kethik, Pat., II. 63; slays Laird of Gourdie's son, 80;—of Kilberrie, Colin, taken at Dumniovaig by Macgillespie, III. 363; retaken, 364;—of Laveris, Ja., I. * 223; Sir Jo., III. 22; Sir Arch. his brother, *ib.*, 23; Colin, 223; Ja., 233; Sir Ja., 443; Mr Ja., his son, 543;—of Lochbinyell, I. 263;—of Loudon, Hew, slays Earl of Cassillis, * 136, * 148; respited, * 267; remitted, * 242; Mathew, younger of, * 352; Sir Hugh, * 403, * 428; Sir Math., * 455; Hew, fend with Laird of Calder, &c. 352;—of Lundy, Sir John, * 168, * 185; Ambassador to Flanders, * 243, * 276; to the Emperor, * 306, * 307; Colin, II. 63;—of Muretoun, Jo., slain, I. 264;—of Persie, (Persar,) Arch., I. 263; II. 63;—of Shaokstoun, John, I. * 11; Ro., * 83; Jo., * 405; Ja., * 491; Jo., II. 106; Geo., yr., Slaughter, 461;—of Skeldoune, Geo., I. 20; Cha., 31;—of Skellingtoun, (Skerrington,) Alex., I. * 82; Cha., * 352; II. 426;—of Skipniche, Arch., marries Lady Glammis, I. * 188; falls over rocks of Edr. Castle, and is killed, * 194; Jo., * 382, * 386;—of Soutarhouse, Wm., slain, I. 264;—of Terrinzeane, Sir Hew, II. 109;—of Walwoid, Wm., II. 426; slain, III. 54; the Laird of Birnok and his son beheaded, for that slaughter, 58.
- Canongate, daft Queen of, I. * 124.
- Canochson, of Dumniovaig and Glynnnes, Alex. John, Fireraising, &c., I. * 246; James's brother, * 305;—Alex., * 278;—Jo., * 281.
- Cannell, what, III. 100.
- Cant of the Grange, Mr Jo., III. 574;—of Wastmylne, Walt., 475.
- Canna, burnt, I. 228.
- CANTERBURY, ARCHB. of, Geo., II. 262; his Account of Sprott's Trial and Execution, *ib.*, &c.; Baneroff, 586.
- Cannane of Killochie, Jo., III. 229.
- Captive, Taking, I. * 171, * 205, * 437; II. 423, 450; III. 552;—and strangling, 553.
- Capons, price at Justice-aires, I. * 389.
- Carcere*, carrying a man *in privato*, III. 479.
- Carbraithe, Mr. Wm., Perjury, &c. See Galbraithe.
- CARDINAL, The. See Beaton.
- Cardines, Lady, oppression of, I. * 52.
- Cards, playing, I. * 310, &c.
- Carey, Sir Jo., governor of Berwick, III. 316.
- Carkannis, I. * 299. See New Year's Gifts.
- Carkettill of Fyngleme, John, stealing a gold chain. I. * 336;—of Marcle, (Markill,) Jo., I. 10; Pat., Mutilation, &c., II. 456; III. 134.
- Carlisle, English Herald, I. * 275, * 276, * 278;

- Castle of, broken into by Laird of Buckleugh, and Kinnont Will freed from irons, I. 363; redress demanded by Queen ELIZ. 361, 365;—LORD, presents a horse to the King, I. * 300.
- Carmichael of Balmadie, Dav., I. 60;—Eliz., mistress of K. JAMES V., I. * 311;—of that Ilk, (Laird of,) remitted, Wm., I. * 243; Jo., * 323, * 386, * 426, * 437; Jo., yr., 8, 72, 119, 122; Sir Jo. resigns Wardenship of the West March, 275, 350; II. 11, murdered, 363; Armstrong hanged in irons, 364;—of that Ilk, Alex. Armstrong of Rowaneburne, hanged, 504; Sir John, Capt. of Crawford, I. * 87, * 311; III. 480;—of Meadowflat, Jo., I. * 229, 48; Sir Jo., III. 392, 480;—of Pityshaw, Ja., II. 105, Jo., yr., 491;—of Rowntreicross, Wm., I. 119; II. 1; III. 54; Wm. yr., 139;—of Spoth, (Spott,) Jo., III. 123; Ja., his son, slain, *ib.*;—of Vderine, II. 517; Ja., his son, slain, *ib.*;—of Wrightislands, Gavr., I. 149.
- Carstairs, Jo., false weights and measures, 88; absurd vacillation of J. VI. in granting and recalling precepts, *ib.*, &c.
- Carmylie, Ro., hanged for Falsing, I. 87.
- Carneburgh, (Carnebog,) siege of, I. * 121, * 231.
- Carnebye, Wm., Adultery, I. 13.
- Carnegie of Colluthie, Mr Dav., I. 242, 304;—of that Ilk, Jo., I. 297, his daughter carried off by Ja., son of Lord Gray, *ib.*;—of Kinnaird, Ro. I. * 180; Sir Jo. 27;—of Seatoun, Jo. I. 27.
- Carpentys, (Fr. *Carpentu*?) I. * 310.
- Carrick, Bailie Court interrupted, I. * 58;—Castle of, Lochfyne, III. 233.
- Carschore (Garthschore) of that Ilk, Jo., III. 345.
- Carruthers of Dormout, Jo., slain, III. 472; Frahis brother, *ib.*;—of Holmends, (Howmaynes,) John, Feud with Laird of Closeburn, I. * 430; II. 559; Jo., Slaughter of Laird of Raskarrell, III. 115;—of Mousewald, heirsch found caution not to marry a traitor or 'brokkin man,' I. * 434;—of Rammerscaillis, Jo., III. 436;—of Wadfute, Jo., III. 477;—of Warrambie, Cha., Slaughter, II. 475; Wm., hanged for Burning Newby, Slaughter, &c., I. * 60.
- Cartels, III. 504, 505. See Duel and Singular Combat.
- Cartherhaugh, Hereschip of, I. * 37.
- Carting, punishment of, II. 401.
- Carvers, the King's, I. * 313.
- Carnall, Laird of, I. * 457. See Wallace.
- Casar, Francis, Italian, I. * 375.
- Caschielawis, (or caspicawis,) an instrument of torture, I. 375, and *note*.
- Cashett, King's, II. 597; III. 425, and *note*.
- Cass, passionate, III. 249.
- Cassaņeis, Raphael, Spaniard, I. * 315, * 320, * 123.
- CASSILLIS, EARL OF, DAVID, Just. Depute, I. * 87; Gilb., * 191, * 199; Slaughter, * 130; Slain, * 136; Oppression, * 181; Gift of his moveables escheated for Wilful Error, * 142; Slaughter of, * 242; passes in Pilgrimage, * 245; Treason, * 271, * 339, * 384; Treasurer, * 417, * 453, * 454, * 156; Hew, 30, II. 39; Jo., 461; Feuds with the Keenness, III. 124, &c. 171; Bond betwixt him and his brother as to Murdering Laird of Auchindrayne, 622;—Tutor of, (Abbot of Crossragwell,) I. * 245; Tho., 472. See Kennedy of Culzeane;—COUNTESS OF, Marg., I. 119; Jean besieged by the Muirs, &c., in Auchinsoull, which they burnt, III. 177;—MASTER OF, I. 94; Tho., 141; Hew made prisoner by Laird of Drummuqrahie, after burning of Auchensoull, III. 178; bond betwixt E. of Cassillis and his brother to murder Laird of Auchendrayne, 622.
- Casting a boy into the fire, I. * 59.
- Casting down a Mill, I. * 179.
- Castleary, Laird of, slain, I. * 149.
- Cathkyn, Ja., librar, (bookseller,) III. 66.
- Catslack, Cap. Ja. Stewart, (E. OF ARRAN,) slain there, III. 66.
- Cat, baptized by Witches, I. 218; a very remarkable instance, 237; Witches assume shape of, II. 524; drawn through a 'cruik,' 542; Christened, 543; Witches take form of, III. 605, 607, 611, &c.
- Cattle-stealing, I. * 27, * 28; M-Clellan of Gilestoun beheaded, I. * 64; Pott, hanged, I. * 87, * 171, * 218; barbarous slaughter of, * 336;

- houghing, * 431; and slaying, * 433; cutting the backs of, * 455; Stealing, Wm. Donald, hanged, 45; and Perjury, Arch. Croser, hanged, 111; Battiesons, hanged, II. 443; Beirope of that ilk, II. 515.
- Cattle, bewitched, how restored, I. 238.
- Cattle, houghing of, I. * 103, * 431, * 433; cutting their backs, * 455.
- CATHCART, LORD, Allan, I. * 333, 88, 178; II. 106, 572;—of Carbeistoun, Allan, I. 72, 101;—of Carleton, Robert, mutilated, I. * 336, * 343, * 350; Jo., * 457; II. 106; III. 171; Jo., yr., *ib.*;—of Clowlynan, Allan, * 74;—Ro., writer, slain, II. 109;—of Drummisnodane, Wm., I. * 458;—of Drumgowane, (Drumjowan,) Allan, I. * 58, * 458; II. 110; III. 180;—Kirk of, attempt to restore Popery at, I. * 450;—Ro., writer, slain, II. 109, 445;—of Waterhead, Wm., I. * 458;—of Woodhead, Wm., I. * 458.
- Caton, King's, I. * 313.
- Cauld at Baptisms, I. 3, * 302, * 309, &c.
- Caution found by an heiress not to marry a Traitor or 'broken man,' I. * 434;—Borderer's surety taken, * 467.
- Caution of 'Colleraith,' what, I. 23, 186.
- Caverhill of Foulage, Jo., I. * 87.
- Cecil, Sir Wm., Englishman, I. * 510; Sir Ro., Secretary of State to Q. ELIZ., II. 313; his death, 581, and *note*.
- Cedrons and garnets for the King, I. * 320.
- Ceremonial of touching Murdered Corpses by persons accused or suspected of the crime, III. 184; opinions of ancient and modern authors, 182, 187.
- Ceremonies, Master of, III. 558, 595.
- Ceremony, singular, at meeting of Makconneill and Coll M'Gillespie, III. 20.
- Cesfurd, Laird of, Warden of the Marches, I. * 264. See Kerr.
- Chains, gold, of KING JAMES V., I. * 292, * 295; great gold, * 301, * 302. See New Year's gifts, * 321; one of xvij ounces. * 322;—stealing a gold, I. * 336; and pearl, &c., III. 564.
- Chains, hanging in, I. * 137, * 358.
- Chalices, Eucharistic, &c., spoliation of, I. * 353. See Reformation.
- Challenge, Judicial, of the Master of Forbes as a Traitor, I. * 185; III. 505, &c. See Duel; Singular Combat.
- Chalmer of Antique Historie, (Tapestry Work,) I. * 312;—of dace, (dais,) II. 341;—Yeomen of the King's, * 313; Grooms of, *ib.*;—of Drumlochie, Wm., * 371; II. 63;—of Fedderauche, Wm., I. * 470;—of Gaitgirth, Ja., * 428;—of Seggydene, Wm., * 452;—of Strathie, Dav., * 88;—of Tulykerye, Tho., * 470.
- Chalmers, (ordination,) I. * 306.
- Chamberlain, King's, his Jurisdiction, II. 91.
- Champan; see, French Herald, I. * 268.
- Champion, the King's, (Kemp,) I. * 271.
- Champley, Sir Rich., I. * 122.
- Chamrone, Jo. Moir M'Eane Chere, and Duac. Moir M'Eane, Slaughter, &c., beheaded, III. 537. See Cameron.
- Chancellor of Quodquene, Wm., I. * 169; acquitted of Slaughter, * 175;—of Scheilhill, Ro., II. 474.
- Chandelaris, for the PRINCE'S Chapel, I. * 306.
- Chapel-Royal, Oppressing Sacrist and Sub-dean of, I. * 96; stand of cloth of gold for, * 297; 'geir' for, * 320.
- Chapel-graith, * 278; reliques, *ib.*, * 308.
- Chaplane, Peter, hanged for coining bawbeis, I. * 364.
- Chariot, Queen MAGDALENE'S, I. * 291; Queen MARY of Guise's, * 293, * 320.
- CHARLES IX. K. of FRANCE, Embassy from, at K. JAMES VI. Baptism, I. * 479;—PRINCE OF WALES, III. 502; Duel in Flanders between his Tutor, Capt. Bruce, and Capt. Hamilton, *ib.*
- Charletoon of Emmetishauch, Will., III. 568;—of Hislesyde, Wm., 569.
- Charming, III. 508, &c. See Witchcraft, Sorcery, &c.
- Charms for Witchcraft, &c., remarkable, to take life of K. JA. VI., I. 218; for healing diseases, 230, 237; corpses disinterred and 'junted' to prepare, 233, 237, 239; baptizing a cat, 218; another remarkable instance, 237; charm to allay birth-pains, *ib.*; bewitched cattle, how restored, 238;—to take away a man's life, *ib.*; by E. Bothwell, to take

- King's life, 240; with a toad to take the King's life, 245; shirts, clothes, &c., 250; 'boird-stane,' 252; wheat, worsted, &c., II. 25; worts, woodbine, &c., 26; dipping shirts, slaying a redcock, and baking a 'bannock' with his blood, *ib.*, and 27; South-running water, *ib.*, and 422, III. 556; firing water, burning straw, &c., *ib.*; garland of woodbine, 27; broom and camomile, *ib.*; quicksilver, 28; nettles and 'alschinder,' *ib.*; salt water, *ib.*; live coal, *ib.*; sheep's dung, *ib.*; 'Spain'ie seed, 29; roasting a goose with 4 or 5 kittens sewed in it, *ib.*; Ja. Reid, 421; grease, *ib.*; raw flesh, 422; silk points, *ib.*; wax picture, *ib.*; hair belt, with Devil's 'clawis,' 478; 'sayneing and croceing,' *ib.*; 'tail'ie of raw inchantit fle-fche,' 524; drinking with the Witch, 526; charmed water, 536; charms for witched cattle, *ib.*; 'Rowne-trie,' *ib.*; cakes of 9 'curneis' of meal got from 9 'maryit madynniss,' 537; fochsterrie leavis, 538; coloured silk and worsted, III. 511; drawing 9 times backwards and forwards by the leg, 554; hasp of yarn, &c., *ib.*; red-hot coultler of a plough, 557; burning a live fowl, *ib.*; unchristened child, 603; a remarkable series of charms and superstitions, *ib.* to 618.
- Charter, Forging, erasing, and falsifying, I. * 387; a Notary and two others hanged, II. 104.
- Charteris (Charterhous) of Amisfield, Jo., I. * 88; Ro., * 148; Feud with Laird of Kirk-michael, * 132, * 166; Jo., 97, 304; Sir Jo., II. 509;—of Astrowane, Ro., I. * 455;—of Cutlilgurdy, Patriek, Fire-raising, &c., * 141, passes in pilgrimage beyond seas, * 244;—of Kinfaunns, Tho., using a forged Instrument, * 222; Jo., Feud with the Laird of Balthay-ock, * 424.
- Charterhouse of Perth, Prior of, II. 166.
- CHATELERAULT, DUKE OF, Ja., I. * 439; Intercommuning with, * 466, * 478; III. 390.
- Chaud-mele*, III. 579.
- Chekkar-hous door, Usher of, I. * 316.
- Chennen of Chennentounn, Ro., III. 9.
- Chepman, Walter, printer, I. * 118.
- Chere, mouse-coloured, III. 537, &c.
- Chess, game of, I. * 263.
- Chestanis, III. 570.
- Chesting, or confining, ceremony of, III. 197.
- Cheyne, Alex., beheaded for Perjury, Oppression, &c., II. 453;—of Arnage, Wm., I. * 470;—of Essilmouthe, Pat., I. * 470, 286, 375, 382; II. 394, *note*;—of Pennan, Ja., Rapt and Ravishing, Besieging House of Auchmedden, &c., II. 394; Banished, 400;—of Straloch, Ja., I. 286; feud with Laird of Barranch, 353, 382; II. 41, 423.
- Cheys-wayme, I. 173.
- Chipre, King of, I. * 277;—Prince of, * 278.
- Child, unchristened, III. 603;—forespoken, 610.
- Child-Murder, I. * 412, * 421; Meg Dow burnt, 186; Jonet Pollok, *ib.*; Issobell Pratt, hanged, 371; Agnes Cowan, hanged, II. 402, 463; Issob. Thomson, hanged, 540; Jonet Brown, hanged, III. 269; Bessie Duncan, hanged, 430. See Murder.
- Chirnesyle of East Nisbet, Sir Pat., a remarkable case of Forcible Abduction of the Laird of Thornydykes, (14 years old), and marrying him to Jean, his daughter, III. 402; Alex., yr., 414;—of Posso, Da., 250.
- Chisholme of Cronlix, (Crumlecks,) Ja., I. 28, 173; Sir James, II. 569, *note*;—of Dundorne, Sir James, I. 267; denounced, 283; offers presented by him, 301; II. 569, *note*;—Ja., Commandator of Inchaffray, I. 267;—of that ilk, Geo., * 133; III. 391, 396;—Mr Jo., Jesuit, I. 328, 329, &c.;—Wm., 331;—Wm., Bishop of Vaison, II. 569;—B. of Dumblane, *ib.*, *note*, 575, &c.
- Christeson, Friar John, Heresy, &c., I. * 407.
- Christie, Ro., E. of Gowrie's porter, his Deposition, II. 187; And., Forcing (Rape) and shamefully abusing, III. 439.
- Churches, Parish, destroyed, I. * 353. See Information:—Witch-meetings and initiations held within, and in consecrated ground, III. 603 and *note*, &c.
- Clairschaw, a kind of harp, I. 282.
- Clam-she-l of silver for the King's hawks' meat, I. * 305, * 320, * 322.
- Clan-Auveriche, II. 432; III. 537;—Buchanan, barbarous torture, &c., III. 345;—Cameron, Captain of, I. * 355, fire and sword against,

- 280; II. 432. See Chamrone;—Donald, III. 1, 19;—MacFarlan, murder Sir Hum. Colquhoun, &c., II. 431; two of the Clan slain, barbarous torture of a Buchanan, III. 545;—Gregor, I. * 164; Commission of fire and sword, 282, 289; Murder and Reiff on Laird of Lusse's lands, II. 413; Intercommuning with, 414; seven score persons murdered in the Lennox, 315; 3 persons hanged, *ib.*; Field of the Lennox, or Conflict of Glenfruaie, 430, &c.; Fight of Bintoich, or Chase of Ranefray, III. 112; Jo. McEwin and 4 MacGregors hanged, 115, &c. See MacGregor;—Intercommuning with, II. 414, 456; III. 112, 232, 254, 437, 537;—Gun slay the Laird of Duffus, I. * 149;—Hamerone, II. 432;—Ian Averiche, (Clan-Anveroche, or Abroche,) 432; III. 537;—Lawrene, II. 440;—Layne, I. * 106; Feud with Clanrauald, I. * 169; III. 1;—Qulhattane, I. * 81; * 243; fire and sword against, 280;—Rauald, Feud with McLeans, I. * 169; Captain slain, 33; fire and sword against, 280; Captain of, III. 19, 25, 542;—Tarlich, 19.
- Claus of Armstrang, Tail;our, and Clans of Liddisdale (then in Debateable Lands and in the Woods) respited for a year, I. * 235; Clans to keep 'guid reule,' 302; Armstrang, II. 504.
- Clarencieux, English Herald King at Arms, I. 264, * 270.
- Clark, Jonet, Witch, 'wirreit' and burnt, I. 206.
- Clasnesie, Sea of, Assint, III. 489.
- Clay figures, made by Witches, to torment or take away life, III. 605, &c.; how used, *ib.*
- CLEMENT VIII., POPE, II. 570.
- Clelland (See Kneilland) of Fermlaw, Ro., III. 429;—of Fessauch, Jo., I. 71;—of Monkland, Sir Ja., Resetting Jesuits, III. 376.
- Clephane of Carslogie, I. 60, 309;—of Pitcorphy, And., 60.
- Cleuge, to pronounce a verdict of innocence; to 'assoilzie' or acquit a pannel, II. 155, &c.
- Cleuche, what, III. 383.
- Clipping and cutting coin, I. * 233.
- Clifford, Sir Tho., I. * 189; Letter to K. HENRY VIII., * 198.
- Clock. (See Knok.)
- Cloaks, velvet, &c., stolen, III. 541.
- Closeburn, Laird of, I. 178. See Kirkpatrick.
- Cloth of Gold, presented by King of England, I. * 266; given to English Ambassador, * 273, * 289; Coronation Robes, &c., * 301.
- Cloths of State, I. * 320.
- Clout, black, a woman burnt for 'casting of Wichcraft,' with a, I. 400.
- Coal-pits, Fire-raising in, III. 361; Jo. Henrie hanged, and his head fixed on a spike, *ib.*
- Coat-armour, to Heralds, I. * 301.
- Cochrane of Balbachlaw, Ja., I. 27, 155, 169;—of that ilk, Jo., I. * 150; Wm., 133; Alex., III. 377;—of Pitfour, Jo., I. * 88; Da., 279.
- Cockburn of Clerkingtoun, Tho., I. * 169; Mr. Rich., yr., Secretary, 267, II. 10; Sir Rich., 274, 496, 568; III. 208, 312; Lord Privy-Seal, 418;—of Choslie, Wm., I. * 223; II. 441;—of the Glenne, Jo., I. * 424;—of Henderland, Wm., beheaded, I. * 144, * 270;—of that ilk, Wm., I. * 147; Alex. 107;—John, Piracy, I. 93;—of Langtoun, Ja., I. * 134; John, * 366, * 480; Ja., 35; Pat., Tutor of, 190, 265; II. 98;—of Newbigging, Pat. I. * 143;—of Newhall, I. * 143;—of Newholm, Jo., I. 190;—of Wester Newton, Jo., I. * 473;—of Ormiston, Wm., Oppressed, I. * 140; John, * 171; breaks ward from Edr. Castle, * 334, * 339; John finds caution, * 486, 107; Sir Jo., Justice-Clerk, 261, 267; Clerk-Register, II. 3, 367, 442; his marriage, 459; Justice-Clerk, 581; III. 87, 208, 312; resigns his office, 558; Singular Letter in regard to, 595;—Mr. Ro., Justice depute, II. 521;—of Scraling, (Skirling,) Sir William, Stouthrief, I. * 25; Slaughter and Mutilation during Parliament, 26; Wm., Stouthrief, &c., I. * 174; remitted, * 249, * 453, * 455, * 473; Keeper of Edr. Castle, * 479, 71, 190;—of Templehall, Mr. Sam., I. 149;—of Trettonne, Dav., I. * 137;—Will., Hamesucken, I. * 15; Stouthrief, Killing Hares, &c., *ib.*
- Cocleus, sends a book to K. JAMES V., I. * 284.
- Cockpen, Poor's-box stolen, II. 387.
- Coena Domini, I. * 263. (See Bedesmen.)
- Coffer, stealing one with writings, II. 93; Grissell Mathow drowned, and her accomplice scourged and banished, 94.

- Coffining or chesting, ceremony of, III. 197.
- Cokkie, Ja., Treason, hanged, I. 45.
- Cokkyzeis, Collar of, I. * 265.
- Coining. See False Money, Uttering, &c.
- Coin, clipping and cutting, I. * 233.
- Coinſie-house, Mint, II. 399, &c.
- Coiners, false, I. * 324, * 440. See False Money, Forging, &c.
- Colpna, Laird of, Slain, I. * 470.
- Colpland of Udauche, Tho., I. * 150.
- Collese of Balnamoon, Ro., his tenants oppressed by citizens of Brechin, I. * 431;—of Pitforquhie, Tho., a man banished for hurting his ox in the plough, II. 127.
- Colquhoun of Camstrodane, Ro., I. * 451; Jo., yr., II. 426, 432; Adam and Ja. slain by MacGregors, 432;—of the Glenne, Pat., I. * 42;—of Kirkcoun, Tho., I. * 150;—of Luss, Sir John, I. * 78, * 170, * 178; besieging Dumbarton Castle, * 236, * 344; Jo., * 451, * 453; Alex., 289; Feud with Lord Levingston, &c., 352; Laird of, slain by Jo., his brother, who was beheaded, 359; Murder and Rieff by Laird of Macgregors, II. 414, 418, 419, 430. See Field of Lennox; Alex. 418; Sir Humphrey Murdered, 431; Sir Alex. *ib.*, 540; III. 318; Alex. 537;—of Barnehill, Walt., slain by MacGregors, II. 432; Jo., *fiar* also slain, *ib.*;—of Traseill, Pat., III. 250.
- Colville of Blair, Mr. Alex., Justice-Depute, III. 508, &c.;—Alex., Commendator of Culrose, II. 527;—Mr. Hary, Parson of Urquhart, slain, I. 386; Gilb. Pacok beheaded, 388; Master of Orkney outlawed, 392; Sir Pat. Bannatyne of Stenhouse, &c. 393; Wm. Bannatyne of Gairsay, &c., acquitted, 397; Mr. Alex., (of Blair,) Justice-Depute, II. 527; declination, III. 422; remarkable Letter from him as to appointment of Justice-Clerk, 595;—of Ravinmiscraig, Wm., Oppression done to, I. * 32, * 87;—of Strathurdie, Mr. Jo., I. 270;—of East Wemyss, Treason, &c., I. * 255, * 257, 148; Ja., Treason, 278, 320, 409, *note*;—of Uchiltrie, Sir Wm., I. * 32, * 33; slain, * 65, * 68; Sir Ja., I. * 167, * 172, * 185.
- Coldinghame, Abbey of, Spuilzie of Teind-sheaves, I. * 208; demanded of the Pope for a natural son of K. JA. V., * 311; ordered to be defended, * 324; Prior of, John, natural son of K. JA. V., I. * 311; Raid of, I. * 331; besieging Place of, * *ib.*
- Collerayth, caution of, I. 23, 186.
- Collars given to KING JAMES V., 'Cokkilzeis,' I. * 215; the Empriouris, I. * 277; invested with Order of the Garter, * 283, * 289; the Golden Fleece, *ib.*; St. Michael, *ib.*; of Steel, (armour,) I. * 317; to deer-hounds, of purple velvet, with gilded chains, &c. I. 312.
- Collier, King's, I. * 313.
- Colour of Evil Spirits' Dresses, &c. III. 606.
- Colkitto, (Coll Keitach,) III. 25.
- Colstoun, Tho., Englishman, slain, II. 539; Alex. Keith beheaded, 540.
- Colbrandispath, House of, taken, I. * 237.
- Colping, I. * 230. See Forestalling, &c.
- Colt, Mr. Oliver, yr., Justice Depute, II. 562.
- Comerie, house of, burnt, and Ja., the Baron's brother, slain by the MacGregors, III. 537.
- Combat, Judicial, (under a Special Licence,) I. * 185, *note*, &c.; Bruntfield and Carmichael, II. 113, *note*, III. 164;—Singular, II. 112. See Duel.
- Comeray, Isle of Little, I. * 232.
- Compter, the King's, I. * 315.
- Congiltoun of that ilk, Henry, I. * 85, * 159; assisting Lord Hume, * 241; Robert, * 369; Robert, yr. of, slain by poison, * *ib.*; Pat., 107; Wm. II. 343;—Tutor of, I. * 366; Hen. Langside, 5;—Mass and Sacraments in Popish form celebrated at Place of, I. * 428.
- Congil of that ilk, Pat., I. 154.
- Con of Auchry, Wm., I. * 453; Pat., 389, 390; II. 94; III. 444.
- Conspiracy, Master of Forbes, beheaded, I. * 183;—LADY GLAMMIS, beheaded, * 187, &c. See Forbes and Glammis; JOHN EARL OF GLAMMIS sentenced to be hanged, * 198; acquitted and restored by Parliament, * 199;—to seize on person of Mary Queen of Scots, * 461;—against the Regent, 32, 40, 70. See Bothwell, Falkland, Witchcraft, &c.;—against Protestant Religion, 310. See GOWRIE, &c.;—Concealment of, I. * 198, 199; John Lyonne beheaded, * 202; Alex. Makke banished, * 203;—Geo. Sprott for Gowrie's Consp., 256;

- hanged and quartered, 259; Execution, and behaviour on the scaffold, 260, &c.;—against King's life by Witchcraft, I. 209, 230, &c. See Witchcraft, &c.
- Convocation of the lieges, I. * 201, * 203, * 206, * 207, * 238; in Orkney, and Slaughter of EARL OF CAITHNESS, * 253; in Cupar-Fife, * 367; at Elmsdene Water, by Earl of Caithness, * 395, * 409, * 410, * 413; in Edr., * 436; in fenced Sheriff Court of Ayr, * 456; of an unlawful Assembly, II. 3.
- Convocation of Witches. See North Berwick, &c.
- Connell, Ja., and 12 others, forfeited for abiding from Raid of Stirling, II. 85.
- Conjuration, Witches', for healing Diseases, I. 230, 237; III. 608, *et seq.*
- Confession extorted by 'waking' Witches, &c., I. 50; Ogilvie, a Jesuite, III. 331, 332.
- Consecrated ground, Witch-meetings held there, and in Churches, III. 603, and *note*.
- Constable, Lord High, his Jurisdiction, I. * 351, * 476, 98; II. 91.
- Conspeckell, II. 99.
- Corbet of Ardbo, (Arboill) Jo., II. 555.
- Corroche, hasty, precipitate, III. 249.
- Coroners, I. * 418, &c.
- Corn, stealing, III. 564;—exporting, I. * 365;—burning, * 127, * 375, * 405; And. Thome-soun burnt, 70, 110.
- Corriche, Battle of, I. * 183.
- Coronation of KING JAS. IV., I. * 114; Queen MAGDALENE, * 287; of Queen MARY of Guise, * 299, &c.; new Crowns, *ib.*; Lords and Ladies warned to attend, * 300.
- Corpus Christi Play, I. * 121.
- Corpses disinterred by Witches, and 'junted' for charms, &c., I. 233, 237, 239; of Traitors disinterred, and bones produced at Forfeiture, II. 241, 246, 277, 405; inspected by Surgeons, to report if deceased died by wounds, III. 62; Superstition as to the Murderer's touch causing the corpse to bleed, III. 143, 165; curious illustrations of, 182, &c.; corpse of a murdered man raised and inspected seven days after his burial, 574.
- Corry of Kellwood, Tho., I. * 86, * 127, * 138; Geo., * 457, 89; Jo., II. 106; III. 172;—Laird of, I. * 62.
- Cornwall of Bonhard, Nich., I. 268;—Arch., Exhibiting King's picture on the gibbet, II. 349; hanged, and his body exposed 24 hours with a paper on his forehead, 351; gibbet taken down and burnt, *ib.*
- Corstorphin, College of, I. * 333.
- Cordiuer, King's Master, I. * 315.
- Covens, Witches', consisted of 13 in each, III. 603, &c.; each had a Maiden and an Officer, 605; grand meetings, 606.
- Covantoune, Burning and Hereschip of, I. * 26.
- Cousland, Burning of, I. * 141.
- Courschet, what, II. 392.
- Cook, King's Master, I. * 310, * 313; Court, *ib.*; Stealing from Queen Dowager's chief Cook, * 406.
- Coulter of a plough, Witch-charm with, III. 557.
- Cowper, Justice-aire of, I. * 272;—insurrection against the Bailies, &c., I. * 367;—man burnt for Heresy, I. * 297;—Magistrates of, assisting E. of Bothwell, I. 310;—LORD, JA., II. 600, *note*.
- Cowart, Capt., English Pirate, III. 100.
- Cowdene, Sir Ja., false Notary, I. * 459.
- Cowie, Army at, I. 175;—Pat., and four others, starving a man to death *in privato carcere*, III. 479.
- Cradle, State, PRINCE JAMES'S, I. * 302.
- Craftsmen, Insurrection of, against Bailies of Cupar, &c., I. 367.
- Craiganis, Laird of, slain, I. * 44.
- Craigy, Tutor of, respited, I. * 237;—Lady (Jonet Logan), pension to, * 305, * 312; Dule dress to, * 320.
- Craiginche, Burning and Hereschip of, I. * 246.
- Craignethan, Castle of, keeping, I. 316.
- Craig of Craigisfintay, Jo., I. * 454; his wife's Incest and adultery, * 459;—of Craigistoun, Wm., II. 61; Slaughter of the Laird of Carnehill, 105;—fortalice of, ordered to be demolished, I. 348;—Jonet (aged 11), ravished, II. 566; Jo. Errole, hanged, 567;—Tho., Justice-depute, I. * 477, &c., I.; Sir Lewis, II. 568.
- Craig, the throat or neck, III. 573.
- Craingelt of that ilk, John, I. * 216, * 339; he and his son Robert mutilated of their left arms, * 383; Tho., III. 268;—Geo., tried for Gov-

- rie's Conspiracy, II. 151; hanged, 155; his Deposition, 157, 246.
- Craill, Magistrates of, assisting the E. of Bothwell, I. 310.
- Crames of Edinburgh, I. * 416.
- Cranstoun of Burnecastle, Alex., III. 402; remarkable case of Forcible Abduction, &c., *ib.*, 413;—of Corsby, Jasper, I. * 147; Pat. III. 69; Jo., his brother, slain, 222; Tutor of Thornydykis beheaded, *ib.*; Gilb., uncle to Laird, hanged for Stouthreif, &c., 252; Pat., 569;—of Maynis, Cuth., I. * 337;—of Duddis, Cuthb., Assisting the English, * 338;—of Doddo, Sir Wm., Slaughter, 20;—of that Ilk, (Laird of,) Destroying Woods in Ettrick Forrest, * 71; John, * 147, * 166, * 167; * 336; Wm., * 414; houghing and slaying cattle, * 433, * 434; Jo., 20; Mr Wm., yr., feud with Laird of Edmonstoun, 353, *ib.*; Gilb. Lauder slain, 362;—Sir Jo., Resetting a declared Traitor, II. 124; Mr Tho., his brother, hanged for Gowrie's Conspiracy, 155; his Deposition, 156; behaviour on the scaffold, 155, *note*, 246, 506; Wm., III. 391; Tho., 396;—of Ladyside, Wm., I. 84.—LORD, Wm., III. 226; Jo., his brother, 402; proceedings in duel between his son Ja. and Sir Gideon Murray's son, 505; with E. of Lothian, 507;—of Mains, Cuthbert, Assisting the English, I. * 337;—of Monktonhall, Ja., II. 467;—of Morestone, (Mureistoune,) Tho., I. 107, 270, 306; Resetting him, when a declared Traitor, II. 124, 517; Jo., III. 116; Jo., his son, remitted, *ib.*; Alexander, 410, 539;—MASTER OF, Jo. 414;—of Skattisbuss, Richard, Murder of David Riccio, I. * 486;—of Thirstestanemains, Cuthbert, * 451; III. 396;—of Thornydykis, Jo., III. 539;—Sir Peter, pursued for his Slaughter, I. * 400; Mr Tho. See C. of that Ilk. and GOWRIE;—Sir Wm., II. 517.
- Craw of Restoune, Geo., I. * 139.
- Craudoche, what, II. 437.
- Crawford of Auchincross, Geo., I. 49;—of Auchinsoull, Dunc., III. 479; his house burnt and Countess of Cassillis, &c., besieged therein,
- ib.*, &c.;—of Auchinvie, Hew, I. 49;—Tho., of Auchnanes, * 205; * 164;—of Baithlem, (Baidland?) Aud. 58; of Barquharrie, Andrew, III. 475;—of Beircrofts, II. 105;—of Beaux, George, I. * 84;—of Birkhead, * 331;—of Camlrag, Jo., invaded in a fenced Sheriff Court, in Ayr, * 456; Assaulting in the same Court, * 458, 49, 72;—of Caverhill, Ro., II. 454;—of Clolellane, Robert, I. * 405, * 457;—of Corbishill, Edward, 205;—of Crawfordland, John, * 385, * 420, * 428;—Tho., Captain of Crawfordjohn, remitted, * 254;—of Craiglyncse, Jo., 19;—COUNTESS OF, Mariota, and 18 others, Oppression, &c., * 178;—of Drongane, Jo., * 74, * 88, * 136, * 137, * 150; Insurrection, &c., * 204, * 242, * 369;—of Drummiskoy, Wm., * 458, 71;—EARL OF, John, I. * 78; David, * 185, * 198; Alexander, dies, * 266, * 270; Treason, * 271; David, * 408, 75; slays the Lord Chancellor Glammis, 79, 85, 116; High Treason, &c., 171; feud with Laird of Guthrie, 352; eating flesh in time of Lent, 369; II. 274, 380, 396, 574; III. 15; Slaughter of Laird of Balgawais, 248;—of Farme, Gawin, 87;—of Fedderett, Geo., 206;—Feud with Kemedies, * 150;—of Giffertland, * 331;—of Haining, Archibald, * 132;—of Heidmark, Jo., 49;—of Jordanehill, Capt. Tho., 171; Hew, III. 345;—Ja., goldsmith, barbarously torturing a girl to detect a supposed theft, II. 44;—of Kerse, David, I. * 55; hindering the Court of the Baillie of Carrick, * 58, * 86; Barth., * 130, * 136; * 350, * 458; feud with Sheriff of Ayr, &c., 352;—of Kilbirnie, * 82; Laur., remitted, * 255; Hugh, * 361, * 385, * 451; Jo., II. 508;—Place of, broken into, *ib.*; curious list of, carried off, *ib.*;—of Kerehill, Jo., I. * 150;—of Lefnorijis, (Lochmoreis,) Wm., taking Castle of Lochdoune, &c., * 73; Geo., 136; Geo., 349; Ravishing of Lady Lefnorese, *ib.*, * 369; Slaughter of Laird of Corsintoun, * 82; Geo., * 413, 49;—MASTER OF, David, * 346; Wm., * 347; Da. kills Mr Walter Lindsay, III. 62; is wounded by young Laird of Ed-

- jell and his friends, but recovers, *ib.*;—Nicol of Oxbgangs, Justice Clerk, sworn, I. * 126. * 168, * 272;—of Preveck, Jo., slain, * 170;—of the Schaw, Jo., 72;—of Sillihole, Quint., yr., III. 172.
- CrawfordJohn, K. J. A. V. visits, I. * 310; Tapestry, &c., removed to, *ib.*, * 311; QUEEN there, *ib.*
- Crawford-Mure, Gold mines at, I. * 298; QUEEN'S Crown made of Scottish gold, *ib.*; present of unwrought Scottish gold to Duke of Guise, * 300, * 322. See Gold.
- Creichtoun of Bellibocht, Ninian, I. * 199, * 229; remitted, * 244;—of Brunstoun, * 339; Ja., yr., 169; Jo., 372;—of Blackburne, Jo., * 88;—of Benestoun, 27;—Tho., of Auchnames, * 205, * 164;—of Bodumcraig, Tho., slain, III. 473;—of Conzie, Geo., I. * 329;—of Cranstoun-Riddell, Sir Pat., * 62;—of Crawfordtoun, And., Treason, &c., * 134; Jo., Slaughter, II. 71; III. 247;—of Camnay, Pat., I. * 178;—of Carco, Ja., 191; Mr Ro., II. 71;—of Cluny, Ro., I. 307; Sir Ro., Slaughter, II. 76, 433;—of Drylaw, Wm., I. 393; Alex., 155;—of Darnehauche, Wm., II. 491;—of Elliok, Mr Robert, Queen's Advocate, I. * 408, &c., 13, 47;—of Fedderat, Geo., * 184;—of Forgound, Alex., III. 583;—of Frendraucht, Sir Ja., I. * 126; Wm., his house besieged, &c., * 329, * 455, 209; Ja., 284;—of Hartwode, Jo., * 55;—of the Hill, Wm., III. 475;—of Innernytie, Jo., II. 49, 76; 'Umbeset' by Laird of Bagray, 103; Sir Jo., 105, 112; Mr And., his brother, declines jurisdiction of King and Council, III. 87; sentenced to be *hanged*, 89; banished for life, 90; Ro., his brother, 363, 453;—of Kilpatrick, Ro., slain at the horn, I. * 77; Jo., * 134;—LORD (of Saughar). See SAUGHAR;—of Lugtoun, Pat., 10, 136, 137;—Lady Newtoun, Jonet, Rape of, * 258;—of Naughtane, David, Captain of Edinburgh Castle, * 258;—of Newhall, Alex. * 127, * 174, * 424; hearing Mass, 38, 155;—of Peiltoun, Edw., III. 247;—of the Quarter, Rob., I. * 81; Jo., Slaughter, 190;—of Ryhill, Jo., * 455; Wm., III. 93;—of Ruthvennis Jo., I. 178, * 191; Adam, banished for life for Slaughter, 165; Ja., shooting with pistollets, &c., 371; II. 60;—of Scottistoun, Wm., slain, I. * 172;—of Strathurd, Jo. * 367; Sir Pat., II. 343; Jo., yr., 430;—Sheriff of Dumfries, Ninian, I. * 165;—Tutor of Saughar, Jo., * 397, * 398;—Mr Wm., Jesuite, 311; engaged in trafficking against the Religion, &c., *ib.*, &c.; Letter as to King's correspondence with the Pope, II. 582.
- Creich, Laird of, married to Madame Gressmore, I. * 298, * 297, * 305.
- Cressomis of mailze, I. * 317.
- Crearis, a sort of Highland gally, III. 20, 587.
- Crechdow, Margaret Montgomery, Lady of, oppressed, I. * 57.
- Creation of Earls, Lords, and Barons, Master of Ceremonies at the, III. 558.
- Cristal, King, I. * 274, * 277.
- Crimen Falsi*, I. * 346.
- Crows, Witches take form of, III. 607, 611, *et seq.* See Witchcraft, &c.
- Crowbache, deformed, III. 249.
- Crossar, Andrew, drawn and hanged for Slaughter, Hereschip, &c., I. * 61; Arch, hanged for Cattle-stealing, &c. 111.
- Crowner of Renfrew, hurt in execution of his office, I. * 106.
- Crowns (coins), forged, II. 99.
- CROWN and KING'S Jewels stolen, I. * 133; the QUEEN'S Crown made, * 298; the KING'S Crown made, * 299; Crowns for KING and QUEEN, * 322.
- Crossragwell, Abbot of, Wm., I. * 138; passes in Pilgrimage with Earl of Cassillis, I. * 245.
- Crowne-bennet, order of, (Bachelor's degree?)
- Croque, Monsr. de, I. * 504.
- Crosses, funeral, of white satin for velvet pall, I. * 287; silver for Prince's Chapel, * 306.
- Cross-hows, K. JAMES V., I. * 305. See Archery; maker to the King, * 316.
- Cross, Ordeal of the, III. 184.
- Cross, fyrie, to raise the country, III. 23, &c.
- Crowetts, for Prince's Chapel, I. * 306.
- Crossed, Ordeal of, III. 184.
- Cruickbank of Durlie, Dav. I. * 150.
- Crucifixes, I. * 320.

- Cruikshank, Ro. III. 371.
- Crummy of Carribdin, Pat., I. 270.
- Cutlis, dry, III. 544.
- Cuik, Alex., False notary hanged, III. 418;—of Vrinoch, Wm., II. 394; his daughter Marjorie ravished, Ja. Chene of Pennan Banished, 400.
- † Cul;œouris, 'to be punished, I. * 66.
- Cultellar, King's, I. * 315.
- Culrose, Abbot of, And., I. * 42; Ja., slain, * 151; Alex., 267, 293; II. 527; his son appointed Justice-depute, *ib.*
- Cultermanis, Laird of, I. * 426. See Brown.
- Culverin, double, engraved with the King's arms, Unicornes, Thriassillis, and Fleurdelyces, I. * 325.
- Cumming of Alter, (Altyre,) Alex., Caution for his sons, I. * 227; barbarous Slaughter of cattle, * 336; Feud with the Laird of Brodie, &c., * 356;—Ja., fiar, Slaughter, II. 427;—Ja., III. 258;—of Culter, John, I. * 184; Mr Arch., 87;—of Erneside, Alex., I. * 391;—Jo., II. 41; Wm., fiar, 427;—Wm., III. 75;—the Monk, hanged for false writts, I. 362.
- Cummoris, feuds, &c. III. 404.
- Cumnock, Kirk of, Slaughter of the Laird of Corsintoun there, during Mass, I. * 82.
- Cumray, Remission to Inhabitants, I. * 113.
- Cunache, Laird of, I. * 454.
- Cuneistoun of Etradrour, Geo., II. 63.
- Cuninghame of Akinbar, Wm., respited, I. * 252;—of Auchinamys, Tho., yr., I. * 133;—of Auchinbarvie, Edw., slain, I. * 132, * 133; Ro., * 164; Ro., * 420;—of Barnis, Jo., yr., I. 60; Ja., uncle to Laird, II. 534;—of Bonington, Jo., I. 97; Wm., Tutor of, 379; II. 108;—of Birkschaw, And., I. * 456;—of Bartaneholm, Dav., I. * 137;—of Craiganis, Wm., slain, I. * 44, * 87; Gabriel, * 164; Wm., Tutor of, * 361; II. 390;—of Cuninghamehead, Rob., Oppression, &c., I. * 57, * 164; Wm., * 382, * 420, * 423, * 428, * 450; II. 390;—of Capringtoun, Jo., I. * 137, * 148; Slaughter, * 148, * 164; Mutilation, * 201, * 428; Wm., yr., * 457, * 491, 29; Wm., 91, 355; II. 107, 367; III. 120;—of Camlarg, Jo., I. 19;—of Clovinbayth, I. 69;—of Chapell, Adam, III. 268;—of Craignestane, I. * 456;—of Cochrane, Cuthbert, I. * 385;—of Cloncaird, Wm., I. * 457;—of Croy, Jo., I. * 385;—of Clavanis, Adam, I. * 148;—of Dalbeyth, Daniel, II. 106;—of Dolphingtoun, Wm., III. 365;—of Drumquhassill, And., I. * 170, * 441, * 451, 71; Jo., executed for Raid of Ruthven, &c., 139;—of Enterkin, I. * 457;—of Fenyk, (Fenwick,) Wm., I. * 170;—of Forresterhill, And., slain, I. 95;—of Glangarnok, Wm., I. * 137, * 148; Oppression, * 148; Feud with Sempills, * 164, * 385, * 428; Wm., * 441; Jo., * 451, 69; his 'oy' and natural son slain, 183; Ja., yr., feud with Laird of Houston, 354; II. 367; Slaughter, 389; Sir Ja., III. 9;—of Hacket, (Aikit,) Rob., I. * 137, * 164; Wm., * 420, 17; poisoned by his wife, 80; Alex., 355;—of Knokdone, And., III. 179;—of Kildonnane, Harie, III. 477;—of Lagland, Alex., I. * 148; Adam, Tutor of, * 164; Wm., * 375; Hew, II. 106;—of Mountgreenan, Ro., I. * 358;—of Markinsche, Adam, III. 493;—of Monk-tounhall, Alex., I. * 458;—Provost of Dumbarton, Cuthbert, III. 264;—of Polquhirne, Da., I. * 458; Alex., 355; Wm., II. 130; III. 475;—of Powtoun, Alex., III. 477;—of Rawes, Jo., III. 345;—of Ross, James, I. * 358; Jo. slays Earl of Eglintoun, 355;—of Robertland, David, I. * 148, * 164, * 177, * 385; II. 13;—Tho., hanged for Hame-sucken, Foraying, Oppression, &c., II. 359;—of Tourlands, Wm., I. 265; II. 359; Treason, &c., 366; his Confession, 368; beheaded, and his estate forfeited, 369;—of Waterstoun, Hew, I. * 428.
- Cuninghames, Feud between them and the Mures, I. * 57; with the Sempills, * 164, * 282.
- Cuninghamehead, house of, kept against the King, II. 366; Wm. C. of Towerlands beheaded and forfeited, 369.
- Cunyburgh of Skowlag, Wm., respited for Field of Linlithgow, I. * 241.
- Cupar. See Cowper.
- Cup-bearers, King's, I. * 312.

- Cupboard of Silver, the little, I. * 307.
 Cnrragh, a light boat of the Isles, III. 5.
 Cnrrour of Logyuegill, AND., I. * 88, * 405 ;
 one of his sons slain, and another mutilated,
 * 408 ; Steph., shooting with pistols, &c.,
 371.
- DACRE, LORD, I. * 121, * 122, * 260, * 261,
 * 263.
 ' Daft' person, curator to, I. * 254.
 Dalgarno of that Ilk, Gilb., I. * 150.
 Dags, shooting with, I. 371 ; II. 370.
 Dalgleish, Mr Nicoll, publicly praying for the
 banished Ministers, I. 136, 369 ;—of Deuchar,
 Jo., III. 455 ; Adam, his son, mutilated, *ib.*
 Dalglese, (Dalgliesh,) John, hanged for Burning
 Brauxholm and Ancrum, &c., I. * 69 ; Geo.,
 hanged and quartered for K. HENRY (Darn-
 ley's) Murder, * 490 ; his Deposition, * 495.
 DALHOUSIE, EARL OF, Wm., III. 601 ; Lady
 Dalhousie's Funeral, *ib.*
 Dalhoussy, House of, I. * 336.
 Dalkeith, Q. MARGARET's horses, &c. burnt at,
 I. * 118 ; burnt by the English, * 349.
 Dallas of Cantrey, Wm., Sh. depute of Nairne,
 III. 602, 606.
 Dalnahoy, (Laird of,) of that Ilk, Alex., I. * 127,
 * 159, * 166, * 169, 34 ; Besieges house of
 Warriston, 81, 83, 107, 154 ; Sir Jo., III.
 497.
 Dalrymple of Enoche, Malc., III. 501 ;—of
 Schalloche, Jo., III. 475 ;—of Stair, Ja., I.
 * 352, * 405 ; Jo., II. 106 ; III. 139 ;—of
 Wattersyde, Malc., III. 387, 475 ;—Wm.,
 II. 391 ; Murdered on the sands of Girvan
 by the Laird of Auchindrain, *ib. note.* See
 also Trial of Mure of A., III. 129, &c. ; his
 corpse bleeds on being touched by Mure's
 grandchild, 196.
 Dalzell, ' the Barronne of,' I. * 62, * 414. See
 Nesbit ;—of Elliok, Sir Ro., III. 501 ;—of
 that Ilk, Laird of, William, I. * 53, * 65,
 * 82, * 85 ; Ro., * 382 ; Wm., his brother,
 slain, * 387 ; Ro., 35, 71 ; Ro., yr., II. 506 ;
 —of Kype, Alex., I. 35.
- Curses, Witch, II. 526. See Witchcraft, &c.
 Cuthbert, Jonet, Adultery, banished, III. 428.
 Cut of yarn, what, III. 556.
 Cutting growing timber, &c., I. 71 ; II. 522.
 Cunzeartoune, Burning of, I. * 201.
 Cunzeok wynis, (Cogniac ?) I. * 349, * 377.

D.

- Dames of Honour, I. * 293.
 Damiet, Mr Jo., an Enchanter, &c., II. 27.
 Damyostage, I. * 290.
 Dances, Witch, III. 603 ; ' Gillatrypes,' 606.
 &c. See Witchcraft Trials, *passim.*
 Dancers. See Morrice-dancers, I. * 114, * 119.
 Dand or Dandy, familiarly used for Andrew, I.
 65, &c.
 Danielstoun of Dalquherne, Jo., III. 538.
 Darg, a day's work, &c., II. 451 ;—red-skinned,
 III. 251.
 Darlochis, II. 432 ; III. 245.
 Darnaway, Witches' revels there, III. 604, 617.
 Darne, to lie in ambush, hid or concealed, II. 410,
 428 ; III. 124, 128.
 DARNLEY, HENRY. See King Henry.
 Darleith of that Ilk, Jo., III. 538.
 Darsy, Sir Anthony, I. * 261, &c. See Bastie.
 DAUPHIN OF FRANCE, Hackneys and hawks
 sent to, I. * 306, * 307.
 Davidson of Camis, Harrie, I. * 432 ; Dav.,
 Slaughter, &c., II. 370 ;—Thomas, hanged, I.
 * 142 ; John, hanged in chains for Piracy,
 * 358 ; Jo., Piracy, hanged within flood-
 mark, III. 244 ; Peter, hanged, 265 ; Alex.,
 and his four sons beheaded for Slaughter, &c.,
 362.
 Davidsoun of Callelie, Walt., hanged for horse,
 cattle, and sheep stealing, II. 441 ;—of Penny-
 glene, Jo., II. 106 ; III. 172.
 David's Tower, I. * 265, * 306. See Edr. Castle.
 Davy, Besieging and Burning house of, I. * 175.
 Daw, Tho. and Alex., breaking into Bonning-
 town, and stealing Title-deeds, &c., II. 347 ;
 Alex. hanged, *ib.*
 Day-Foray, II. 453.
 Dead body of a traitor produced in Court at pass-
 ing sentence of Forfeiture, II. 241, 277, 405 ;

- Fra. Mowbray's dead body gibbeted, drawn, and quartered, &c., 407.
- Deadly Feud, I. * 138, * 143, &c. See Feud.
- Dean, Alex., hanged for breaking Gardens, &c., III. 555.
- Deanis, Pat., hanged for Murdering a pregnant woman, II. 517.
- Dearth, I. 351.
- Deboischet, III. 529.
- Decapitation, capital punishment of, in cases of Murder, Treason, &c., *passim*; with a sword, I. * 425.
- Declinature of jurisdiction, I. * 443, &c. See Jurisdiction, Assessor, Assise, Privy Council, &c. —Mr And. Creichtoun sentenced to be hanged, III. 89; banished for life, 90; —of King's authority, 330.
- Deer, ABBOT OF, I. * 414; —chasing and wounding deer, &c., I. * 139; slaying, 48; —deer-dogs, I. * 312; collars of Purple velvet, gilded chains, &c., to them, *ib*.
- Defloiring a girl of eleven years of age, III. 507. See Rape and Forcing.
- Deforing a Messenger, &c., I. * 71, * 157, * 334, * 356, * 437, * 484, 59. See Wand of peace, Messenger, &c.
- Deid-straik, III. 510.
- Deidthrawis, what, III. 384, 573.
- 'Deill amang us,' Robert Henry, beheaded, I. * 368.
- Delgatye, Laird of, I. * 454.
- Delirium. ad*, Witches 'waked' to extort confession, &c. I. 50; —Ogilvie, a Jesuite, cruelly used, III. 331, 332; hanged, *ib*.
- Demembration, I. * 94; '*de suis testiculis*,' 253; of the ears, * 475; II. 509. See Mutilation of the nose, *ib*.; of three fingers, III. 58; —And. Henderson banished for life, 60; Forrester, 112; thumb and three fingers, &c., 491.
- Dempster, And., hanged for Theft, I. * 179; —of Auchtterless, Jo., I. * 150; Ja., * 454; Jo., Slaughter, * 148; Ja., III. 486; —of Balraye, Cha., I. 29; —of the Court of Justiciary, * 8; form of a Forfeiture pronounced by him, * *ib*., * 47, * 184, &c.; —of Muresk, Tho., beheaded for Forgery and Falset, III. 486; —of Murehouse, Jo., I. * 150.
- Denmark, Ambassadors from, I. * 281; to, III. 562, 563; —gunpowder and cannon brought from, I. * 295; —Herald, * 268, * 277, * 28; —KING OF, Christiern, II. 268; Letter from, as to Earl of Little Egypt, III. 592; —QUEEN OF, her picture set in gold and diamonds, III. 563.
- Dennistoun of Colgrain, Robert, I. * 361; Ja., II. 438.
- Dennum (Denholm) of Crechane, Peter, I. * 456.
- Deserting the diet, on account of Plague, II. 426, &c.
- Desserts, King's, grooms of, I. * 313, * 314.
- Devil. For various popular superstitions, see Witchcraft *passim*; —assumes the shape of 'ane naikit infant bairne,' &c., II. 524; his feet cloven, III. 603; his amours with Witches, *ib. et seq.* See Witch Trials.
- Devil's mark, pricking Witches to discover, III. 599, 602.
- Witch-grace before meat, III. 612.
- Devoiret, destroyed, applied to a *fêlo de se*, III. 576.
- Dewar of that Ilk, Wm., I. * 143.
- Diamonds, target of gold with warmadyne of, I. * 293; golden cross to set, * 294.
- Dice, playing at, I. * 264.
- Dick, Mr Alex., Provost of Orkney, Convocation, &c., I. * 413; —of Barbesburie, (Barbestoun,) Jo., III. 172; taken prisoner by Laird of Drummurquhie, 179.
- Dickson of Belchester, John, I. * 398; Murdered—John, his son and heir, broken on the wheel for the parrieide, 241; —Pat., II. 515; —of Bouchrig, (Buchtrig,) Ro., I. * 398; II. 442; —of Hassingtonne-maynis, Ro., II. 336; his son, Mr Alex., slain, *ib*.; —of Wynkstoune, Jo., slain, I. 34.
- Diksoun of Hirdrig, Ja., II. 534.
- 'Dik the Devillis bairnis,' bringing in, I. * 174.
- Dilaschet, fired or shot off, II. 409, 485; III. 70, 78, 128.
- Dingwall, Castle of, keepership, I. * 232; —LORD, I. 178; —Pursuivant, I. * 272, * 273.
- Dirige and saul-mess, I. * 293, * 297.
- DIRLETOUN, LORD, Tho., II. 246. See Erskine: —Castle of, Witches pricked for Devil's mark, in the Broad-hall, III. 599.

- Dischington of Ardross, I. * 156; Wm., * 402.
Discord, fomenting, between King and Barons, Wm. Scot hanged, I. * 206.
- Dittay, (Indictment,) unduly executed, I. * 452.
- Divorce, sentence of, on ground of impotency, I. * 460.
- Doctor, the French, returns home, I. * 310.
- Dog, Devil appears in form of a, I. 235.
- Dogs, hunting. See hounds;—horrid torture and Murder of a Gentleman, and slaughter of his four dogs, &c. III. 548.
- Dolace, (Doles, Dallas?) of Buddet, Wm., yr., I. 201;—of Cantra, * 359.
- Donald of the Grange, Da., II. 63;—Wm., hanged, I. 45.
- Donaldsoun, Da., hanged for Falset, Perjury, &c., III. 208.
- Doli capax*, III. 238, &c.
- Dollar, Vicar of, burnt for Heresy, I. * 210.
- Dorche, (Droiche or Divarf,) Maister John, I. * 278; dresses to, * 282; Jane the French, * 296; the Little Turk, * 308.
- Dorloch, (doriache,) a short sword, dirk or dagger, II. 70, &c.
- Dornoch, Town of, burnt, I. 68.
- Dor-schor, II. 536.
- Dosell, the Lord, Lieut. of K. of France, I. * 375.
- Dougal, Robert, beheaded for Slaughter, I. * 15.
- Douglas, Mr. Alex., Provost of Elgin, his widow slain, II. 42, 557; Alex., B. of Murray, her son, *ib.*;—Mr Alex., Provost of Elgin, I. * 391;—of Annatroche, Wm., Slaughter, &c.: III. 443;—of Bone-Jedburgh, Geo., I. * 43; * 147; Wm., Oppression, &c., * 176, * 181; Mr Robert, Slaughter, Burning, &c., * 201, * 328;—Mr Arch., Parson of Glasgow, I. 95; Darnley's Murder, 142; remitted by the King, 147; acquitted, 154;—of Borg, Fra., mutilated, I. * 465, 154;—of Boncle, Wm., I. 119;—of Baitford, Wm., III. 90; Wm., his eldest son, beheaded, 95;—of Belliebocht, Hew, III. 93; Pat., his son, slain, 442;—of Brokholhis, Mr Rich. his servant slain, III. 271;—Baillie of Dalkeith, Ja., III. 431;—of Caveris, Ja., (Sh. of Teviotdale, *i. e.* Roxburghe,) I. * 142, * 147, * 208, 265, 293; II. 125, 375, 442; Wm., III. 396, 501;—of Cunzeartoun, Wm., I. * 181;—Castle of, withheld against the King, I. 97;—of Cowthroppill, Ja., III. 569;—Captain of, I. * 263;—of Caschogill, Arch., I. * 166, 242, 244; Ro., 265; Sir Ro., III. 270; Wm., 435; Wm., yr., *ib.*; Ro., 443; Ro., his son, loses his left ear, 500; Sir Ro. invades Laird of Drumlanrig at Moss of Knockconnie, Slaughter, &c., *ib.*;—of Cruick, Wm., I. * 456;—of Dalwein, (Dalvene,) Hew, slain, III. 270; his cattle, &c., stolen, *ib.*; Hew, *ib.*, 271, 435;—of Drumlanrig, Wm., I. * 39; Sir Wm., * 62; Slaughter of the Laird of Kilpatrick at the horn, * 77, * 78; Ja., * 187, * 142, * 151, * 269, * 328, 480; his cattle of Kirkhope stolen, * 348, * 370, * 442; Sir Ja., 259, 265, 304, 572; III. 9, 62; Sir Wm., III. 164; Wm., yr., Invasion, taking captive, &c., 212, 318; Sir Ja., *ib.*; barbarous maiming and slaughter of his sheep on Howpaslet by the Scots, 381; three Scots hanged, 389; illustrative Papers, *ib.*; Jok the Sakler hanged, 396; Sir Wm., 381; Sir Ja., 394; Wm., Slaughter and Demeritation at the Moss of Caschogill, 500;—Earlsmill, David, I. * 391; Wm., II. 72, 80; Wm., his son, slain, *ib.*; 85, 110, 368; III. 485;—Gawin, Provost of St Giles, (the Poet,) I. * 79;—Ro., Provost of Lincluden, I. 142; Slaughter, 167; Theft in his chambers, III. 92;—of Gaspenne, Jo., I. 119;—Geo., slaughter, II. I; Jo., Resetting a stolen purse, III. 552;—Geo., 'wirreit' (strangled) for Forging base money, II. 353; Tho., alias Blak, Rebellion in Orkney, III. 273; hanged, 283; his Deposition, 296;—of Glenbervy, Arch., I. * 328;—of Harwood, Leonard, I. * 424;—Jonet, wife of Sir David Lindsay, I. * 275, * 292, &c.;—Jane. See Lady Gammis;—of Kelleid, Arch., III. 433;—of Killievarrene, Jo., slaughter, III. 500, 501;—Arch. of Kils-pindie, (*Greystell*.) I. * 195, * 197, * 239, * 256, * 258, * 393, * 398; Wounding him, *ib.*, * 415, * 443, 3; Sir Pat. II. 49;—of Langnurdrye, Fra., I. 27; Geo., yr., 170; II. 1;—of Lyncluden and Greenlaw, Wm., III. 90; beheaded, 95;—of Lache, Wm., III. 93;—of Lugtounne, Ja., portioner, III. 452;—of Lochleven, Sir Rob,

- I. * 78, * 198, * 328, * 496, 36; Ro., yr., 119;—of Moirinsche, Dunc., (MacGregor, Tutor of Glenstray.) III. 250;—of Mouswald, (Moussell,) and 5 others, Ja., Slaughter, III. 472, 500, 501;—of Moirtoun, (portioner of Gogar,) Ja., III. 473;—of Manis, Alex., I. * 130; Math., * 339, * 344; Malc., hanged and quartered for Raid of Ruthven, &c., 139; Alex., III. 546;—of Nevay, Jo., II. 145;—Patrick and two others hanged, I. * 151;—of Pennyland, Geo., I. * 201, * 226;—of Punfeith, Arch., I. 87;—of Park, Geo., I. 119;—of Pinzerie, Wm., III. 90; Treasonable Theft and Stoutreif, &c., *ib.*; beheaded, 95;—of Prestoun, And., III. 569;—of Parkheid, James, assisting, I. * 205; his son found caution, * 226; summoned for Treason. * 306; Geo., outlawed, 97, 122; Sir Ja. slays Capt. Ja. Stewart, (E. OF ARRAN,) III. 66;—of Pettindreich, David, remitted, I. * 239; Lady P.'s servants wounded, * 408, * 454;—of Pimfraystoun, (Pompharstoune,) Rob., I. * 166, * 333; Jos., 155; bewitched, 251; III. 417;—of Quhittinghame, Wm., I. * 159; respited for Field of Lidlithgow, * 241; remitted for assisting E. of Angus, * 243; freed from ward, * 330, 57, 142, 280; Sir Ja., II. 496; Sir Arth., III. 594;—of Reidhouse, Wm., III. 213;—of Spittall, Fra., I. 11;—of Stanypath, Arch., I. 155; his widow tried for oker (usury), II. 101;—of Spott, Ja., I. 270, 347; II. 21;—of Torthorwald, Ja., slays the Laird of Newton, II. 1, 107; slays Capt. Ja. Stewart, (E. of Arran,) III. 66; is slain on the High street of Edr., *ib.*; Letter of Privy Council to the King, 67;—of Todhoill, Ja., yr., shot in the belly, II. 378; III. 227; Ja., 268;—Mr Tho., Minister, struck, &c., II. 416; Slaughter, III. 473; Walt. Graham scourged, and his right hand struck off, 417;—of Todhills, James, I. * 382, 36, 119;—of Walterstoune, Jo., I. 21;—of Wellis, Ja., I. 34.
- Douglases, Intercommuning with, I. * 177.
- Douking, &c., Murder by, III. 488; to give up 500 merks, 490.
- Dove, Witch-superstition as to the, III. 608, *note*.
- Dow, Meg, burnt for Sorcery, Child Murder, &c. I. 186, 237?
- Downard, Castle of, delivered to King's Lieut., III. 368. See MacLean.
- Downe of Raty, Rob., I. * 150.
- DOWNE, LORD, Ja., I. 116; III. 72; Jo., his son beheaded for Murder under trust, 74.
- Dragon, enamelled, I. * 304.
- Dress. See Apparel, and under each article.
- Drink, administering enchanted, III. 68.
- Drinking pieces of fine gold, 15 lbs. 5 oz. to be coined, I. 339; another of 12 lb. 5 oz. to be coined, *ib.*; with a Witch, to remove enchantment, II. 526.
- Drowning, punishment of death, I. * 162, *ex speciali gratia*, * 394, II. 94, III. 208, 561;—a servant, III. 55; under colour of law, 206; murder by, 489.
- Drowis, birth or labour pains, throes, I. 252.
- Drowgies, III. 616.
- Drugs to K. JAMES V. and the Lady Margaret, I. * 323.
- DRUMLANRIG, VISCOUNT, WM., III. 381.
- Drummond of Auchtermithill, Mr Moreis, II. 555;—of Auchterarder, Ja., I. 28;—of Abernytie, Wm., I. * 158;—of Blair, Geo., I. * 371, 74, 91; Harie, II. 433;—of Balloch, Wm., I. * 441; Geo., yr. 15; Geo., 76;—of Ballyclone, * And., forging a charter, his right hand struck off, &c. I. * 387;—of Bordland, Malc. I. 28, 77;—of Culcherie, Mr Moreis, II. 438;—of Cattis-elbok, Geo., III. 431;—of Carnok, Alex., I. * 158, * 166; remitted for assisting Earl of Angus, &c. * 242; Ro. * 453; Pat., yr. 119; Sir Ro., II. 569;—of Coqbal'sie, Jo., slays Laird of Gourdie's son, II. 80;—Da., Chamberlain to Lord Da., (Perth,) II. 528, III. 233, 250;—of Drill, Ro. I. 382; Sir Ed., II. 569, 575, &c.;—Geo., 'wirreit and brent in assis,' for uttering forged money, II. 365; Pat., do. do. 383;—Jo., Chamberlain of Stratherne, III. 233;—'Genealogie' of the family of, I. * 196;—of Innermaith, Da., III. 552;—of Innerpeffry, Jo., I. * 158, * 169, * 189;—LORD, Justice-depute, I. * 19; John, * 78, * 387, *note*; violence done to a Herald, I. * 268; David,

- * 373; Pat. 116; Da., III. 22;—of Leidcreif, George and his son Wm. slain, I. * 366; papers relative to, * 371;—Letchill, Ja., II. 187;—of Megour, Alex., I. * 441;—of Medope, Alex., wasting Lord Elphinstoun's goods and adultery with Lady D., I. * 465, 91, II. 54; Sir Alex., III. 169, 312, 418; declined as an assessor, 424;—of Monjic, Pat., I. 77;—of Pitkennectie, Jo., I. 76;—of Pitcairns, Ja., deposition as to Gowrie's consp. II. 189;—of Ricartoun, * Hary, I. * 388, 91;—of Slipperfield, Jo., I. 255, 'Ischar to his Matie,' II. 92.
- Drunskye, burning of, I. * 56. (See Dunskaith.)
- Dryburgh, David, Comm. of, I. 119.
- Dryfle-Sands, battle of, III. 30; 700 of the Maxwells slain, *ib.*
- Dryhope, house of, to be destroyed, I. 276.
- Ducats, Portugal, III. 178, 563.
- Duchall, Place of, treasonably detained, 70.]
- Dudley, Sir Andrew, English Captain of Broughty, I. * 346.
- Duel or 'Singular Combat,' without *Licence*. (See also Judicial Combat); curious case and pleadings on trial for, II. 112; Auchmowtie beheaded, 113, 124; Bruntfield and Carmichael, 113, *note*; between Gluffer and Hepburn, 114, *note*; in France, Cap. Jo. Rig, 'Archeour of the Gaird of France,' 382; while in foreign service in Flanders, Capt. Harie Bruce, III. 502; between E. of Lothian and Lord Craunston's sons, 507.
- Dudingstoune of Sandfurd, Stephen, I. * 404;—of Pitkapil, Arch., I. * 404.
- Duff of Glenelwart, Tho., III. 363; his wife's right arm cut off, *ib.*
- DUFFUS, LORD, Alex. and Ja., III. 604, *note*; Fairy-cup belonging to, *ib.*;—KING, Murderers of, III. 191;—Laird of slain, I. * 149.
- Duggeoun Stokkes, I. * 320.
- Dule-Dresses, I. * 287, &c. (Mournings).
- Dummy Carpitane, I. * 301.
- Dumbreck, Place of, taken and kept against the King's Guard, II. 429.
- Dumfries, Burning Town of, I. * 39;—Convention at, I. * 360;—Justice-Aire of, I. * 39;—Raid of, at Lammas Eve, I. * 75, 155; E. of Angus's Raid, II. 106, 130, 134.
- Dumbarton, Castle of, besieged and taken, I. * 232, * 236, * 238, * 334.
- Dumb young man, barbarous Murder of, II. 388.
- DUMBLANE, BISHOP OF, Wm., I. 185, * 275; Ro., 264, 332; Geo., II. 325; Wm., 569, *note*.
- Dunbar of Blantyre, Jo., invaded, &c., I. * 181;—of Barcurroch, Adam, I. * 458;—of Barmuir, Jo., I. 36;—of Bennagefield, David, I. * 376;—of Baldtone, Gawane, I. * 428;—of Baldork, Da., II. 95, 143;—burgh of, Remission to inhabitants, * 243;—of Burgye, Ro., II. 145, 484;—of Blairie, Pat., II. 484;—III. 200;—of Bothe, Ja., III. 252; Alex., 602; Ja., yr., *ib.*;—of Balaferrie, Pat., III. 616. See D. of Westfield;—of Cumnock, Alex., I. * 357, * 359; James, *ib.*; Pat., yr., * 370, * 374, * 391; Sheriff of Elgin, * 392;—of Conje, Alex., I. * 376, * 391; Pat., II. 71;—of Clune, Geo., his house burnt, and horses and cattle houghed, &c., II. 68; Roise of Ballivot tried, 138; Wm., III. 602;—Captain of, I. * 311;—Castle of, freeing a prisoner from ward, I. * 81, * 261, * 263; MARY Q. OF SCOTS carried to, I. * 480;—of Corsington, Pat., slain, I. * 82;—of Craichlaw, Jo., yr., II. 143;—of Durriss, Robert, I. * 357, * 391;—of Enterkyn, Wm., II. 96, 105, 106, 143;—EARL OF, GEO., II. 267, 273; L., High Treas., 274, 387, 496, 568; his death, 581, *note*; III. 92, 621;—of Grangehill, Robert, I. * 359;—of Grange, Tho., III. 602;—Mr Gawin, the Archdean of St Andrew's, I. * 79; KING JAMES V. Master, * 265, * 266; Treasurer of Ross wounded, * 328; Mr Gawin, Archdean of Murray, III. 200; Ja., his son, slaughter, *ib.*;—of Hempriggis, Wm., II. 484; Ninian, his son, slaughter, III. 200;—of Knockschinnoch, Geo. III. 57;—of Kilbowk, Alex., yr., Slaughter, &c.; III. 200; Ro., his brother, *ib.*, 399;—of Leacht, Jo., II. 95; his son Pat. tried for bearing Pistols, and slaughter, *ib.*;—of Lochieils, Da., kept prisoner for 12 'ouk-kis' (weeks), II. 516; two of his servants slain, *ib.*; Alex., *ib.*;—of Mochrame, John, I. 141, 398, * 428, * 491; Sir Jo., III. 477; Alex.,

- yr., *ib.* :—of Moyness, Jo., I. 285; II. 68, 143, 368;—of Mynnieweik, Jo., III. 75;—*Pat.*, Sheriff-dep. of Elgin and Forres, II. 143;—*Sheriff of Murray*, nobly slain with the Earl of Moray, I. 358; II. 143; *Alex.*, 528, 564; maltreats a messenger, *ib.*;—of Tarbert, (*Tarvet*) Ja., I. * 357, * 376, * 391, * 392; *Mr Ja.*, II. 484;—*Wm.*, the Poet, I. * 117;—of Westfield, (and Bahaferric) Sheriff of Murray, *Alex.*, slain, III. 200; *Jo.*, his brother, *ib.*, 399; *Ja* and *Tho.*, his brothers, *ib.*; *Pat.*, 616.
- Dunaverche, Castle of, keeping, I. * 316.
- Dunbrek of Freifeil, *Wm.*, I. * 391;—of Urcane, *Wm.*, I. * 391. See *Dumbrek*.
- Duncaen, Geillis, Witch, I. 215, 236; Bessie hanged for Child-Murder, III. 430; *Mr And. Minister, &c.*, tried, II. 494; banished, 503; *Jo.*, elder, and *yr.*, Mutilation, &c. 539; *Jo.*, Slaughter, beheaded, III. 484.
- Duncanson of Standandstanes, *Dav.*, I. * 184. See *Robertson*.
- Dunduff of that Ilk. See *Stewart*.
- Dundas of Arnestoun, *Sir Ja.*, wearing Pistolets, II. 67;—of Breistmilk, *Gaw.*, I. 155;—of that Ilk, *James*, Feud with *Wauchopes*, I. * 144; keeping *Inchgarvy*, * 281; *Geo.* * 424, 10, 72, 136, 137, 159; *Walt.*, II. 10;—of *Newliston, Jo.*, I. 155; Striking a person while *King* was sitting in judgment, II. 358; fined 1750 merks, 359;—of *Priestinch, Da.*, Incest with *Countess of Eglinton, I.* 100, 345, 346; II. 22, 555.
- Dundee, Constable of. See *Scrymgeour*;—*Justice-Aire of, I* * 115, * 263; *Bailies and community* remitted, * 240; *Reformation preached*, * 406.
- Dundervisheid, Fishing of, violently occupied, I. * 177.
- Dundrennan, Abbot of, Oppressing his officer, I. * 54; Theft from him, * 75; Oppressed, * 163.
- DUNFERMLING, EARL OF, *Alex.*, *L. Chan.*, II. 274, 325, 496; III. 312, 579.
- Dunfermling, Commendator of, *Ro.* (*Pitcairn*), I. * 436, 88, 101.
- Dunkiesoun, *Mr Jo.*, Minister, I. 261, 304.
- Dungeon (Donjon) Tower, and kitchen, in Castle of *Blackness, I.* * 312.
- DUNKELD, BISHOP OF, I. * 393; *Peter*, II. 159; Field of, I. * 98, * 106.
- Dunnyvaig, Castle of, *Arch. Stewart, Captain, I.* * 258, * 305; Surrendered, III. 3; taken by *Sir Ja. MacConeill*, 17; detained by *Angus Og*, 363; Surrendered, 364; *Angus* hanged, 365. See *MacConeill*.
- Dunlop of Auchlinskyeh, *Arch.*, I. 57;—*Bessie*, remarkable case of Witchcraft, I. 49; burnt, 58;—of *Crawfield, Hew*, I. 58;—of *Haplund, Jo.*, I. 63;—of that Ilk, (*Laird of*) I. * 82; *Alex.*, * 360; slays his son *Andrew*, * 402; *Ja.*, * 457, 63, 67, 169; III. 122, 264;—of *Powmylne, Jo.*, III. 345;—*Ro.*, hanged for Perjury, III. 358.
- Dunnyne, *Kirk of, I.* * 240.
- Dunoon, *Kirk-yard of*, alleged prodigies, a spring of blood, &c., III. 199.
- Dunrobin, Mass celebrated, II. 530.
- Dunskaitb, (*Dunsky*), Place of, burnt, I. * 95, * 103; Castle of, besieged, I. * 231.
- Dunweddy, *Robert, Stouthrief, I.* * 41; Slaughter of *Laird of, I.* * 40.
- Dupplin, Place of, besieged, &c., I. 25, &c.
- Durie of Hielare, *Da.*, III. 57.
- Dury of that Ilk, *Robert*, gift to, I. * 256; *Dav.*, 60;—*Dean John*, Convocation, &c. I. * 436; *Mr Ro.*, Minister, tried, II. 494; banished, 503.
- Durrisdeer, Town of, burnt, I. * 318.
- Durlame, Archdean of, Ambassador, I. * 283;—of *Duntervie, Mr Ja.*, III. 264;—of the Grange, *Ro.*, I. 74.
- Dark, slaughter with a, III. 471, 481; torture and barbarous Murder of a Gentleman, and slaughter of his four hunting dogs, 548.
- Dutch Miners, at gold mines, I. * 298.
- Dutch horse, I. * 301.
- Dutchman to 'pley' before the Lords, I. * 307; Shipwrecked, * 308; given to Servants of Lord of the Fair, * 309.
- Dwarf, the King's. See *Dorche*.
- Dwne, *Robert*, of Rate, unjustly acquitted, I. * 169;—*Peter*, Slaughters, Fire-raising, &c. I. * 362.
- Dysart, *Kirk of*, Slaughter at, I. 24; Magistrates, assisting *E. of Bothwell*, 310.
- Dyvour, a bankrupt, III. 154.

E.

EAFALD, III. 275, *et passim*.

Ears, cut off, punishment, I. * 157, * 206; De-
membration, by cutting off a man's, * 475.

Edgebuckling-brac, abiding from the Host at, I.
* 345.

Edingtoun of that Ilk, Jo., I. * 164.

Edinburgh, Burgh of, besieged, I. 30; furnishing
victual to Rebels, *ib.*, &c.; St Andrew's
Port, * 351; 'lang walpyanis' ordered to be
kept in 'buitbis,' &c., * 362; Butter-tron,
* 396; Insurrection, Robin Hood, &c., * 409,
* 410; Cramers, * 415; Tumult to restore
Popery, * 416, &c.; at Holyrood-House,
* 434, * 435; Magistrates tried for freeing a
Prisoner, * 442, to * 450; Magistrates ob-
structed in apprehending Lord Borthwick,
354; KING, &c., besieged in the Tolbooth, II.
29; Ro. Anchnowtie tries to escape from
Tolbooth, beheaded. 113, *note*, 124; Gowrie
Conspiracy proclaimed at the Cross, II. 238;
public rejoicings, 244, 245; Plague in Edr.,
126; young Lairds of Edzell and Pittarrow,
and their 'complices,' fight several hours at
the Salt-tron, 61;—Castle, Captainship of, I.
* 258; the Lord's Hall in David's Tower,
* 265; the Gun-house, *ib.*; the Captain's
Tower, *ib.*; victualled against the English,
* 270, *ib.*; sums expended on repairing for-
tifications, munitions, &c., * 298, * 306;
Chalmers taken from head of David's Tower
after Coronation, * 306; Register-House,
* 312, * 323; munitions, &c., * 317, * 322;
Captain escapes from ward, * 331; proceed-
ings against the Rebels, detainers of the
Castle, 33. &c.; Guns fired for KING's deliv-
ery from Gowrie's Consp., 238; remarkable
escape of Lord Maxwell and Sir Ja. Mak-
connell from the Castle, III. 37, 28, &c.;
Servants in Edr. Castle exempt from Assises,
III. 281;—Baillies and Sheriff of, Jurisdiction
of, I. * 129; Stabbing in their fenced Court,
I. * 330;—Justice-aire of, I. * 26, * 38, * 60,
* 72, * 76;—Magistrates of, their Jurisdic-
tion, I. * 129, 98; tried for freeing a prisoner,

* 442, to * 450; mode of delivering over a cri-
minal for execution, III. 98;—Ministers of,
conduct as to Gowrie's Conspiracy, II. 234,
235, 299, &c.; III. 618;—Provost of, search-
ing him for his slaughter, I. * 393; Wounded
with a qubingar, * 399; a culprit clothes pardon
at the Cross of Ed. in linen ashes, bare-
footed, &c., *ib.*;—Raid of, I. * 356.

Edrington, Castle of, Caution to keep, I. * 158,
* 324.

Edmoustoun, Lady, Horse-stealing from, I. * 476.

Edmonstoun of Ballintoun, Ja., I. 28; Arch., II.
540;—of Burnhousis, Da., II. 18;—of Ed-
nem, Ja., I. * 85;—of Duntreithe, Wm., * 88,
* 166, * 167, * 170; James, respited, I.
* 244, * 453; executed for Raid of Ruth-
ven, &c., 139; Sir Ja., 266, 392; Convok-
ing an unlawful Assembly, II. 3; 105, 366;
Sir Ja., elder, III. 345;—of that Ilk, (Laird of)
Jo., Feud with Laird of Niddry-Marischall, I.
* 143, * 144, * 190; Assise to, * 286;
young Laird, * 456; Jo., 107; Sir Jo., 154,
169; remarkable consultation of a Witch,
235; Sir Jo., I. 265, 266; feud with Laird of
Cranstoun, 352, 396;—of Newton, Jacob, I.
* 266; II. 438;—of Wowmet, (Woolmot,)
Da., I. 168; Jo., his brother, slain, *ib.*, 265;
the Laird slain, II. 52, 403; Mr Pat. III. 260.

Edmonstoun-Edge, Raid of, II. 21.

Edgare of Blaikschaw, Ro., II. 490;—of Creaken,
I. * 95;—of Inglistoun, Jo., I. * 456, 107?
Slaughter, II. 71;—of Kirkblane, Clem., II.
490;—of Weddirlie, Oliver, Tutor of, I. * 147;
Jo., * 393, * 413, 107? Ro., III. 569.

Edgearstoun, caution to keep Castle of, I. * 179;
besieged, * 286.

Edzell, Castle of, III. 63.

Egg, Island of, burnt, I. 228; III. 19.

Eggs 'to bikkir the Castle,' &c., I. * 271;—
price of, at Justice-aires, * 390.

EGLINTOUNE, COUNTESS OF, Jean, Incest with,
I. 100; Helen Kennedy, complaint on her
husband's slaughter, 354;—EARL OF, Hew,
Spuilzie, Oppression, &c., * 59; Oppression,

- Stouthreif, * 74; Slaughter, * 132, * 133, * 185; keeper of Little Cumray, * 232; respited, * 237; abiding from Solway, * 254, * 381, * 466; Langside, 5, 111, 116; slain by the Cuninghames, 355; Hew, *ib.*; III. 419; Feud with Earl of Glencairn, 580;—MASTER OF, Arch., I. * 132; Hew, * 199; remitted, * 253, 133; Ro., feud with the Laird of Houstoun, 352; feud with E. of Glencairn, 354, 355.
- Egypt, Earl of Little, III. 591; Letter from K. of DENMARK as to, 592; from K. JAMES V., *ib.*; Precept to him to punish all Egyptians within Scotland, 594.
- Egyptians, dance before the King, I. * 273; King Cristall, * 274; King of Cypre, * 277; expelled from Scotland, * 310; consulted for poisoning, 196; following them punished with scourging and banishment, III. 99; Moyses, Dav., Ro., and Jo., *alias* Willie Fa, hanged, 201; Resetting Johnnie Faw, 307; Jo. Faw and 3 others hanged in default of caution, 397; Capt. Jo. Faw and 7 others hanged, 559; Helen Faw and 10 others, their widows and daughters, 560; sentenced to be drowned, 561; they, along with Alex. Faw and 4 others, their sons, ordered out of the Kingdom, under pain of instant death, 560; Documents and notice relative to Gipsies or Egyptians, 590; dance before the King at Holyrood, 592; Letter from K. of DENMARK to K. JAMES IV. in favour of the E. of Little Egypt, &c., *ib.*; ditto from K. JAMES V. in favour of Jo. Faw, * Lord and Erle of Little Egypt, *ib.*, &c.
- Eklis of that ilk, Mungo, I. * 138; James, * 369;—of Kildonane, Jo., III. 171.
- Elder, Henry, hanged for Sacrilege, I. * 394.
- Eldermen, (Aldermen, or Bailies.) I. * 123, &c.
- Eleist, an eye-sore, grudge, &c. I. 349; II. 157.
- Elf-Arrows, I. 192, 193, 198; how made, III. 607, &c.; how shot, *ib.*, 615;—boys, 607, 615;—bulls, 604, 611, *et seq.*;—folk, in the hills consulted, I. 196;—grippit, 53;—land, III. 607;—shot, I. 231;—charm for, II. 536.
- Elfes-howssis, III. 607.
- Elgin, Cathedral of, Sacrilege committed there, I. * 376;—and Fores, Justice-aire of, * 389; Proclamation of, *ib.*;—Sheriff of, * 392.
- Elimosinar, the King's Master, I. * 312, * 313, &c. See Almosns; his Priest, * 313; Prince's, * 314.
- ELIZABETH, QUEEN, Embassy from, at Baptism of K. JAMES VI., I. * 179; Letter to, as to French Paris's execution, * 511, 348; demands redress for Laird of Buckcleugh's carrying off Kilmont Will, by force, out of Carlisle Castle, 364; sends an Ambassador to congratulate K. JAMES VI. on his escape from Gowrie's Consp., II. 315; expostulates with J. VI. as to his correspondence with the POPE, 571;—PRINCESS, married to the Palsgrave, III. 392.
- Ellen of Butterdene, Alex., I. * 147.
- Ellendonnan, Burning of Castle of, I. * 256.
- Ellen-na-Muk, Island of Muk burnt, I. 228.
- ELLENMERE, LORD, (Sir T. Egertoun.) Lord Chan. of England, II. 591; his speech as to L. Balmerinock's Treason, *ib.*
- Elliot of Bellelie, Ro., I. * 434;—of Burgranes, Jo., II. 559; Wm., his son, Slaughter, and resisting King's Guard, has his right hand cut off, and then hanged, 560;—of Copschaw, Jo., 473; acquitted of Masterful Theft, &c., 474; Breaking Torwodlee, &c., 520; Murdering the Laird, &c., *ib.*; Ro., III. 220;—of Dunlabyre, Ro., III. *ib.*;—of Fallinesche, Wm., called *Gawenis Hiltie*, I. * 466; Ro., yr., II. 509; Wm., 521; Jo., III. 396;—of Fiddeltoune, Gawin, II. 509; Demembra- tion, *ib.*; Wm., 559; Niniane, his son, resists King's Guard, &c., *ib.*; his right hand struck off and he hanged, 560;—of Horsliehill, Wm., slays the Laird of Hassindene, I. * 456; sentenced to be beheaded, *ib.*; Gavane, same Slaughter, * 466; Wm.'s sentence of Banishment recalled, *ib.*;—of Lamestone, Wm., * 466;—Jo., in Redden, *alias* of Rynsigill, *felo de se* in Hawick Steeple, III. 219; Gilb., *alias* *Gib the Galcart*, scourged and banished, 442;—of Reidheuche, Ro., II. 522; III. 568;—of Stobbis, Gilb., III. 539;—Will 'callit *Woddir-uck*' hanged, I. * 413; David of the Heuchons hanged, 65.

- Elmere, Slaughter of the Laird of, I. * 17, 22.
- Elmstedene, Water of, Convocation at, against Queen's Lieutenant, I. * 395.
- Elphame (Faerie), Court of, I. 52, 56, 162; Queen of, 162. See *Faerie*, &c.
- Elphinstone of Balnaglak, Jo, II. 507;—of Barntonme, Sir Ja., Secretary, 159;—of Blythiswod, Sir Geo., I. 393; present to his wife, II. 238; III. 134, 345, 491, 494, 512; appointed Justice-Clerk and Master of Ceremonies, 596;—of Glensakisbarneheid, Geo., 219;—of Glak, Ja., I. 48; Mr Ro., Tutor of, III. 230, 478;—of Henderstone, Jo., I. * 81, * 87; Dionese, * 424, * 469;—Mr John. Murder, Adultery, &c., * 359;—LORD, Alex., * 78, * 167; Ro., * 465; his Lady's Adultery with Laird of Medope, *ib.*; II. 63; Alex., 496;—MASTER OF, Alex., I. 116, 381, 393; II. 62, 63, 131, 159, 496;—of Schank, Jo., III. 243, 539.
- Elva, a name given the Devil, I. 235.
- Elvands, (*elw-wands*), II. 90; III. 529.
- Elwald, John, (*Jok Unhappy*), hanged, I. * 167; And., hanged, * 151.
- Elwalds, I. * 263.
- Elyde, what, III. 409, 535.
- Embassy, to THE EMPEROR, I. * 304, * 306;—to England, * 273, * 318, * 320;—France, * 273;—Italy, *ib.*
- Embroidery, of Crowns, Scottish Thistles, &c., I. * 301; Armorial bearings, *ib.* See also *Tapestry*, &c.
- Emerald, great, in Scottish Crown, I. * 299.
- EMPEROR, THE, I. * 271; gives a Collar to K. JAMES V., * 277; Ross, Herald, sent to, * 304; Sir John Campbell, Ambassador, * 306; dispatches from, * 308.
- Enchanted drink, administering, III. 68.
- Enchantments, seeking, &c., I. 70. See *Incantation*, *Witchcraft*, &c.
- England, Ambassadors to and from. See *Ambassador*, Henry VIII., &c.;—Admiral of, I. * 303;—defence of the realm against, * 280;—Commissioners of, * 300;—no one to pass into, without license, * 264;—Protector of, swearing fealty to him, * 378.
- English Army, &c., Supplying, I. * 344, * 379;—corresponding and trafficking with, I. * 400; Symone Heryng hanged, *ib.*;—taking pay from the, * 348;—Pirates, *eight* hanged, III. 99; *thirty* hanged, 103; Papers as to Pirates, 108; *two* hanged, 244;—Thieves, suffering to escape, I. * 223; guiding, * 432;—selling victual, flesh, &c. See *victual*, &c.
- Englishmen, bringing in, I. * 17, * 34, * 61, * 144, * 181, * 393, * 405;—that 'nane be fey cumand be reffaut, becaufe of the Pefillence,' I. * 294; banqueted at Yule, * 300.
- Ennoche, Laird of, I. * 62.
- ENSENZE, Royal Standard. See *Ansenze*.
- ENZIE, EARL OF, Geo., III. 25.
- Epilepsy, charm for, II. 29.
- Equippage, crew of a vessel, III. 571, 572, &c.
- Eresche Willie, I. * 310; Marioun, II. 542, &c.
- Ermine, spotted, to line KING'S kirtle, &c. I. * 300.
- Emside, Tower of, broken into, I. * 223.
- ERROL, COUNTESS OF, Helen, dule weid (mourning) for Prince James, I. * 310; Agnes, 260; tried for Intercommuning with Earl Bothwell after his forfeiture, 366; Eliz., 389; Agnes Sinclair, II. 411; her dresses, &c., stolen, *ib.*; banished, Writ of Error against Assise, 412;—EARL OF, Wm., I. * 78; Justice depute, * 82; 'gaddering' between him and Lord Gordon, * 263; George, * 337; Lord High Constable's jurisdiction, * 351, * 392; Francis, 209, 262; denounced, 283; Offers presented by him, 301; to abide Trial, 303, 306; tried for Conspiring against the Religion, 310; Summons of Treason, 314; doom, 316; Tract regarding 'the Spanish Blanks,' 317; Trial ordered, 363; And., 367, 389; Fra., II. 133; II. 428; III. 419, 444;—Jo., hanged for Forcing a child of 11 years old, II. 567;—the LADY, Marriage Dresses to, I. * 321.
- Error, Wilful, on Assise, punished by imprisonment for year and day, and declared Infamous and Perjured, I. * 72; Laird of Phillorth, &c., * 148, * 165, * 166; Imprisonment for year and day, * 203, 219, * 253; form of

- Protestation against a verdict, * 449; for accusing a Witch, 244; absolved by KING in person, 247; Milligan, &c., II. 79.
- Errosie, heresy, II. 499; III. 533, &c.
- Erskine of Auchterforfar, Arth., Slaughter, II. 101;—of Brechin, Sir Tho., Secretary, I. * 185;—Dav., Adam, Wm. See Dryburgh, Cambuskenneth, Paisley;—of Dun, John, the Reformer, I. * 210, &c., * 347; Justice depute, * 389, * 407, * 431; Ro., yr., 74; Jo., yr., III. 261; notice of family, *ib.*: his son tried for Poisoning, &c., *ib.*; beheaded, 264; Helen, Issobell, and Annas also tried, 266; condemned to be beheaded, 269; Helen banished for life, *ib.*; Da., Jo., and Alex., his grandsons, poisoned by their uncle, Ro. E., 262; Jo. dies, 263;—of Gogar, Sir Alex., I. 120; Sir Tho., II. 152, 166, &c. See Gowrie Conspiracy; his deposition, 181; created Lord Dirlotoun, 246; Viscount Fentoun, 582; E. of Kelly, *ib.*, *note*;—of Inner- teill, Sir Geo., III. 475, 508; gets a Commission of Justiciary, 558;—of Logy, Jo., (apparent of Dun,) 261; Ro., his son, tried for Witchcraft, Poisoning his two nephews, &c., *ib.*, &c.;—Lord Robert, Justice depute, I. * 62, * 78, * 165; John, * 168, * 185; one of the Guardians of K. JAMES V. in his infancy, * 259; John, * 382; Guardian to K. JAMES VI. * 479;—of Little Sauchy, Ro., 119, 126.
- Escape, suffering English Thieves and Captives to, I. * 223. See Prisoner, Murderer, Thief, &c.
- Escheat, valuable, of Wm. Hume, I. * 307.
- Eskdale, Thieves of, I. * 40;—Raid of, * 104, * 181;—Porteous Roll of, * 117.
- Esplene of Newbigging, Tho., II. 555.
- Esson, Captain, English Pirate, III. 105.
- Eton College, III. 589.
- Etrick-Forest, destroying Woods in, I. * 71.
- Everis, Sir Wm., sends for Hawks, I. * 274; Dispatches from, * 295; writings to, * 304; horse taken from him, * 323, * 324; Sir Ralph, * 359.
- Evidence of Witnesses in exculpation of Slaughter refused, III. 467.
- Evil Spirits, nicknames of, III. 606; colour of their dresses, &c., *ib.*
- Evil-willit Sandy, I. * 173;—blast of wind, 53, 233.
- Eviot of Balhoussey, Pat., I. * 432, * 452; Colin, II. 159; Pat., his brother, forfeited in Parl., *ib.*, 234; murdered by his wife, Jonet Ross, who was hanged and burnt, II. 409, and *note*; III. 449;—of Mwretoun, Pat., 265; his servant hanged for stealing Title-deeds, *ib.*
- Examinations, remarkable, for Witchcraft, Sorcery, &c., III. 596.
- Excommunication, receiving Holy Sacrament while under, I. * 365, * 375; Priest baptizing, &c., after, 189.
- Execution, curious, of letters against the E. of Orkney, III. 86, 281.
- Exemption from Hosts, warding, &c., I. * 247; from Assises, see Assise.
- Expeditions to the Isles, &c. See Isles, &c.
- Expenses, Clerk of the King's, I. * 313; Assise protests for, 94.
- Eye-leist, what, I. 349; II. 157; III. 506, and *note*.
- Eye-schot, II. 536.
- Eyes of a Murdered corpse, superstition that they open on the touch of the Murderer, &c., III. 188; case of Johan Norkott, 193.

F.

- FA (FAW) Moyses, Da., Ro., and Jo., *alias* Willie, hanged, III. 201; Resetting Jo. Fa, 307; Letter from K. JAMES V. in favour of 'Johnne Faw, Lord and Erle of Little Egypt,' 592.
- Faerie, Court of, I. 49, 52, 53, 162;—Queen of, III. 604;—King of, *ib.*;—Faerie-cup, belonging to Lord Duffus, *ib.*, *note*.
- Fair-folk, (Fairies,) carried off by, I. 57, &c.; II. 25, 537.

- FAIR, LORD OF, present given to two Dutchmen, his servants, I. * 309.
- Fairbairne of West Gordoun, Ja., III. 539.
- Fairley (Farneley) of Braid, Arch., yr., I. * 166; Rob., * 368, * 424, 11; Alex., 255; II. 124, 343, 397, 467;—David, of Colmuistoun, waylaid, I. * 178; Jo., 72; II. 343, 397.
- Fairlye of that ilk, Jo., I. * 420;—Mr Ro., Justice depute, III. 541.
- Falabill, Laird of, slain, I. * 68, * 69.
- Falcons, I. * 294. See Hawks.
- Falconer of Ballandro, Ro., I. 29; II. 363; III. 200, 264;—Barbara, K. JAMES V. gives her tocher, I. * 324;—of Findowne, Geo., * 347;—of Halkertoune, Alex., II. 430; Sir Alex., III. 318, 436;—of Innerlochtie, Hew, Slaughter, 435; Hew, yr., *ib.*; Alex. Sandiesoun, his servant, slain, 484; Ja. Rooche beheaded, *ib.*;—of Kilhill, Pat. II. 362.
- Falconer, King's Master, I. * 315.
- Falconers sent with 'merlejonnis' and Hawks to France, I. * 266; to K. of England. * 284; to France, * 295, * 317; to K. of England, *ib.*, * 318; setting King's hawks, * 323.
- Falkland, Palace of, I. * 312; wild-boars sent to, *ib.*;—KING assaulted there, 275, 358; houses of assailants to be demolished, 276;—Raid of, *ib.*; E. of Bothwell tried, 293; forfeited, 297;—Assault between the King's Master carver, &c., 291; a Court of Justiciary held there, *ib.*, &c.; Keeper of, 308.
- Fallasdail, Da., with Tho. and Ja., his sons, slain by MacGregors, II. 432; Tho., 433, 439;—Tho. of Ardochbeg, III. 114.
- Falsing of evidents, Ja. Sowtare hanged, I. 85. See Forgery, Notary, &c.
- False Notary, hanged, II. 35. See Notary.
- Falset, II. 453, &c. See Perjury.
- False money, Making or forging, Symontoun of that ilk, and others, I. * 76, * 324; Henry Wynd beheaded, 'ex gratia,' * 393, * 396. (See Loranes, Hardheids, Bawbeis, Testanis, &c.)—* 440; Lions, * 487; Hardheids, 64, 82; half merks, 133; Testanis, three women strangled and burnt, II. 74; Walt. Murray and two others burnt, 100; Tho. McAlexander of Drummocheyne and three others 'wirreit' (strangled), and two more hanged, II. 353; Allan Napier 'wirreit and brint,' 403; Dow and McClaren hanged and forfeited, 418; importing, I. 66.
- Famines in Scotland, I. 51, 351.
- Famishing a man to death, *in privato carcere*, in pit of Tulliallane, III. 479; in Pit of Castle of Blair, 491.
- Famous witness, what, III. 74.
- Fameand, foaming, III. 576.
- Farny of that ilk, And. I. * 408.
- Farnylaw, Sir Geo. Chaplain, slain, I. * 20.
- Farquharson of Innerchald, Jo., &c., Slaughter, III. 203;—of Newtoun, Jo., I. * 476.
- Fastheuch, Burning Place of, I. * 23; Hereschip of, 35.
- Fastcastle, Heiresses of, I. * 179; correspondence as to Gowrie's Conspiracy. See *Logan and Sprott*.
- Fasternis-evin, I. * 123; II. 78; III. 468.
- Fausyde, Jo., slain, III. 415; Ro. Robertsoune beheaded, 416.
- Fawside of that ilk, I. * 166; Geo., remitted, * 243; Tho., 6, 10, 107; Mr Ro., yr., 149; Mr Ro., III. 9; Ja., yr., 415.
- Fawlow of Wallis, Geo. I. * 147.
- Fayette, Monsr. la, I. * 264.
- Feadge, what, III. 605, *note*.
- Feauly, swearing, to Protector of England, I. * 378.
- Feane, *alias* Cunningham, Jo., 'Secretar to the devill,' conspiring KING's death by sorcery, &c., burnt, I. 209; 'newes from Scotland,' &c. 213; strangled and burnt, 223, 226.
- 'Fearie, Thomas à,' an evil spirit, III. 606, 614, &c.
- Febill Hob, Stouthreif, * 182.
- Fedderat, place of, besieged and taken, I. 205.
- Felony, forethought, James Spottiswood, jr. I. * 15; Laird of Spottiswode, I. * 16; Robert Kilgour, hanged, I. * 134; * 148, * 159.
- Female, burning, I. * 190;—fool, Queen's. See Fool and Dwarf;—female culprits, punishment of death by drowning, I. * 162, * 190.
- Fencing a court, what, I. 46.
- Fentoun, John, of that ilk, slain, I. * 61, * 106,

- * 121 ;—of Ogill, I. * 404, David, *fiar*, * 405, Ja., * 408, Dav., 27 ;—VISCOUNT, II. 582. See Erskine of Gogar, III. 590.
- Feid, feud, III. 543, &c.
- Feir of weir, what, II. 70, &c.
- Fellis (hills) II. 519.
- Fergusone of Auchinsoule, Wm. I., * 457 ;—of Belnacult, Jo., III. 491 ;—of Ballewchane, Tho., II. 528 ;—*alias* Barroune, &c. See II. 394, *note* ; also Macduff ;—of Craigdarroche, Jo., I. * 79, Tho., *yr. ib.*, * 140 ; Tho., remitted, * 248 ; Jo., 241 ;—of Dirlullych, *alias* Barroune, F., I. 39 ;—of Glenbowar, Dunc., I. * 457 ;—Fergus, * 10, of Kilkerran, Duncan, *yr. of*, oppressed, I. * 58 ; Bernard, convocation, &c. * 456, II. 106 ;—of Mackilliestoun, Ro., III. 118 ;—of Stroyrnuk, Pat., I. 39 ;—of the Yle, Jo., II. 355, 360, Alex., III. 225 ;—of Crochedow, Ja., III. 225 ;—of Thraif, Geo., 172.
- Ferne of Nig, Alex., II. 104 ; Finlay, his son, hanged for forging his father's signature to a charter, 105.
- Ferryman ordered, under pain of death, not to raise their fare to persons passing to the army, I. * 270 ; tried for persons drowned, 185.
- Ferries stopt against deserters from the army, I. * 273.
- Fethye, David, perjured notary, declared infamous, his right hand struck off, I. * 402 ;—of Incheok, Dav., I. * 137.
- Feud, deadly, I. * 138, * 143, * 144, * 150, * 163 ; betwixt inhabitants of Ayr and neighbourhood, * 204, * 244, * 251 ; Earl of Marischall and Lord Gordon, * 263 ; and Lord Forbes, * 264 ; Lord Uchiltree, * 352 ; Lairds of Brodie and Alyre, &c. * 356 ; Gordons and Stewarts, * 366 ; Lindsay and Somervilles, * 369, * 383 ; Dunbars and Cumyngs, 370 ; Drummonds and Blairs, * 371 ; Dunbars and Innesses, 376 ; Baillies and Somervilles, 382 ; Lairds of Whiteford and Pollock, * 384 ; Charteris and Blairs, * 424 ; Citizens of Brechin and Tenants of Balnamoon, * 431 ; between Gordons and McClellans, 453 ; Stirrings and Kincaids, 458 ; Laird of Colpmalindeis and Lord Oliphant, * 488 ; Rosses and Oliphants, 25, &c. ; Maconeill and Maclean, &c., 224 ; Lairds of Pitfour and Kinfauns, 276 ; E. of Menteith and Leckie of that ilk, 282 ; Colquhouns and Galbraiths, 290 ; Laird of Closeburn and Lord Maxwell, 298 ; E. of Montrose and Lairds of Calder and Slamanno, 347 ; list of persons under deadly feud, *in anno* 1595, 352 ; Lord Maxwell and Laird of Johnstone, 360 ; narrative as to history of, and the subsequent feud, III. 29 ; Lairds of Gardyn and Guthrie, 373 ; Lairds of Grange and Phairnyhirst, II. 4 ; Lairds of Auchindrane and Calycane. (see Mure and Kennedy) 35, 37 ; Master of Spynie and the Master of Ogilvie, 130, &c., fined 5000*l.* each, &c., 146 ; Kerrs and Turnbulls at Jedburgh, 370, 421 ; battle of Dryfe Sands, III. 30 ; Lairds of Drumlanrig and Johnstone, 31 ; young Lairds Edzell and Pittarrow, 61 ; Lord Tortliorwald slain by Lord Ochiltree, &c., 65 ; Kemedies and E. of Cassillis, 124, 170, 172 ; Earls of Caithness and Sutherland, 231, 235 ; Lairds of Pitfoddels and Moynymusk, 258, 259 ; E. of Caithness and L. Forbes, 310 ; Scotts and Kerrs, agreement of their quarrels, &c., 390 ; Lairds of Ormistoun and Cessford reconciled, 393 ; Lairds of Culmalundie and Monievairst, 480 ; the Buchanans and MacFarlanes, and barbarous torture and murder of a Buchanan, 545 to 552 ; Earl of Glencairn and Master of Wintoun, Papers illustrative of, 579 ; Earls of Eglintoun & Glencairn and Lord Sempill, 580.
- Fian. See Feane and 'Newes from Scotland.'
- Fidler of lead, what, I. * 310.
- Field (see Battle) of Melrose, I. * 133 ; Lintlithgow, * 228 ; the Lennox, or Conflict of Glenfraine, II. 418, 424 ; and notice to Trial of Laird of Glenstra, 430 ; III. 223, 537.
- Fife, Sheriff of, invaded in a fenced Court, I. * 136.
- Fifty-shilling pieces forged, II. 99.
- Findoune, Craig of, Hawks' nests preserved there for the King, III. 204.
- Fingask, Laird of, his lands in Lewis wasted and burnt, III. 245.
- Finlawson of Killeyth, Jo., I. 10 ; Matho, II. 376, 480.
- Finlayson, Mr Jo., Sheriff-depute of Orkney,

- III. 274; taken prisoner, 277; hated by the people, 289; complained against, 292.
- Fire and sword, Commission of, II. 559, *et passim*.
- Fire-Ordeal, III. 184.
- Fire-raising. See Burning;—a 'Pele' in Bothill, I. * 25; and Hereschips in Badenoch, * 45, * 162, * 176; Balbegys, * 334; female branded and banished, * 346; Durrisdeer, &c., Rich. Latimer of that ilk hanged, * 348, * 370; Robert Paterson hanged, * 375; Hume, * 405; Commendator of Saul-seat, &c., 12; at Auchinleck, 72; at Littlegill, 108; at Horstonne, 109, 110; Pitmedden, 160; Moit, Littlegill, &c., 184; Mull, Tyree, Coll, Kintyre, &c., 226; Dunnibersell, 284; Crwvy, II. 41; Field of the Lennox, 430, &c., 441; Apotesyde, 511; Turnbull of Wauchope, &c., *ib.*; Sir Ja. Makcoveill, III. 1; Don. McAngus of Glengarie, 540;—in Coal-pits, Jo. Henrie, hanged, and his head put on a spike, 361.
- Fire-Cross, to alarm the country, III. 23, 369, &c.
- Fishing. See Salmon-fishing;—Violent occupation of, I. * 177, * 395.
- Fishings, how Witches took the fruit of, III. 609, &c. See also Witchcraft and Charms.
- Fisnowme, what, II. 478.
- Five-pund pieces forged, II. 99, 354.
- Flaconis, for Prince's Chapel, I. * 306.
- Flagranti crimine*, person taken *in*, III. 421. See also Red-hand, &c.
- Flailis, Murder with 'kents' and, III. 488.
- Flanders, Embassy to, I. * 243; tapestry brought from, * 298;—exporting wheat and corn to, * 365;—Herald of, * 277.
- Fleming of Barrochane, Wm., I. * 170; Alex., Pat., and Ja., his sons, Forcible abduction, &c., 377;—Chronicle MS., extracts from, II. 247, &c.;—Jo., Rape of Earl of Lennox's daughter, I. * 60; Jo., hanged for 'tressonable, blasphemous, and damnable speiches' against the King, III. 359;—of Kilmacolme, Geo., I. * 170; Ja., 69, 70;—LORD, John, slain, * 61, *note*, * 131, * 141, * 236;—Malcolm, * 141, * 149, * 185; respited for Resetting English Traitors, * 239; appointed Sheriff of Tweedale and Peebles, * 246; one of the Guardians of K. JAS. V., in his infancy, * 259; Assise between him and Lord Drummelzar, * 272; Tocher given to his sister, * 272, * 310; denounced, 291, 293. See WIGTOUN; Jo., III. 339, 472;—of Moness, Alex., II. 528; Slaughter, &c., III. 443, 465;—of Persiclandis, Wm., III. 270;—of Spittall, Ja., II. 467;—of Torbeddo, Jo., slain, I. * 72.
- Flesh, selling to the English, I. * 379; in time of Lent, 369. See Lent.
- Fletcher, And., Lord Milton, I. 257.
- Fleurie, Mons. Ambassador, I. * 283.
- Flewd, James, Englishman, I. * 282.
- Flisk, Parson of, John Waddell, I. * 471; Ja. Balfour, *ib.*
- Flood-mark, eight English Pirates hanged within, III. 99; *thirty* others hanged, 103; *two* more, 244. See Piracy, &c.
- FLORENCE, DUKE OF, Letters to, II. 571.
- Foispoken, what, II. 536; a child, III. 610.
- Fool of England, I. * 114; THE KING'S, * 115; Gillemowband, * 271; Malcolm the Fule, * 273; John Louise, * 317, &c.;—THE QUEEN'S (Mary of Guise) Serat, a female, costly dresses of satin, &c. to her, * 293, * 294, * 301; dress of green and yellow velvet, * 307, * 322.
- Foot-Band, I. * 268.
- Foot-ball, game of, II. 364.
- Foot-mantles, I. * 288.
- Foray, day, II. 453.
- Foraying, 'ryming of ane forrow,' II. 360; Tho. Cuninghame hanged, *ib.*
- Forbes of Ardmurdo, Wm., I. * 186; Jo., his son, murdered, 77;—of Blaktoun, Abr., 382;—Barb., Adultery with the Laird of Dalgettie, (her husband,) II. 64, 104;—of Burnegraues, Jo., III. 258;—of Brux, Alex., I. * 175, * 208; Lady Brux slain, *ib.*; Jo., III. 490;—of Bannagask, Mr Dunc., 540;—of Corssinday, Wm., I. * 163, * 175, 382; Jo., his brother, one of 'the Societe of the Boyis,' Slaughter, &c., II. 532; beheaded, 535, 581;—of Carnebo, Ja., I. * 186;—of Corse, Wm., 284;—of Carnehill, Pat., slain, II. 105;—of Craigievar, Mr Wm., III. 490;

- of Dalmanache, Alex., I. * 172;—of Drumtochty, Jo., * 186;—Sir David, knt., slain in ward, * 406;—of Fynceak, Jo., * 434;—of Haechtoun, Mr Ja., III. 485;—Mr Jo., Moderator of Assembly, II. 494; banished, 503;—**LORD**, Alexander, I. * 3, * 6, &c.; John, Slaughter of Laird of Meldrum, * 150, &c.; Fire-raising, &c. * 163; Feud, * 263, * 274; Wm., 263; Jo., Commission against Jesuites, &c., 336; Lieutenant, 342; Arthur, III. 76;—**MASTER OF**, Jo., Slaughter of Laird of Meldrum, I. * 149, * 163, * 175; beheaded, * 183; Papers illustrative of his Trial, * 185; remitted, * 246; gift of his escheat, * 249, * 279, 65, 119; Jo., 284;—of Monynusk, Duncan, coining 'Bawbeis,' * 441, * 454; Wm., 284; III. 200; Slaughter, &c., 204; Wm., yr., 230; Wm., 258; Ro., Jo., and Mr Ja., his sons, *ib.*, 259;—of Mylnebowie, Jo., II. 494; his son, Jo., yr., slain, *ib.*; Ro., his son, Slaughter, III. 227;—of New, Jo., II. 555;—of Pitlithie, Da., III. 76;—of Petslego, John, Mutilation, * 172; coining 'Bawbeis,' * 442; gift of his escheat, 248; Alex., 40;—of Portlithen, Wm., III. 206;—of Reres, Arthur, I. 40;—of Sonnahony, Arth., III. 242;—of Tolleise (Towies), Alex., I. * 208; III. 489, 490;—of Tolquhone, Wm., I. 284.
- Forcing, II. 405. See Rape, &c., 463;—Wm. Bell hanged, 475; Jo. Errole hanged, 566; III. 439; Ja. McNacht and Tho. Weir, 499; And. Wischert of Muretoun, 507.
- Fordoun, Kirk of, Minister struck at designation of Manse and Glebe, II. 362.
- Forestalling and Regrating, I. * 227, * 230, 139, 351; II. 527, &c.
- Forfar, Justice-aire of, I. * 272.
- Forfeiture, John, **LORD BOTHULE**, I. * 4; John Ross of Monntgrenane, * 8; John, **EARL OF LENNOX**, recalled, * 12; Mathew, **MASTER OF LENNOX**, recalled, *ib.*; Robert, **LORD LYLE**, recalled, *ib.*; Torquill Makloide of the Lewis, * 45; John Lindsay of Wanchope, * 48, &c. &c. (See High Treason);—Armoial bearings of forfeited traitors torn and defaced, * 490; Corpses of Traitors produced
- in Court, and bones disinterred, previous to sentence, &c., II. 241, 277.
- Forgery of the King's Sign-manual, I. * 113; Regent's, 19; of the King's Casket, 157;—of Apprising, * 255; of an Instrument, * 222, 45; John Soutare hanged, 85; Ro. Carmylie hanged, 87; of a Charter, a Notary, and two others hanged, II. 104; of an Assignation, &c., Jo. Donaldsoun hanged, III. 208;—of a Discharge, I. * 375; Jo. Halyday and five others hanged, II. 34;—of a Bond, &c., Tho. Dempster of Muresk beheaded, III. 486; forger hung in chains, I. * 137. See False money. Coining, &c.
- Forgiveness publicly asked at Cross of Edr. bare-footed, in linen clothes, &c. I. * 399.
- Forman of Rutherford, Sir John, I. * 42, * 107;—Mr Ro., Dean of Glasgow, * 79, * 156;—Dean Wm., Heresy, * 330.
- Forres, Kirk of, Sacrilege, stealing chalices, &c. from, I. * 393.
- Forrester of Boquhane, Ro., I. * 453;—of Corstorphin, (Laird of,) II. 10; yr. of, III. 73;—of Dnrisdale, Walt., I. * 404;—Dav., burghess of Stirling, slain, 351; Edw., Commissary of Kirkcudbright, III. 329;—of Garden (Carden), Alex., 351; feud with E. of Man, &c., 352, 354; Sir Ja., II. 502;—of Killemuke, Alex., I. * 216;—of Meadowfield, Ja., * 176;—of Myethill, Alex., 354;—of Puldoir, Dunc., 354;—of Strahennie, Sir Ro., III. 112; Ja., his nephew, tried for Dememoration, *ib.*;—Rob., burnt for Heresy, I. * 210, * 211, * 216;—of Gannelscheills, John, * 414;—Tho., murdered, * 350;—Wm., escheated, * 253.
- Forret of that ilk, John, I. * 408;—Dean Tho., burnt for Heresy, * 210, * 214, &c.; Memoir of, * 213.
- Forster of Skipinche, Sir Dunc., I. * 62.
- Forsyth of Dykes, Dav., I. 36.
- Fotheringham of Powrie, Tho., I. * 4, 74.
- Fountainhall's MS. Abridgement, I. 257; his Narrative of Auchindrayne's Case, III. 181.
- Four-half-about, objected against an Assisor, II. 50. See Assise, &c.
- Four-pound-pieces, forging, &c., II. 354, 365.

- Four-merk-pieces, II. 353.
- Foulis of Brownesyde, Tho., I. 35;—of Colintoun, Ja., * 252, 35; II. 10;—of Ravelstoun, Geo., 'Maister Cunzeour,' III. 459;—Ja., Clerk Register, I. * 168; Ja., Justice-depute, 372.
- Fowlis, Lady. See Roise and Monro.
- Fowls (poultry), poisoning, punished by banishment for life, II. 336; Witch-charm, burning a live fowl, III. 557.
- Fram, Tho., hanged for Cattle-stealing, II. 541.
- France, Ambassadors from, I. * 262, * 263, * 265, * 274, * 281, * 285, * 321, * 322;—Heralds of, * 268, * 296;—Iputygar returns to France, * 322;—KING OF, bonfires and rejoicings 'for novelties of the Triumphe gat in Lumbardy,' * 262; presents of Hawks, &c., sent to, 266, * 295; hackneys and hawks sent, * 306; present of a horse from, * 306;—Licence to pass to, * 244;—Lord Maxwell's Herald, * 85;—miners from, employed at Scottish gold mines, * 298.
- Fraser (Frisell) of Creiche, Jo., II. 104;—of Dures, Ro., III. 478;—Ja., &c., Rioting, Choosing a Lord of Inobedience, &c., I. * 410;—of Kilboig, Hu., III. 365;—of Knok, Jo., I. * 133;—of Kynnell, I. * 424;—LORD FRASER, of Lovat. See LOVAT; And., II. 600, *note*; Tutor of, Tho., I. 68, 285;—of Mukallis, And., yr., III. 539; his infant son And. slain, *ib.*;—of Phillorth, Alex., I. * 148, * 199, 284;—of Ro., Herald, slain, III. 79;—of Stanievold, And. III. 478.
- Freind, blood-relation, III. 129, 151, &c.
- Freland of that Ilk, Ja. I. * 170.
- French Army, Stouthbrief of part of their pay, I. * 361;—Ladies and Gentlemen in the Suite of QUEEN MAGDALENE, I. * 287, * 288, * 289, &c.; Q. MARY of Guise, * 292, &c.;—Soldiers, Slaughter and Wounding of, I. * 377;—Wines, purchasing high-priced, * 349, * 377.
- Frénche of Frencheland, Ro., yr., II. 467;—of Thornydykes, Rob., I. * 147; Feud with E. of Montrose, 352; II. 83; Jo., Tutor of, III. 69, 72; Ro., *ib.*; Jo., the *Bastard*, *ib.*; Alex., brother to the Tutor, Hurting and Wounding, *ib.*; Remission to, 116; Alex., Tutor of, Slaughter, 222; beheaded with Ja. Wicht, his nephew, *ib.*; Adam (14 years old) carried off and married against his consent, &c., 402; remarkable case of Forcible Abduction argued at length, *ib.*, &c.; Ro., his father, 404; Ja. and Jo., his uncles, *ib.*
- Frendraught, besieging Place of, &c., I. * 328.
- Frontellis, I. * 320.
- Fullerton of Ardoch, Wm., I. * 158; II. 430;—of Crosbie, Jo., I. * 137; Da., II. 106;—of Crago, Wm., jr., I. 79;—of Dreghorne, Jo., I. * 428; Wm., 183;—of that Ilk, Alex., I. * 177.
- Funeral Ceremonies, I. * 120, * 259, * 287, * 288; 'pow-penny,' * 293; Dirige and Saul-mess, *ib.*; Arms, torches, candles, &c., used at, * 297; Offering, * 304, &c.;—of James Duke of Ross, I. * 120; Slaughter at a funeral, III. 439.
- Funt-stane, the baptismal font, I. 52.
- Furious person, Slaughter by, I. * 363.
- Furrier, King's, I. * 315.
- Futhie of Fathie's-miln, Pat., I. 268.
- Fyete, La., D. of Albany's messenger. See Fayette.
- Fyrie-Cross, to alarm the country, III. 23, 24.
- FYVIE, LORD, ALEX., II. 159; Provost of Edr., 244, 417, 457. See Dunfermling.

G.

- Gaberlensie, Adam Turnbull called, slain, I. * 61.
- Gainzies, (bolts for cross-bows,) I. * 309. See Archery.
- Gairdin of Bandoch, Tho., slaughter of Laird of Guthrie, I. 372; feud, 373;—of Blairtounne, Mr Ro., yr., II. 528; III. 80;—of that Ilk, Pat., I. * 157; feud with the Laird of Auldbar, 352; slain, II. 528; III. 77;—of Latoune, Geo., II. 103; Da., III. 437;—of Legatstoun, Tho., Hamesucken and Slaughter.

- II. 103;—of Leys, Dav., I. * 138, * 347; II. 135, 235;—of Tullios, Ro., slain, II. 528; III. 80.
- Gairdner, Marg., inhumanly tortured, II. 44; Grissell 'wirreit' and 'brunt' for Witchcraft, &c.; III. 95.
- Gairne of Blakfurd, Ja., III. 478.
- GAIRLEIS, LORD, Alex., II. 572; III. 475.
- Galbraith of Balquharne, James, I. * 386;—of Culcreuche, hanged, I. * 13; Humphrey, Tutor of, * 166; Andro, respited, * 240; James, * 385, * 386; Ro., 289, 291;—of Gartscadden, Walt, I. * 150, * 385; attempting to restore Popery, * 427;—of Polgavie, Jo., I. * 166;—Mr Wm., Minister of Penny-cuik, Banished for Perjury, II. 476; Ja., beheaded for Murder, III. 565.
- GALLOWAY, BISHOP OF, Dav., I. * 79; Stouthreif from, I. * 94, * 99, * 272; Alex., * 387; Gawin, II. 261, 274;—Mr Norman, burnt for Heresy, I. * 210, *note*. See Gourlay;—Mr Pat., I. 304; Minister to the King, II. 156, 187; his Sermon on Gowrie's Conspiracy, in Edr., 248; another in Glasgow, 252.
- Gall, James, Fire-raising, &c., I. * 334.
- Galt, travelled, III. 232.
- Gallayis, Highland vessels, III. 368.
- Gallowsbeills, Guidwife of, bewitched, I. 236.
- Galzart, (Galliard,) what, III. 441.
- Galzeart, Captain, his Company, * I. 377.
- Game, Killing, with culverings and pistols, I. * 395.
- Gardens, breaking, III. 555; two men hanged, *ib*.
- Gareoche of Kilstair, Ja., I. * 184; Wm., yr., III. 76; Ja., 489; Wm., his son, Oppression, &c., *ib*., 496.
- Garscadden, attempt to restore Popery at, I. * 429.
- Garnets in Scottish Crown, I. * 299; and 'cedronis,' * 320.
- Garter, Order of the, I. * 283, * 289.
- Garles, Laird of, I. * 414. See Stewart.
- Garthland, Laird of, Burning Ardwell, &c., I. * 56. See Macdowall.
- Garytour, or warder, I. 8.
- Garroun, what, III. 276.
- Gartshore (Carschore) of that Ilk, Jo., III. 345.
- Gascony wine, Stouthrief of, I. * 54, 55.
- Gawin, Anth., E. of Little Egypt, III. 592; Letter to K. JAMES IV. from K. of DENMARK as to, *ib*.
- Gavistoun, (Galstoun,) Laird of, I. * 278, * 491.
- Geddes of Cuthill, Geo., I. * 131;—of Rauchane, Cha., I. 353; Capt. Cha., III. 229.
- Geese, price of, at Justice-Aires, I. * 389.
- Geikie, Wm., acquitted of the barbarous Murder of a Dumb young man, II. 388.
- Gemmill of Templehouse, Pat., I. 19.
- General Band. See Band.
- Gentill John, the English Fool, I. * 115.
- Gentillwomene, presents given by K. JAMES V. to, I. * 297, &c.
- Gib, Ja., Shooting at the Laird of Kyppis in Holyrood, I. 187, &c.; King's Warrant to put him to death, *ib*.; Banished for life, 189; Jo., 'wirreit and brunt' for uttering base money, II. 356; Jo., Murdered under trust, III. 74;—of Carribber, Ja., yr., II. 502.
- Gib the Galzart, scourged and banished, III. 442.
- Gibbet. See Cornwall; taken down and burnt, II. 351.
- Gibbeting in irons. See Irons.
- Giffen of Cardrono, Jo., I. * 133.
- Gifford of Sheriffhall, Wm., I. * 384; Ja., and his brother Jo., slain, 168.
- Gift, New-Year's, I. * 115.
- Gigha, Island of, Gift of lands of, I. * 246; burnt, 229.
- Gillatrypes, a Witch-dance, III. 606.
- Gilbert, Mr Tho., Justice-depute, I. 73.
- Gilchrist, Jo., and two others, hanged for falset, I. 362.
- Gilding false money and vending it, Allan Napier 'wirreit and brunt,' H. 403.
- Gillespy, Thomas, hanged, I. * 87.
- Gille-mowhand, a Court Fool, I. * 271.
- Gilmour, Wm., Witchcraft, &c., I. 101.
- Gilnockie, Tower of, I. * 152, &c. See Johnnie Armstrong.
- Gilzeam of Monachtie, Tho., II. 145.
- Girdle of Solid Gold from the mine at Crawford-mure, set with a Sapphire, I. * 299.
- Girdill, (girdle,) burning a woman on a red-hot, II. 391; Alex. Rowan hanged for this barbarity, &c. 393.

- Girnego, Place of, I. * 394.
 Girmalling of Victual, I. * 181.
 Girth, (Sanctuary,) Slaughter within, I. * 258.
 Girth-Sting, what, III. 259.
 Girvan, Sands of, Wm. Dalrymple murdered there, III. 181, &c. See Mure.
 Gissene, (gizzene or jizzen,) child-bed, I. 51.
 Gladsmure, Raid of, I. * 331, * 339.
 Gladstones of Coklaw, John, I. * 414; Ja., yr., II. 512; Ja., III. 396;—of that ilk, Walt., I. 166; Ja., Slaughter, II. 472; Jo., III. 391;—of Quhytelaw, Walt. * 396;—of Wynnyngton-hauch, Jo., II. 472, 523.
 Glaiked, gowked, III. 606.
 GLAMMIS, LORD JO., Justiciar, I. * 19, * 136, * 158; condemned, * 198; restored by Parl., * 199; found caution, 10,000 merks, * 327, * 346;—Jo., Lord Chancellor, slain, 79; Pat., II. 105; Slaughter, &c., 386, 496; Jo., III. 61. See KINGHORN;—MASTER OF, I. 78; Tho., of Baldukie, 117, 119, 174; his 'base son,' Ja. Lyoun, III. 323; Tho., 409;—LADY JONET, I. * 157; Using Charms, &c., 158; Assisors refuse to pass on her Assise, * 157, * 158; Licence to pass beyond seas, in Pilgrimage, * 244; her defence, * 192; case reported to the King, * 193; her execution, * 194; Burnt, * 187, &c.; Papers illustrating her Trial, * 191; her husband, trying to escape from Edr. Castle, is dashed to pieces, * 194, * 197, &c.; John Lyoun beheaded for concealing Conspiracy, * 202; Alex. Makke banished for do. * 203; Gift of her escheat, * 246; her two daughters, * 291.
 Glammis, Castle of, I. * 306;—Keeper of, and Baky, * 290.
 GLASGOW, ARCHBISHOP OF, Rob., Protection to his Tenants until his return from Rome, I. * 41; Ja., * 79; Gav., Chancellor, * 185; Ja., 55; Ro., * 264; Archb. Ja. Spottiswood, II. 261, 274; Ja., 584, 585; Jo., 596; buffets Ogilvy the Jesuite, III. 330; Geo., *ib.*, note, 339; curious notice of his death and funeral, Ja., 406, 508, 620;—attempt to restore Popery at, I. * 430;—Castle and Town, taken, I. * 234;—Mure of, * 114; Raid of, * 331;—Provost of, invaded, * 361;—Raid of, * 331; Riot by Laird of Minto and the Townspeople, III. 580;—Regality of, 508, 513, &c.
 Glass, Tho., 'wirreit and brunt' for uttering forged money, II. 355.
 Glen of the Bar, James, I. * 382, * 383, * 451;—of Lynthills, Hew, II. 439.
 Glenarknay, Hunting of, I. * 278, * 298.
 GLENCAIRN, SIR WM., MASTER OF, I. * 137; * 184, * 190, * 199; his son wounded, * 207; * 238; Alex., Governor and Justiciary of Kintyre, * 258; Assise on, * 264, * 306; Wm., * 229, * 456; Ja. 69;—EARL OF, Cuthb., * 62, * 78; respited, * 238; Raid of Kintyre, * 319; Raid of Glasgow-muir, * 331; Alex., * 350, * 386, * 466, * 478; Ja., 91, 114, 116, 265; feud with Laird of Glengarnock, 352; feud between him and the Master of Eglintoun, 354; Earl of Eglintoun slain by Ja., C. of Ross, 355; his servant slain, II. 426; III. 207, 316; Feud with Master of Wigtoun, Papers illustrative of, 579; with E. of Eglintoun, Lord Sempill, &c., 580.
 Glengarnrowne, II. 435. See Clan Cameron.
 Glencorse, Andro, burnt for Poisoning and Adultery, I. 84;—of that ilk, Jo., II. 507.
 Glendinning, Laird of, slain, I. * 60;—of Partoune, Ninian, * 85;—Simon, Messenger-at-arms, slain, * 48.
 Glendouing of Drumrasche, Jo., Slaughter of Laird of Dunduff's brother, II. 604; III. 121, 538; taken captive by Laird of Earlstoun, 552;—Mr Ro. Minister of Kirkcudbright, 329.
 Gleneviot, field of, II. 48, *note*.
 Glenfruiue, Conflict of. See Field of Lennox—II. 430; III. 537, &c.
 Glengarnock, Laird of. See Cuninghame.
 Glengarrie, III. 20. (See Makangus.)
 Glengore, (*Lucas Venereca*,) vid. Grantgore.
 Glenfulas, Hunting of, I. * 295, * 298.
 Glenislay, Hereschip of, I. 263.
 Glenlivet, (or Balrinnies,) battle of, I. 361.
 Glenlocha, burnt, III. 232.
 Glenquhome of the Wra, And., I. * 81.
 Glomming, (gloaming,) III. 3, 75, 384.
 Glorat, Laird of, murdered, I. * 170.

- Gloves of plate, I. * 303, * 317.
- Godwene. Dr. Vice Chan. of Oxford, III. 451, 588.
- Gold Mines, I. * 298; Dutch and French miners, * 298; present of unwrought Scottish gold to Duke of Guise, * 300; a piece purchased by the King, * 306; by Queen, * 311.
- Golden Fleece, Order of the, I. * 283.
- Goldsmith's work, I. * 284, * 295, &c.; great Basin of solid gold, weighing 10lb. 1½ oz., * 295; gold whistles for King, * 304; hawk-bells, &c., * 321; drinking pieces, weighing 15 lb. 5 oz., 339; another piece, weighing 12 lb. 5 oz., ordered to be coined, *ib.*
- Goose, green, roasted with kittens stuffed in it, a Witch-charm, II. 29.
- Gorbals, man wounded there, &c., III. 491.
- Gordon of Auchnacoy, I. * 150;—of Auchnacachie, Jo., yr., 284, 393; III. 402;—of Auldtonleyis, Jo., I. 284—Mr Alexander, (Postulate of Caithness,) departs to France, * 308, * 337;—of Auchindonne, William, I. * 150, * 454; Sir Patrick denounced, 283, 284; Offers presented by him, 301, 307; Trial for Conspiring against the Religion, &c., 310; doom, 316; Tract as to the Spanish Blanks, 317; III. 371;—of Abirzeldie, Alex., I. * 470;—of Auchinye, Wm., * 150;—of Airdis, Jo., II. 558;—of Blalak, Jo., I. 94;—of Buckie, Jo., 175;—of Barskeoche, John, * 366, ~ 398; attempting to restore Popery, * 427, 81, 84; Geo., III. 477;—of Boigis, Jo., Sh.-dep., of Aberdeen, II. 387;—of Bannernie, (Barnerino, Bairnairny,) Ro., III. 121, 173; suspected of Murder, &c., *ib.*; slain, 460;—of Boighoilis, Adam, 401, 488;—of Craigmilt, Ja., I. 94;—of Culquha, Jo., 159;—of Cluny, Sir Tho., 284; III. 79?; Alex., 228, 318, 418; Sir Alex., 436, 460;—of Craig of Auchindoir, Wm., I. 284; deleted from Summons of Forfeiture, 300;—of Cairnburrow, Jo., yr., 284; Wm., far, III. 428;—of Corrachrie, Pat., I. 284;—of Creehye, Ja., 470;—of Culquhodilstane, J. * 150;—of Collindach, II. 558;—of Chirnes, Mr Gilb., III. 88;—of Crago, Tho., 118;—of Chnbigoule, Jo., Sh.-depute of Aberdeenshire, Murder under colour of law, &c., 399;—of Dalpersye, Wm., I. 94;—of Dawane, Tho., 94;—of Dorth, (Dort,) slain, 361;—of Earlstoun, Jo., III. 247; Alex., yr., Usurping King's authority, &c., 552;—of Geycht, Geo., yr., I. * 453; Wm., 284; slain at Balrinnis, 361; Wm., II. 42; Geo., Murder under colour of law, &c., III. 399, 402; Jo., Alex., Ro., and Pat., his brothers, 402, 418; found caution, 5000 merks, 428; Jo., 581;—of Garlag, Roger, I. * 75;—of Glenluce, Laur., III. 9;—of Glwne, (Clunie?) Sir Tho., III. 79;—of Golspitour, Jo., wounded, III. 231; Jo., yr., *ib.*; Slaughter of the Laids of Stirko and Dyn, 235;—of Grange, Hew, 328;—of Halheid, Ro., I. 94;—of Hillis, Alex., III. 121, 173;—of Haddo, Harie, Murder under trust, 488;—Capt. Jo., beheaded, I. 358;—Lady Jane, her marriage to Ja., E. Bothwell, * 461;—of Kandmoir, Geo., 94;—of Kilsture, Harie, III. 247;—of Knokaspek, Ja., 258;—Lord, Alex., Field of Dunkeld, I. * 98; respited, * 231; Feud betwixt him and Earl of Erroll, * 263; John, * 387; Geo., assaulted on streets of Edr. by the E. of Caithness, III. 32;—of Lesmoir, Jo., yr., I. 284;—of Letterfourie, Pat., 284;—of Lochiivar, John, Oppression, * 53, * 75; James, * 199; remitted, * 252, * 274; John, * 366, * 384, * 398, * 428, * 453, 114; Sir Jo., 141, 184, 304; II. 14; Sir Ro., married to Lilius Ruthven, 297, *note*; Slaughter of his page, 558, 572; III. 121, 318, 433;—of Leichestoun, Jo., 78, 79; his son, Ja., tried for a barbarous Murder, *ib.*; pleads Remission, and finds caution, 80;—of Little Mondark, Alex., 328;—of Pitlurg, Jo., I. 136, 141;—Mr Pat. III. 446;—of Park, Jo. I. * 453;—Sir Ro., (brother of Jo., 7th E. of Sutherland,) III. 231;—of Rothemay, William, 428;—of Strathdoun, (Strathowne, or Strathdon,) Alex., I. 260, 367, 418;—of Scheves, Sir Geo. * 453;—of Sydra, (Sidderay,) Jo., III. 231; Jo., yr., *ib.*;—of Traquhane, Alex., I. * 453;—of Selstoun, II. 558.
- Gorgets, I. * 303. See also Armour, &c.

Gourlay, Mr Norman, burnt for Heresy, I. * 210 ;
—of Kincaig, Wm., * 156, * 253; Alex.,
invaded, &c., * 347.

Gorme of Slaitt, Donald, I. 348; Donald, (*S.I.S-
SENACH*), III. 19, 25, *note*; Sir Don., 541; his
sister forcibly carried off, &c., 542.

Gormock, Laird of, (John Butter), I. * 367, * 371.

Gotterby ford, where the routed Maxwells were
drowned, III. 30.

Gonzolles. See Grosselez and Duke of Milan,
I. * 269.

Govane, of Cardrona, Jo. III. 569;—Jo., Theft,
I. 15.

Gowdie, Tho., Slaughter, III. 544; Issobell, her
four remarkable Confessions of Witchcraft,
&c., 602 to 616.

Gowdis of French Crowns, I. * 307.

GOWRIE, EARL OF, Wm., I. 107; Raid of Ruth-
ven, III. 116; nicknamed Greysteil, II. 287;
family left by him, 297, *note*; Ja., *ib.*; Jo.,
Provost of Perth, 293; killed at Perth, II.
148, &c.; See Gowrie Conspiracy; Wm.,
his brother, &c., forfeited in Parl., 159; was
educated by Mr Ro. Rollock, 215; Jo., his
traffie in Magic, 218, 219, 220; his and his
brother's corpses, 233; transported to Edr.,
241, 247; his armorial bearings torn and de-
faced, 241; their quarters affixed at Stirling,
Perth, and Dundee. *ib.*; bodies hanged and
quartered in Edinburgh, 246; Original Let-
ters by him, 329;—COUNTESS OF, Dorath.,
I. 119; II. 167.

GOWRIE'S CONSPIRACY, II. 146; trial of Cran-
stone Craigie and McDuff, 148; hanged
at Perth, 155; their Depositions, 156, &c.;
the Forfeiture of the Earl of Gowrie's bro-
thers in Parliament, 159, &c. See Gowrie.

ABSTRACT OF THE LEADING FACTS.

A. Henderson of Latoune, Chamberlain of Scone,
and A. Ruthven, sent by E. OF GOWRIE a
private message to the KING at Falkland, at
½ a.m. of the morning of the Conspiracy, II.
165, 168, 175, 221; they return in haste to
Perth, 175; deliver their message to GOWRIE
at 10 a.m., *ib.*;—THE MASTER OF RUTH-
VEN also goes privately to Falkland to the
KING, on the same morning, II. 164, 171;

his interview with THE KING, 175, 209;
rides back to E. OF GOWRIE in haste, 172;
—THE KING invited to go *secretly* to Perth,
to be accompanied by a few domestics only,
165, 211;—story of the man with a hoard of
gold, 164, 171; more particular details, 210;
KING is lightly dressed in a hunting-suit,
without a dagger or arms of any kind, 185,
passim;—has only a hunting-horn, 215;—
the Noblemen and Courtiers in his suite
clothed in green hunting-dresses, and unarm-
ed, saving their side-arms, 214, 220, 315;—
THE KING is induced by the Master of Ruth-
ven to go to Perth, 153, 164, 165, 169, 171,
210, &c.;—is engaged in hunting from Falk-
land to Perth, 171, 174, 212;—slays a buck,
ib.;—is met by E. OF GOWRIE on the Inch of
Perth, 172, 176;—the Earl sends out for
dinner, 157, &c.; had dined previously, 172,
176; the dessert consisted of strawberries,
&c., 157, 172;—KING'S suite dine after the
King, in another apartment, 172, 214;—
GOWRIE comes from THE KING into the
Hall, and drinks his '*scoll*' 172, 214, &c.;
he leads out the suite, after dinner, to the
gardens, 172, &c.;—he and his servants re-
port that THE KING had '*ridden away*,' 150,
151, 153, 156, 165, 169, 173, 183, 185, 187;
—KING'S servants cry to horse, ('*horssis!*
horssis!') 173, 216;—GOWRIE'S porter, in
spite of his master's threats, denies that THE
KING had departed, 181, 186;—the porter's
Deposition, 187;—THE KING is drawn by
THE MASTER OF RUTHVEN into the Gallery
Chamber, and turret, 149, 153, 184, &c.;—
all the doors are locked by the Master of R.,
149, 151, 153, 165, 177, 186, 214;—Andro
Hendersoun, the Chamberlain of Scone, was
'the man in armour,' 149, 151, 153, 165,
169, 177, 214, 222;—his dagger is seized
upon by the Master of R., 149, 153, 177,
215, 222;—and used against THE KING,
149, 153, 215, 222;—but is at length wrench-
ed from the Master of R. by Hendersoun.
149, &c.;—Hendersoun's Depositions, 174,
179; his Letter to THE KING *in anno* 1608,
321;—the Master of R. tries to bind THE

KING's hands, 149, 151, 169, 178, 184, 216, 223 ;—grasps THE KING by the mouth and beard, 149, 151, 169, 178, 216 ;—threatens to take THE KING's life, 149, 151, 153, 165, 169, 215, 216 ;—THE KING screams for help out of a window, 149, 151, 153, 165, 169, 173, 178, 181, 185, 186, 189, 223 ;—his cries are heard by the Duke of Lennox, E. of Mar, &c., 152, 165, 168, 173, 217, &c. ; their Depositions, 171, 174 ;—KING is seen by his suite struggling at the window, 165, 173 ;—his face red, and a hand seen grappling him, *ib.*, 216, &c. ;—Sir Jo. Ramsay hastily enters by a back stair, 150, 151, 153, 165, 169, 178, 217 ;—the door is opened to him by And. Henderson, 150, 152, 153, 165, 169, 178, 223 ;—Ramsay, after a mortal struggle, drives the Master of R. out of the chamber, 150, 152, 165, 169 ;—Death of the MASTER OF RUTHVEN, 154, 156, 158, 166, 169, 173, 182, 197, 217 ;—the Master had on a *pyne-doublet*, and King cried, ' Fy strik him laich.' &c., 158, 183 ;—Ramsay had the King's hunting-hawk on his fist, at his first outcry, 179, 183 ;—King sets his foot on the hawk '*leische*,' 183 ;—King pushes the Master of R. down the 'blak turnpike,' 183, 217 ;—The Earl had *two* drawn swords, 150, 152, 154, 156, 159, 166, 169, 179, 181, 182, 190, 191, 197, 198, 199, 217 ;—his company have drawn swords, 150, 152, 154, 156, 158, 166, 169, 188, 190, 194, 195, 196, 217 ;—Cranstoun ascends 'the Black turnpike' with THE EARL, 150, 169 ; he is wounded, 151 ; run through the body by Ramsay, 156 ; also by Herries, *ib.*, 182 ;—Tullibardin's servants resist THE EARL's entrance, 156, 197 ;—Door defended by Ramsay, Erskine, and Herries, 150, 156, 166 ;—THE EARL forces an entrance, 154 ;—is armed with a steel-bonnet, 156, 158, 179, 182, 190, 191, 200, 217 ;—gets a '*py-doublet with tail-pieces*' made, before THE KING's visit, 158 ;—THE EARL slain in the Chamber, 151, 156, 166, 173, 190, 217 ;—Craighingelt, &c. keeps the back gate with a two-handed sword, 152, 158, 197 ; where he got that sword, 158, 159 ;—Erskine, Ramsay, and

Herries, wounded by THE EARL's accomplices, 152, 170, 182, 217 ;—Lennox, Mar, &c., attempt to burst open door of Gallery chamber, 173, &c. ; they do not succeed until E. OF GOWRIE and his brother are slain, *ib.* ;—threats to hang and kill KING's servants, 152, 192, 198, 217 ;—and to blow up the house with gunpowder, 152, 151, 189, 190, 192, 194, 196, 197, 198, 200, 236 ;—a joist is brought by EARL's assisters, and gate forced, 152, 154, 174, 181, 188, 195, 196, 197, 198, 199, 200, 236 ;—the Bailies of Perth ring the alarm bell, and come to KING's assistance, 186, 189, 195, 218 ; they demand to see the KING, &c., 187, 197, 198, 200 ;—called to account for their conduct, 236 ;—KING makes an oration at Cross of Edr., 246, 248 ;—Anniversary ordered to be observed, 237, 243, 246 ; public Thanksgivings, 240 ; public rejoicings, 243, 244, 245, &c., 247.

DEPOSITIONS of Witnesses :—D. of Lennox and E. of Mar, 171, 184 ;—And. Henderson, 174, 179, 221 ;—Abbots of Inchaffray and Lundores, 180, 181 ;—Sir Tho. Erskine, 181 ;—Sir Jo. Ramsay, 182 ;—Grahame and Moncrieff, 184 ;—Ray, 186 ;—Gowrie's porter, 187 ;—Blair and 19 others, 188 ;—Wemyss of Bogie, 218 ;—Mr Wm. Rynd, 219.

APPENDIX OF ORIGINAL CONTEMPORARY DOCUMENTS, *viz.*

- I. Depositions of 329 Witnesses as to Conspiracy, II. 171.
- II. Interrogatories put to Witnesses, 191.
- III. Report by Bailies of Perth of Examination of 355 Witnesses, 192.
- IV. The Earle of Gowrie's Conspiracie, called 'the King's Narrative,' printed in 1600, 208.
- V. De Execrabili et nefanda fratrum Rvenorum, &c., Conjuracione, printed 1601, 223.
- VI. A short Discovrse, &c., printed 1600, 231.
- VII. Extracts from the Records of the Privy Council, 232.
- VIII. Extracts from Lord High Treasurer's Accounts, 237.
- IX. Extracts from Records of Burgh and Sheriff of Perth, 242.
- X. Extracts from Records of City of Edr., 244.

- XI. Extracts from Birrel's MS. 'Diarey,' 245.
 XII. Extracts from Fleming's MS. Chronicle, 247.
 XIII. Discourses, Sermons, and Orations, 247 ;
 1. Mr Pat. Galloway, preached in Edr.,
 248 ; 2. Mr Wm. Cowper, do., 251 ; 3. Mr
 Pat. Galloway, preached in Glasgow, 252 ;
 An Oration delivered in Glasgow, 255.
 XIV. Trial of Geo. Sprott, Notary in Eymouth,
 256 ; his Deposition on the scaffold, 260 ;
 Archb. of Canterbury's account of, 262 ;
 narrative of his execution, 275.
 XV. Forfeiture of Logan of Restalrig, 276 ; his
 Letters to the E. of Gowrie, 281 ; Deposi-
 tions of Witnesses, 287 ; Letters, &c., 292.
 XVI. Johnston's MS. Narrative of the Conspi-
 racy, 293.
 XVII. Another MS. Narrative, 297.
 XVIII. Papers as to Conduct of Mr Ro. Bruce
 and Ministers of Edinburgh, 299 ; additional
 Papers, III. 618.
 XIX. Original Letters, &c., illustrative of the
 Conspiracy, 313.
 XX. Original Letters of Earl of Gowrie, 329.
 XXI. Facsimile of his subscription, 332.
 XXII. Additional Documents, III. 619, &c.
 Grace, Witch, before meat, III. 612 ; after meat, *ib.*
 Grahame of Arduthie, Dav., III. 483 ;—of Bal-
 gowan, Jo., in King's Suite at Gowrie's Con-
 spiracy, II. 166, 172 ; his Deposition, 184 ;—
 of Balvie, Wm., I. 282 ;—of Bankell, Ja., I.
 * 130 ;—of Calandare, Jo., I. 76 ;—of Claver-
 house, Jo., I. * 136 ; Wm., 282 ;—of Craig,
 Da., Slaughter of Spens, the E. of Cassillis's
 servant, II. 400 ; Gilb., yr., do., 480 ;—Da.,
 beheaded for Fintrie's Treason, I. 359 ; Wal-
 ter scourged, and his right hand struck off,
 &c., II. 417 ; Alex., Slaughter, III. 483 ;
 Annas, Lady Monyvaird. See Toscheauch,
 &c. ;—of Fyntrie, Sir Dav., Walt. and Ja., his
 brothers, Oppression, &c., I. 74, 111 ; Da.,
 173 ; beheaded, 257, 258, 311 ; II. 97 ; Ja.,
 his brother, tried for slaughter, *ib.* ;—of Gil-
 lesbe, Rob., I. * 85 ;—of Gornok, (Garvock?)
 I. * 373 ;—of Hospitalscheillis, Rich., Op-
 pression, &c., III. 496 ;—of Halzairdis, Mr
 Jo., Justice-depnte, I. 80, &c., 282 ; slain,
 359 ;—of Knokdoliane, Robert, I. * 130,
 * 369, 136, 141, 255 ; Jo., 266, 282 ; II. 86,
 433, 445 ;—of Langboddome, Ro., Suhorning
 Witnesses, and Perjury, III. 354 ; hanged, 358 ;
 his accomplices beheaded, hanged, scourged,
 and branded, *ib.* ;—of Leuchland, Ja., III.
 437 ;—Da., his son, slain, *ib.* ; Ro. Symmer,
 beheaded, *ib.* ;—MASTER OF, Robert, I. * 332 ;
 —of Morplie, Hen. I. 28 ; Sir Ro., III. 437 ;
 —of Panhollis, Wm., I. 282 ;—Richard, War-
 lock, I. 235, 241, 243, 244, 245, 249 ; burnt at
 the Cross of Edr., 358 ; Christian, Witch, burnt,
 509 ;—of Southfield, Alex., yr., I. * 346 ;—
 of Thornik, Ro., I. 111, 282 ; II. 166 ; Depo-
 sition as to Gowrie's Consp., 188 ;—of Ur-
 quhill, Jo., in King's suite at Gowrie's Consp.,
 II. 166, 172 ; his Deposition, 184, 366 ;—of
 Westraw, II. 541 ; Jo., his brother, *ib.* ;—of
 Westhall, Jo., slain, I. * 179 ;—Wm., called
 ' Singand Willie,' I. * 398.
 Grant of Ballindalloch, John, I. * 175, * 357 ;
 Intercommuning with Norman Leslie, * 358 ;
 Fire-raising, * 370 ; Jo., yr., III. 491 ;—of
 Carron, John, I. * 370 ; Pat., III. 554 ;—of
 Cardellis, Tho., wounded, III. 435 ; Pat., his
 son, slain, *ib.* ; Jo., yr., 436 ;—of Culcabok,
 I. * 175 ; remitted, * 247 ;—of Davachmoir,
 Pat., House-breaking, Stouthrief, &c., III.
 490 ;—of Freuchy, James, Slaughter, I. * 175,
 * 244 ; respited, * 245, * 247 ; Jo., 285 ;
 III. 316 ; of Gartmoir, Gregour, III. 371 ;—
 of Glenmoriestoun, Jo., his house of Belma-
 caene plundered, III. 490 ; taking a man cap-
 tive and strangling him, 553 ;—of that Ilk,
 Jo., III. 14 ; *note*, 370 ; Jonet, Witch, 'wir-
 reit at an stake' and burnt, I. 206 ;—of Wes-
 ter Elcheis, Lauch., Slaughter, &c., III. 435 ;
 Jo., his son, *ib.*
 Grantgore, or 'glengore,' *Luas Venerea*, I. * 110,
 * 117, 252.
 Grand Jury, I. * 391.
 Gratz, Jesuites' College there, III. 336.
 Grawie, Jonet, Witchcraft, II. 1.
 Gray of Ballegarno, Alex., remitted, I. * 246 ;—
 of Baldarran, Gilb., I. 148 ; II. 514 ;—of Bal-
 legernocht, Pat., I. 28 ;—Dav., Adultery, ban-
 ished Edr. for life, and fined L.40, II. 369 ;—

- of Dunnynald, And., I. 118;—of Kioggornie, And., II. 362;—LADY, (of England,) I. * 118;—LORD, (of England,) I. * 378, * 379;—LORD Andrew, Justiciar, I. * 3; on the South of the Forth, I. * 22, * 56, * 67; Justice-General, I. * 51, * 61, &c., * 78; Pat., Oppression, &c., * 177, * 375, * 414; Resetting rebels, 41, 266, 348;—Jo., hanged for taking Black-maill, I. * 356;—MASTER OF, I. 74; Pat., 144, 148, 153; Counterfeiting the King's Stamp or Casket, 157, 267, 275, 348;—of Schiellhill, Geo., I. 74.
- Gray-Steill, I. * 116, * 121. See Douglas;—also a *soubriquet* for Wm. E. of Gowrie, II. 287.
- Gray-meill, Jockie, (John Gordon,) a Warlock, I. 235, 236, 239, 240, 246; II. 542.
- Graves, remarkable Superstition practised by alleged Witches, I. 202; opened by Witches, for charms, 218, 233, 237, 239.
- Greave, Tho., burnt for Witchcraft, &c., III. * 555.
- Grene webbis, what, III. 528.
- Greece, the Friar that 'come furth of,' I. * 308;—the Earl of, III. 592; ane Knight of, *ib.*
- Greenside, Rood of, Heretics burnt at, I. * 210.
- Greenock, Burning gates and doors of, I. * 232.
- Greynslaw of Newtown, I. * 147;—of Little Newtown, Jo., II. 442; his six sons slain by Turnbills, *ib.*
- Greenshelis of that Ilk, Wm., I. 36.
- Greis-defandant, what, III. 424.
- Greir, (Grierson,) of Barjarg, Tho., I. 298; III. 217; Ja., his brother, *ib.*; Tho., 384;—of Crawfordtoun, I. * 132;—of Drumm, Gilb., I. 298;—Gilb., &c., Fire-raising, I. * 160, * 167;—of Isle, I. * 132;—of Pitfillan, Ja., III. 271.
- Griersoun of Beochane, Gilb., III. 387;—of Italy-dayhill, Jo., scourging naked people, cutting the backs of cattle, &c. I. * 155;—of Inglis-toun, Jo., III. 93;—Isobel, Witchcraft, Sorcery, &c., a remarkable case, II. 523; 'wir-reit' and 'brunt in assis,' 526;—of Lag, John, I. * 165, * 166; remitted, I. * 248; Roger, 111, 178; Wm., 304; Sir Wm., III. 217; Ro., yr., Slaughter, 500.
- Grey-Friars of Edinburgh, Theft of Plate stolen from KING revealed in confession to, I. * 271.
- Gresmore, Madame, marriage presents to, I. * 297; sewing gold to, * 298; Tocher given with her to the Laird of Creicht, * 305.
- Grievances, Articles of, presented for the Kirk, II. 9.
- Griffon, (Grifound,) James, Welshman, 'propy-nit,' I. * 281; sent to Flanders, * 281.
- Grooms of King's Chamber, Wine-cellar, &c., &c., I. * 313.
- Grozolez, one of the King's Keepers, I. * 269. See Gonzolles and Duke of Milan, * 270.
- Grote, John, freight of his ship to Orkney, I. * 305;—of Wairis, Don., slain, III. 53.
- Grundistoun of Kynghask, Tho., I. * 104, 60.
- Gryce, flain, III. 605.
- Grynter, 'grantarius,' I. * 382; II. 385.
- Guards, King's, Resisting, II. 452; Ringane and Will. Armstrang hanged, 453; two Elliotts have their right hands struck off, and then hanged, 559; three of the Guards sit as Assisors, *ib.*;—Scots, in France, Capt. Jo. Rig, tried for a Duel in France, 382.
- Gudelaith of Strabrok, Jo., I. * 424;—of Uphall, Harie, II. 555.
- Gude-wychtis, (good-neighbours, brownies,) I. 52, 162, &c. See Faerie, &c.
- Guidame, what, III. 96.
- Guidschir, what, II. 520; III. 404.
- Guid-nychtbouris, I. 162.
- Guild, Ja., Theft by an alleged idiot, I. * 415.
- GUISE, DUKE OF, I. * 296; present of unwrought gold from the mine at Crawford-mure, * 300; hackneys and hawks sent to, * 306.
- Gullane, Jo., hanged for taking Black maill, I. * 356.
- Gunner, King's master, I. * 314, &c.
- Gunpowder-Plot, II. 572.
- Gun-powder, I. * 295, &c.; King's Miln for, * 325;—gun-stanis, formerly used for Artillery, * 260, * 363.
- Guns, I. * 295. See Artillery; Iron, * 325; first mention of, in Criminal Records, II. 461.
- Guthry of Balnabreich, Jo., respited, I. * 254;—of Colestounne, Hen., I. 74;—of Gagye, Ja., 372;—Ja., Capt. of Creichtoun, * 143;—Mr Ja., his head fixed on Netherbow Port, III. 196; drops blood on Middleton's coach, *ib.*; Jo., hanged for Bigamy and Adultery, 428;—of

- that Ilk, Alex., Justice depute, I. * 72, 74 ; slain, 372 ; Isobel Wood, his relict, pursues the Laird of Baudoich, *ib.* ; Alex., Slaughter, II. 101 ; Ja, son of Alex., senr., slain, *ib.* ; Alex., the old Laird, slain, 103 ; Alex., fiar, III. 78, 80 ;—of Kincoldrum, Alex., I. 15 ; Da., yr., 74, 258 ; Slaughter, II. 101 ;—of Kinblakmouth, Pat., III. 437 ;—of Kynbach, Tho., I. * 411 ;—of Langlands, Wm., Slaughter, II. 101 ;—of Pitmowes, Pat., Slaughter, 130 ; discharged, 131 ;—of Ravensbie, Wm., Slaughter of the Lairds of Gairdin and Thlois, II. 528 ; III. 77, 80.
- Guvane of Cardrona, Wm., I. * 147.
- Gypsies. See Egyptians ; following them punished with scourging and banishment, III. 99.
- Gyre-Falcons, I. * 320.
- Gysaris, I. * 114, * 118, * 123.
- Gyves, heavy irons, called *boyes*, III. 3. See Irons, Torture, &c.

H.

- HABIRGEOUN, (Haberschounes,) of mail, I. * 289, * 270.
- Hackneys, (horses,) sent to KING of FRANCE, &c., I. * 306.
- Haddenrig, Battle of, I. * 324.
- Haddington. Raid of, I. * 356 ;—Supplying English in, * 350, * 353.
- HADDINGTON, EARL OF, (Sir Tho. Hamilton) III. 21, &c., *quissim* ;—VISCOUNT, (Ramsay,) Jo., II. 91.
- Hagbuts, (Hawkbutts, haquebutis,) importation from Holland, I. * 307, * 310, * 321 ; Act ament wearing, 299 ; lang, II. 70, 103, 128 ; shooting with, 485. See Pistolets ; III. 213.
- Haig of Bemerside, I. * 87 ? * 144 ; Robert, * 242 ; II. 419.
- Haitlie, Ja., one of King's Guard, sits on an Assise, II. 559 ;—of Lambden, * 451 ;—of Mellestanes, Jo., I. * 229, *note*, * 359 ; Tho., his brother, *ib.*, 2.
- Hail and feir, III. 260, 467.
- Hakket of Pituirane, Patrick, I. * 351.
- Halberts, I. * 289.
- Halero, Pat., engaged in the Rebellion in Orkney, III. 274, 289, 291 ; is present when Ro. Stewart tears the Bond of Association, 304 ; his Deposition, 307 ; his life saved, 311 ;—Ro. of Cava, III. 296.
- Halden. (Haddene,) of Bellysoule, Ro., I. 15 ;—of Glenmageis, Ja., II. 426 ; Tutor of, Da., 430, 439 ; Ja., III. 318 ;—of that Ilk, Geo., II. 467 ; Jo., III. 391 ;—of Kelour, Sylvester, I. * 157 ; Wm., * 424.
- Haliburton of Inchearne, I. 231 ; Wm. II. 355 ; Mr Ja., Provost of Dundee, Intercommuning with, I. * 467 ; Mr Ja., alias Moffatt, Jesuite, III. 331, 371, 377 ; banished, 379 ;—Menie, Witch, pricked for Devil's mark, 599 ; her Confession, *ib.* ;—of Moreislaw, II. 425 ;—of Muirtoun, (Mertoun,) Walt., I. * 147 ; And., yr., * 230 ; Ralph, * 432 ; Hen., 107 ; Jo., II. 515 ;—and DIRLETON, LORD, Pat., II. 283, *note* ;—of Petcur, Geo., I. * 180, 74 ; Sir Ja., II. 49 ;—of Walstruther, Geo., I. * 469.
- Haliday, Jo., and five others, hanged for Forging a discharge, II. 34.
- HALIS, LORD, Pat., Master of the King's Household, I. * 2 ;—MASTER OF, Patrick, * 160 ; remitted, * 243, * 263.
- Hall-door, Usher of the King's, I. * 313.
- * Halie Lyg, the, (Spanish Armada) I. 228.
- Halket, attempting to restore Popery at the Place of, I. * 430.
- Halkerstoun, Colonel, I. 334.
- Halkryggis, with ' head-geir and teslotis,' I. * 317.
- Hall, And. and Wm., (*Fat-sow* and *Wantoun-pyntill*), I. * 181 ; slain, * 201 ; Lyell hanged for Horse-stealing, &c., * 432 ; Andro of the Sykis, and Perseis Jok, Slaughter, 37 ;—of Foulbar, Adam, I. 66 ; Ja., Slaughter of the young Laird of Scottistoun, III. 236.
- Hallowmes, III. 568.
- Halsclaith, neckcloth, I. 253.
- Haly-water-fatt, in Prince's Chapel, I. * 306.
- Hamesucken, William Cockburne, I. * 15, * 58,

* 59, * 172, 176, * 180; during the Plague in Perth, * 219, * 317, * 366; in Monastery of Paisley, * 382; in Provost of Edinburgh's house, * 399, * 403, * 410, * 412; William Fergusone beheaded, * 425; Lord Saltoun, * 476; Oliphant, 24; Montgomery of Scottistoun, &c., 60; Bonkle beheaded, 158; H. 37, 70; and slaughter of Laird of Guthrie, 103; Tho. Cuninghame hanged, 359, 464; Irving of Moncoffer, &c., 493; Jo. Henderson banished, III. 58; and Slaughter, 362; Alex. Davidson beheaded, *ib.*; Tho. Meldrum of Idene, 431; and unmerciful Slaughter of a woman, 485.

Hammitoun of Auchinbow, Alex., yr. slain, I. * 150;—of Ardrie, Gav., 36;—of Auchnaglen, Jo., 378; his daughter carried off, *ib.*;—of Bardowy, Alan, Intercommunicating with, * 150; Mariota Maxwell, Lady of, *ib.*, * 204, * 250, * 257; Jo., 22; Ja., yr., 378—of Bordland, Geo., Tutor of, 19;—of Bairfurd, (Bairfute,) Sir Ja., * 431; Arch., II. 405; his wife ravished, *ib.*—of Bynning, I. * 471; Jo., 155;—of Briggs, Ro., * 399;—of Bothwellhauche, Da., * 404; his widow charged for REGENT MURRAY'S Murder, 23; his servant hanged, 31; Arthur tried, 87; Da., 88; Arth., 119; Da., (alias of Monkton-mains.) 266;—of Blair, Jo., II. 600, *note*;—Castle of, detaining, I. * 231; breaking ward for escape of a Heretic, * 352;—of Crawfordjohu, Sir James, knt., * 414;—of Caudor, Mr Ja., 378;—of Corse, Ro., 119;—of Crawford, Sir Ja., Incest with Marion, his natural daughter, 167;—Commissary of Lanark, Arch., III. 495;—Capt. Jo., slain in a duel in Flanders, 502;—of Cruikwell, Ja., I. * 450;—of Cochno, (Colchnoch,) And., * 450, * 451, * 480; Claud, 71;—of Cammiskeith, Laird of, * 82; Jo., * 137; Wm., Tutor of, * 427;—Claud, ('son to my Lord Duke,') * 450, 69, 89, 331; Sir Claud, III. 143;—of Cumnok, Jo., slain, II. 419;—David hanged for Regent Murray's Slaughter, I. 31; Jo., Parson of Cranfordjohu, Mutilation, &c., II. 474; Jo., Murdered under trust, III. 123;—of Dalserf, Pat., I. * 385; Wm., II. 61;—of Drumcairn,

Tho., Lord Advocate, I. 366; II. 3, &c., *passim*; his brother, Pat., Under Secretary, III. 293, &c. See Binning, Haddingtoun, &c.;—of Evandale, Sir Ja., beheaded, I. * 195; Ja., III. 234;—of Fimmart, Sir Ja., I. * 152, * 172, * 227; beheaded, 228; Respited for Fielding against D. of Albany, * 237; Captain of Dumbarton, * 241; Gift of his non-entry to E. Bothwell, * 255; Gift of part of his escheat, * 256; keeping Castle of Craignethan, * 316;—of Ferguslie, John, * 361. * 382;—of Grange, Thomas, * 424; Jo., present in KING'S suite at Gowrie's Conspiracy, II. 172;—of Gairewis, Dav., I. 19;—of Gartlavoeh, Pat., *ib.*;—of the Grange of Kilmarnok, Jo., II. 555;—of Garene, Ja., *ib.*;—of the Hill, Gav., I. 36; Wm., 378;—of Henschaw, John, * 410;—of Haggis, Ja., 119;—of Hairshaw, Jo., Slaughter, III. 119; his sons, &c., *ib.*;—Sir Ja., Sheriff of Linlithgow, confiscated for Heresy, I. * 211; present to furnish him furth of the realm, * 309; his wife, * 311;—of Innerwick, Ja., respited, * 240, * 413, * 468; Alex., * 486; Sir Alex. III. 494;—of Inchemauchane, Ro., I. * 471, 139; II. 3, 13, 390;—Jo., scourged and branded for Perjury, III. 358. (See Branding, Perjury, &c.)—Kath., accused of Heresy, escapes through the King's influence, I. * 211;—of Kincaple, Jo., * 414;—of Kinglass, Mr Alex., III. 453;—of Libberton, Ja., I. 191; Sir Ja., his servant, killed, II. 453, 485;—LORD, I. 178; Jo., 285, 298;—of Letrick, Sir Jo., III. 495;—of Lekprevieck, And., I. * 404;—of Samuelstoun, Ja., 27; Jo., yr., 270; Pat., II. 82;—MARQUIS OF, Jo. III. 31; Ja., 206, 207, 318, 339, 590;—of Newhouse, Ro. I. 36;—Patrick, Martyr, * 211, * 228;—of Philipstoun, Math., Langside, &c., 21, 22;—of Parkhead, Arthur, 36;—of Portmanno, Wm., 59;—of the Peill, (of Levingstoun,) Ja., 345; Claud and Alex., his sons, denounced, *ib.*;—of Pedderisburne, Jo., * 404;—of Pedderistoun, Jo., 36;—of Pardovane, Wm., his son slain, * 476;—of Prestounne, * 477; Geo., yr, 36; Geo., 149, 286;—of Priestfield, Tho., * 486;—Mr Pat.,

- Under-Secretary of State, III. 293 ;—of Rotteyards, Wm., I. 19 ;—of Roploch, Gawin, II. 195 ;—of Reidhouse, Sir And., III. 418 ; declined as an Assessor, 424 ;—of Stanehouse, Ja., Slaughter, I. 179 ; remitted, 247 ; escape from Castle of Edr., * 331 ; Jo., * 450, 36 ; —of Saunquhar-Lindesay, Wm., * 149, * 172 ; Sir Wm., 30 ;—of Some, Wm., 141 ;—of Schawtoun, Jo., 69 ;—of Silvertonehill, And., * 414 ; II. 510 ;—of Spittelscheill, Ja., yr., II. 540 ; Murder under trust, *ib.* ; beheaded, 561 ;—of Scheirell, Ja., 540 ;—of Woodside, Ja., I. * 420 ;—of Woodhall, Ja., 36.
- Hand, right, struck off, (punishment,) I. * 388, * 402, * 431, 20, 372 ; II. 363, 417, 421, 560 ; III. 198, 454.
- Hanging Image of St Francis, I. * 286 ;—in chains, punishment of death, * 137, * 358.
- Hangitschaw, Hereschip of, I. * 35.
- Hannay, Rob., &c., Choosing Abbot of Unreason, Insurrection in Edinburgh, &c., I. * 409.
- Hares, killing in forbidden time, I. * 15 ;—Witches take form of, III. 605, 607, &c.
- Harehead, Hereschip of, I. * 18.
- Harlaw, Wm., Heresy, &c., I. * 407.
- Harden, house of, to be destroyed, I. 276.
- Hard-heads, (*harlits*) or Lions, coins, forging them, I. * 440 ; what, * 487, 64, 82.
- Hardie of Bonnylnerig, Ja., II. 441 ; Tho., his son, hanged for Masterful Stouthreif, *ib.*
- Harnessing, I. * 295. See Tournament, &c. ; * 317, * 320, * 321, * 323.
- Harn-pan, skull, II. 384.
- Harrett of the Coittis, Geo., Slaughter, II. 423 ; denounced, *ib.*
- Hart of Livielands, Wm., I. 366 ; Lord Advocate, II. 2 ; Justice depute, 18.
- Harvie, Capt., English Pirate, III. 104.
- Hasp of yarn, what, III. 556 ; Witch-charms with, 555, 556, &c.
- Hastiludium, III. 42.
- Hathoway, And., and his wife banished for Resetting a Jesuite, III. 541.
- Hat-pieces, forging, II. 99 ; uttering, 365.
- Hattit kit, what, II. 285.
- Hattok, horse and, III. 604, and *note*, &c.
- Haubert, Nicholas, alias French Paris. See Paris.
- Haw, Robert, hanged, I. * 70.
- Hawick, Raid of, I. 10.
- Hawking, Laird of Pitmedden barbarously murdered whilst, III. 78.
- Hawks, Stouthreif of, from rock of ErneCraig, I. * 106 ; sent to France, * 266 ; to England, * 274, * 284, * 285 ; from the Isles, * 294 ; sent to France, * 295 ; from Caithness, * 297, * 298 ; Hawk-hoods, * 305 ; silver clamshell for King's Hawks' meat, *ib.*, * 320, * 322 ; sent to K. of France, &c., * 306, * 317 ; K. of England, * 317, * 318 ;—Hawk-bells of gold, * 321 ; brought from Norway, * 322 ; setting (entering) the King's, * 323.
- Hay, Mr Andro, Parson of Renfrew, I. * 486 ; —Sir Alex., Secretary of State, II. 328 ; his Letter of appointment, 585, *note* ;—of Ardlethame, Geo., III. 400 ; Fra, his son, Murdered, under colour of Law, *ib.*, &c. ; he received *sic* strokes with the axe on the shoulders, head, and neck, before decapitation, 401, 402, 418 ;—of Barro, Mr Wm., Comuissary of Glasgow, III. 339 ;—of Brunthillis, Wm., fiar, 418 ;—of Dalgattie, Wm., I. 66 ; Alex., Adultery with Eliz. Clark, &c., II. 46 ; with Barbara Forbes, (his wife,) 64, 104, 112, 130 ;—of Easter Kennet, Alex., I. 268 ;—Father Edmund, I. 333 ;—of Edinvaill, Tho., slain, II. 427 ;—of Gourdie, Wm., I. 262 ; his son Ja. slain, *ib.* ; his son Wm. slain, II. 80, 85 ; And., *ib.* ; Geo. Rattray, &c., beheaded, 85 ;—Jo., Slaughter, III. 242 ; acquitted, 243 ;—of Kynmwdie, Mr Alex., II. 528 ;—of Lynplum, Wm., I. 337 ; II. 105, 467 ;—of Logyruiff, Wm., III. 400 ;—of Lochloy, Witch-plot to cut off him and his male-issue, 617, &c. See Hay of Park ;—of Melgynche, Peter, I. 3 ;—of Mukhaldis, John, * 392 ;—of Mayne, Ja., * 408 ; Wm., his nephew, slain, II. 41 ; his left hand mutilated, 42 ; Wm., 557 ; his uncle slain, *ib.* ; Ja., yr., *ib.* ; Wm., 435 ; Fra. and Alex., his sons, Slaughter, III. 435 ; Ja., yr., 436 ;—of Mynzeane, Geo., I. * 143, * 166 ;—of Monktonne, Geo., II. 467 ;—of Nethertoun, Geo., Prior of Charterhouse, 166 ; his Deposition as to Gowrie's Conspiracy, 188 ;—of Nether Liff, Sir

- Geo., his property in Lewis wasted and burnt, III. 246;—of Newtown, Hew, 616;—of Park, Jo., I. * 391, 68; Witch-plot to take lives of his male children, III. 605, 612, *et seq.*;—Mr Peter, Deposition as to Gowrie's Consp., II. 188; Bessie, a Witch, III. 606, &c.;—of Qubithburgh, Sir Alex., 312;—of Rannes, Mr Ja., False imprisonment, II. 43;—of Smithfield, Jo., I. * 148;—of Scroggis, Tho., II. 368;—of Tallo, Wm., remitted, I. * 243; Jo., yr., hanged and quartered for K. HENRY'S (Darnley's) Murder, * 490; his Deposition, * 496; his Confession, * 500; Jo., 27, 145;—LORD OF JESTER, Jo., * 62, * 78, * 141, * 147, * 149; remitted, * 243; Wm., 146; Ja., 262; Jo. III. 590, and *note*.
- Head of a Thief sent to Edr., I. * 274.
- Hearts of gold, rings, &c. I. * 295.
- Heart-shot, II. 536.
- Heart-pypes, III. 485.
- Heer (hair) of yarn, what, III. 556.
- Heiress, caution found by, not to marry 'ane cheif Tratour' or 'brokkin man,' I. * 434. See Abduction.
- Hempisfield, the Lady, III. 122.
- Henchmen, King's, I. * 114.
- Henderland, breaking Kirk of. I. * 98. See Cockburn.
- Hendersoune of Bengoure, Jo., I. * 471;—of Dryden, Ja., yr., 169; Ja., II. 405;—of Fordell, Ja., I. 60;—Geo., cutting growing timber, &c., II. 522;—Mr Hen., Heresy, I. * 255; Christ., hanged, * 173; Jo., hanged, * 206;—of Latonne, Andro, Chamberlain of Scone, employed at Gowrie's Conspiracy, II. 149, &c. *q. v.*;—his Depositions, 174, 179, 221; Letter to the King as to Lord Scone, 321;—of North Rannaldsay, Mr Ro., III. 280.
- HENRY II., KING of England, his dead body bleeds on the approach of his son, &c., III. 192;—VII., I. * 5, * 262;—VIII., * 2; Embassy from, * 265; present of cloth of gold, * 266; of 'blawin hornis, leschis, and dog-collaris,' * 270, * 272; Embassy to, * 276, * 277; complaint as to the 'brek of the Bordouris,' * 279; solemnly confirms peace with Scotland, * 283; present of Hawks to, * 482; ballat against, * 295; writings from, * 296; advertised of Birth of PRINCE JAMES, * 302; Ross Herald sent to, * 312; hawks sent to, * 317, * 318; Embassy to, * 320, * 321;—IV., KING of FRANCE, * 77, *note*; II. 380; KING (DARNLEY), I. * 466, * 478; his Marriage to MARY QUEEN OF SCOTS, * 478, * 488; Murdered at the Kirk of Field, * 479; Trials for his Murder, * 488 to * 492; Documents illustrative of, * 493 to * 513; Wm. Tailzor and Andro McCaig murdered along with the King, * 492;—Murder of the King and the two REGENTS, 35; Jo. Bynning hanged and quartered, 95; Geo. Hume of Spott, 101; acquitted, 107; EARL OF MORTON'S Trial, 114;—Mr Arch. Douglas, Parson of Glasgow, 142, &c. See Treason;—PRINCE, (eldest son of K. JA. VI.,) born, 360; his baptism at Stirling, 338, 361; his death, III. 322, *note*.
- Henrie, Jo., hanged for Fire-raising in Coal-pits, III. 361; his head fixed on a spike, *ib.*
- Henrysonne, Mr Ja., Justice Clerk, I. * 79;—Rich., slain, * 408.
- Henslie (Ainslie ?) of Fawlay, Wm., I. 37.
- Hepburn of Alderstonne, (Sir) Ro., Lient of King's Guard, II. 453, 559;—Sir Alex., I. * 62;—of Athelstonford, Geo., 9;—of Beynstonne, Pat., * 73;—of Boltoun, Pat., * 359; Jo. hanged and quartered for Murder of K. HENRY (Darnley,) * 490; his Deposition, * 498; his Confession, * 500, 114, 145;—of Bonhard, Adam, II. 405;—of the Craggis, Sir Adam, I. * 62, * 78; III. 72; Ro., his brother, *ib.*;—of Fortoune, Hary, I. 9, 107;—of Gilmerton, Wm., * 462, *note*; Mr Pat., 156, 169; Mr Jo., III. 271;—of Kirklandhill, Pat., I. 9, 155;—of Lufnes, Sir Pat., II. 60, 74;—of Markill, Ro., 368;—of Qubithsum, suffering English Thieves to escape, I. * 223; Alex., protests against Bothwell's outlawry, * 464;—Richard, alias *Red Richie*, slain, * 365, * 366; Marion burnt for forging base money, II. 74;—of Richardtoun (Riccartoun), Pat., I. 290; II. 340;—of Snetoun, Adam, I. * 364; Mr Pat., 156,

- 169;—II. 84, 343;—of Wauchtoun, Sir Pat., I. * 159; Waylaying, * 169, * 172; gift of his own escheat, * 249, * 347, * 356, * 395, * 468, 114; Slaughter, III. 271, 316;—of Whytecastell, Sir Pat., knt., tried for Murder of K. HENRY (Darnley), I. * 489.
- Heralds, Danish, I. * 268, * 275, * 277;—English, * 275, * 283, * 296;—of Flanders, * 277;—King's, allowances to, * 114, * 118; their Coats-armorial, * 301;—of the Nobility, * 86;—striking one, * 268;—assaulting, in execution of their duty, 175; Ro. Fraser slain, III. 79; Ro. Winrahame taken prisoner in Orkney, his coat of arms torn, &c., 278.
- Heres of Cowsland, Sir Hugh, defends the KING at Perth, II. 152, &c. See Gowrie's Conspiracy, 172.
- Hereis of Kirktonne of Essie, Geo., II. 355, 430, 559.
- Herschship, of the Place of Spittale, I. * 17; Mynto, * 18; Harehead, *ib.*; Quhytmure, * 19; Haangitschaw, * 23; Covantounne, * 26; Syntoume, * 31; Fastbenche and Hanging-schaw, * 35; Town of Selkirk, *ib.*; Merecleuche, * 36; Carterhauch, * 37; Bade-noch, * 45; Innermeffane, * 51; Blindhanche, * 61; Cruickstoun, * 70; Davy, Dyke, Ardroseir, &c., * 175; Towghe, * 240; Kildrummy, * 246; Lennox, Rose-neath, and Craiginche, *ib.*; Kenlochow and Trouternes, * 256; Dullady, * 344; Durrisdeer, Amisfield, &c., &c., * 348; Cummerrithle, * 393; Winterleuche, * 398; Glenislay, 263; II. 453; and 'Day-Foray' by Armstrongs, *ib.*; Torwoddlie, 5000 merks worth carried off, and Laird slain, &c., 520; by the MacGregors, III. 232, &c. See Burning, Stouthreif, &c.
- Heresy, prosecutions for, I. * 209; Memoirs relative to early Martyrs, * 209 to * 216, &c.; Richard Pollok restored, * 252; gift of Consland and Cant's escheat, *ib.*, * 255; man burnt at Cowper, * 297; Dean Foiman, * 330; Paul Methven, * 406; Friar John Christeson, Wm. Harlaw, John Willok, * 407.
- Heretical books, using, I. * 209, * 216, * 217, * 252.
- Heretics burnt at the Rood of Greensyde, &c., * 210, &c.; to search for, in the Westland, (Lollards of Kyle,) * 287; Stirling, &c. * 296; escape from Hamilton Castle, * 352.
- Heriote, Geo., goldsmith, I. 270; II. 159; waits on King to intercede for Mr Ro. Bruce, 310;—of Ramorny, Walt., I. * 425;—of Tra-brounne, Andro, * 143; respited for the Field of Linlithgow, * 241; forfeited, * 261; James, * 395, * 425, * 451, * 468, 72; his brother slain, 158, 190.
- Hering of Drimmy, Arch., II. 63;—of Glas-clune, Ja., I. * 367;—of Lethindie, Jo., (Da.?) II. 433; Laur., brother to the Laird, III. 437;—of Little Blair, And., Slaughter, I. 262;—Capt. Pat., Sorcery and Witchcraft, II. 23, 355, 368; III. 487.
- Hermitage, Castle of, I. * 284, * 300; artillery sent to, * 324, * 494; Capt. of, III. 220.
- Heroun of Chipehese, Wm., III. 568;—of Kierochtrie, Pat., Slaughter, 460.
- HERRIES, LORD, And., I. * 55, * 78; Herb., * 224; Wm., * 242, * 327, 184, 304; II. 386; Jo., 465, 596; proposal to marry his daughter to young Laird of Johnstone, III. 51, 91, 115, 316;—Andro, Fire-raising, &c., I. * 242; Ro., abiding from Raid of the Isles, III. 227.
- Hertsyde, Margt. (Mrs, afterwards Lady, Buchanan.) remarkable Trial for Abstracting pearls and jewels from QUEEN ANNE (of Denmark,) her mistress, II. 544; declared 'Infamous,' and doomed to pay 4800*l.*, and to be Banished to Orkney for life. Aug. 10, 1608, 556; recalled by the KING, by special Warrant, Nov. 15, 1619, 557.
- Hervie, Alex., Slaughter, III. 444;—of Elrig, Ja., 478; And., his brother, *ib.*
- Heryng, Symone, hanged, I. * 401; John, his son, hanged, *ib.*; both of them put to the torture, *ib.*, *note.*
- Hett-fever, what, III. 260.
- Highlands, Procl. for invasion of, I. 303, 355.
- High-school of Edr., Riot at, when a Bailie was shot by Wm. Sinclair, one of the boys, I. 195, *note*, 349, 362. See Sinclair of May.
- Hill, Tho., and others of the King's Guard, sit on an Assise, II. 559.
- Hirdmanstone, burning of, I. * 27.

- Hodge, Ro., Murder, III. 488.
- Hog, a year old sheep, III. 56, 396, &c., *passim*.
- Hogingis, (armour,) I. 317.
- HOLYROODHOUSE, LORD, JO., (Bothwell,) II. 261, 273, 496, 505, 506; III. 9;—Keeper of, I. * 314; Park of, enlarged, * 321;—Slaughter committed within the Sanctuary, or Girth, I. * 258; Organs for the Chapel, * 321; David Riccio Murdered, * 478; Shooting within, punished by banishment for life, 187; King invaded, 272, 357; E. of Bothwell tried, 293; forfeited, 297; King's Master Stabler slain, 357; II. 505; Gypsies dance before K. JAMES V. there, III. 592;—Abbot of, Robert Cairncross, I. * 185, I. 254.
- Holywood, Robert, Abbot of, Lord High Treasurer, I. * 287, *note*, * 288.
- Honour done to the Devil by Witches, I. 210, 217, 239; III. 609, *et seq.* See Witchcraft, *passim*.
- Home, Alex., beheaded, Treason, I. * 201;—of Aytoune, Geo., I. 11, 136; Pat., II. 10, 379, 381; Wm., III. 116; Ro., his son, remitted, *ib.*; Jo., yr., 414;—of Argaties, Pat., I. 119; Dav., 136, 369;—Black John, 140;—of Blackadder, found caution for 20,000*l.*, I. * 230; remitted, * 247; expelling him, * 272, * 413;—of Bassendyne, Geo., and And his brother, wounded, &c., III. 69; wounded again, 252;—of Barro, Cristell, I. * 405;—of Broxmouthe, Geo., I. * 413, 154; II. 379; Sir Geo., 402;—of Ballicass, Wm., Slaughter, II. 336;—of Balandyne, Wm., II. 336;—of Coldaneknowis, Jo., I. * 180, * 182, * 184, * 190, * 199, * 229, * 360, * 393; Sir John, * 405, * 432, * 468, * 487; Ja., yr., 11; Jo., yr., 244; Wm., II. 12; Sir Jo., married Beatrix Ruthven, 297, *note*;—Castle of, recovering, I. * 237; supplying English in, * 360;—of Carrolside, Jo., I. * 432, 2; Ro., II. 442;—of Cranstane, Jo., I. 37;—of Cranniecruiik, Geo., 205;—Cutlib., hanged for uttering base money, II. 353;—of Deans, Alex., I. 155; Geo., II. 502;—Elizabeth, Tocher to, I. * 317;—EARL OF, II. 494; Alex., Remission to, III. 116, 318;—Gilb., Wm., and Tho., Hamesucken, &c., I. * 180;—of Godscroft, Mr Ja., II. 442;—of Hardeismylne, Wm., Forcible Abduction, &c., (a remarkable case,) III. 402, 539;—of Hutounhall, Alex., I. * 487, 48; Sir Jo., Remission to, III. 116; Mr Sam., his brother, also remitted, *ib.*; Sir Jo., 377;—of that Ilk, Alex., Great Chamberlain, I. * 2;—of the Hauch, Ro., I. 107, 270; II. 368, 471; his son tried for Slaughter of Lord Spynie, 529;—of Johnnesclenche, Gawin, II. 502;—LORD, (EARL OF,) Geo., I. * 143, * 166; Feud with Laird of Edmonstoun, * 180; Spuilzie, &c., * 208; Remissions for assisting him, * 233, * 243; Summoned, * 310; Alex., beheaded, I. * 233; his head taken down from Tolbooth of Edr., * 242; his forfeiture, * 259, * 261, * 262; Assise to, * 286, * 351; Alex., * 393, * 398, * 432, 308; II. 394; III. 396;—Marg., Prioress of North Berwick, I. * 347;—of Manderstoune, Alex., I. * 442, * 487, 5; Slaughter of Lord Methven, &c., 30, 102; II. 13; Sir Geo., III. 493, 414;—MASTER OF, I. * 15;—of Ninewells, And., escheated for Wilful Error, I. * 253, * 432;—of North Berwick, Alex., I. 289, 304; II. 81; Sir Jo., 502; III. 403, 414;—of Prendergaist, Wm., I. * 365; his five sons invaded, &c., *ib.*, 269;—of Polwart, Alex., I. * 146, 159; Pat., 205; II. 402; Sir Pat., 572;—of Rentoune, Alex., II. 582;—of Redheuche, Rob., I. * 413; Cutlib., his son, hanged for vending base coin, II. 353;—of Rowiestoune, Da., II. 403;—of Spott, Geo., I. * 43, * 140, * 272, * 413; tried for Darnley's Murder, 101; acquitted, 107, 149; slain, II. 98; Sir Geo., 218;—of St Leonards, Wm., III. 116; three of his sons remitted, *ib.*;—of Slegden, Jo., III. 416;—of Swanscheill, Mr Jo., III. 529;—of Wedderburn, Geo., I. * 15, * 195; treasonably assisting, * 237, * 239, * 265, * 267, 154, 205, 289; Da., his brother, II. 397; Da., yr., III. 414;—(Tutor of,) Alex., I. * 140;—Mr Wm., beheaded, I. * 233, *note*; taking down his head from Edr. tolbooth, * 243; his gold and jewels escheated, * 307.
- Homicide set at liberty, I. * 442; Magistrates of Edr. tried for so doing, * *ib.* to * 450; Culpable—see Slaughter.
- Hood, Robin, I. * 117, * 275; his banner,

- dresses, &c., *ib.*; the King's, *ib.*; Insurrection in Edr., * 409; in the Mearns, &c., 15.
- Hope, David, hanged, Treason, I. * 142.
- Hopkins, Math., Witch-finder, III. 598.
- Hopper of Bairhoussis, Ja., III. 460.
- Hoppringle of Blyndley, Rob., I. * 230; Assisting the English, * 338; Geo., II. 83;—of Buckholm, Jo., I. 265;—the Clan of, * 71;—of Craigleithe, Alex., * 374, * 433, * 434;—of Heriote-mylne, Ja., III. 452;—of that Ilk, Geo., I. * 433; Ja., 265; Tho., III. 393;—of Mairhouse, Jo., I. * 432;—of Newhall, Alex., * 433;—of Torwoodlee, Dav., * 24; George, * 230; Assisting the English, * 337, 265; Murdered, II. 520; Place of, spoiled, *ib.*; Geo., *ib.*;—of Trynlieknewis, Alex., I. * 374, * 414; John, yr., * 433; Alex., * 434;—of Tynnes, James, * 166, * 339;—of Smallerraig, Jo., * 230;—of Whitebank, Ja., 84, 265, 349; II. 376, 403;—of Woodhouse, Ja., I. 89, 107.
- Horn, being at the, Laird of Kilpatrick slain, while I. * 77; Discussion by Lords of Privy Council, and Act ament Reset of Rebels, &c., I. * 78, * 80. See Rebel, Treason, &c.
- Horne-Hunter, Laird of, I. * 38.
- Horns, 'blawin,' I. * 270; for PRINCE JAMES, * 307.
- Horse and armour, Stouthrief of, II. 453.
- Horse and hattok! a Witch-cry, III. 604; and *note*, 608, &c.
- Horse-racing, I. * 121; III. 447.
- Horses, King's, I. * 301. See Stud.
- Horse-stealing, I. * 22, * 23, * 41, 96. See Stouthrie f, &c.; wild horses and mares, * 247; Paul Andesome hanged, * 400; Wm. Cadenhead hanged, I. * 411; Lyell Hall hanged, * 432; Moffat hanged, 386; Moffat and Adiesome hanged, II. 357, 359; Davidson of Calleie hanged, 441; Beirope of that Ilk, 515; Alex. and Ja. hanged, III. 241; Peter Davidson and two others hanged, 265.
- Horseburgh of that Ilk, Alex., I. * 133, * 424;—of Harkes, Alex., II. 128, 355;—Tho., hanged, and afterwards decapitated, and his right hand struck off, &c., for Murder and Robbery, II. 422.
- Horslie, John, Englishman, I. * 273.
- Houghing of Horses, I. * 103;—of Cattle, * 431, * 433; Rose of Kilravok, II. 67;—of Oxen, &c., Jo. Johnstoun of Lochhouse, beheaded, 425; III. 251; three men hanged, *ib.*
- Hounds sent to France, I. * 277; expense of the King's, I. * 282; K. JAMES VI. offers a horse, worth L.100, for recovery of two strayed, II. 242; proclamations against their detainers, *ib.*
- House-breaking, during Plague in Perth, I. * 219; house of Bonyntoune broken, II. 340; young Laird hanged, 347; Alex. Daw hanged, *ib.*; Lord Chancellor's house broken, 352; Wm. Creichtoune hanged for do., 353; Moffat and Adieson hanged, 357; And. Reid, 411; And. Rutherford banished, III. 540.
- Household, Master of KING'S, I. * 244; Members of, * 312, * 313; PRINCE'S, * 314; Expenses of, * 317, * 323; his Jurisdiction, II. 91.
- Houstoune of that Ilk, (Laird of,) I. * 82; Jo., * 150, * 167; * 350; Pat., 382; Umbesetting the gait, * 450, 19; Rob., his brother, Slaughter, 69; Pat., 141; Sir Pat. Slaughter by, 182; Feud with Master of Eglington, 352; with young Laird of Glengarnock, 354, 378; Sir Jo., II. 572;—of Lany, Jo., II. 343.
- Howard, Lord Hen., II. 319, 409.
- Howiesonne, Mr Jo., Forging an Act of Parliament, &c., II. 14.
- Howp, (hope,) what, II. 519.
- Howpaslot, Tower of, Stouthrief from, I. * 23; burnt, * 172; Laird of, destroying Woods, &c., I. * 71; barbarous maiming and slaughter of threescore of sheep there, III. 381, &c. See Scott.
- Howlatis and Stymeis, III. 588.
- Huchesone, Sir David, Provost of Rosling, Heresy, I. * 255.
- Hudeskull, I. * 288.
- Hume. See Home.
- Hunter of Ballagane, Dunc., Intercommuning with, I. * 369; III. 248, 475, 500;—of Haggburne, Ja., Stouthrief, &c., II. 567;—of Halkburn, T., I. * 432;—of Hill-Tarvet, Pat. III. 452;—Hunter of Hunterstoun, Ro., I. 71;—

HUNSDON, LORD, I. * 510.
 HUNTLE, EARL OF, Alex., Justiciar, I. * 60, * 62, * 78, * 107; Battle of Corrieich, * 183; Geo., * 163, * 175; challenges the Master of Forbes, judicially, * 185; Jo., gift of the Master of Forbes's, &c., escheat, * 219, * 300, * 302, * 381, * 162, *note*; * 469, * 494, * 503, * 512; Intercommunicating with, 33, 75; High Treason, &c., 171; pardoned, 181; Raid against him deserted, 267; denounced, 283; Offers presented by him, 301; to abide trial, 303, 306; Trial for Conspiring against the Religion, 310; Summons of Treason, 314; doom, 316; Tract as to the Spanish Blanks, 317; Slays the Earl of Murray, 358; Trial ordered, 363; warrant from Privy Council to prosecute, *ib.*, &c.;—MARQUIS OF, Geo., III. 24, 79, 409, 419; Warrant from Privy Council

to prosecute the 'Societe of the Boyes' with fire and sword, 581.
 Hunting, barbarous torture and savage Murder of a Gentleman, &c., III. 517;—King's Master of, I. * 240; corn destroyed, * 272;—in Meggotland, I. * 272, * 285; in Glenarkney, * 278; in Athole, * 279; in Glenfinlas, * 295; the Hunts, * 311, * 323.
 Hureheone, a hedgehog, I. 253.
 Hurting Crownar of Renfrew, I. * 106;—and wounding, I. * 200; breaking a boy's backbone, III. 477; Jo. Murray hanged, 479, 491, &c. See Wounding.
 Hussie, what, III. 525.
 Huttone, Ro., slain with an Otter-staff, with an tua-granet fork of irne at the end thairof, III. 499; Hen. Baird beheaded, 500.
 Hyde-the-bastard, III. 385.

I.

IDROT, curator to, I. * 254; Theft by one, * 415.
 Idolatry, I. 30. See Mass, &c.
 Ilay, Governor and Sheriff of, I. * 258;—Herald, * 272; III. 81; interesting form of Execution of Summons against E. of Orkney, 86;—Island of, burnt and harried, I. 229.
 Images of Our Lady and St John, I. * 320; hanging Image of St Francis, * 286; breaking Image of St Magdalen, * 335; casting down, in Kirk of Air, *ib.*
 Importation of Artillery, &c. I. * 307.
 Importing and uttering forged money, I. * 137;—Alex. Thomson hanged and forfeited, II. 404. See Forgery, Uttering, &c.
 Impotency, Decree of Divorce on the ground of, I. * 460.
 Imprecation, awful, of K. JA. VI. as to Sir Tho. Overbury's murder, II. 600, *note*.
 Imprisoning, I. * 159, * 165, * 171, * 381; II. 43; III. 212.
 Imp-Tree, or Fairie's Trysting-place, I. 52, 58.
 Incantation, I. 51, 70, 104, 161, 209, 230, &c. See Witchcraft, Sorcery, &c.
 Incarceration, I. * 165. See Imprisoning, &c.
 Incest, I. 459; and Adultery, Ja. Bonar burnt,

22; Marionne Reid, 41; Gilb. Young, 42; Eliz. Prestoun, 83; Marg. Scott, 84; Dame Grizell Scott, *ib.*; Da. Dundas with Countess of Eglington, 100; Gothray McCulloch of Ardwell, 134; Sir Ja. Hamilton, 167; Ja. Stewart 'wirreit' and 'brunt,' III. 248; Jo. Ramsay of Pryour-Lethame, 257; Jaffray Irwing of Robgill beheaded, 576.
 Incheaffray, Commendator of, &c., I. * 387; Ja., 267; II. 159; present at Gowrie's Conspiracy in KING's suite, 172; his Deposition, 180.
 Inchegarvy, House of, keeping, I. * 281.
 Indictment. See Dittay.
 Infamous and Perjured, &c., Assise declared, I. * 73, * 203; forger, * 375, * 387; Notary, * 402; Margt. Hertsyde declared, for abstracting QUEEN's jewels, II. 556; recalled, 557.
 Inglis of Eistscheill, Tho., III. 268;—of Inglistarvet, Alex., I. 60;—of Kilmarny, Jo., * 160; Alex., yr., *ib.*;—of Langlandhill, Wm., False money, &c., * 76, * 81; Jo., * 226;—of Murdestonne, Tho., 35;—of Scheill, Wm., * 457;—Wm. hanged for Treason, * 142;—of Wintermaure, Mungo, * 226.

- Ingyret, what, III. 209.
- Innerleithen, Stealing out of Kirk of, I. * 25.
- Innermessane, Burning of, I. * 124.
- INNERMEITHE, Richard, LORD, * 136; John, * 346, * 417; Ja., 91, 114; Jo., III. 22.
- Innerwick, Laird of, I. * 413. See Hamilton.
- Innes, And., alias *Cow the jégat*, I. * 376; alias *the Sclar*, *ib.*; Mr Alex., 382; Ro., notary, hanged for falsifying a Charter, II. 104;—of Auchluncarye, Ja., I. * 411;—of Balvany, Ro., III. 436;—of Caibo, Alex., I. * 391;—of Crombye, Alex., * 465, 68;—of Coitis, Ro., 382;—of Dranye (Drymye,) Ja., * 376, * 391;—of that Ilk, Alex., yr., * 169; Wm. oppressed, * 376; Sacrilege, &c., *ib.*, * 391;—of Innermarkie, Ro., * 391; Oppression, taking ransom, &c., * 411; invades Commendator of Ardochattan, * 465, 284; beheaded for Murder of E. of Murray, 362;—of Knok-corth, Jo., III. 225;—of Lewcharis, Ja., I. * 376; Jo., 201;—of Monbenys, Ja., 376;—of Rothnakenzie, Ro., * 169;—of Touchis, Walt., * 186.
- Inobedience, Lord of, I. * 409. See Abbot of Unreason, Robin Hood, &c.
- Interlining Signet Letters, I. * 346.
- Intercommuning with Duke of Albany, I. * 16, * 17, * 18; with Thieves of Leven, * 17; Sheriff of Ayr, * 137, &c.; Rebels of Carrick, Bute, and Arran, * 140, &c.; Englishmen, * 332; at Broughtly-craig, * 344, * 345; with Laird of Caldwell, * 357; rebels, * 358; Laird of Ballagane, * 369; English, * 406; D. of Chattellarault, &c., against the QUEEN, * 466; with E. of Mar, 136, &c.; Countess of Errol for resetting with E. Bothwell, 366; with the Clan Gregor, II. 414; with Lord Maxwell, III. 91; two persons hanged for, 223, &c. See under parties' names.
- Interpreters allowed to Highlanders, earliest recorded instance, III. 246.
- Insight plenishing, II. 70, 413.
- Insulis, Jo. de, III. 2, &c. See Isles.
- Inscheech, remarkable Witch-Confessions there, III. 616, *et seq.*
- Insurrection against the King, Dunkeld, I. * 106; in Burgh of Air, * 204.
- Instrument, using a forged, I. * 222; falsing and forging, 45.
- Intoxication, (using potions, drugs, poison, &c.,) I. * 158, * 369, * 419.
- Invading, &c., for Slaughter, I. * 356.
- Invasion of a Sheriff in his fenced Court, I. * 136;—Judicial Arbitration for, * 167, * 172, * 181, * 201, * 238;—of Master of Sempill, * 343;—in a fenced Court, * 456;—of a Minister, &c., II. 416;—Walter Grahame scourged, and his right hand struck off, 417; and taken captive, III. 212;—by the English, I. * 269.
- Inveraray, K. JAMES V. at, I. * 278, * 279.
- Inveresk, battle of, I. 51.
- Ireland, Rebels in, I. * 348.
- Iron-house or 'Cage' for felons, III. 293, &c.
- Irons, punishment of hanging in, I. * 137, * 358; Armstrong, II. 364; Stanfield, III. 198.
- Irving of Ardanfurd, Jo., II. 532; his servant slain by 'the Societe of the Boyis,' *ib.*;—of Bonschaw, Edw., * 431; Geo., III. 576; Agnes Cairletoun, his wife, commits Incest, *ib.*;—of Drum, Alex., I. 206, 284;—of Kynnok, Jo., II. 99;—of Lenturk, Alex., yr., III. 230;—of Moncoffer, Ro., Hamesucken, &c., II. 494; acquitted, *ib.*;—of Robgill, Dav., I. * 431; Jaffray beheaded for Incest with his brother the Laird of Bonschaw's wife, III. 576;—of Saba, (Cava,) Wm., III. 82; his son Wm. slain, 278;—of Wysbie, Gilb., III. 241; Alex., his son, and Wm., his nephew, hanged for horse and sheep stealing, Perjury, &c. *ib.*
- Isla (Yla) Herald, taken prisoner in Orkney, his coat of arms torn, &c., III. 278, 283, 317, &c.
- Island-Lochbroom, Castle of, I. * 305.
- Island-Vernak, in Loch-Katrine, detained against King's Commissioner, III. 235.
- Isles, Angus of the, I. * 46;—Arch., alias *the Clerk*, * 256;—BISHOP OF, Geo., (John,) * 79, * 105; Alex., * 387; and RAPHO; And., III. 14, 109, 366;—Donald of the, I. * 45, * 231, * 234, * 254; besieges Mak-kane, * 262; sustentation of, in Castle of Edr., * 270;—Expedition to, by K. JAMES IV., * 120, * 266; Cannons which passed there, * 272, * 275; silver plate for the King's use, * 302; new Expedition, * 303;

fitting up Ships, &c., *ib.*; victualling, &c., *ib.*;
Letters from Queen, * 304; hostages sent to
Dunbar, Tantallon, and the Bass, * 305;
Sasine taken of MacKany's lands, * 307;
Ships to carry Islesmen to the Borders, for
defence of the kingdom, * 324; Proclamation
for an expedition against the Islesmen

and Highlanders, 355;—Halks brought from,
* 294;—Sir John of, * 116;—KINGS OF
THE, III. 1;—LORD OF, Jo., I. * 46; III.
2;—Raid of, 118, 202, 225.
Italian Minstrels, I. * 123, &c. See Minstrels.
Italy, Embassy to, I. * 273.

J.

JACK (piece of armour) covered with velvet, I.
* 312.

JACKIS, Robert the, an Evil Spirit, III. 606, 614,
&c.

Jak, Rich., beheaded for Slaughter, I. * 27;
Tho., II. 384;—*alias* Scott, Jo., burnt for
Bestiality, 491.

Jakkis that plays vpon the Veolis, I. * 316.

JAMES III., KING, I. * * 6; masses for his soul
at Cambuskenneth, * 295; Chaplain 'fingand
for his fawle,' * 315.

JAMES IV., KING, I. * 1 to * 124, *passim*; his
Coronation, * 114; Selections from his private
and public Expenditure, from * 114 to
* 124; married, * 117; his sports, see App.,
passim; skilled in surgery, &c., * 124; his
Funeral Obsequies, * 259; Letter from KING
OF DENMARK, as to the Earl of Little Egypt,
III. 592. See Q. MARGARET.

JAMES V., KING, I. * 125 to 325, *passim*;
Stouthreif of his Mangonels and Artillery coming
from Stirling Castle, * 132; Crown and
Jewels stolen, * 133; Raid against Border
Thieves, &c., * 152; attempt to take him and
Duke of Ross out of Stirling Castle, * 233,
* 239; Palace of Linlithgow held against
him, &c., * 255; Selections from his Treasurer's
Accounts, * 259; Keepers during his
infancy, *ib.*, * 261; Rockers and nurses,
* 263; Invested with the Collar of 'Cok-
kil'eis,' * 265; sent to Craignillar Castle,
* 266; supposed attempt to carry him to Eng-
land, * 267; silver plate stolen from, * 271;
spends Pasche at Stirling, * 274; Masses said
for his soul's health, * 278; his 'Almons,'
or charities, * 278; at Inveraray, *ib.*, * 279;

solemnly ratifies peace with England, * 283;
shoots with English Archers, *ib.*; invested
with Order of the Garter, *ib.*, * 289; Golden
Fleece, *ib.*; and St Michael, *ib.*; sends Hawks
to K. of ENGLAND, * 284, * 285; returns
from Argyle, * 284; his study, *ib.*; English-
man employed to make Viols to him, * 285,
* 286; Prayers offered up for his prosperous
return from France, * 286; Barons, &c.,
warned to attend King's reception, *ib.*; entry
with QUEEN MAGDALENE into Edr., * 287;
the Queen's Coronation, death, &c., *ib.*: at
Tantallon, * 290; married to Q. MARY OF
GUISE, * 292; costly dresses on that occa-
sion, *ib.*; * 293, &c.; public entry, *ib.*; hunt-
ing of Glenfinlas, * 295; sends falcons to
France, *ib.*; his natural sons and daughters.
See Lord James, Lady Jane, &c.; his 'jurnal'
* 297; his great Matin-book, *ib.*; his
writing books, *ib.*; gifts to 'Gentill-wemene,'
ib.; his 'pettis' at Falkland, * 299; Plays
and festivities at Uphalyday, *ib.*; his QUEEN
Crowned, *ib.*; both get new Crowns, *ib.*;
his Rohe-Royall, kirtle, and hood, * 300;
Golden Rosary, * 301; birth and Baptism of
PRINCE JAMES, * 302; dress for Sea expedi-
tions, *ib.*; New expedition to the Isles,
* 303, * 309; Letter from the Queen, * 304,
'haver' (heaver hat) to him, * 305; 'skin-
coat' (buff jerkin), *ib.*; visits Orkney, *ib.*;
his Privy purse, * 305; at Glammis, * 306;
Embassy to THE EMPEROR, *ib.*; Expedition
to the Borders, with the Barons of Lothian,
&c., * 307; goldsmith work and jewels deliv-
ered to him, in Holyroodhouse, *ib.*; at
Crawfurdjohu, * 310; demands Abbacies of

Coldingham and Melrose for his natural sons from THE POPE, * 311; Royal Household, * 312; death of QUEEN DOWAGER, * 318; his Dule dresses, *ib.*; goes to the Borders, * 319; sends to Norway for Hawks, * 322; sends horses to the K. OF FRANCE, *ib.*; REGALIA, Crowns for him and his Queen, *ib.*; in Peebles, * 323; drugs to him and Mrs Margaret, *ib.*; Gypsies dance before him, at Holyrood, III. 592; Letter by King, in favour of Johnne Faw, *ib.* See Prince Arthur and Prince James.

JAMES VI., KING, born in Edr. Castle, I. * 479; his Baptism, *ib.*; 'Hiistorie' of, * 490; Raid of Ruthven, &c., 111 to 139, &c. See Treason; his life conspired against by Witches, 209; the interest taken by him in examining Witches, 213, 216, 218; he and his Queen assailed by Witches, on their passage from Denmark, 211, 218, 222, 236; Earl Bothwell uses Witchcraft to take his life, 240, 245; also used by Ewfame Macaljanne of Cliftonhall, 247, &c.; invaded by Earl of Bothwell, &c. in Holyroodhouse, 272; Oration by him in St Giles's Kirk, 357; assailed at Falkland, 275, 276; Presides in person in the Court of Justice, 247, 270, 294; H. 161, &c.; Bothwell tried for Raids of Falkland and Holyrood, 294; forfeited, 297; Taxation of L.100,000, previous to the birth of PRINCE HENRY, 306; Baptism of the Prince, at Stirling, 338; preparations for reception of Ambassadors, &c., 339; an Englishman hanged, for slandering him, 385; examines a Witch at Linlithgow, 400; is Besieged in the Tolbooth of Edr., 29; Edw. Johnnestoun fined 3500 merks, 34; vacillation of the King in granting and recalling Precepts, &c., 88, &c.; Gowrie's Conspiracy, 146, &c. *q. v.*; Appendix of Documents illustrative of, 171 to 332, &c.; is present in Parl. at forfeiture of the E. of Gowrie's brother, &c., 161; offers a horse, worth L.100, for two strayed hounds, 242; Proclamations against the detainers, *ib.*; is made a burghess of Perth, and signs Guild-Book, 247; Embassy from Q. ELIZ., congratulating him on his escape from Gowrie's Consp., 313, 315;

circulars written to the Clergy, 317; Letter from Jo., E. of Gowrie to him, 330; F. Tennent hanged for writing Pasquils, 332; fines Kincaid of Craighouse 2500 merks, and 'his broune horse' 339; King's relentless cruelty in the case of Cornwall, for trivial offences against the Kingly dignity and office, 349, &c. See also under Dickson, Tennent, Ross, Narne, &c., for similar instances; gibbet ordered to be taken down and burnt on which Cornwall had *attempted* to show King's portrait! 351; singular Letter from him, as to punishment of a Mass-Priest, 530; Proceedings against Lord Balmerinoch, for treasonable correspondence with THE POPE, 568; Q. ELIZ. expostulates with him, 571; Gunpowder Plot, 572; his Letter to the Lord Advocate, 577; listens behind the tapestry to hear his Courtiers praise him, (they being aware of his presence,) 590, 592, 593; his awful imprecation as to Sir Thomas Overbury's Murder, 600, *note*; Tuedie scourged and banished for 'vnererent' speeches as to the King, III. 220; Jo. Ogilvy, Jesuite, declines King's authority, 330; is kept from sleep *ad delirium!* 332; hanged and quartered, *ib.*; Relation of the arbitrary proceedings against him, *ib.*, &c.; his conduct on the scaffold, 350; Jo. Flemyng hanged, for uttering speeches against the King, 359; proceedings against Mr Thomas Roise for writing a Pasquill against the Scots nation, 445; his right hand struck off, and then beheaded, &c., 454; illustrative Papers, 582; at an expense of L.600 he gets Stercovius, a Pole, put to death, *in Poland*, for writing 'a Legend of reproaches' against the Scots! 448. See also Trials *passim*.

JAMES, PRINCE and Steward of Scotland, (DUKE OF ROTHESAY, eldest son of KING JAS. V.,) his birth, I. * 302; baptism, *ib.*; his state Cradle, *ib.* and * 303; his Arms, *ib.*; silver work, * 303; reward to messenger who brought 'tithings' of his birth to the King, *ib.*; messengers sent to K. OF FRANCE, * 305; his nurse, * 306; silver Plate, Chapel 'geir,' &c., * 306; bear-tooth for, * 307; horn for, *ib.*; his death, * 309; 'dule-weidis' (mourn-

- ing) for, * 310; his household establishment, * 314. See Prince Arthur and Albany.
- JAMES, LORD, Commendator of Kelso, (natural son of K. JA. V.,) I. * 277, * 295, * 296, * 305;—Commendator of St Andrews, (natural son of K. JA. V.,) * 295, * 297.
- JANE, LADY, (natural daughter of K. JA. V.,) I. * 297, * 300, * 314; Dule dress to, * 320; Bessy M'caw, her nurse, * 325.
- Jane, the French Dwarf, I. * 296.
- Jameson, Wm., (*Wanton Will*), beheaded, I. * 219.
- Jardine of Apilgirth, John, I. * 393, * 398, * 442; Alex. burns Place of Littlegill, 108; warded in Edr. Castle, *ib.*; breaks ward, 135; Alexr., yr., Slaughter and Fire-raising, 184, 304; Sir Alex., III. 57;—of Birnok, Tho., II. 465; Burning Littlegill, Rape, Adultery, &c., 491; III. 54; beheaded, 58;—Da., Alex., &c., Slaughter, &c., II. 484;—of Dyke, Jo. I. * 142.
- Jasp-stane, 'for stemming of bluid,' III. 564.
- Javelins, I. * 289.
- Javelour, what, III. 483.
- Jedburgh, Abbot of, John, I. * 334; Commendator of, * 451; And., * 483, * 486;—Army of, Conspiring its destruction, * 183;—Justice-naire of, * 16; Expenses of, * 22, * 27; Proclamation, * 64, * 67, * 115, * 309, * 318;—Kirk of, Plundering, * 37;—Raid of, * 256, * 421, * 422;—Rioting in the town of, between the Kerrs and the Turbills, II. 370.
- Jedwart-stavis, order to put down, and 'for vsing of speris, axis, halberris, bowis, and culveringis,' I. * 262, * 289, * 295, * 320; ordered to be kept in 'buthis,' in Edinburgh, * 362, * 403. See other weapons under their names.
- Jerveswood, Laird of, I. * 82. See Livingstoun.
- Jester, King's. (See Fool;) I. * 124, &c.
- Jesuites, College, at Gratz, III. 336;—trafficking with, I. 172; proclamation against, 281, 336; Commission of fire and sword against, 337; Jo. Ogilvie tried, III. 330; hanged and quartered, 332; relations of the proceedings against him, *ib.*, &c.; his conduct on the scaffold, 350; his Deposition, &c., 352; Resetting, 371; three persons banished, 376; Sir Ja. Clelland, &c., *ib.*: Resetting two persons banished, 511.
- Jesus, embroidered with crown of thorns, &c., I. 308. See the Appendices to the early reigns for relics, Church ornaments, &c.
- Jewels, KING'S, diamonds, &c., retained for payment of 5900 merks due to a goldsmith, I. 344; QUEEN'S Pearls and jewels abstracted, II. 544; stolen from E. Marischall, III. 562; one of them 6000 merks value, 563; another, 5000 merks, *ib.*; a curious enumeration of other valuable jewels, 564.
- JOHN, LORD, natural son of KING JAMES V., I. * 308.
- Johnmestoun of Auchinsbork, Geo., I. * 86;—of Auchrynnie, Jo., Murder, shooting, &c., II. 493; acquitted, *ib.*;—of Beirholme, Tho., III. 489, 493;—of Brakinsyde, Ja., I. 48; III. 501;—of Brwme, Ro., II. 465;—of Briggis, Ja., III. 35;—of Caskieben, Geo., I. 284; III. 488; Jo., his servant, Murdered, *ib.*;—of Cleuch-heidis, Da., 439;—of Creychtmond, Geo. I. * 454;—of Cottis, Ro. * 397, * 398, * 442;—Craigaburne, Jo. * 442; Ro., II: Tho., 34, 48;—of Corry, Adam, * 229, * 230;—Christian, forcibly carried off, 362; Ed., acquitted of Mutilation, &c., II. 461; Ja., slain, III. 432;—of Currielaw, Wm., 436;—of Dunsckellie, (*viz.* of that Ilk, *q. c.*) Sir Ja. denounced for breaking Ward from Castle of Edr., I. 297, 305; slays Lord Maxwell, *ib.*, 316, 362, 452; liability as to General Band, 521; is slain by Jo., L. Maxwell, III. 36;—of Erschlag, Ja., 489;—of Elphinstoun, And., I. * 330, * 336, * 442; Pat., yr., 148; Ja., 255; Pat., II. 343;—of Eschescheillis, Wm., I. * 165; Wilkin, III. 35; slain, 49;—Edw., hanged, I. * 87; Edw., Treason, Besieging King, &c., in Edr. Tolbooth, fined 3500 merks, II. 29; Ja. wirreit, (strangled) for Forging coin, &c., 353; Jo., Wearing Pistols, &c., III. 76;—of Fineland, Tho., yr., 438; Slaughter at his funeral, *ib.*, 439; Tho., *ib.*:—of Foulcrav, Jok, 439;—Geillis, Witche, Act of Privy Council, 600;—of Gratio, Tho., I. * 85;—of Hayhillis, Wm., 431;—of Haisliebray, Ja., 355; his sons slay the Parson of

Lochmaben, *ib.*; III. 35;—of Howgill, slain, 50;—of that ilk, (Laird of,) Adam, I. * 41; Jo., his Offers, * 148; found caution of 10,000 merks, * 229, * 274; Hereschip of his cattle by the English, &c., * 348, * 387, * 469, 48; Sir Ja., Slaughter, &c., 184; King's declaration as to his pledges, 346; slays Lord Maxwell, 360; II. 461, 509, 596; III. 29; his picture hanged with the head downwards at the Cross of Edr., 31; shot dead by Lord Maxwell, at a conference, *ib.*, 36; with *two* POISONED bullets, 37;—Tutor of Johnstoun, Jo., 75;—Jok the Gal-
5cart, I. * 397; Jo., bailie of Water of Leith, III. 9; Gilbert, hanged for Cattle-stealing, &c., 270;—John, (Commandator of Saul-seat,) Fire-raising, &c., I. 12;—of Kynnelheid, Wm., slain, III. 489;—of Kirkhill, Wille, I. * 398;—of Kellobank, Ja., * 402; Wm., 48; Slaughter of Laird of Kynnelheid, III. 489; Wm., yr., and Ja., his sons, *ib.*;—of Kirktoun, Ja., slain, 432, 435; And., 439; his son Jo. slain at a Funeral, *ib.*;—of Loch-house, Jo., Slaughter, Houghing Oxen, &c., beheaded, II. 425; Ja., III. 500;—of Lock-
erie, (Turmour,) Wm., 37; his Deposition as to the Laird of Johnstone's Slaughter, 46, 271; Slaughter, &c., 432; Arch., his brother, *ib.*; Wm., Slaughter, 436; Fra., his brother, slain at the young Laird of England's funeral, 438, 439; Wm., 539;—of Mossope, Ro., 489;—of Myreheid, Fra., 439;—of Mostoune, Pat., slain by Lord Glammis, &c., II. 386;—of Newtoune, Ro., I. 13;—of Newbie, Ro., II. 465, 466; Tower of, besieged by widow of Jo., yr., &c., 465; Jo., sen., *ib.*;—of Powdene, Simon, remitted, I. * 244; Tho., 48; Ninian, III. 439;—of Perisbehill, Gav., I. * 431;—Parson of Tunnergarth, Jo., slain, II. 441;—Provost of Annan, Edw., III. 431; of the Quawis, Jo., bringing in Englishmen, Stouthreif, &c., I. * 393;—of Raecleuch, Jo., (Tutor of Jobstoune,) III. 75; Ro., 433;—of Ryhill, Edw., 375;—of Tunnergarthe, Jo., Slaughter of Laird of Lockerie's brother at a Funeral, 438; Blench Bell, his wife, *ib.*; Jo., Wm., Fra., and Ja., his sons, *ib.*; And., his

son, is slain at the same Funeral, 439;—of Thornik, Capt. Ja., Slaughter of Laird of Wamphray's brother, 501;—of Wamphray, Jo., I. * 86; Ro., III. 271; Sir Ja., 392; Wm., alias *the Galliard*, 441, *note*; Ro., 452; Wm., his brother, slain, 501;—of Westraw, Ja., I. * 436; vmq^{le} Halbert, *ib.*, 439; Ja., 10; slain, 38; Ja., 184; Ro., his brother, slain, *ib.*; II. 461, 506; Ja., III. 433, 438; Slaughter at a Funeral, 439;—Mr Wm., Minister of Lochmaben, slain, I. 355.

Jollie, Alesoune, Slaughter by Witchcraft, &c., I. 397; acquitted, 399.

Jousting, see Tournament, I. * 118, * 323. See Barras. For particulars as to tilting and weapons for the tournament, &c., see the Appendices.

Jowp-alane, what, II. 156, *note*.

Judicial Combat. See Combat and Duel.

Judicium Dei, appeal to heaven;—Ordeals for proof of innocence or guilt of supposed Murderers, III. 184, &c. See Touching, &c.

'Junting' dead bodies by Witches, I. 218, 233, 238, 239; II. 477.

Juratory caution, III. 445.

Jurisdiction of Bailies, II. 43;—of Bailies and Sheriff of Edr., I. * 129;—Declinature of, 443; II. 4, 81, &c. See Declinature;—King's Chamberlain, 91;—of King and Privy Council, declined, 494; III. 87; Mr And. Creighton sentenced to be *hanged*, 89; banished for life, 90; of Lord High Constable, I. * 351, * 476, 98; II. 91;—of Magistrates of Edr., I. * 129, 98;—in Maritime causes, *ib.*;—Master of King's Household, II. 91;—Sheriff of Peebles, I. * 350.

Jurnall, the King's, I. * 297.

Jury. See Assise, Evidence, Wilful Error, Proof, &c.

Justice, administration of, early Regulations for, I. * 11, * 64, * 389, 162, &c.

Justice-Clerk, sworn, I. * 126, * 235, * 236, * 254, * 272, * 315, * 328; his jurisdiction declined, * 443; III. 558; and Master of Ceremonies, *ib.* 595; remarkable Letter as to the 'ordour' of this appointment, *ib.* 596.

Justice Courts, aient, I. * 162.

- Justices-General, Earl of Argyle, I. * 244; Sir Simon Preston, * 477; sits in person, II. 428, 491, &c.
- Justice-airs, Signet made for, I. * 256; Proclamations for regulating, * 64, * 389, &c.
- Justiciary of Atholl, I. 83;—Commission of, III. 558;—Serjeant of, I. * 2;—of the West Marches, * 239.
- Justify, to execute or put to death, legally; II. 550, *et passim*.

K.

- KEAS (rooks), Witches take form of, III. 605, &c.
- Keiller, John, a Dominican Friar, burnt for heresy, I. * 210, * 211, &c.; conveying and supplying him, * 221.
- Keir of Cowclaraquly, Tho., I. * 454;—Mr Tho., Invading Lord Saltoun, * 476.
- Keith of Auchquhirsk, Alex., II. 539; Wm., his son, beheaded for slaying an Englishman, *ib.*;—of Benholme, Ja., Masterful Theft, &c., III. 563;—of Bodome, Alex., 540; Wm., his son, *ib.*;—of Coklaw, Nath., 540;—of Craig, Ja., 478;—of Drumtochtie, Sir Geo., 483; his brother Mr Alex. slain on the sands of Montrose, *ib.*;—of Harviestoun, Ja., 437, 483;—of Incheearnok, Pat., I. * 148;—of Innerugy, Sir Wm., * 78;—of Littledean, Mark, * 229;—LORD, Wm., III. 243;—of Ludquhairn, Wm., I. 382, 384; his house besieged, 388; the Laird taken prisoner, &c. *ib.*; II. 128; Alex., III. 419; Sir Wm., Scourging, Slaughter, &c., 539;—of Northfield, Arch., I. * 148;—of Seatoun, Wm., III. 478;—of Troop, Jo., Fire-raising, II. 41.
- Kello, Mr Jo., Minister, hanged and burnt, I. 14.
- KELLY, EARL OF, Tho., II. 582, *note*. See Erskine of Gogar.
- Kelman, Alex., and Wm. Gardin, hanged for uttering base money, I. 385.
- Kelso and Melrose, James, Abbot of, (natural son of K. JAMES V.) I. * 277, * 295;—of Kelsoland, Tho., * 170;—TOWN of, resetting E. of Bothwell, 291; fined 1700 merks, 292; remarkable 'Band' subscribed there, III. 294.
- Kemp, (Champion,) the King's, I. * 271.
- Kene, Ja., Bailie of Selkirk, III. 457.
- Kent, a great staff or bludgeon, II. 519; III. 481, 488, &c.
- Kent, Ro., Oppression, Hamesucken, &c. I. 60.
- Kennedies, Feud betwixt them and the Crawfords, I. * 150;—Historie of the, III. 125, &c.
- Kennedy of Ardmillane, Tho., II. 10, 106;—of Areis, Hew, III. 477;—of Attiquane, Geo., I. * 86; Geo., yr., slain, *ib.*;—of Brunstoun, Wm., * 427;—of Bogend, * 457;—of Blairquhan, Ja., * 138, * 150, * 182, * 219; Jo., II. 106, 108; III. 119, 140;—of Bardrochat, Jo., I. * 138;—of Barquheny, Hew, 84;—of Balliarak, Alex., Slaughter of Spens, a servant of the E. of Cassillis, II. 400;—of Barsalloch, Anth., yr., III. 172;—of Balscherroche, Da., 180;—of Bargany, Tho., I. * 42; Alex., * 138, * 167; oppressed in Air, * 204; his officers deforced, * 251, * 336, * 369; Besieges house of Penkill, * 403; Tho., 20. 141; II. 35. Gilb., 106; Laird of, slain, III. 129; Gilb., 170; slain, 172;—of Balmaclennochan, Gilb., I. * 138; Geo., * 369, * 427, * 457;—of Bemane, Jo., * 138, * 403; Hew, II. 106; III. 171;—Blairquhynnequly, Hew, I. * 427, * 454;—of Culvane, Pat., 20;—Tutor of Cassillis, Tho., 373;—of Corse, Da., Slaughter, II. 480;—of Coiff, (or Culzeane, Tutor of Cassillis,) Sir Tho., slain, III. 177;—of Craignell, David, Oppression, I. * 55;—of Culzeane, (Tutor of Cassillis,) Jo., slain, * 334; David, 405; Tho., 373; Sir Tho., waylaid by Laird of Auchindrane, II. 35; Tho., yr., 36; Sir Tho., 49, 390; murdered, 565; III. 127, &c. See Mair of Auchindrain; Sir Ja., 120, 127;—of Cove, (Coiff,) Tho., I. * 138, * 405;—of Craignell, Hew, II. 35;—of Crugiltoun, Ja., III. 477;—of Daljerrok, Pat., yr., I. * 457;—Sir Dav., Capt. of Lochdoun, * 73;—of Dunneyne, Tho., * 138;—of Druniquharne, Alex., 20;—of Drum-

marquie, Tho., III. 128, 129, 133; was the principal murderer of Sir Tho. Kennedy of Culzeane, 134; his forfeiture, 140, 166, 173; summons of Treason, 177; forfeited, 180;—Dean Gilbert and Schir James, attempting to restore Popery, I. * 427;—of Dalquharrane, Dunc., * 350, * 457;—of Drummellane, Pat., * 138; Jo., yr., * 181; Jo., * 453, * 457;—of Dangar, Jo., III. 172;—of Glentig, Alex., I. * 138, * 181;—of Giletree, Jo., * 150;—of Garriehorne, Hew, proposal and attempt to murder, III. 137, 165, 172, 177, 180;—Sir Gavin, oppressed, I. * 55;—of Girvanmains, Hew, respited, * 214, * 457; Sir Hew, * 488, 48; II. 106;—of Glenmk, Geo., abiding from Raid of Dumfries, 134;—of Garfar, Wm., III. 153;—of Hallithes, Jo., 439; Wm., yr., *ib.*;—of Kirkmichaell, Gilb., I. * 138; Mr Lambert, II. 106;—of Knockdone, Ja., * 138, * 181; Walt., II. 106;—of Knockreoch, Tho., I. * 182;—of Knokdaw, Tho., Mutilation, * 335; Fergus, II. 106;—of Reswalt, Sir David, oppressed, I. * 89, * 95, &c.;—of Lechland, Martin, slain, * 130;—of Mounsioun, Gilb., III. 180;—of Maxweltonne, Da., yr., Slaughter, &c. II. 461; III. 170;—Niinan, burnt for Heresy, I. * 215;—of Penquhirrey, (Banquerrie,) II. 10; Hew, III. 172, 173;—Provost of Ayr, Hew, 345;—of Smetoun, Jo., 172;—Tho., * Revising, I. * 182;—of Turneberry, Wm., III. 172;—of Yet, Alex., I. * 138.

Keris, Laird of, I. * 457. See Schaw.

Kerr of Ancrum, Wm., slaughter, I. 36; Wm., yr., 149; Ro., II. 380;—of Bowdene, Jo., 460;—of Bothtown, Ro., III. 390;—Baillie of Lauder, Raulf, 453, 539;—of Broulandis, And., 569;—of Cesford, And., I. * 127; slain, * 133; Walt., * 147; Geo., Tutor of, *ib.*; Sir Walter, * 230; breaking the Band, * 208, * 351, * 378, * 468, * 512; Wm., Warden of the Middle Marches, 293; Sir Ro., yr., 308, 337, 342; II. 11; (see Lord Roxburgh;) Sir Walt., III. 390; remarkable penance enjoined to him for the Slaughter of Sir Walt. Scott of Braxholme, 391; Feud with the Laird of Ormiston reconciled, 393,

396;—of Caveris, Tho., I. 337; II. 365; assaulted in Jedburgh, Tho., 430;—Capt. Tho., I. 344;—of Craling, 370., (brother to Fairnhirst,) II. 370; slain, 445;—of Dolphington, Mark, I. * 29, * 68, * 88, * 127; And., * 208, * 229; Walt., * 468; III. 396;—of Fawdonsyde, And., I. * 432, * 451, * 468, 46; III. 390, 396;—of Fentoune, And., II. 466;—of Grenelhill, Ja., 519;—of Graden, And., I. * 147; admitted to free ward, * 419; Tutor of, II. 429; Jo., his son, *ib.*; Ro., III. 391;—of Gateslaw, And., I. * 69; Lancelot, * 147; Rich. III. 390;—of Greenhead, And., I. * 166; Gilb., yr., * 201; Gilb., * 230; And., 149;—Mr Geo. to be ward and tried, 280; trafficking with Papists as to 'the Spanish Blanks,' 311, &c.; Ro. hanged for Perjury, &c. III. 539;—of Hirsell, Sir Walt., I. * 379; Sir Jo., 282; Adultery, &c., 293; II. 381, 476, 515; Sir And., III. 391;—of the Hoill, Tho., II. 476;—of Kerrisland, Robert, I. * 388, 71;—of Kippeschaw, Mark, III. 390;—of Linton, Ja., I. * 32; Geo., * 139; Ja., * 166; Geo., * 201; III. 390; Wm., 538;—of Lyntellie, Ja., II. 378;—of Littledene, 380, 476;—of Lochtour, Gilb., III. 538;—of Mylnerig, And., II. 506; Mr Jo., his son, strikes a person in the Tolbooth during the sitting of the Lords of Session, III. 73;—Mark, Commendator of Newbottle, (*q. v.*) III. 390;—of Mersingtoun, Ja., I. * 127, * 166, * 182, * 190, * 229; Tho., * 468; III. 390;—of Newtown, Ro., I. 337;—of Newhall, Geo., III. 569;—of Pharnhirst, (Fernihirst,) David, (And.) I. * 18, * 28, &c., * 88, * 127, * 327; Sir John, * 379; Sir T., * 468; Invaded by Lord Hume, &c., * 487; And., 280, 337; II. 11; Sir And., Provost of Jedburgh, 370; Shooting with haggbutts, Slaughter, &c., 378; Tho., his brother, slain, 421; Sir Tho., III. 390, 396;—of Primysyle-Loche, Ralph, I. * 30, &c.; Gilb., III. 391, 396;—of Pryoraw, Tho., II. 475;—of Steilstokbrayis, Ja., 515;—of the Schaw, Ro., III. 69;—of Sauderlandhall, Tho., I. * 139;—of Spylaw, Sir Jo., II. 405;—Surname of,

- agreement of their Fend with the Scotts, remarkable Contract, &c., III. 390;—of Trearne, Ro., I. * 388;—of Torbet, Ja., III. 391;—of Whiterig, Ja., I. * 69;—of Woidheid, Ro., III. 396;—of Yair, (Jair,) Wm., I. * 87; Tho., * 177, * 230; And., III. 497; Mr Thos., his son, 538.
- Key, Slaughter committed with a large, I. * 396.
- Keyme, Spuilzie of, I. * 112.
- Kids, price of, at Justice-aires, I. * 390.
- Kilbaberion, Lady, healed by a Witch-prayer, I. 234.
- Kilbirny, Place of, broken into, II. 508.
- Kildrummy, besieging Castle of, I. * 246.
- Kildrymmie, Alex., Lord of, III. 541; his cloaks, &c., stolen, *ib.*
- Kilgour, Ro., beheaded, I. * 134.
- Kilnockie, Laird of. See Johnnie Armstrong.
- KILMAWERIS, LORD, Assise on, I. * 263; Wm., III. 122, 316.
- Kilpatrick, Laird of, Ro., slain while at the horn, I. * 77. See Crechtoune.
- Kilsythe, Lord. See Livingston.
- Kilwinning, Commendator of, Gawin, freed from ward, I. * 436; Intercommuning with D. of Chatterault, * 466, * 478.
- Kincaid of Cottis, Dav., (Constable of Edr. Castle,) I. * 158, * 230; Ja., 77; Clem., 255; II. 343;—of Craighouse, Jo., Forcible Abduction, II. 336; extraordinary and avaricious conduct of K. Ja. VI., 337; he fines the Laird 2500 merks and to give him his 'broune horse,' 339;—of Crymperamp, Ja., I. * 239;—Da., Wounding, &c., * 158;—of Gogar, Jo., portioner, III. 565;—of that Ilk, Tho., respited for Resetting English Traitors, &c., I. * 239; Ja., yr., wounded, &c., * 458, 73; Ja., 98; Malc., his son, slain, *ib.*; II. 337;—Jo., Witch-finder, III. 599; mode of pricking for discovering the Devil's mark, &c., *ib.*, 602;—of Warrestoune, Jo., I. 72; Murdered by his wife, her nurse, and servant, 241, *note*; II. 445; his wife beheaded, 446, 502; her Nurse burnt, 446; Ro. Weir, broken on the wheel, &c., 450; Tho., his barns robbed, III. 564;—Wm. and John, Forcible Abduction, I. * 421.
- Kindly Tenants, III. 18; what, 366, *note*;—lands, 18, &c.; rowmes, 366.
- King's chamber, Wounding in, I. * 85. See Chalmer;—Palace, Slaughter and felony committed in, * 100.
- KING, THE, fomenting discord between him and his Barons, I. * 206;—shooting near his person, 98, 100, 187;—Conspiring his death by Witchcraft, 209, 230;—slandering, an Englishman hanged, 385. See Treason, K. JA. VI., &c.
- King of Barrocht, (Barrauch,) Wm., 208; Feud with Laird of Straloch, 353; Ja., Slaughter, III. 379;—of Bourty, Wm., I. * 148;—of Thieves, the, * 155.
- KINGHORN, EARL OF, Pat., II. 572; III. 318;—attempt to restore Popery at town of, I. * 430; assisting E. of Bothwell, 310.
- Kinlochow, Hereschip of, I. * 256.
- Kinloss, ABBOT OF, takes oath of K. HENRY VIII. to ratify the Peace, I. * 283, * 285; Edw., 267, 293; II. 139, 159, 319;—LORD, Edw. 319; III. 447. See Bruce.
- Kinnont, Will of, freed from Carlisle Castle by Laird of Buckleugh, I. 363, 364, &c.
- Kinnaird of Cowbyn, Walt., II. 484;—of that Ilk, Jo., far of, Slaughter of the Laird of Ruthven's servant, 427; Wm., son of, acquitted of Murder under trust, 472; Jo., III. 259;—of Inchesture, Jo., I. * 88, * 424, 28; Ja., II. 427; Pantoun, 472; Ja., yr., acquitted of Murder under trust, *ib.*
- Kinnear of Henderstoune, Jo., I. * 404;—of that Ilk, Da., II. 397; Jo., yr., 430.
- Kinnimonth, (Kinnond,) of Callinche, (Kildueneane,) Mr Walt., yr., III. 429;—of Hill, Wm., I. * 424, * 452;—of that Ilk, Da., III. 429; his son And. slain, *ib.*
- Kinross of Kippenross, Ja., I. 15, 299.
- KINTAILL, LORD, Colin, III. 19, 25.
- Kintyre, Governor, Sheriff, and Justiciary of, I. * 258; Earl of Glencairn's Raid, * 319; horrible barbarities committed there, 224, &c.
- Kirk, see Assembly, &c., grievances, II. 9;—Mr Ja., (servant to E. of Argyle,) III. 233, 250, 252.
- Kirk of Field. See Morton, Darnley, &c.

- Kirkaldy of Grange, Ja., I. * 208; remitted, * 250, * 253, * 337, * 338; Sir Wm., Intercommuning with, * 466, * 478, 33; Wm., II. 3;—Mr Ja., Treason, hanged, I. 45.
- Kirkaldy, Town of, assisting the Earl of Bothwell, I. 310.
- Kirkbride, Rector of, slain, I. * 329.
- Kirkcudbright, Justice-aire of, I. * 52, * 75; expenses, * 317.
- Kirkhill, house of, besieged, I. 174.
- Kirkmaquho, Burning of, I. * 249.
- Kirkmichaell, Laird of, Feud between him and the Laird of Amisfield, I. * 132; Town of, burnt, * 405.
- Kirkoswald, attempt to restore Popery, I. * 427.
- Kirkpatrick, Sir Alex., knt., his servant slain, I. * 86;—of Auchinleck, Mr Sam., III. 271;—of Brakoeb, (Brachio.) Ro., I. * 456, 111; Jo., III. 475;—of Closeburn, Sir Tho., I. * 41, * 165; remitted, * 248; to present two Thieves, * 287; Roger, * 398, * 405, * 431, 78, 80, 178; Tho., 259, 264, 289, 298, 304; Sir Tho., III. 123; Alex., *ib.*; his son tried for Slaughter of Laird of Spott's son, *ib.*, 212; of Ellisland, Jo., yr., I. 111;—of Friarscarse, Tho., * 398;—Jo., Slaughter, III. 429;—of Kirkmichaell, Sir Alex., I. * 127; Roger, yr., slain, * 132, * 165; Deadly Fend with the Laird of Amisfield, &c., *ib.*; the Laird mutilated, *ib.*; Wm., * 190; remitted, * 248, * 398, * 405; taken prisoner by young Laird of Drumlanrig, &c., III. 212; Wm., yr., *ib.*;—of Knok, Roger, I. * 87, * 132.
- Kirktoon of Stewartfield, Adam, I. * 147;—of the Tower, 349.
- Kirkwall, Castle of, I. * 257; Convocation at, * 413; seized by E. of Orkney's base son, III. 272, &c. See Orkney.
- Kirkwood, Ja., beheaded, I. * 165.
- Kitchen, King's, Grooms of, I. * 313; 'Turnebroches' in, *ib.*;—door, groom of the, *ib.*;—Court, grooms in, *ib.*
- Kittycrocehill, near Glasgow, Battle of, I. * 237, * 238, * 247.
- Knapska-bonnnetis, II. 475.
- Knapscall, a steel bonnet, II. 158, 179.
- Kneland, (Clelland,) Mr And., Justice-depute, II. 426, &c.;—of Foskane, Jo., III. 134;—of that Ilk, Wm., I. 35, 63;—of Knowhobhill, Arthur, I. 35;—of Monkland, Sir Ja., resetting Jesuites, III. 376.
- Knives, drawing and stabbing with, in a fenced Court, &c., I. * 330.
- Knockschenoch, Burning the Peile of, I. * 242.
- Knok, (clock,) K. JAMES V.'S, I. * 300, * 305, * 311; the Prince's, * 311, * 316.
- Knollis, Sir Wm., Preceptor of Torpchein, Lord High Treasurer, I. * 2. See Torpchein.
- Knowis of that Ilk, Rob., I. * 361; mutilated, * 364; wounding, * 365.
- Knox, And., Parson of Paisley, III. 14. (See B. of the Isles); Mr Ja., III. 21; Wm., cruelly abused and Murdered, 496;—of that Ilk, (Laird of,) * 150;—of Ramfurly, III. 366; And., Bishop of the Isles, *ib.*
- Kyle, Alex., Stouthrief of Gold and Silver work, I. * 395;—Lollards of, I. * 287.
- Kyndly lands, III. 18, &c., rowmes, 366; tenants, III. 18; what, 366, and *note*.
- Kynloche, Hen., banished for theft, III. 542.

L.

- Labawtie. See Bastie.
- Ladies of rank consult Witches, I. 54.
- Lag, Burning Place of, I. * 160;—Laird of, see Grierson.
- Laing, Alex., Rebellion in Orkney, III. 273; hanged, 283; Tho. hanged for same crimes, *ib.*; his Deposition, 296;—Hendrie, an Evil Spirit, III. 606, 615, &c.
- Laidlaw of Rafflat, Jaquie, Slaughter, &c., II. 370.
- Laird, Wm., *alias* Jo. Guthrie, hanged for Bigamy and Adultery, III. 429.
- Lairdis Jok, II. 520. See also Armstrong.
- Lalow, Sebastian, &c., Egyptians, III. 593.
- Lamb, Witch-superstition as to, III. 608.
- Lambes, (Lammas,) III. 243, and *note*, 614.
- 'Lammas-Evyn,' Raid of Dumfries at, I. * 75.

- Lanark, Justice-aire of, I. * 115, * 116.
 Land-louper loom, III. 525.
 Land-ill, what, I. 51.
 Lanctoun of Erleshauch, Pat., II. 467.
 Lang-irnis. (50 stone weight,) an instrument of torture, I. 376.
 Langlandis of that Ilk, Ja., III. 391, 393; Geo., 396.
 Langside, Battle of, I. 1, 4, 5, &c., 41.
 Language, Treasonable, spoken against the King, I. * 251. See K. JAMES VI.
 Langholme, Castle of, I. * 284; house of, burnt, &c., by the Arm-strangs, II. 450, 479;—Raid of, I. * 338, * 356.
 La Plume, French Page, I. * 307.
 Lardner, King's, Yeoman of great and petty, I. * 313; Grooms in, *ib.*
 La Touche departs to France, I. * 308.
 Latimer of that Ilk, Rich., hanged, High Treason, receiving English pay, Fire-raising, &c., I. * 348.
 Lathries, Tho., surgeon in Perth, beheaded, II. 85, 100.
 Lauderdale, Inhabitants get Remission, I. * 14.
 LAUDERDALE, VISCOUNT, III. 419.
 Lauder (Lawder) of Balbardie, Gilb., I. * 487, 133; Wm., yr., *ib.*;—of Bass, Sir Robert, * 78; yr., * 143; remitted, * 213; respited, * 250, * 413; Mr Ja. slain by his servant, 89; Geo., 304; Feud with Lord Borthwick, 352; II. 10;—of Blythe, Sir Alex., Just.-dep., Provost of Edr., I. * 76, * 79;—of Fountainhall, Sir Jo., I. 257;—Gilb., slain by the Cranstouns, I. 362;—of Hallow, Wm., I. * 159, * 167, * 333, * 487, 11; Sir Wm., 169;—Henry, King's Advocate, I. * 400;—of that Ilk, (Laird of) Sir Alex., I. * 62; Ro., * 147, * 468; Rich., yr., *ib.*; Ro., III. 569;—Justice-aire of, I. * 14, * 115; Tolbooth burnt, III. 116;—Raid of, I. * 335, * 384;—Supplying English at, I. * 344, * 360; swearing fealty to English General, * 378;—of Todrik, Cuthbert, hanged and drawn for Theft, Resetting Thieves, &c., I. * 51;—Wm., beheaded, Treason, &c., I. * 344; Walter beheaded, 89; Wm., Forgery, banished and declared infamous, I. * 375; Wm., bailie of Lander, slain, III. 116; Wm., bailie of Dunbar, 487;—of Winoquhe, Alex., I. 74.
 Lauristoun for that Ilk, Tho., &c., (Assissors.) imprisoned for year and day, I. * 203.
 Laven, Castle of, I. * 381.
 Lavendar, (Laundry-woman,) French, I. * 291; King's, * 313.
 Lavers, two silver, I. * 323.
 Law, day of, I. 351.
 Lawburrows, breaking, I. * 94, * 269.
 Lawmond of Inneryme, (that Ilk,) I. * 198; Sir John, * 336; Sir Ja., III. 199; 36 of his followers massacred by Marquis of Argyll, *ib.*
 Lawson of Hieriggis, I. * 333;—of Humbie, Ja., 265; II. 459, *note*.
 Lawvete, Chaplains of, to pray for King's (Ja. V.) return, I. * 286.
 Lead for Prince Arthur's burial, I. * 309.
 Learmonth of Dairsye, Sir Pat., I. 23, 114;—of the Hill, Wm., I. 270;—Mr Ro., Justice-depute, I. 366.
 Leasing-making, Wm. Scott hanged, I. * 206.
 Leasing, III. 142.
 Leask of Auchinad, Tho., I. 382;—of that Ilk, Wm., I. 382;—of Haddo, Pat., I. 382.
 Leaver-diarig, or Red-book of Niggerny, III. 481, *note*.
 Leckprevick of that Ilk, Alex., jr., beheaded, I. * 62;—Robert, banished, I. * 161.
 Lefnuorys, Laird of, Remission for Slaughter, I. * 82.
 Legatt, Alex., his Deposition as to Orkney Rebellion, III. 299.
 Leidereiff, Laird of, slain, I. * 367, * 371.
 Leith of Harthill, Pat., I. * 454; II. 540; III. 560;—Raid of, I. 27, &c.;—Ships arrested there for the use of the Army, I. * 270; Court of Justiciary held there, from Nov. 1571, to Aug. 1572, 25; again in 1596-7, II. 3; assisting Bothwell in taking, II. 21; *eight* English Pirates hanged within flood-mark, III. 99; *thirty* others hanged, 103; Papers as to Pirates, 108, &c.; *two* more hanged, 244.
 Leighton of Ullishavin, (Usan,) Tho., remitted, I. * 252, 264.
 Lekky of Croy, Walt., I. * 166;—of that Ilk, Rich., . * 166; Walt., 282; Alex., slain by

- Laird of Calderwood, &c., III. 493;—of Kypdarroch, Ro., yr., III. 583.
- Lennox, County or District of, Burning and Hereship of, I. * 246; Murders and Stouthriefs by the Macgregors, II. 414, 415; severals hanged, *ib.*;—Field of, 418, 424, 430; said to have been instigated by the Duchess of Lennox, 434. See MacGregor, 457; III. 223;—of Caly, Wm., oppressed, I. * 53; Wm., yr., Killing Salmon, &c., * 54; Striking a Messenger-at-arms, * 75;—DUKE OF, Esme, I. 98, 122; Lud., King's Lieutenant, 303, 307, 344, 348; assists King at Gowrie's Conspiracy, II. 153, 165; his Deposition, 171; married to Sophia Ruthven, 297, 590; III. 12; Great Admiral of Scotland, III. 106; heritable Bailie of Regality of Glasgow, 513; his Offices, &c., 589, *note*; his death, *ib.*;—DUCHESS OF, said to have instigated the Hereship of the Lennox, II. 434;—EARL OF, Jo., Forfeiture recalled, I. * 12; slain at Field of Linnithgow, * 228; Jo., respited, * 231; arraying Battle against Duke of Albany, * 241, * 269;—MASTER OF, Math., Forfeiture recalled, I. * 12; Rape of his Daughter, * 60;—Math., I. * 78; Captain of Castle of Dumbarton, * 246; dresses for his sisters, * 296, * 297, * 305, * 321;—REGENT slain, 41, &c., 87;—of Woodhead, Jo., I. * 167.
- Lent, killing, selling, or eating flesh in time of, I. 369.
- Leprosy, charms for, II. 28.
- Leslie, Agnes, relict of the Provost of Elgin, slain, II. 41, 557; Alex. B. of Murray, her son, *ib.*;—of Auchorties, *alias* Bannachy, Jo., I. 119;—of Aulderraig, Geo., III. 507; Bessie, his natural daughter, (11 years old,) forced and deflored, *ib.*;—of Barres, Wm., I. * 454;—of Buchanistoun, Hen., I. * 148;—of Boquhane, (Balquhan,) Will., I. * 184; Jo., 119, 175, 207, 209, 300; Jo., far, III. 444;—Captain of Blair, Geo., II. 394;—of Cunlie, Wm., I. 209, 255; II. 14;—of Coklarochy, Wm., I. * 184;—of Crechie, Wm., and his wife, Witchcraft, I. 209;—of Camellis, Geo., I. 209;—of Conrak, Wm., II. 530;—of Cultis, Jo., slain by Witchcraft, I. 208; Jo., his brother, I. * 298; clothes for his marriage, * 318;—Geo., Yule-Dress to, I. * 320;—of that ilk, I. * 454;—of Kincairgy, Alex., I. * 148; Geo., III. 401;—of Kincairgy, Geo., far, II. 528;—of Kynnyrie, Walt., I. * 391; of Largie, Jo., I. 119;—of New Leslie, Geo., I. * 184; Norman, MASTER OF ROTHES, gift to, I. * 257, * 299, * 300, * 312; supplying him, * 358, &c.;—of Pitcapple, Alex., I. * 184;—Rob., Treason, II. 278;—of Touche, Geo., I. * 454;—of Warhill, Wm., Burning Place of Pitmedden, I. 161, 209;—of Warderis, (Wardes,) Alex., yr., Oppression, &c., I. * 328, * 454; Jo., slain by Witchcraft, 206, 207, 209;—Wm., (son of Geo. E. of Rothes,) I. * 357.
- Lethingtoun of Saltcoittis, Pat., I. 142.
- Lethmont of the Craig, Ja., I. * 469.
- Lettacamp beds, the King's, (*Lits-du-camp*), I. * 273, * 283; Standards for, * 290.
- Lettrois, (desks, Fr. *lectrin*), I. * 320.
- Levingstoun of Little Airds, Ro., I. 11;—of Belstane, Jo., I. 35, 159; Alex., III. 494, 495;—of Bandone, Tho., II. 76;—of Castlecary, Arch., slain, * 149; John, * 404;—Christian, 'wirreit and brunt in assis' for Witchcraft, &c., II. 25;—of Donypace, Alex., I. * 167, * 383; Jo., yr., 119, 351; II. 394; Jo., 446; Jean, his daughter, murders her husband, and is beheaded, *ib.*, &c., 502; III. 508; Da., 563;—of Greenyards, Hen., I. * 453;—of Haining, T., I. * 421; Mr Tho., brother to the Laird, II. 405;—of Halhill, Alex., I. * 62; Tho., 36;—Jean (Lady Warriestoun), Murders her husband, II. 446; her subsequent conduct, confession, and appearance on the scaffold, *ib.*, &c.; her nurse burnt, 447; Ro. Weir, her servant, broken on the wheel, 450;—of Jerviswood, (Giriswod,) Ja., I. * 82, * 87, * 167; Wm., * 451, 36; Ja., II. 541; III. 417, 452;—of Kilsyth, Wm., remitted, I. * 241; Sir Wm., 114, 293; II. 496; Lord Kilsyth, 597; III. 73, 312, 418, 621;—LORD, Alex., I. * 167, * 177, * 414; Wm., 116; Alex. 293, 304; Proclamation that none accompany him to his 'day of Law,' 351; Feud with Lairds of Airth and Luss, 352. See Linnithgow;—MASTER OF, Alex., I. 91, 114;—of Pantoun,

- Tho., II. 502;—of Pantoskane, (Bantaskan,) Alex., I. 292;—of Prestoune, Jo., I. * 421; II. 10;—of Saltecoittis, Pat., II. 343;—of Westquarter, Ro., I. 59; II. 502;—of War-randhill, Alex., I. * 385.
- Leven, Thieves of, bringing them in, I. * 17, &c., * 238.
- Lever-Schot, what, II. 536.
- Leyving War against the King's Lieutenants, I. * 134.
- Lewis, Island of. See Macleod; Lands of, set, I. * 102; Hereschip and Burning, &c., III. 244.
- Leyis, Jo., besieging Wauchton, &c., beheaded, I. 8.
- Libbis, magical incantations, I. 77.
- Lichtis, lungs, III. 521.
- Liddell of Halkerstonne, Ninian, slain, I. 46.
- Liddisdail, Inhabitants free to frequent markets, &c., I. * 245; remitted, *ib.*;—good rule to be kept, * 111;—Raid against Border Thieves, * 134, * 152.
- Life, opinions of the ancients that it was resident in the blood, III. 182, &c.
- Lindesay, Alex., Captain of Fynnvein, I. * 347;—of Anchinskeach, Jo., II. 490; III. 271;—of Ballingscho, Sir Jo., I. 280; II. 135;—of Blairiefedden, Harie, 135; Da., his uncle, *ib.*; Harie, Slaughter, III. 248;—of Brodland, Alex., II. 363; Mr Ja., his son, Slaughter of Lord Spynie, 529;—of Barrese, Jo., 529; Mr Jo., his son, Slaughter of Lord Spynie, *ib.*;—of Balcarras, Sir Jo., Lord Menmre, III. 62;—of Balgaveis, (Balgavy,) Mr Walt., I. 282; Sir Walt. Murdered, III. 62, 65; by the Master of Crawford, *ib.*, 248; Da., *ib.*, 307;—of Barnyardis, Dav., I. 28;—of Ballul, Mungo, * 166, * 451; II. 438, 439;—of Carrestoune, Sir Harie, Shooting Hagbuts and Pistoles, 409, 529;—of Canterland, Mr Alex., Slaughter of Lord Spynie, III. 63;—of Covington, (Colbintoune,) Jo., Remission, I. * 257, * 369; Feud with Somervilles, *ib.*, * 383, * 437, * 469, 15; Fire-raising, 109, 166; II. 452; Geo., his brother, Slaughter of Lord Spynie, 529;—of Corsbasket, Alex., yr., I. * 62;—Sir Da., yr., fights young Laird of Pittarrow and their 'complices' at the Salt-tron of Edr., III. 61, 65;—Mr Da., Minister, I. 304; his conduct as to Gowrie's Conspiracy, III. 621, &c., (*q. v.*);—of Dowhill, Adain, I. * 160; remitted, * 239, * 253; Ja., II. 416; Pat., III. 583;—of Dunrod, I. * 62; Jo., * 132; Ro., * 382, 73, 88; Ro., 133; Alex., Slaughter of Laird of Lokky, III. 493; Jo. his natural brother, *ib.*;—of Edzell, Sir Dav., I. 74, 85; Da., fiar, &c., tried for Slaughter of LORD SPYNE, II. 529; trial, III. 61; notice of the facts, &c., *ib.*, 64; Letters to the King, *ib.*;—of Evelk, Jo., II. 515;—of Faisdew, Alex., 135;—of Fairgirth, Jo., I. 15; Ja., III. 115;—of the Grange, Bernard, II. 452;—of Glenesk, III. 63;—Mr Jo., Parson of Menmair, I. 101;—of Kynfawnes, Harie, I. 267, 279; III. 248, 316;—of Kynettilis, Da., II. 529; Harie, his son, Slaughter of Lord Spynie, *ib.*;—LORD, of BYRIS, Jo., I. * 134, * 166, * 185; gift of his escheat given to Douglas of Kilspindy, * 239; Treason, * 271; Pat., * 472, * 473; Murder of David Riccio, * 479, * 500, * 503, 29, 85, 91; Ja., 293, 345, 346; Jo., III. 248;—of the Mount, Sir David, Lion King of Arms, I. * 261; Keeper of K. JA. V. in his infancy, *ib.*; King's Usher, * 265, * 273; his wife Janet Douglas, * 275, * 276, * 278, * 292; payment for their services, * 304;—MASTER OF, summoned for Treason, * 268;—of Pyotstoun, Wm., * 201;—of Quarrellhill, Da., II. 76;—of Raskarrell, And., slain, III. 115;—Rolland beheaded, I. * 159;—of Scheillis, Ja., III. 495;—of Wauchope, Jo., forfeited, I. * 48;—of Woodheid, Sir Jo., II. 135, 136;—of Woodwrae, Sir Jo., 529.
- Lingot, of gold, large, I. * 307.
- Liulithgow, besieging Palace of, I. * 238, * 242;—COUNTS OF, Helenor, II. 546, *note*;—EARL OF, (see Levingstoun,) Alex., 496, 544; charged with education of the royal family, 546, *note*;—Field of, I. * 228, * 238, * 239, * 240;—Keepership of, * 316;—Raid of, 19;—withholding, * 255.
- Linkhop, Ro., tried for Slaughter, for drowning 60 persons in a ferry-boat, I. 185.
- Lion, a coin, (Hardits or hardheads,) striking, I.

- * 440, * 487;—King at Arms, * 63. See Lindsay, Stewart, &c.;—one of King's Ships, * 317.
- Lisk, what, II. 417; III. 496.
- Listoun, Harie, Murder, &c., III. 572.
- Litter, I. * 291, &c.
- Little, Wm., Provost of Edr., I. 143, 261, 268.
- Littlegill, Place of, burnt, I. 108; again, 184; II. 482;—Laird of, and his daughter, slain, 184; III. 54. See Baillie.
- Litt-hows, what, III. 605; litt-fatt, *ib.*
- Litster, Jo., burnt for Sodomy, II. 491.
- Liveries, Royal, for King's Household, &c., I. * 312, * 313, &c.
- Lochaber, burning of, I. * 101.
- Lochbroom, Castle of, Island, I. * 305.
- Lochdoun, Treasonably taking Castle of, I. * 73; Sir Dav. Keenedy Capt. of, *ib.*
- Lochfergus, burning of, I. * 100.
- Lochinvar. See Gordon.
- Lochirmachus, Laird of, I. * 414.
- Lochleven, Lady, Mistress of K. JAMES V., I. * 298.
- Lochmaben, Castle of, Besieging, I. * 332;—Parish Kirk of, burnt, 305.
- Lochmaben-stane, Raid of, I. * 397, * 398.
- Lochmalearies, (or Lochmahalies,) 40 d. pieces, so called, I. 134.
- Lochmalony of that Ilk, James, I. * 404.
- Lockerby-lick, what, III. 30.
- Lockfast places, breaking up, Wm. Burrell hanged, I. 59.
- Lofthouse, (Loftus,) Robert, banished for concealing 'Paise-Pennis,' *q. v.*
- Logan of Bonington, Geo., II. 10; III. 417, 487; Ro., *fiar*, 539;—of Brownhill, Geo., I. * 458;—of Cotfield, Ro., * 159; Jo., 10, 72; And., yr., 148, 265; And., III. 255;—of Cowstome, Jo., II. 355;—of Drumchapill, Jo., *fiar*, III. 114;—of Grantoune, And., II. 368, 397;—of that Ilk, Geo., 130; III. 475;—Jo., portioner of Restalrig, fined 1000 *l.* for hearing Mass, 254;—Jonet. See Lady Craigy;—of Parsonisknowis, Ja., I. 149;—of Rais, 63;—of Restalrig, Sir Ro., * 176; Ro., 148; denounced for Bothwell's Conspiracy, 283; again, 335; Gowrie's Conspiracy, II. 146; Forfeiture of his son, 276; Letters to E. of Gowrie, 257; his *five* Letters, with *fac-simile*, (from the Original MSS.) 281; Depositions of seven witnesses, 287, (see *Spratt*;) his bones produced in Court, 277; and forfeited, 291;—of Sheriffbrayis, Jo., I. 34.
- Logie, Ro., baillie of Queensferry, II. 555.
- Logy-Meikle, Laird of. See Curroun.
- Lokkart of Bar, Jo., I. * 137, * 204, * 352; effecting the escape of a Heretic, *ib.*; Spoliation of Churches, altars, &c., * 353, * 491; Geo., II. 106, 145; Moyses, his brother, Slaughter, &c., 461; III. 171;—of Braidschaw, Alex., 565;—of Cleghorn, Steph., I. * 3, * 4; Mungo, 36, 87; Allan, jr., *ib.*; II. 357;—Geo., strikes a person during the sitting of the Lords of Session, III. 73;—of Kirkwood, Gavin, I. 36;—of Lee, Ja., I. * 76; Allan, beheaded, * 159; Ja., * 232; Allan rennitted, * 257; Ja., * 404; Hamesucken, &c., * 410; Mungo, 35; Ja., 36; II. 3, 21, 49; Wearing Pistoles, 61; Invaded by Lord Somerville, *ib.*, 540; III. 101; Murder under colour of law, 205;—of Wicketschaw, Steven, I. 36.
- Lokman, (Hangman,) I. * 274.
- Lollards of Kyle, I. * 287. See Heretics.
- Lorane of Harwood, Hector, II. 510; Wm., his brother, slain, *ib.*; Hector also slain, *ib.*
- Loranes, forging false, I. * 397.
- Lords and Ladies warned to come to the Coronation, I. * 300, &c.
- Lorimers, spurriers, &c. II. 399, &c.
- LOTHIAN, EARL OF, II. 273; Ro., 568, 575; theft from, III. 58, 316, 339; Duel with Lord Cranstoun's sons, 507.
- LOUDOUN, LORD, Hew, III. 318.
- Loupe, Laird of, III. 5; Tutor of, *ib.*
- Louthiane, Mr Wm., Priest, degraded, I. * 275; beheaded for Slaughter, * 151.
- Louranston of that Ilk, Tho., I. * 85.
- LOVAT, LORD, I. * 359; Alex., to present Rebels, * 390; Hew, 33; Simon, 285; And., II. 600, *note*; Sim., III. 20, 284.
- Love, Capt. Peter, and 7 other English Pirates, hanged within flood-mark, III. 99.
- Lovell of Ballumbay, Sir Hen., oppressed, I. * 177; he and Jo., yr., 37; are denounced Rebels, 41.
- Low, Jo., slain, III. 536.

- Lewis, Jo., hanged wthin flood-mark for Piracy, III. 244.
- Lowise, Jo., King's Fool, I. * 317; Ja., messenger, slain, * 379;—of Menner, (Manor,) Tho., * 87.
- Lowrestoune, Laird of, I. 284.
- Lowrye of Cairnhill, Math., I. 70;—Pat., '*Pait the witch*,' Sorcery, Witchcraft, &c., '*wirreit and brunt*,' II. 477.
- Lowsoun (Lawson) of Humby, Ro., I. 77.
- Ludquhairn, House of, besieged, I. 388. See Keith.
- Lues Venerea, vid. Grantgore.
- Lugs, cutting off a man's, I. * 475. See Ears.
- Lumfaddis, what, III. 368.
- Lumbart-sleeves, I. 51.
- Lummsiden of Airdry, Wm., I. * 157; Ro., II. 60;—of Blanerne, Pat., I. * 144; Jo., yr., * 230;—of Cuschnie, III. 230; Wm., his brother, *ib.*
- Lundores, Commendator of, Pat., II. 53; his servant slain, *ib.*, 73; one of the King's suite at Gowrie's Conspiracy, 172; his Deposition, 181.
- Lundy of Balgony, And., I. * 338; Rob., * 426;—of Conland, Ro., I. 17; And., II. 92;—of Gorthie, Geo., II. 112; his son David slain, *ib.*;—of that Ik, Jo. I. * 183, *note*; Wm., * 426;—of Strathairlie, Jo., I. * 157; And., * 404.
- Lung-Schot, what, II. 536.
- Lunze, the loins, II. 28.
- Lunt, what, III. 369, &c.
- Luss, Lady, waylaid for her slaughter, I. * 178. See Colquhoun.
- Lutrale, (Lutterell,) Sir John, English Captain at Broughty, I. * 345.
- Lute and case to K. JAMES V., I. * 278; strings, * 284; wires for, *ib.*, * 285, * 286.
- Lutherans, diet for their accusation, I. * 278.
- Lyddell of Halkeston, Jo., Slaughter, III. 482.
- Lyell of Murthill, Wm., I. * 404; Tho. III. 88;—of Stanypath, Geo., I. * 85; Jo., * 144, * 147, * 179; John, * 384, * 396; Geo., II. 343; Geo., *fiar*, 563.
- Lying in wait, II. 61. See Besieging, Umbesetting, &c.
- Lyke-walk, III. 549, 551.
- LYLE, ROBERT, LORD, Great Justiciar of Scotland, I. * 2; Forfeiture recalled, I. * 12, * 19; John, Lord, seizing a Messenger's letters, &c., I. * 157; denouncing Lord Sempill rebel, * 170; slays a Chaplain, * 178.
- Lynmeris, what, III. 398, 547, &c.
- Lyou of Auldbar, Sir Tho., I. 352; II. 287, *note*; III. 323; of Baldukie, (Master of Glamis,) I. 117, 119, 174;—of Balgellie, Wm., I. 119;—of Colmelegy, Wm., I. * 150;—of Cossynis, Jo., yr., I. 119;—of Easter Ogill, James, slaughter, I. * 408, 119; II. 62;—George, (brother of Jo. L. Glamis,) I. * 328; Ja., 'base son' to the Master, III. 323;—Jo., beheaded for concealing Lady Glamis's conspiracy, &c., I. * 202;—Wm., flies from justice, I. * 194; dies in Flanders, *ib.*, * 197. See the proceedings against LADY GLAMIS for pretended Treason, &c., *v.* Glamis.
- Lysymachus jun., 'a counter-buffe to,' III. 448.

M.

- MACADAM of Craigullane, Wm., III. 118;—of Smeithistoune, Ro., III. 118;—of Watterheid, Gib., III. 118.
- MacAlexander of Dalreoch, Jo., II. 106; III. 171;—of Drummochreyn, Tho., strangled ('*wirreit*') for Forging and uttering base coin, II. 353.
- MacAllane of Castlewirrie, (Castletirrin,) Ran., V^e Eane, III. 542; his wife carried off, &c., *ib.*;—Don. Darg and two others hanged, III. 251. See also MacAlzeane.
- MacAllaster, Donald Mole, hanged for slaughter, &c., I. * 51; Allaster and Angus hanged for Treason, III. 364; Don. V^e Eane V^e Henrie, murdered by drowning, &c., III. 489;—of Dounskye, Coll, *fiar*, III. 553;—of Largs, Donald, remitted, I. * 258;—of Loupe, Alex., remitted, I. * 255.

- MacAlseane of Cliftounhall, Mr Tho., I. * 444 ;
—Enphame, (of Cliftonhall) Witch, I. 216 ;
Plots against the life of her father-in-law,
237, 245 ; Conspires against the King's life,
for which she is tried, and for Witchcraft,
Sorcery, &c., 247 ; burnt alive, 257 ;—Mr
Hen., Justice-depute, I. 98, &c., 248 ;—Pat.,
alias Moscrop, Advocate, husband to Eufame,
I. 247, &c.
- MacAlserach, Michael Dow, an aged man, ban-
ished for Common Theft and Robbery, I. * 53.
- MacAngus (MacDonald) of Glengarie, Don.,
and 13 others, slaughter, II. 413 ; III. 19,
20, 25 ; Fire-raising and Slaughter, 540.
- MacAphie of Colonsay, III. 27.
- MacArrel of Hillhouse, Wm., III. 345.
- MacArliche, Jo., hanged for Treason, III. 365.
- MacAulay of Ardincapill, Alex., I. * 361 ; Walt.,
* 453 ; Aulay, 167, 290, 307, 392 ; II. 105 ;
Intercommuning with the Clan Gregor, 414,
430 ; MacGregor refuses to take part against
him, 435 ; he pays *Calp* to MacGregor, 436,
540 ; III. 264.
- MACBRAIR of Almagill, Ro., 166 ; II. 506 ;—of
that ilk, Arch., beheaded for Slaughter, I58 ;
—Sir Jo., Slaughter of, I. * 39 ; a Canon of
Glenluce (heretic) escapes from Hamilton
Castle, * 352.
- MacBrek, Arch., hearing Mass, &c., II. 442.
- MACCAIG, Andro, Murdered with K. HENRY,
(Darnley.) I. * 492.
- MacCall of Boighous, Wm., III. 57 ;—of Little
Fawside, Muungo, his Coal-pits set on fire, III.
361.
- MacCalseane. See MacAlseane.
- MacClellan of Auchleane, Sir Wm., III. 150 ;—
of Bomby, Wm., * 85 ; Oppressed, * 90 ;
Stouthrief, Forgery, Cattle-stealing, Oppres-
sion, I. * 55 ; Sir Ro., III. 120 ;—of Middle
Third, Pat., I. * 55 ;—Patrick of Gilestone, Slaughter, I. * 61 ; beheaded for Cattle-steal-
ing, * 64 ; Pat., Slaughter, * 95 ; Thomas,
respited, * 245 ;—Wm. of Nuntoun, Tutor of,
* 190, * 219, * 229, * 384, * 453 ; Tho.,
* 453, 304 ; Wm., II. 355 ; III. 117.
- MacClenoquhane, Dug. and Pat. hanged, I. * 88.
- MacCloid of Duuvegane, Besieged in his House
of Summerdail, I. * 225 ; Besieging Castles
of Carnebog and Dunskath, * 231 ; Resetting
Donald of the Isles, &c., * 254 ;—of the
Lewis, Torquill, Treason, I. * 45, &c. ;—of
Mynjenes, Jo., I. * 225.
- MacCondachquhy of Ballemnoch, Allan MacGil-
lespik, respited, I. * 253 ;—Jo. Dow Camp-
bell, Tutor of Innerraw, II. 62 ; Jo. hanged
for Treason, III. 364.
- MacConeill of Dumnivaig and Glynness, Angus,
Treason, Murder, &c., I. 224, 348 ; his and
his wife's Depositions, III. 9 ; Offers to the
King, 365 ; Letter to the King, 366 ;—of
Knokrynsay, Sir Ja., Treasonable Fire-rai-
sing, &c., III. 1 ; his remarkable escape from
Edr. Castle, 3 ; barbarities towards his father
and mother, &c., 6 ; burns Askomell, *ib.* ; re-
moved from Blackness, 7 ; escapes from Edr.
Castle, *ib.* ; retaken, 8 ; sentenced to be be-
headed, 10 ; escapes and gets to Spain, 3, 10 ;
his deposition, *ib.* ; illustrative documents, 12,
&c. ; E. of Argyle's Report, 27 ; singular
ceremonies, on his meeting with Coll MacGil-
lespie, 20 ; his Offers made to the King, 370 ;
Angus Oig, his brother, III. 3, *note*, 4 ; tried
for Treason, &c., 363 ; hanged along with five
others, 365 ; illustrative documents, *ib.* ; Of-
fers to the King, *ib.* ;—Rannald Oig, his bas-
tard brother, III. 369 ;—Mary carried off, &c.,
III. 542 ;—of Slaitt, Sir Don., III. 542 ; his
sister carried off, *ib.* See *Gorme*.
- MacCoule, Ro., starving a man to death, and then
gibbeting his dead body, &c., III. 491.
- MacCulloch of Ardwell, And., I. * 93 ; a rebel,
* 384 ; Gothray, *ib.* ; Incest, 135 ;—of Bar-
holm, Ja., slain, I. 81 ; II. 523 ; Tho., *ib.*,
539 ; III. 328 ; Alex. of Cardenes, I. * 218,
* 219, * 229, *note* ;—of Cardines, Ninian,
Oppression, I. * 52 ; Tearing King's Letters,
* 53 ; Alex., * 253 ;—Jo., merchant, slain,
III. 327 ; Jo. Maxwell, beheaded, *ib.* ;—of
Killassor, (Killaser.) I. * 93, * 95 ;—of
Myreton, (Merton, Morteoune,) Sir Alex., I.
* 91, * 161 ; Wm., 134, 141 ; II. 539 ; III.
121 ;—of Netoun, Alex, yr., III. 477 ;—of
Torhouse, I. * 398.
- MACDONALD of Ardnamurchan, Chief of the Clan

- Ian, III. 20;—Coll MacGillespik, Slaughter, III. 553;—of Dumnievaig. See Makoneill;—of Gleguarie. See MacAngus;—Jo. See Muirdertach;—of Keppoch, Alex., III. 22, 25, 250, *note*;—of Largie, III. 26. See MacIan and MacKane.
- MacDonell, Alex., gets gold sword, &c., from L. Lieut. of Ireland, III. 2;—of Benbecula, Ran., III. 542; his wife forcibly carried off, &c., *ib.*; Don., Capt. of Clanranald, (in 1725.) *ib.*;—of Scotchouse, Don., III. 19.
- MacDowell of Barjarg, Alex., Slaughter, II. 515;—of Creoches, Pat., Slaughter, II. 515; III. 478;—of Freuche, Fergus, I. * 139, * 181, * 218, * 219; Jo., Slaughter, II. 515; Slaughter of the Laird of Balseir, 477;—of Garthland, And., I. * 88; Uthred, yr., Slaughter, 84; Treason, III. 127; II. 131; Euf. Dumbair, Lady G., Slaughter, 515;—of Knokincroschie, Jo., I. 83;—of Machermoir, Peter, II. 455; Ro. and Jo., his sons, Mutilation, &c., 492; III. 328;—Tho., of Maccairstoune, (Mackerstonne,) tried for Hamesuekin, &c., I. * 176, * 456, * 469, * 479; II. 10, 14; Sir Wm., III. 539;—of Mondork, Tho., I. * 139; Vchred, II. 492, 506, 540; III. 88, 134, 552.
- MacDowall of that Ilk, (Dunnollych,) III. 14; Allan, his son, *ib.*;—of Raray, Jo., III. 233;—of Steidrig, Alex., I. * 456.
- MacDuff, *alias* Barronne, hanged for Gowrie's Conspiracy, II. 155, 246;—of Faldoy, *alias* Barroun, *alias* Fergusson, Da., II. 394; singular instance of Designation in the names of Highlanders, *ib.*;—of Glenelwort, Tho., III. 363; his wife's right arm cut off, *ib.*
- MACEANDOWIE, *alias* Cameron of Lochzell, Allane, Murder, &c., III. 258.
- MacEwin, Jo., and four MacGregors hanged, III. 112.
- MACFARLAN of Ardelesche, Walt., I. * 224, * 317;—of Arroquhar, And., * 451; denounced, 348; feud with Earl of Mar, &c., 352; Jo., III. 233, 565;—of Auchinvannell, Parlanc MacWalter? III. 114;—of Blairwak, Dunc. III. 565; Wm. MacClane, his servant, slain, *ib.*;—Clan, Murder Sir Humphrey Colquhoun at Bannachra, II. 431; barbarous torture and savage Murder of a Buchanan, III. 546, &c.;—Geo., taken, I. * 306;—of Gortane, And., III. 565; Jo. Roy, his son, and 8 others, Slaughter, Fire-raising, &c., *ib.*; hanged, 568;—of that Ilk, Sir John? I. * 72, * 224; Dunc. * 223, * 224, * 453, 69, 141; Jo., III. 250, 546, 550;—Isob., branded and banished, I. * 346;—Jo. MacRobert, hanged for burning Ardochbeg, Sorning, &c., * 225;—Ro., Christiana, and Dunc. find caution, * 227.
- MacFingane. See MacKinnon.
- MACGHEE, John, of Plontoune, Oppression, I. * 51.
- Macgill of Cranstoun-Riddell, Mr Da., Lord Advocate, I. 206, &c., *passim*; Mr Ja., III. 540; his house broken, &c., *ib.*;—Dame Eliz. Lady Culzeane, II. 36; relict of Sir Tho. Kennedy, 391;—of Nisbett, Mr Da., I. 261, &c.;—of Rankeillor-nether, Clerk Register, * 479; Ja., Advocate, II. 112.
- MacGilleoun, (MacLean,) Hector, of Doward, I. * 169, * 241;—John Oig, Treason, * 50;—of Lochbuiy, Jo., his son slain, * 247, * 252.
- MacGillespie, Coill, III. 19, 20; strange ceremony at meeting with Makoneill, *ib.*, 27; takes Castle of Dumnievaig, 363; surrenders to Argyll, 364.
- MacGillibred, Jo. MacEwin, &c., I. 225.
- MacGhilliechallum (Stewart) of Tennandrie, Jo. Dow, II. 528; Allaster, his brother, hanged, 529.
- MacGillievoriche, Petrie, hanged for Murder under trust, III. 230.
- MacGregor of Glenstray, (Chief,) Allester, II. 102, 414, 419. See account of Field of Lennox, or Conflict of Glenfruinne, 430; he and four others hanged and quartered, 433; Documents illustrative of the history of this affair, *ib.*, &c.; was infamously betrayed by Argyll, 434; his Declaration, 435; hanged his own height above the rest of his Clan, 434; III. 223; Dum., Tutor of, 250; Allaster, 537;—Intercommuning with. See Clan Gregor;—Laird of, I. * 317, * 319; II. 62; Jo. Dow, his son, and others, 63; Murder

- and Reiff on the Laird of Luss's lands, II. 414 ;
 Mac-Coule-kere, I. * 164;—of Moirinsche,
 Dun., (Dowglas,) Tutor of Glenstray, III.
 250;—Pat., I. * 170; Jo., &c., beheaded, II.
 419; Dugall and Neill hanged, 424; Jo.
 Dow MacEwin and ten others hanged, 436;
 Neill hanged, 438; Male. and three others
 hanged, 439; Dougall, &c., Slaughter, III.
 223; Gregor Beg and nine others hanged,
 232; Dunc. MacPatrik and five others hang-
 ed, 249;—Ro. Abroche slain, 223, 537.
- MacGrume, Eugenius, hanged, I. * 81.
- MACHECTOR, an Evil Spirit, III. 606, 614, &c.
- MACIAN of Ardnamurchan, Jo., I. * 233, * 229;
 III. 20;—of Castletirrim, Ran., 542; his
 wife forcibly carried off, *ib.*; Don. Mac-
 Allan, Capt. of Clan Ranald, 19. See Mac-
 Donald.
- MacIvane of Gremmat, Pat., III. 172; Jo., yr.,
ib.; made prisoner by Laird of Drummur-
 quhie, 179.
- MacIntosh, (Malcum Tosche.) of Abirairdour,
 Dunc., III. 266;—Captain of Clanquhittane,
 I. * 243;—of Dunnachtie, Laeh., 33, 285;
 II. 97, 102, 507;—of Esseiche, (Essy,) Wm.,
 Slaughter, II. 102; and taking captive, III. 266;
 Hector, 'allya' and kinsman of, I. * 256—
 Intercommuning with, * 175;—Laird of,
 * 116; respited, * 243, * 286; Will, his
 son, and five others, Slaughter, II. 507; Sir
 Lauch., III. 14.
- MACJAMES, Jo. Macallaster and And., Fire-
 raising, &c., III. 370.
- MACKANE, (See also MacIan,) besieged by Don-
 ald of the Isles, I. * 262; Sasine taken of
 his lands, * 307; Earl of Argyle resigns them
 in the hands of the Crown, * 312;—of Ard-
 namurchan, Jo., Slaughter, III. 483;—of
 Rasa, Alex. MacGilbetou, Besieging Sum-
 merdail, &c., I. * 225.
- MacKe, Alex., banished for selling Poison, &c.,
 I. * 203.
- MacKenzie of Culcovie, Mr Alex., III. 552;—
 of Cultellan, Rorie, II. 413;—of Fardane,
 Alex., yr., I. 200;—Mr Jo., Archdean of
 Ross, 27 of his houses burnt, III. 541;—
 of Kintail, Jo., respited, I. * 245; Colin,
 I. 285; Kenneth, 337;—of Roystoun, Sir Ja.,
 (Lord Roystoun,) 257;—of Sturdrum, Alex.,
 yr., 200.
- MacKie of Balseir, Alex., slain, III. 477;—Do-
 nald, respited, I. * 248; Pat. hanged for
 Forging money, 134; Harb., slain, III. 544;—
 of Far, Y, (Odo,) invades Sutherland, &c., I.
 68; Don. wounded by the E. of Caithness, III.
 231; Don., fir of, Slaughter of the Lairds of
 Stirkeo and Dyn, 235;—of Glassak, Jo., Mur-
 dered under trust, &c., 473; Jo. Maxwell of
 Garrarie and Geo., his son, beheaded, 477; Ni-
 niane, 474;—of Larg, Sir Pat., 460, 475;—
 of Myrton, Jo., I. * 92; Rich., * 384;
 Arch. 134;—of Sanday, * 170.
- MacKillope, 'the fiddler,' slain, II. 437.
- MacKinnon (of that Ilk) of Strathordill, Sir
 Lauch. III. 19; Forcible Abduction, 542.
- MacKippoune, Duncan Bow, hanged, I. * 225.
- MACLEAN and Clanranald, Feud between, I. * 169;
 —of Coll, Lauch. III. 19;—of Doward, I.
 * 231, * 234; respited, * 245, * 246, * 254,
 * 258; Lauchlan, Treason, Murder, &c.,
 224; murders threescore persons, 229; four-
 score men slain, besides women and children,
 230; III. 6; Hector, (Eachin Oig,) 19, 25;
 delivers his Castle to the King's Lieut., 368;
 —of that Ilk and Harris, Rorie-more, 19;—
 of Lochbuy, (see Macgilleoun,) I. * 234,
 * 247; Hector Ow, III. 19;—Lord,
 (Laird,) I. * 281; English ship taken by,
 * 281; sends Hawks to the King, * 294;—
 Wm., slain, &c., III. 565.
- MacLeod of Assint, (see MacClويد,) I. 68;
 Neil Angusone burns Dornoch, &c., *ib.*; be-
 headed, 69;—of Dunvegane, remitted, * 234;
 —of Harris, Neill, III. 102;—Tormond,
 wastes and burns Lewis, 245; Piracy, *ib.*
 See MacClويد.—of the Lewis, Torquill, High
 Treason, I. * 45; his lands let to Earl of
 Huntlie, &c., * 102, 107; Neill takes Eng-
 lish Pirates, III. 100; Neill, natural son to
 Rorie, Fire-raising, Piracy, &c., 244; hang-
 ed, &c., 247.
- MacLellane. See MacClellane.
- MACMATHE of Corsebank, Jo., III. 247, 493;—
 of Schaw, Ja., III. 271.

- MacMillan of Knockingarroch, Don., III. 118.
- MacMorrán of Glasspen, Jo., III. 57; Ja., yr. *ib.* 124; Ja., III. 387;—Jo., bailie of Edinburgh, killed by a boy, at a riot in the High School, there, 195, *note*; 349, 362, III. 239.
- MacMoylane, Jo. Gair, hanged for Treason, III. 364.
- MACNACHT of Doungoncht, Jo., III. 118;—Ja., Forcing, (Rape,) III. 499;—of Kilquhannite, Jo., slaughter, I. * 327; slain, III. 229.
- MacNachtene of Dundarroch, Alex., I. 68.
- MacNeill, Chief of the Clan, Torquill, gift of Giga's lands, I. * 246;—of Gैया (Gigha) Gillecillum, I. * 216.
- MACONEILL of Dunnyvaig and Glennis, Angus, I. 224, 348; Ja., III. 1. See MacConcill.
- MACPHATRICK, Allaster, &c., slaughter, III. 551.
- MacPhie of Collonsay, Malc., &c. slain, III. 553.
- MACQUHARRY of Auchture, Ja., I. 35.
- MACRANALD-BANE, Donald, High Treason, I. * 45.
- MacRanald of Easter Leyis, Allan, II. 96; his son Allester slain, *ib.*; slaughter, 98;—of Gargowchoe, Allaster, III. 250;—of Kepoche, *ib.*, *note*;—of Vladill, Angus, 481; Allan, his brother, murdered by the Laird of Glenlyonn, *ib.*
- MacRerik, of the Kerne, Ja., III., 93.
- MacRinnyll of Barneill, Ja., I. * 138.
- MacRone, Janet, Forced, III. 499. *
- MACSORLE of the Route, Sir Ja., III. 19, 23, Sir Ronald, 370.
- MACTEYR, Gilbert, beheaded, Stouthreif, &c. * 361.
- MACWALTER of Auchinvannell, Parlane, III. 114.
- MacWilliam *alias* Herrach, Angus, wounded and made prisoner by E. of Caithness, III. 231.
- MACERS, I. * 316.
- Machetema, Cornelius de, Dutchman, slain by the E. of Cassillis, Lo. Seupill, &c., in time of Parliament, I. * 236, * 238.
- Madman, slaughter by an alleged, I. * 363. See also Idiot, Slaughter, &c.
- MAGDALENE, QUEEN, (of James V.,) I. * 190; convoy from France, * 251; entry into Edr., * 287; Coronation, interment, and obsequies, *ib.*; Public mourning, *ib.*, *note*; 'grathing and bowelling,' (embalming,) * 292; 'saul-
- mess' and 'Dirige,' I. * 293; suffrage for, * 297, * 304, * 310, * 319, * 322.
- Magistrates of Edr. tried for freeing a Prisoner, I. 412 to 450; form of delivering up a criminal to be executed, III. 98.
- Magna Assisa, I. * 391.
- Magnus, Doctor, (Ambassador,) I. * 271, * 283.
- Maidens of Witch-covens, III. 605, 613, &c.
- Maiden, 'grathing' of the, at the QUEEN'S entry into Edinburgh, I. * 119.
- Mail;ie-coittis, II. 432.
- Mairtinn, And., Secretary to the Earl of Orkney, Rebellion in Orkney, &c., III. 273; hanged, 283; his Confession, 301.
- Maistres, the auld, I. * 311;—the Lady, * 304.
- Maitland of Auchingassill, Ja., I. * 127; John, 159;—of Clouhie, Jo., III. 475;—of Lethington, Kiehl., I. * 338; Sir Wm., Secretary, * 479; at Riccio's murder, *ib.*, * 507, * 512, * 513;—of Thirstlane, Sir Jo., (Lord Chancellor,) I. 172.
- Malcolmtoische, in ward, in Edr. Castle, I. * 286. See MacIntosh.
- Malcolm the Fule, (Fool,) I. * 273;—Mr Jo., Minister of Perth, (afterwards Principal of St Leon. Coll., St Andrews,) II. 330; Letter from Jo., E. of Gowrie, to him, *ib.*
- Malesonne, a father's, II. 479.
- Malloch, Da., mutilated. See Toscheauch and Olyphant.
- Maltmen, ordered to have ale and malt ready for the Army, I. * 270.
- Mangertoun, Laird of, (Armstrang,) I. * 153; Tho., * 171.
- Mangonels and Artillery, Stouthreif of, I. * 132.
- Maurent, Band of, form of one, I. * 373, &c. See Band.
- Manwell, Mr Ninian, Englishman, Intercommuning with, I. * 406.
- Manswearing, II. 453. See Perjury.
- Marches, West, Raid of, I. * 161;—Just. of, * 239.
- Mares, King's, (for breeding,) I. * 316, See Royal Stud, &c., and under the names of the Kings and Queens, &c.
- MARGARET, QUEEN, (of JAMES IV.,) her marriage, I. * 117, * 188; her horses, &c., burnt at Dalkeith. * 118; her faction, * 259; at

- the Castle of Blackadder, I. * 261; at Harbottill, in England, * 262; returns to Edinr., * 266; recovers her wardrobe, *ib.*; interview with the KING, her son, at Craigmiller, *ib.*; supposed attempt to carry him off to England, * 267; her death and funeral, * 318; Barons and Clergy summoned to attend her 'Tyrement,' * 319; Embassy to England, * 320.
- Mark, the Devil's, searching for, &c., III. 601, and Witchcraft *passim*.
- Marchmond Herald, I. * 268, * 273, * 274, * 281.
- March-stones, demolishing and overthrowing them, I. 66.
- Mariones, Geordie, hanged, III. 382.
- MARISCHALL, COUNTESS OF, Dame Marg. Ogilvie, Treasonable and Masterful Stouthreif, &c., III. 562;—EARL OF, Wm., I. * 78, * 259; Feud with Lord Gordon, * 263; with Lord Forbes, * 264, * 300, * 302; Akerhill besieged, &c., * 394; Geo., 116, 178, 268, 283, 304; Feud with Laird of Meldrum, 353; II. 41, 572; III. 32, 496; his plate, jewels, &c., seized, a little before his death, by the Countess, &c., 562;—MASTER OF, I. 44; II. 494.
- Marjoribanks of Ratho, Tho., I. 155.
- MARR, COUNTESS OF, Agnes, I. 119; Annabill, *ib.*, 265;—EARL OF, Ja., REGENT, * 423; Jo., 117; Forfeited for Raid of Ruthven, 119, 178; Jo., 267, 304; that none accompany him to his 'day of Law,' 351; Feud with Lairds of Garden and Arrochar, 352; Kirk's grievances, II. 9; assists the KING at Gowrie's Conspiracy, 149, 165, 172; his Deposition, 174, 496; III. 22, 205; Lord High Treasurer, 438, 458, 597.
- Marrabas bonnet, I. * 297.
- Marriage of K. JAMES IV., I. * 117;—of K. JAMES V., * 293, &c. See also K. JA. IV., V., VI., and Q. MARY.
- Marriage-presents, I. * 297. See Tocher;—Dress to Lady Errol, * 322, &c.
- Married maidens, charmed cake, &c., II. 537.
- Married women, arguments as to their liability to be tried, &c., I. 41, &c.
- Marrying 'in the fashion of Papistry,' I. * 420;—after excommunication, 189.
- Marshall of Innerpethie, Geo., I. 76;—of Pitcairns, Ja., 132.
- Martain, Jean, 'Maiden' to a Witches' Coven, III. 606, &c.
- Martyrs, Scottish Notices relative to, I. * 209 to * 216. See Heresy, Reformation, &c.
- MARY OF GUISE, QUEEN, (of K. JAMES V.,) her Marriage, I. * 292; triumphal entry, * 293; her nurse, midwife, &c., * 295; embroidery work done by her, in gold and silver, * 296; her CROWN-matrimonial was made of Scottish gold, * 298; goldsmith work for, * 299; belt or girdle of gold of 'the mynde' (mine), with a sapphire, *ib.*; her Robe-Royal, &c., * 300; her Coronation, * 299, * 300, * 301; Sceptre, * 302; writes to the King, in the Isles, * 304; at Glammis, * 308; at Crawfordjohn, * 311; gets Specimen of Gold from the royal Mines, *ib.*; her dule-dresses for the QUEEN DOWAGER, * 319; gold chains, &c., from France, *ib.*; State bed of crimson velvet, &c., *ib.*; Collar of gold set with pearls, * 321; her Painter, *ib.*, 322; Dule-gowns for her and her Ladies, * 322, * 323; CROWN, * 322; golden belt weighing 19½ oz., *ib.*; goes to Peebles, * 323; her materials for Archery, * 324; silver dish stolen from, * 386; her chief Cook robbed, * 406.
- MARY QUEEN OF SCOTS, Conspiracy to seize her person, I. * 461; notices relative to Bothwell's first marriage, *ib.*; Married to Darnley, * 478, * 488; David Riccio murdered in her presence, * 479, &c.; she is warded in her Palace of Holyrood, * 482, &c.; E. Bothwell tried, * 488; French Paris, * 489; Queen's person seized at 'Foul-brigis,' and carried to Dunbar Castle, *ib.* See French Paris's Depositions, * 502, &c. as to her alleged part in DARNLEY'S Murder.
- Masking dresses, &c., I. * 284.
- Mason, Capt., English Pirate, III. 109.
- Mason, King's Master, I. * 315.
- Mass, Celebration of the, I. * 427, * 435. See Reformation, &c.;—Lady Seytoun, &c., 14, 30, 31, 35, 38; hearing it celebrated, II. 348, 442; Mass-priest chained in his Mess-claithes, &c., for 2 hours, and then all his 'Popische

- baggage brunt,' and he Banished for life, II. 531; Mr Ro. Phillope and Ja. Stewart banished, III. 252; Jo. Langan, portioner of Restalrig, fined 1000 *l.*, 254; Jo. Ogilvie hanged, 330; Moffet, 377.
- Mass, ornaments of the, destroyed, I. * 353. See Reformation.
- Massacre of 36 Lamonds, by command of the Marquis of Argyle, III. 199.
- Masses for the soul (see Saul-Mess) of K. JA. IV., I. * 259;—trental for K. JA. V. at Quithorne, * 278; before our Lady of Paisley, *ib.*:—trental of, 'for Britonaris sanlis, qulhilks perist at the Port of Aire,' * 279.
- Maser (mazer) stolen, III. 99.
- Massindew (*Maison-Dieu*) in Jedburgh, I. * 377.
- Master of Artillery, I. * 268;—of Ceremonies, III. 558.
- Masterful beggars to be punished, I. * 67;—Reiving by Messengers, * 155;—Stouthreif, Tho. Hardie hanged, II. 441, 473. See Stouthreif, &c.
- Mathow of Balhousie robbed of his Title-deeds, &c., III. 265; Pat. Erviot hanged, *ib.*:—Grissell, stealing a coffer with writings, II. 93; Drowned in the North Loch of Eder, 94; her accomplice scourged, *ib.*
- Mathesoune, Jo., II. 343;—Jo., j^r, Oppression, &c., beheaded, I. * 202.
- Matin-book, I. * 296; King's great, * 297, &c.
- Maule (Mawll) of Pannure, Rob., I. * 141; remitted, * 256; Tho., taking captive, &c., * 345.
- Mawer of Mawerstoun, Mark, III. 230;—of Staynies, Mark, II. 484.
- Maxton of Cultquhay, Rob., I. * 88; Pat., 77.
- Maxwell of Aikenhead, Jo., I. * 43; Walt., * 130; Jo., Tutor of, 289;—of Arenynning, (Aremein.) Tho., Slaughter, III. 229;—of Auchinlarie, Wm., 327; Slaughter by his son Jo., *ib.*:—of Barvannok, Ro., 477;—of Boisfield, Jo., I. * 402;—of Bratoch, Ro., II. 110;—of Calderwood, Ja., 36; Ja., yr., *ib.*, 133; Sir Ja., 105; Slaughter of the Laird of Lekkie, III. 493; his death attested, 495;—of Castlemilk, Ro., I. 111;—of Conhailte, Rob., * 151; Harb., yr., slain, *ib.*; Edw., brother to, II. 465; Jo., III. 229, 544;—of Cowestanes, Ro., slain, I. 157. See M. of Kirkhill;—of Crostoun (Trustoun?) Edw., slain by Wm. Douglas of Lyncluden, &c., III. 90, 95;—of Craigtoun, Edw., rebel, 91;—of Caveris, Mr Wm., 229;—of Cavense, Harbert, II. 259; taken prisoner after burning of Langholme, by the Armstrangs, 450, 479, 490, 492;—of Cowhill, Arch., 485, 492; Wm., yr., *ib.*; acquitted of Slaughter of the Laird of Kirkhill, 490; III. 229, 560;—of the Coittis, Harb., slain, II. 492;—of Cowglene, Wm., Resetting Jesuites, III. 376;—of Dalquhorne, Pat., slain, II. 71;—of Duncowtedir, Ro., I. 111;—of Dunwiddie, Sir Ro., 133, 157; slain, 167; II. 492; Ro., III. 11, 35, 41;—of Dargavell, Pat., I. 378; his daughter Rebecca carried off, *ib.*:—of Drumcowtrane, Geo., III. 124;—of Foulbar, Jo., I. * 385;—of Garrarie, Jo., and Geo., his son, Murder under trust, III. 473; beheaded, 477;—of Gribtonne, Wm., Hamesucken, Besieging Tower of Newbie, &c., II. 464, 485;—of the Hillis, Edw., 485; III. 475;—Jo., callit 'Achilles Johnne,' beheaded for Slaughter, 327;—of Keltoun, Ro., I. 289;—of Kirkeconnell, Jo., *ib.*; Ja., III. 495;—of Kirkhill, (Kirkhous or Crovestanes.) Ro., slain, I. 157; II. 485; Wm., *ib.*; III. 11; Cha., 35; Wm., 41;—LORD, Feud between him and Lord Crichton of Sanquhar, I. * 53, * 75, * 85; Slaughter of the Laird of Kilpatrick while at the horn, * 77, * 124; Caution to present felons to trial, * 142;—Rob., * I; 9, * 151; Justice-depute, * 163, * 184, * 190, * 199; Keeper of Treif Castle, and Steward of Kirkcubright, * 232; Keeper of Lochmaben Castle, * 233; Steward of Annandale, * 237; Justiceiar of West Marches, * 239; Great Admiral, * 251; accompanies Q. MAGDALENE from France, *ib.*, * 259, * 264; keeping Castle of Hermitage, * 284, * 300; poided for debts, * 307; John, * 387, 111, 114; created EARL OF MORTON, 275; made Warden of West March, *ib.*; Feud with Laird of Closeburn, 298, 305; slain by Sir Ja. Johnstone, *ib.*, 360, and *notes*; III. 30;—Jo., Treason, II. 557; escapes from Edr. Castle, III. 3, 11,

- III. 47; Murders the Laird of Johnstone, 31; summons of Treason, &c., 33; the Murder is committed with *two poisoned* bullets, 37; sentence, 40; illustrative Papers, 41, &c.; Offers by him, viz. to marry the deceased Laird's daughter, without tocher—that the young Laird should marry LORD HERRIES'S daughter with a dowry of 20,000 merks—and to be banished for 7 years, &c., 51; his execution, &c., 52; Ro., his brother, petitions Privy Council to intercede with the KING, 52;—Intercommuning with, 91, 223;—Theft from Lord M. 92;—of Logane, Alex., 93, 229; Jo., his son, *ib.*;—of Mersyde, Wm., II. 490;—MASTER OF, Ro., III. 229, 475;—of Newlandis, Wm., 493; Ja., his son, Slaughter of Laird of Lekkie, *ib.*;—of Nether Pollock, Jo., I. * 42; Jo., yr., 19, 133;—of Newark, Pat., * 150; Geo., 19, 69; Pat., 355; II. 131; Slaughter of the Laird of Skelmourlie and his son; III. 122; Da., 229; Pat., 264;—of Orchardtounne, Sir Ro., 31;—of Poterak, Ro., 225;—of Pollock, Sir Jo., 377;—of Stanelie, Jo., I. * 130, * 170; Gabriel, attempting to restore Popery, * 427; Pat., slain, 133;—of Southbar, Tho., 69;—of the Schottis, Sir Ro., II. 485;—of Spottis, Sir Ro., his Deposition as to the Laird of Johnstone's Slaughter, &c., III. 43, 229;—of Teling, Alex., Taking Theftboot, I. * 427, 41; Dav., yr., *ib.*; Hugh, II. 600, *note*;—of Tinwald, Edw., Fire-raising, I. 110, 289; II. 105; III. 44;—of the Tower, Ro., 45;—of Terriglis, Sir Wm., I. * 426; Sir Jo., * 428; III. 391;—Wm., 'wirreit' (strangled) for uttering base money, II. 355.
- Maxwell's thorns, III. 30.
- May, Mr Dunc., Fomenting jealousies between the KING and his Barons, &c., I. * 329.
- Maybole, attempt to restore Popery at, I. * 427.
- Mayne, Jo., Forging *harditts*, I. 82.
- Measures, false, II. 88.
- Megerny (Miggerny) Castle burnt, &c., III. 481; the *leaxar-diary*, or Red-book of, *ib.*
- Megotland, Hunting in, I. * 272; none to hunt there till the KING'S arrival, * 282, * 285; killing deer and roes there, 48.
- Meldrum of Achquhartis, And., II. 428; oppressed and taken captive, *ib.*;—of Drumbrek, And., 49; Geo., yr., Treason, Oppression, &c., 428; beheaded and forfeited, 430; Place of, kept against the King's guard, 428; And., 557; III. 230, 365; Geo., 409;—of Fivy, Geo., I. * 187, * 229; respited, * 254; Sir Geo., * 370;—of Haltounne, Geo., yr., II. 76;—Laird of, (Alex. Seytonn.) slain, I. * 149, * 175, &c. See Seytonne;—of Idene (Edane.) Pat., * 150; Tho., Hamesnecken, &c., III. 431; Pat., fiar, 432; Tho., Usurpation, &c., 460; Pat., yr., 464;—of Moncoffer, Mr Wm., slain, II. 76;—of Ordley, Jo., oppressed, &c., III. 431, 460; Slaughter, &c., 464;—of Rothiebirsbane, And., hurt and robbed, &c., 478;—of Segie, Tho., I. * 157; Da., II. 99.
- Mell, what, III. 405, 510, &c.
- Melrose, ABBOT of, waylaid, I. * 182; his sheep driven to Lintithgow, * 274; Abbacy of, solicited of the POPE for a natural son of K. JAMES V., * 311, 205; Commendator of, Ja., II. 380;—Field of, I. * 133;—LORD, Tho., III. 538, &c. See Binning and Hadington, &c.
- 'Melteithe,' a meal, price of, at Justice-aires, I. * 390.
- Melville, Mr And., Master of King's Household, I. 185; his wife lost at sea, *ib.*; II. 91;—of Brnutisland, Sir Ro., 568, *note*; III. 208;—of Carnbee, Jo., yr., I. * 157; Jo., * 160; Sir Ja., 306; Sir Jo., yr., II. 234;—of Halhill, Sir Ja., I. 242;—of Murdo Cairny, Sir Ro., 267, 293, 350; II. 3, 496, 568;—of Raithie, Sir Jo., I. * 172, * 184, * 190, * 199; remitted, * 250; judicially murdered, * 339;—Capt. Ro., 309;—of Wester Touche, Jo., remitted, * 250.
- MENTEITHE, EARL OF, Alex., I., * 164; Jo., 282;—of Eglishaw, Ro., 82, 88, 285;—MASTER OF, Wm., * 164;—of Panstead, Harie, and his sons, &c., Stealing corn, &c., III. 564;—of West Kerse, Wm., I. * 167; Sir Jo., II. 600. *note*.
- Menzet, (mein;eit.) what, III. 384, &c.
- Menzie, train, &c., III. 586.

- Menzeis of Auchinell, Ro., I. * 156;—of Castlehill, Wm., III. 442; Jo. and And., his sons, Murder, *ib.* —of Combreise, (Comerie,) Dunc., 233, 264; Ja., his brother, slain, 537; his house burnt by the MacGregors, *ib.* —of Culterawis, Mr Alex., I. 467;—of Culrie, Gilb., Prov. of Aberdeen, III. 201; Alex., his son, slain, *ib.* —of Enoche, Ja., 501;—of that Ilk, Ro., I. * 76; Alex., III. 233, 583;—of Pitfoddellis, Gilb., 205, 206; his green corn cut, &c., 258, 259; Marg., his wife, *ib.*; —of Tilliepowreis, Dav., 205;—of Weem, Ja., I. 141; Alex., 392, 433; III. 264.
- Merche, marrow, III. 587.
- Merecleuche, Hereschip of, I. * 36.
- Merleounis and Hawkis sent to France, I. * 266.
- Mermadyne, a trinket of diamonds, I. * 293.
- Mertene, Jo., Bailie of Blaiksshaw, II. 490.
- Mertoune of Cammo. Tho., I. 310.
- Mertrik-skins, what, I. * 321.
- Merse, Inhabitants of, get Remission, I. * 174; Raid, * 267; charged to defend the country, * 324.
- Merser of Awdy, Laurence, I. * 352, 59;—of Edindowie, Ro., III. 490;—of Mekillour, Laur., II. 63;—of Sawling, Gabriel, I. 134; Ro., III. 134.
- Messenger at Arms, deforcement of, I. * 71, &c. See Deforcement;—maltreated by Sheriff of Murray, II. 564;—deprived for neglect, I. * 63; for ignorance, * 217;—falsifying an execution, * 155; evidents, hanged, 85; his servant hanged, 87;—forging and signeting false Letters, &c. scoured and deprived of his office, II. 455;—hanged for taking black-mail, I. * 356;—imprisoning one and his witnesses, * 345; taking, &c., 205;—Oppression and frauds by, * 154;—sentence against fugitive, * 155;—Slaughter of, * 48, * 379, * 381; Wm. Wauchope beheaded, II. 402;—striking, I. * 75; causing one to eat the whole copies of the Letters to be executed by him, &c., 346;—wounding one, and tearing his Letters, &c. 354.
- Methven of Barnfield, Mr Jo., II. 562;—LORD, Henry, I. * 221, * 355; besieges Place of Dupplin, &c., 25; slain, 30; III. 449.
- Middilmast, (Middlemeist,) Geo., of Grerstonne, (Greistounne,) slain, I. * 81, * 87; Tho., * 133, * 147;—of Lislie-Chapell, Wm., II. 378; Jo., his brother, slain, *ib.*; Slaughter of the Laird of Craling, 145; Wm., Constable of Dumbarton, III. 475;—of Chapell, Wm., III. 569.
- Middletoun, Ja., Slaughter, (a youth of 14,) III. 237; sentenced to be beheaded, 241; banished for life, after six years imprisonment, *ib.*, note, 458;—of Killhill, Jo., I. 29.
- Middle-zerd, (earth,) I. 57, 164; man of the, III. 609. See also Witch Trials.
- MILAN, DUKE OF, I. * 272. See Grossolez.
- Milk, cow's, Witches mode of taking, III. 603; note, 605.
- Miller, Sir Constene, banished, and his right hand struck off, I. * 432.
- Mines, Gold, in Scotland, I. * 298; Dutch miners, *ib.*; Silver, * 302, * 306, &c.
- Ministers (Clergy) exemption claimed by them against passing on Assises, I. 24; praying for the banished, 136, &c.; striking a minister, &c., II. 360; do. while Privy Council was sitting, 416; scourged through Edr., and right hand struck off, 417; the Moderator and several Members of Assembly tried, 494; banished, 503. See Reformation, Assembly, &c.
- Minor, Slaughter by, I. * 16, * 396; acquitted, 453; mutilation by, I. 160.
- Minstrels of England, I. * 118, * 122; French, * 267, 292; Italian, * 314, &c., Violers, * *ib.*
- Mint irons, using them in coining, Alex. Reid hanged, II. 398.
- Minto, Hereschip of, I. * 18; Burning of, 19; Kirk of, 'Pas-pennys' found at, I. * 18.
- Mischancie, III. 5. &c.
- Mischantlie, III. 549, &c.
- Misrule, Lord of. See Robin Hood, &c.
- Missillit, (mussillit,) to go disguised, muffled, or masked, I. 246; Proclamation against riding 'missillit,' 266, 306; III. 383.
- Mitchell, Mr Ja., notice of his Trial for firing at Archb. Sharpe, III. 195, 196; Ja., Murder, by striking with 'kents and daillis,' and then 'douking' in a 'mylne-leid or dam,' 488.
- Mitchelson of Mortoune, Alex., 155.

- Moder-nakit, stark naked, II. 70 ; III. 539.
- Moffat of Grantoun, Ro., I. * 397, * 398 ;—of Helbeth, Ja., his son, hanged for Forging and vending base money, II. 353 ;—of Hewek, Edw., I. * 86 ;—of Knock, I. * 397, * 398 ;—Symone, hanged for horse-stealing, &c., I. 386 ; Nicol, hanged for do., house-breaking, &c., II. 357 ; Moffat, a Mass-priest, warded, III. 331 ; Adam, scourged and branded for Perjury, 358 ; Mr Ja., *alias* Haliburtonne, Jesuite, resetting him, 371 ; tried for hearing Mass, &c., 377 ; banished, 379 ; Wm., Forcible Abduction, &c., (a remarkable case,) 402.
- Moitt, Jo., beheaded for the murder of his wife, III. 481.
- Molle (Mow) of that Ilk, Jo., Hamesucken, &c., I. * 176, * 230 ;—Slaughter, 256 ; II. 476, 515 ; Tho., his brother, 559 ; Jo., III. 396.
- Moncrieff of that Ilk, Jo., I. * 88 ; Wm., * 343, * 379, * 466 ; Alex., his son, taking wages to serve against the QUEEN, * *ib.* ; beheaded and quartered, * 467 ; William yr., 10, 37 ; Wm., II. 159 ; Hew, his brother, forfeited in Parl., *ib.* ; Mr Jo., Advocate, 166 ; Wm., 234, 513 ; III. 583 ;—of Easter Moncrieff, Mr Jo., Sheriff-dep. of Perthshire, II. 244 ; III. 583, *note* ;—of Pitcrief, (Pittenerieff,) Jo., with Gowrie previous to his Conspiracy, II. 176, 179, 183 ; his Deposition, 184.
- Moncur of Balluny, Jo., Oppression, &c., I. * 178, * 180 ;—of Chapelton, Jo., I. * 124 ; Pat., II. 384, 528 ;—of that Ilk, II. 528 ; Jo., his son, *ib.*
- Monocords, a musical instrument, I. * 116.
- MONTROSE, MASTER OF, Wm., abiding from Solway, I. * 241 ; Jo., 282, 347 ; married Eliz. Ruthven, II. 297, *note* ;—EARL OF, Wm., * 78, * 165, * 167, 74 ; Jo., 114, 275, 282, 304 ; Feud with Laird of Calder, &c., 347 ; Feud with Laird of Thornydykes, 352 ; combat with Laird of Calder at the Salt Tron, Edr., 361 ; Chancellor, II. 159 ; his house broken into and goods stolen, 352, 430, 496, 568, 596 ; Ja., III. 318 ;—Reformation preached in town of, I. * 406.
- Montford, Jo., yr., of that Ilk, Oppression, &c., I. * 74 ; Ja., yr., * 133.
- Montrule, Madame, I. * 294, * 295.
- Monyvaird, Kirk of, burnt, slaughter of six score Murrays, with their wives and children, I. * 101 ;—Lady, III. 465, 480, 452.
- Mons-Meg, I. * 117, &c.
- Montgomery of Anchiuhude, Hew, I. 61 ; III. 119 ;—of Broomland, Ja., I. * 388 ;—of Brunstane, Adam, I. 61 ;—of Giffen, Pa., I. * 420 ;—of Hazlehead, (Heislet, Heislop,) Hugh, I. * 204, * 369, * 388, * 420, 36 ; and his spouse oppressed, &c., 60, 61, 99 ; Mr Alex. and Marg., ‘ brother-bairnes’ to Laird, III. 535 ;—of Lainshaw, Neill, remitted, * 253 ; Sir Neill, * 335, * 360, * 369, * 388, * 402, 63, 169 ; II. 376, 390 ;—LORD, Justice, I. * 272 ;—of Makbehill, Robert, I. * 339 ;—Dame Mariota, (Lady Sempill,) Imprisoning, &c., I. * 381 ;—MASTER OF, Assise on, I. * 264 ;—Capt. Ro., 60, 61 ;—of Scottistoun, Jo., Oppression, &c., I. 60, 66 ; III. 236 ; Jo., yr., slain, *ib.* ;—of Skelmorlie, Geo., I. * 170 ; he and Wm., yr., his son, slain, 133 ; Trial of Maxwell of Newark, III. 122 ; Sir Ro., 129, 164 ;—of Stair, (or Stane,) Mr Wm., I. * 161 ; Hugh, * 388.
- Monorgane (Monorgund) of that Ilk, And., I. * 88, * 177 ; Glib., * 424.
- Monro of Aldie, Ro., III. 498 ;—of Assint, Ro., I. 191 ; Hugh, 194 ;—of Dalcaerthy, I. * 408 ;—of Fowls, Mr Hector, I. 192 ; remarkable superstition, 202, &c., 285. See Fowls ;—of Kildrummodys, Hector, I. 203 ;—of Killry, Hector, I. 198 ;—of Newmore, And., I. 194 ;—of Urquhart, Jo., I. 194.
- Monteith of Kerse, Sir Wm., II. 23 ; Wm., yr., *ib.* See Monteith.
- Monyest, most, III. 23.
- Monyepenny of Kynkell, Alex., I. 60 ;—Mr Mungo, wounding, I. * 328 ;—of Pitmilny, yr., I. * 478 ;—of Pihrg, Pat., I. 10 ; Da., 155 ; Pat., 186.
- Moore of Powmadie, Geo., III. 541.
- MORAY, EARL OF, &c. See Murray.
- Morbus caducus*, III. 556.
- Morrowing-gift, I. * 115.
- Morrice-dancers. See Dancer, I. * 124.

- Moryene, Peter the, III. 591.
 Morverne burnt, &c., I. * 247.
 Moravvlay, Monsr., I. * 296.
 More, the, I. * 278; III. 591;—the More lass, *ib.*; christened, 592.
 Morions, what, II. 432.
 MORTON, EARL OF, (Douglas,) I. * 269; Ja., * 370, * 371, * 381, * 438, * 439, * 469; Riccio's Murder, * 479, * 496, * 503; his servant John Geddes slain, I. 4, &c.; REGENT, Conspiracy against, 32, 70, 72, 111; Process of Treason, and doom of Forfeiture, &c., 113; executed, 115; his head ordered to be taken down from Tolbooth, 116, (note,) 121, 146, 178; Wm., 276, 330, 333; Lord Lieutenant, 342; III. 205;—EARL OF (Maxwell,) Jo., created Warden of the West Marches, I. 275; deprived of Earldom on restoration of title and estates to heir of the Regent, III. 28;—MASTER OF, II. 494; Ro., III. 61;—of Randerstoune, Alex., I. * 404;—of Walkinchaw, Ja., I. * 344.
 Mortymer of Craigevar, Ja., yr., I. 94;—of Flemingtoun, Jo., yr., II. 385;—Geo., Jesuite Priest, Resetting him, III. 541.
 Moscrop, Mr Jo., plotted against by Witches, I. 237; hanged, II. 35. See MacAlscane.
 Mosman, Wm., beheaded, I. * 159.
 Mourning, Public, the first instance was for Q. MAGDALENE, I. * 287, *note*; for PRINCE JAMES, * 310; for Q. MARGARET, * 318, * 320 * 322, * 323, &c. See also under the names of Kings and Queens, &c.
 Mouswald, Slaughter of Laird of, I. * 41.
 MOUNTAGLE, LORD, detects the Gunpowder Treason, II. 590.
 Mow, Wm., Parricide, II. 18; came in the King's will, and fined 1000 l., 19.
 Mowat of Busby, Charles, I. * 166, * 167; remitted, * 254, 29, 63; slain, 79;—of Boquhally, Pat., * 151; Magnus, II. 49;—Tho., Theft, III. 233;—of Sewnane, Geo., III. 280;—of Gersettair, Ro., III. 299.
 Mowbray of Barnhoughall, Rob., I. * 333, * 335 * 436, 151; Francis, his son, slays Mr Wm. Schaw, 363; Alex., his brother, II. 22; Ro., 320, *note*, 405;—Francis, High Treason, his dead body produced in Court; sentence pronounced, and his corpse gibbeted, drawn, and quartered, &c., II. 277, *note*; details and illustrations of this remarkable case, 405;—of Pitlone, Ja., I. 60, 78;—(Mowtray?) of Seyfield, Geo., I. 255; II. 99.
 Mowtray of Markinche, Geo., I. 59, 64;—of Seyfield, Ro., III. 453. See Mowbray.
 Moydart, John, (Mudyartach, Moderat, &c.) I., * 323, * 392, &c. See next article.
 Muirdertach, John, (MacDonald,) I. * 323, * 392.
 Muirhead of Bulles, Jo., I. * 55;—Kathr. burnt for Witchcraft, I. 395; Mr Jo., notary, hanged, III. 430;—of Lachope, Ja., yr. II. 541; Ja., III. 345.
 Muirfowl, price of, at Justice-aires, I. * 389.
 Muk, Island of, burnt, I. 228.
 Mule, the King's, foot-mantles, &c., for, I. * 288.
 Mull, Island of, burnt, &c., I. * 247.
 Mullikine, Agnes, *alias* Bessie Boswell, banished for Witchcraft, I. * 432.
 Multray of Markinche, &c. See Mowtray.
 Munnyn, (munning,) Southrie, by way of, I. * 50, * 51, * 271.
 Munitions, see Artillery, I. * 295, * 298, * 306, * 317; expenses of, * 325.
 Munroe, Da., murdered, III. 196; corpse of one of the Murderers bleeds, on approaching the place of murder, *ib.*
 MURDER.—ADAMSOUNE, And., beheaded and quartered, I. * 84; Eliz., murdered by her husband, * 355;—Aitkyne, Ro., beheaded, I. * 475;—Armstrong, Jo., hanged, I. * 173; And., David Riccio's murder, * 485; Sim, *alias* Wantoun *Sinnie*, Murder of K. HENRY, (Darnley,) * 489; Tho., for murder of Warden of the West Marches, II. 363, has his right hand struck off, and hanged, and then gibbeted in irons, 364. See Armstrong;—BASTIE, Sir Anthony D'Arcy de la, murdered, I. * 235;—Bikertoun, Hen., beheaded, I. * 162;—Black, Hen., and 11 others, III. 53;—Blackadder, Capt. Wm., hanged and quartered for murder of K. HENRY, (Darnley,) I. * 489;—Bonar, Wm., acquitted, II. 531;—BOTHWELL, EARL OF, Ja., murder of K. HENRY, (Darnley,) * 488;—Brown, Jonet, hanged,

III. 269; Jo. and 3 others hanged for piracy and murder, under trust, III. 569;—Burn, Jo., I. * 426;—Bynning, Jo., hanged and quartered for DARNLEY'S murder, 95;—CAITNESS, EARL of, Geo., * 394, III. 498;—Calder, Tho., &c., II. 516;—Campbell of Arkinglase, Jo. I. 391; of Glenlyom, Dunc. III. 481;—Camerone, Allan, *alias* MacEandowie of Lochjell, &c. III. 258;—Canochsoune, Alex. John, I. * 170;—Colquhoun, Mr Adam, Treasonable Slaughter and Poisoning, &c., I. * 419, hanged and burnt, *ib.*; Helen, Poisons her husband, 80;—Cowan, Agnes, hanged, II. 402;—Craiganis, Murdan of Laird of, I. * 163, * 164, &c.;—Cranstoun of Skaittibus, Rich., Murder of David Riccio, I. * 486;—Cruikshank, Ja., hanged, and his head and right hand affixed at Dundee, &c., II. 384;—Cunninghame of Aiket, Wm., poisoned by his wife, I. 80; Pat., beheaded, II. 18;—DALGLISH, Geo., hanged and quartered for K. HENRY, (Darnley's,) Murder, I. * 490, his Deposition, * 495, his Confession, * 500;—Deanis, Pat., hanged, II. 517;—Dow, Meg, burnt, I. 186;—Dowglas, Mr Arch., Darnley's Murder, I. 142, acquitted, 154; Pat., burnt, I. 363;—Duncan, Bessie, hanged, III. 430;—ELLIOT of Copschaw, Jo., II. 520;—Elphinstoun, Mr John, Adultery, &c., I. * 356;—Erskine, Ro., III. 260, beheaded, 264; Helen, Isabell, and Annas, tried, 266; sentenced to be beheaded, 269; Annas banished, *ib.*;—FERGUSSONE, John of Craigdarroch, I. * 79; Wm., decapitated with a sword, I. * 425;—Fischeare, Jo., beheaded, I. * 174;—Fotheringhame, James, hanged, I. * 344;—Frude, (Ford?) Laird of, murdered, I. * 426;—GAIRDNER, Grissell, Witch, 'wirreit' and 'brunt,' II. 195;—Galbraith, Ja., beheaded, III. 565;—Geikie, Wm., yr., acquitted, II. 388;—Glen, Wm., I. * 426;—Glorat, Laird of, Murdered, I. * 170;—Gordon of Auchindoun, Sir Pat., and 26 others, &c., I. 284; Ja., barbarous Murder of Laird of Pitmedden, III. 78; of Clubisgonle, Jo., III. 399, 402; of Haddo, Harie, III. 488;—Gracy, Wm., hanged, I. * 344;—HAITLIE, Alex., I. * 451;—

Haitlie, Wm., II. 472;—Hamilton, Tho., called 'unsonty,' I. * 126; of Benestoun, Jo., slain, 85; Ja., of Spittelscheil, II. 540, beheaded, 561;—Harrort, Wm., I. * 456;—Haubert, (Howbert,) Nicholas, *alias* French Paris, Murder of K. HENRY, (Darnley,) I. * 489; his Deposition, Aug. 9, * 502; his Deposition, Aug. 10, * 506;—Hay of Tallo, Jo., (apparent of,) hanged and quartered for K. HENRY, (Darnley's,) Murder, I. * 490; his Deposition, * 496; his Confession, * 500;—Henderson, Christopher, hanged, I. * 473; John, hanged, I. * 206; of Boltoune, Jo., hanged and quartered for Darnley's Murder; * 490, his Deposition, * 498; his Confession, * 500;—Heppburne of Whytecastell, Sir Pat., sent, Murder of K. HENRY, (Darnley,) I. * 489;—Hinchelwoid, Ja., hanged, II. 540;—Hodge, Ro., III. 488;—Horsburgh, Tho., hanged, and his head and right hand struck off, II. 423;—Hume of Spott, Geo., Darnley's Murder, &c., I. 101; acquitted, 107;—Hunter, Pat., and John, * 426;—HUNTLE, EARL of, Geo., I. 284;—INNES of Innermarkie, Ro., beheaded for Murder of E. of Murray, I. 362;—JOHNSTONE, Wm., David Riccio's Murder, I. * 485; Jo. of Auchrynnie, and 3 Forbeses, II. 493;—KELLO, Mr Jo., Minister, hanged and burnt, I. 14;—Kinnaird, Ja., and Wm., I. 472;—LAUDER of Bass, Mr Ja., slain, I. 89; Walter, beheaded, *ib.*;—Leighton of Ullishaven, John, Murders his mother and servant, I. * 344;—Listoune, Harie, III. 572; Lilit-Johne, Thomas, beheaded, I. * 361;—Lockhart of Lee, Ja., III. 206;—Louthian, Sir Wm., beheaded, I. * 151;—MAXWELL of Garrarie, Jo., and Geo. his son, beheaded, III. 473;—LORD, Jo. for treasonable murder of the Laird of Johnstone, &c. III. 32, &c.;—Menzies, Jo. and And., &c., III. 442;—Mitchell, Ja., III. 488;—Moit, Jo., beheaded for Murdering his wife, III. 481;—Muir, (See MUR of Auchindrane);—MURRAY, EARL of, Ja., murdered, and place of Dynnibisell burnt, I. 284;—Wm., Murder of K. HENRY, (Darnley,) * 489;—MACCLARENE, Male, I. * 441;—MacCulloch, Arch., of Ard-

well, murdered, I. * 99;—MacDonald, Gillespie, MacInnes, Dow, &c. hanged, II. 415; MacDormond, Ja., I. * 441;—MacGillievariche, Petrie, hanged, III. 230;—MacGrasseycht, Jo., I. * 441;—MacGregors, see MacGregor, and Slaughter;—MacKie, Allaster, tried for Reiff, &c., along with the Laird of MacGregor, II. 443; hanged, 444;—MacLean of Dowart, Lauchlan, I. 224;—Mac-O'Neill of Dunnievaig, Angus, I. 224;—NEILSON of Assint, Donald and Neil, his son, III. 489;—Nicolsonne, (Nukilsoune,) William, II. 363, acquitted, *ib.*;—ORMESTOUNE of that Ilk, Ja., Murder of K. HENRY, (Darnley,) I. * 489, his Confession, &c., * 511; Hob, uncle to the Laird, Darnley's Murder, I. * 489;—PARK, Ja., III. 495;—Paterson, Geo., I. * 426;—Peebles, *alias* Pardoun, Marioun, 194, murdered corpses bleed on her *touch*, *ib.*;—Pennycaik, Jo., hanged, and right hand struck off, 372;—Pollok, (Powok,) Hugh and Archibald, beheaded, I. * 81; Jonet, 186;—Powrie, Wm., hanged and quartered for K. HENRY, (Darnley's,) Murder, I. * 490; his Depositions, * 493, &c.; his Confession, * 500;—Pratt, Isab., hanged, 371;—QUHITE, Wm., David Riccio's Murder, I. * 483;—RAMSAY, Jo., hanged and decapitated, &c., II. 404; of Pryour Lethane, Jo., Incest and Murder, III. 257;—Roche, Ja., beheaded, III. 484;—Robertsonne, Alex., the Murder of David Riccio, I. * 486;—Roise of Dunskeillie, William, beheaded, II. 481;—Ross, Jonet, heiress of Craigie and Kinfauns, burnt for the Murder of her husband, brother to the Laird of Balhonsie, II. 409, and *note*;—SAWLIE, Jonet, and Lady Ullishaven, (in state of pregnancy,) murdered, I. * 311;—Schaw, Christian, Murder of Regent Murray, I. 23;—Scott of Cambusniehaell, Tho., hanged, drawn, and quartered for David Riccio's Murder, I. * 478;—Sinclair, Ja., III. 498;—Spens, Alex., beheaded, II. 76;—Stanfield, Philip, III. 196; hanged in chains, &c., 197;—Steill, John, called *Kenny*, hanged, I. * 126;—Stewart, Pat., beheaded for atrocious Murder, &c., II. 393; Jo. son to Ja., L. Donn,

beheaded for Murder under trust, III. 74;—Stirling, Helen, Lady Ullishaven and her servant murdered by her son, I. * 314;—Swan, Jo., beheaded, II. 542;—SYMPILL (Sempill) LORD Jo., I. * 163; Wm., Lord, * 164, * 166; Sir John, I. * 163;—ROBERT, MASTER of, I. * 163, * 166;—TOMSDUNE, Isob., Child Murderer, hanged, II. 540;—Tod, William, beheaded, I. * 355; Geo., Murder of David Riccio, * 486;—Trumble, Tho. and Walt., I. 77; And., 85;—Tulliallan, Laird of, beheaded, I. * 151;—ULLISHAVEN, Lady, &c., Murdered, I. * 311;—VILLEUR, Sebastian de, * Murder of K. HENRY, (Darnley,) escapes, I. * 490;—WALDY, Wm., hanged, I. * 314;—Wardlaw, Marion, II. 423;—Watson, Ja., Murder under trust, hanged, II. 540;—Weir, Beatrix, III. 68; Peter beheaded, 123; Bessie beheaded, 172;—Wemyis, And., beheaded and quartered, I. * 84;—Wilsoune, Pat., Murder of K. HENRY, (Darnley,) I. * 489; Cristian, (*alias* the *Louthorne*,) III. 194; a murdered corpse bleeds on her *touch*, 195;—Wright, William, decapitated with a sword, I. * 424;—YAIR, Henry, murder of David Riccio, I. * 481; hanged, drawn, and quartered, * 482;—Young, Ja., David Riccio's Murder, I. * 484; Jo. hanged, 85.

Murder, remarkable Bond betwixt Earl and Master of Cassillis, for the Murder of the Laird of Auchindrayne, III. 622.

—Ordeals for discovery of, III. 183; superstitions as to touching the corpses of Murdered persons, 143, 165, 182, &c.; Bar-recht or law of the bier, 183; form of the ceremonial, 184; Trials where *touching* was founded upon, 191.

—, treasonable, or under trust. See Murder *passim*.

— under colour of law, III. 399, 418, &c.

See also under Murder.

Murderer, setting free a, I. * 208.

Murdoch of Cambodden, Pat., mutilated, II. 492;—of that Ilk, Tho., I. * 138; Pat., III. 328;—*alias* MacKie, Wm., Mass Priest, chained at the cross for two hours, and then all his '*Popische baggadje brunt*,' and he banished for life, II. 530.

- Mure of Annestoun, John, I. *382, 71;—of Archhill, Jo., I. * 130;—(Mure) Adam, hanged for Stouthbreif, by way of ‘mummyn,’ I. * 51;—of Auchindrayne, Jo., I. * 130, * 138, * 369, * 457, II. 10; shooting at the Laird of Culzean, &c. 35; denounced rebel, 37, 106, 390, 460; Ja., yr., slaughter of Laird of Culzean, &c. 538, 560, 565; their Trial, III., 124; his family, 126; created Baillie of Carrick, *ib.*; forfeited and beheaded, 156; Documents illustrative of their trial and crimes, *ib.*, &c.; young Laird put to the torture, 170; Tho., his son, 175; And. Sinclair, his half-brother, 139, 175; Dalrymple’s body bleeds, on being touched by Mary Mure, John’s grandchild, 196; Letter from E. of Cassillis to the KING, 581; young Auchindrayne tortured, 582; Bond betwixt the Earl and Master of Cassillis, to Murder the Laird of Auchindrayne, 622;—of Auchinsoull, Gib., III. 180;—of Balma-guchane, Peter, I. * 54;—of Bogend, Martin, * 130;—of Cloncaird, Pat. I. * 150; Walt., II. 106, 109, III. 128, 135, 171, 173, summons of Treason passed from, 177;—of Craig-Skene, John, II. 460, III. 171;—of Caldwell, Laird of, I. * 82; Sir Jo., &c., * 343; Robert, his son slain, * 350; intercommuning with him and William, his son, rebels, * 357, * 385, * 388; Laird slain, 17; Robert, 18, 71, 91; Robert, brother of John, slain, 183, II. 565;—of Fleit, Ja., III. 130, 135, 136, 164;—Geo., hanged for slaying two Ministers, I. 361; Wm., messenger, slain, 381; Ja., beheaded for slaughter, III. 492;—of Glenheid, Walt., III. 135, 164;—Ja. brother of Laird of Auchindrayne, I. * 369;—of Kettie-muir, Ad., I. 35;—of Knokmarloch, Ro., II. 130; Jo., III. 172;—of Moneyhagen, 126; And., *ib.*; Ja., *ib.*;—of Nesbet, John, I. * 404;—Patrick, oppression, I. * 89, 90, 91;—of Rowallan, * 420, * 428, Jo., feud with the Cuninghames, &c., I. * 56; Mungo, * 137; Wm., yr., 171, II. 390;—of Randerstoun, Wm., II. 565;—Mr Ro., Schoolmaster of Ayr, III. 128;—of Skaitimuir, Alex. I. * 404;—of Tarquyne, (Carquhene,) Jo., III., 180;—of Woidland, John, 135, 136, 172.
- Mures, deadly Feud between them and the Cuninghames, I. * 57.
- Murray of Aberscorse, Hucheonne, I. * 391;—Sir Adam, knt., * 49;—of Abercairny, And., * 88;—of Aiket, (Haykit,) Cha., his son Jo. slain, II. 53, 73;—of Arbeny, Jo., 166; called ‘*Mehill Johnne*,’ 174; was wounded at Gowrie’s Conspiracy, *ib.*; his Deposition, 189;—of Balvairst, And., I. * 408, 308; II. 49, 54; slays Laird of Gorthie’s son, 112; Sir And., Letter to the KING, defending himself against Henderson’s accusations, 323, 581;—of Banheid, Wm., I. * 347;—‘Blak Johnne,’ Treason, * 71;—of Blackbarony, And., remitted, * 258, * 415; Jo., 141, 185; Sir Arch., III. 539;—of Brouclton, Ja., Wilful error, I. * 219; George, II. 430, 521; Slaughter, 539, 540;—BISHOP of, And., I. * 6, * 31, * 42, * 79; Alex., * 222; Pat., *ib.*, * 343, * 358; Alex., II. 557; Pat. III. 583, 620;—of Cowbairdie, I. 175;—of Cockpule, Cuth., Treason, * 11, * 398, * 454; Cha., 136, 304; III. 394;—Cathedral of, Sacrilege committed there, I. * 376;—and ARGYLL, COUNTESS OF, the relict of Regent Murray, 102; her daughter, *ib.*;—Dean of, oppressed, * 176;—EARL OF, Ja., Lt.-Gen. of the North for 5 years, * 238; respited for taking the E. of Huntly, &c., * 259, * 282; discharged of his Lientenandry of the North, * 290, * 298; goes to France, * 303; money sent to him, * 308, * 466, * 478, * 503; murdered, 284, 300, 357; Ja., III. 318; Alex., Witches’ revels at Darnaway, 604;—of Eli-bank, Sir Gedion, II. 509; III. 312, 337; proceedings as to the duel between his son and a son of Lord Cranston, 505;—of Fawlohill, *alias* Philiphauch, Jo., slain, I. * 69; Ja., * 127; Pat. * 148, * 332; III. 394, 396;—of Goldwall, Da., I. 76; Pat., hanged for Horse-breaking, Theft, &c., II. 383;—of Gospertie, Sir Da. See Lord Scone;—of Gudisburne, Ja., III. 235;—Jo., Leiche, banished for uttering base coin, II. 99; Walt., his brother, and 2 others, ‘wirreit at ane staik, and brunt in asses,’ 100; Wm., Slaughter, III. 235; Arch., Rebellion in Orkney,

273; hanged, 283; his Deposition, 296; Jo., hanged for Stouthreif, &c., 479;—of Laichlaw, Jo., I. * 411;—of Letter-Bennettis, Wm., 89;—LORD, OF TULLIEBARDIN, Jo., II. 496. *Vide* TULLIEBARDIN;—of Lochmahen, Jo., III. 389, 390;—of Newtown, Sir Wm., 601, *note*;—of Pardowis, Ja., I. 119;—of Polmais, Jo., 282; II. 54;—Ro., Justice-depute, 76;—REGENT, Conspiring his Murder, I. * 510; field of Langside, 6; forging his signature, 19; Murdered, 23; David Hamilton hanged, 31; George Mowtray tried, 59; Arthur Hamilton in Bothwellhauch tried, 87; Laird of Spott tried, 101; acquitted, 107; III. 394;—of Romannos, Wm., I. * 147, * 166; Wm., yr., of, * 332, * 424;—of Spainsiedaill, Jo., 349;—of Tibbermure, Pat., * 407;—of Tulliebardine, Sir Wm., * 468; Sir Jo., 116, 304, 347; Wm., yr., II. 49, 54, 74; Sheriff of Perthshire, 243, 387; Sir Jo., 426;—Tutor of, I. 289;—of Touchadam, Jo., * 3;—of Udstome, Gavin, * 404; II. 474; III. 235;—Wm., Capt. of Barrow, slain, I. * 395.

Murrays, six score of, with their wives and chil-

dren, burnt and slain by the Drummonds, at the burning of the Kirk of Monyvaird, I. * 101.

Murriois, what, II. 432.

Muschett of that ilk, III. 377;—of Orchardheid, Da., II. 438;—of Tolgarth, Geo., I. 299.

Musgrave, Sir John, (Englishman.) Intercommuning with, I. * 34; Burning of Selkirk, 35, * 119, * 121.

Mussilburgh, milns of, burnt, I. * 363;—Raid of, * 339; Battle of, 51, *note*.

Mustard, Agnes, Resetting a stolen purse, containing 500*l.* in gold, and jewels worth 3000*l.*, III. 552.

Mustouris. See Waponschawing.

Mutilation, during Parliament, I. * 26, * 158; by a Minor, * 160; Judicial Arbitration, * 167, * 181, * 201; Assise imprisoned for year and day, * 203, * 246; of a Bailie of Aberdeen, * 250, * 254, * 356, * 405, * 437, * 453; by biting off a finger, 34; of a left eye, II. 456; Forrester, III. 112.

Mutton, price of, at Justice-aires, I. * 389.

Mwildis, earth from dead men's graves, &c., used as a charm, I. 251. See Grave, and Charm.

N.

NAIG, a bachillane, III. 78; a naig, 98; a staig, *ib.*; a paissing-naig, 163.

Nairne, Kirk of, Witches initiated there, &c., III. 616, *et seq.*

Nairnshire Witches, list of, III. 616, *et seq.*

Napier, Allan, 'wirreit at ane staik and brint in assis,' for uttering base money, &c., II. 403;—of Ballekinraue, Jo., I. * 384; Tho., II. 439;—Barbara, Witch, I. 216; tried, 242; pleads pregnancy, 243; is acquitted? 244, *note*; the Assise is tried for Wilful Error, 244;—of Blakzairdis, Ro., II. 438;—of Edinwillie, (Edinbellie,) Sir Arch., I. 154, 372; II. 339;—of Kilmahew, Jo., I. * 178; Ro., * 361; Peter, murdered by the MacGregors, II. 432; Jo., 438, 439; III. 538;—LORD, Arch., his bones proposed to be raised, and sentence of forfeiture to be pronounced, II. 277, *note*; III. 394;—of Merchinstone,

Jo., I. * 42; Arch., appointed Justice-depute, * 415, * 419, * 443, * 447, 46, 72; II. 10; Jo., yr., 339; Jo., fiar, 433; Sir Arch. appointed to the Offices of 'Clerkschip of Justiceiary-Generall and Maister of the Ceremonies at the Creatioun of all Erles, Lordis, and Barrones,' &c., III. 558;—of Wownet, (Woolmot,) Arch., the 'gudeman' of, slain, II. 339;—of Wrychtishoussis, Mr Wm., I. 20, 46, 159.

Narne of Alliefargie, Laur., II. 63;—Mr Peter, murdered, under form of law, 349, 351.

Nasmyth of Inwar, Ja., II. 394;—of Posso, Mich., I. * 429, *note*, * 450; Ja., III. 417, 431, 569;—Wm., banished for forging Testanis, I. * 394.

Nativi tenentes, III. 366, *note*; and see Kindly Tenants.

Neilsoun of Assint, Donald, Murder by drown-

- ing, III. 489; Neill, his son, *ib.*;—of Corsok, Jo., IIS;—of Craiggaffy, Jo., I. * 140; Alex., fiar of, Slaughter, II. 515;—of Graniche, Jo. Stewart, III. 230;—Jo., alias *Suppit-out*, drawn and hanged, I. * 63; Alex., Forgery, II. 17;—of Madinpap, Rob., I. * 87.
- Neilstoun, Kirk of, attempt to restore Popery at, I. * 430.
- Nelson, Thomas, 'Cubicular' to KING HENRY, (Darnley,) his Deposition as to the Murder, I. * 501.
- Nesbit of Dalzell, Jo., Baroun of, I. * 62, * 82; Geo., * 139, * 230; respited, * 245; 'the Barroune of' Dalzell, * 414; Ro., III. 459; Gaw., his son, Slaughter, *ib.*;—Sir Dav., Assisting the English, I. * 332;—of Greneholme, Alex., II. 507;—Hen., Provost of Edr., 22; Sir Tho., III. 128;—of that ilk, Adam, I. * 112; Philip, * 114; slain, * 244; Geo., * 393; Tho., his son, Slaughter, II. 517; Philip, 563;—of Raschill, Hew, I. 119.
- Netherbow-Port of Edr., the Earl of Arran 'held furthe' at, I. * 241.
- Nevene of Kirkwode, John, I. * 402.
- Newall, Arch., slain, I. 158.
- Neville, Sir Hen., his three Letters as to the Earl of Gowrie, II. 315.
- Newark, Laird of, I. * 177;—Siege of, * 139, * 270.
- Newbottle, Abbey of, I. * 272; gilt chalice stolen, *ib.*;—ABBOT of, (*see Kerr*), I. 101, 181, 244; Mark, II. 159; III. 390;—LORD, Mark, his chambers broken, &c., II. 357, 380, 496;—Town of, burnt by the English, I. * 319; Slaughter of French soldiers there, * 377.
- Newby, Place and mill of, Burnt, I. * 60; besieged, &c., II. 464.
- Newcastle, in England, I. * 281.
- 'Newes from Scotland, declaring the damnable life of Dr Fian,' Warlock, &c., I. 213.
- Newtoun, house of, to be cast down, I. 343, 344;—of that ilk, Wm., * 85, * 346; pursued for his Slaughter, * 349; Treason, Fire-raising, &c., *ib.*, * 386, * 469, * 486;—Lady (Jonet Creichtounne,) rape of, * 258;—of Mitchellhill, Dav., * 141, * 144.
- New-Year's day festivities, I. * 282;—gifts, * 115, * 271, * 295, * 299, * 307;—Mass, * 284, * 295.
- Nicknames, Border, I. * 90, &c., &c.; of Evil Spirits and Witches, III. 606, 614, &c.
- Nicoll, Issobell, Witch, III. 614, &c.
- Nicolson, Geo., Ambassador from Q. ELIZ., his Letter as to Gowrie's Conspiracy, II. 313.
- Niddry-Marischall, Laird of, Feud with Laird of Edmonstoun, I. * 143; with Laird of Dundas, * 144; waylaid, * 169. *See Wauchope.*
- Nik of the Fell, what, II. 519.
- Nishie, Elspet, Witch, III. 606, 614, &c.
- NITHSDALE, EARL OF, III. 28.
- 'Nobilis of pass,' coins, I. * 18; Angell, III. 178; Roise, *ib.*
- Noble of Ferme, Ja., I. * 450, 71.
- Non-suit*, striking coins so called, I. * 440.
- NORFOLK, DUKE OF, I. * 210, * 283, *note*, * 287.
- Norham, Siege of, I. * 117.
- Norkott, Johan, her corpse disinterred, and *touched* by persons suspected of her Murder, &c., a remarkable case, III. 192.
- NORTHAMPTON, EARL OF, Hen., his Speech as to L. Balmerinoch's Treason, II. 593; was involved in Sir Tho. Overbury's murder, *ib.*
- Northberwick, Kirk of, the great Convention of Witches with the Devil there, I. 212, 235; a more detailed account, 239, 243, 245. *See Witchcraft*;—Prioress of, Invasion, &c., * 347.
- Northland-men, not to return home from Army, under pain of death, I. * 270, &c.
- NORTHUMBERLAND, EARL OF, I. * 4, &c., * 272, * 273, * 276, * 279, * 280, * 281.
- Norwall, Wm., banished for life, for stealing Poor's-box, Adultery, &c., II. 387; hanged as a False Notary, 389.
- Norway, K. JAMES V. sends to, for Hawks, for Falconry, I. * 322.
- Nory of Buchquhopill, Rob., I. * 88.
- Notaries deprived for ignorance, neglect, &c., I. * 217; hanged for falsifying 'evidents,' 85; his servant hanged, 87; Tho. Marjoribanks hanged, II. 34; Jo. Moscrop hanged, 35; Ro. Innes hanged for falsifying a Charter,

104; Norwall hanged for acting without a Warrant, 389;—Pejured, right hand struck off, Banished and declared Infamous, I. * 402, * 432; Alex. Cuik hanged, III. 418; Mr Jo. Muirheid hanged, 430;—Protocol book, I. * 217. See also Messenger.

Nurse, French, I. * 295, * 310;—to K. JAMES V., * 263, * 271; to his eldest son PRINCE JAMES, * 306. See P. JAMES;—to Prince Arthur, * 309;—LADY JANE, * 325.

O.

OATHS taken, by swearing upon swords, III. 275.

OBIGNY, LORD, horses and hounds sent to France to him and to 'Madame D'Obigny,' I. * 277.

Obsequies, Funeral, of K. JAMES IV., I. * 259; Q. MAGDALENE, I. * 287, * 288, &c. See under the various names of Kings and Queens, &c.;—Offering at, I. * 301, &c.

OCHILTRIF, LORD, STEWART OF, AND., I. * 177, * 199, * 335; Fend with, * 352, * 428; intercommuning with D. of Chatterault, &c., * 466, * 478, 88, 91, 162, 306; denounced, 310; II. 3; Kirk's grievances, 9, 107; 1000*l.* gifted by the KING, 238, 280, 415; Warden of West Marches, 453; III. 9; Slaughter of Lord Thorthrowald, 66; Raid of the Isles, 118, 225; Letter to the KING, 367, 419;—MASTER OF, I. 49.

Octavians, the, II. 568; III. 63.

Odoneill, Irish Rebel, I. 318.

Officers of Witch-covens, III. 605, &c.

Ogilvy of Balfour, Ja., I. 375; II. 134;—of Bahagrow, Jo., I. * 157;—of Boyne, Walt., I. * 217; Alex., * 462, *note*; III. 560;—of Boigside, Ja., shooting haghuts, &c., II. 134;—of Cragbone, Walt., I. * 150;—of Craig, Jo., his houses, &c., to be cast down, I. 318; Sir Jo., slaughter, &c., II. 130; Mr Da. and Fra., his brothers, *ib.*, 235;—of Cuki-toane, Ja., I. * 138;—of Dunlugs, Sir Walt., I. * 179, * 182; Sir Geo., 284, 382;—of Drumis. (Drum.) Alex., I. 264; Walt., III. 330; Jo., his son, a Jesuite, cruelly persecuted and hanged, *ib.*, &c.;—of Findletter, Sir Walt., I. 281; II. 133;—of Gassall, Jo., yr., III. 478;—of Inchmartin, Pat., remitted, I. * 240, 28, 111;—of that ilk, Alex., abiding from Solway, I. * 255; David, * 404; Gilb., 74, 91;—of Innerquharitty, Jo., I. * 138;

remitted, * 240; Sir Jo., 75; II. 134;—Jo., called *Reid Johnne*, II. 134; Alex., called *Blak Sandie*, *ib.*;—Jo., Jesuite, his Trial, III. 330; kept from sleep, *ad delirium*, 331, 332; hanged and quartered, *ib.*; Relation of the proceedings, *ib.*, &c.; conduct at his execution, 350; his Deposition, &c., 352; Resetting him, 371;—of Keillour, Arch., II. 430, —LORD, OF AIRLIE, Ja., I. * 136, * 138, * 244, * 270, * 470, 75, 114, 116, 263; II. 297, *note*; Heresclip of his lands of Glenlay, &c. III. 233;—MASTER OF, Ja., I. 348; 375; Slaughter of the Laird of Kerse's, and Wounding Lord Spynie, II. 130, 133, 135; fined L.5000, 146; Sir Jo., Pat., and Fra., his brothers, *ib.*, 235;—of Mygvie, And., I. 28;—of Quheich, Jo., I. 264;—of Qulytefield, Dav., I. 318.

Ogill, Mr D., assaulted, I. 337;—of Hartree-wood, Henry, I. * 386, 27.

Oker, taking usurious interest, &c., II. 101.

Oliphant of Coudie, Laur., III. 479;—of Gask, Wm., slaughter, III. 443; Laur., his brother, *ib.*; Demembration, 479; Wm., slaughter, 542;—of Kelly, Alex., invaded for his slaughter, I. * 347; oppressed, *ib.*;—of Kelyte, I. * 453;—LORD, Laur., Justice, I. * 14, &c.; Jo., oppressed, * 108; Laur. invaded for his slaughter, * 188, 25, 27; slaughter, 44, 89, 92; slaughter, II. 512; III. 419, 443;—MASTER OF, Laur., I. * 395, 119; Jo. slain, II. 514; III. 443;—of Newtown, Sir Wm., King's Advocate, III. 232, &c.; Walt., 583;—of Pittoceer, Peter, I. 24;—Pursuivant, I. * 273;—of Rescobie, Peter, III. 479, 512;—of Turingis, Peter, I. 25, 27; III. 5-3;—Wm., Justice-depute, I. 101.

Olivers of Gagy, I. * 347;—in Stryndis, tried at

- Justice-aire of Jedburgh for numerous crimes, I. * 28, &c.; four of them hanged, * 30.
- Oneill presents K. JAMES V. with a horse, I. * 303. See Steid, &c.
- Oppression done to the Lairds of Rav'ninscraig and Vchiltrie, I. * 32;—to Lady Cardines, * 52; Laird of Caly, * 53; Abbot of Dundrennan's officer, * 54; Sir Gavin Kennedy, * 55; Laird of Niddry-Marischall, * 73; Laird of Bass, *ib.*; Laird of Leswalt, I. * 89; Ardwell, * 90; Lord Drummond, * 108; Mr D. Lindsay, * 141; John Petcarne, &c., * 159; Laird of Congiltoun, * 158, * 160, * 169; Dean of Murray, * 176; Moncur of Balluny, * 178, * 180, * 181; John Mathe-sonne, beheaded, * 201; Laird of Bargany, * 204; Hepburn, &c., 87; 'cietineris' of Brechin, * 431; Tho. Cuninghame hanged, II. 359; and Perjury, &c., three persons hanged, beheaded, and scourged, II. 453;—and Murder, 516; by E. of Orkney against Inhabitants of O. and Zetland, III. 81, 312, 489, 491. See Orkney.
- Or, James, beheaded for slaughter, III. 358.
- Orde of that ilk, And., I. * 150.
- Ordeals, popular, for the Discovery of Murder, III. 183, &c.
- Orders of K. JAMES V., invested with the Collar of Cokkilgeis, I. 265; the Garter, * 283, * 289; St Michael, * 283. the Golden Fleece, *ib.*; mending the King's, * 292, &c.
- Organs, I. * 122, * 279, * 290, * 321.
- ORKNEY, BISHOP OF, I. * 211; Adam, 101, 267, 270, 293; Trial of Mitchell for firing a pistol at, III. 195; Rebellion in Orkney, 293, &c.; Ja., 301, 304; Geo. 444; Ja., 508;—EARL OF RO., to seize and expel the Spaniards, I. 267; Pat. seizing 'the Ark of Noy,' 336; attempt to poison him and cut him off by Witchcraft, 373; Tho. Palpla executed, 374; II. 76, 77; Ro., 97; Pat., tyrannical oppression of Inhabitants of O. and Zetland, III. 81; curious form of the execution of dittay, 86; Trial of Ro., natural son of Pat. E. of O., 272; he, along with 5 accomplices, is hanged and forfeited, 283; illustrative Papers, *ib.*; Trial of Pat. E. of O., 308; notices of, *ib.*; beheaded and forfeited, 318; illustrative Papers, 319; conference between the Secretary, Lord Advocate, and the Earl, 320; his Examination, *ib.*, 322;—MASTER OF, Jo., Witchcraft, attempt to poison his brother, the Earl, &c., I. 373; tried for slaying the Parson of Urquhart, 392, 397.
- Orkney and Shetland, withholding the rents, I. * 182; Convocation of lieges in arrayed battle, and slaughter of EARL OF CAITHNESS, * 253; Lease of Lord-hip and Isles of, to Oliver Sinclair for 3000 merks yearly, * 257, * 258; K. JAMES V. visits, * 305; Convocation there, * 413; Rebellion by the Earl and his base son, III. 272 to 307, and 308 to 327; Bond of Association by the Rebels, 293; Depositions of Rebels, 294, &c.; Bond torn by Ro. Steuart, 304; Deposition of Ro. Stewart, 306; Letter from the KING, as to the oppressed people of Orkney, 319.
- Orme, Da., baillie of Newburgh, III. 97;—of Mugdrum. Da., I. 270, 309.
- Ormistoun of Brigend, Ro., I. 268;—Deer-park of, chasing and wounding Deer, I. * 140;—of that ilk, Geo., * 147; Ja., deforcing a Messenger, I. * 334; at DARNLEY'S Murder, 145; Ja. III. 391; Deadly feud with Laird of Cessford, reconciled, 303;—*Rob.* alias *Hob.*, I. 145;—of Smailholm, Jo., I. 270.
- Ormond, Pursuivant, I. * 273, * 281, * 306, * 317, 226.
- Oronsay, Island of, burnt, I. 229.
- Orphies, (*orfirrerie*.) gold embroidery, I. * 301.
- Orok of that ilk, Ro., I. * 186, 60;—of Sillibawbe, his wife portioned by K. JA. V., I. * 324. See Tocher, &c.
- Otterburn of Redhall, Mr Adam, remitted, I. * 252; sent to London to treat a Peace, * 283; * summoned, * 310; Tho., 154, 375, II. 528.
- Otter-staff, Ro., Huttone, slain with, III. 499; Hen. Baird beheaded, 500.
- Oulk, week, III. 601, *et passim*.
- Outing forged money, II. 74. See Uttering.
- Overbury, Sir Tho., murdered, II. 593; K. JAMES VI., awful imprecation, 600, *note*.
- Over the dyke with it, a Witch's nickname, III. 606. See Nicknames.

- Ovens for the King's Ships, I. * 303.
 Oxen employed to drag heavy Artillery, I. * 260,
 * 263, * 267;—Geo. Dempstar banished for
 hurting an ox in the plough, II. 127.
 OXFORD, EARL of, I. * 118;—St Mary's, Pas-
 quil against the Scottish Nation, affixed on
 door of, III. 447, &c. See Roise.
 Oye, (o, or oe.) a grandchild, I. 183, II. 520, III.
 78.
 Oylispek, what, III. 599.

P.

- Pace, (Pasche,) Easter, III. 603, *et passim*.
 Paddockis, 'plewgh'e' of, a singular Witch-charm,
 III. 603.
 Padjeane of Newtoun, Rodger, III. 93, 387;
 Jo., yr., 485.
 Pages, I. * 289, * 291, * 307, * 321.
 Pailzeonis, (Pavilions,) I. * 273, * 283, * 310,
 * 323. See Hunting, &c.
 Painting, art of, I. * 117, * 119, * 259; pictures
 brought from Flanders, * 281, * 287, * 310;
 QUEEN'S Painter, * 321, *ib.*, * 323.
 Paisehe, Easter, II. 528, &c.
 Paisley, Commendator of. See Claud Hamilton;
 Wm., I. 119;—Monastery of, Hamesucken
 at, * 382; attempt to restore Popery, * 427;
 detaining the Abbey, &c., 45.
 Paistoun, Janet, Confession of Witchcraft, III.
 601; Devil's marks found on her, 602.
 Palace, shooting within, punished by Banishment
 for life, I. 187. See King, Holyrood, &c.
 PALATINE, COUNT, III. 322; THE COUNTESS,
 I. * 308.
 Pall, funeral, I. * 287, * 288, &c.
 Palinode, what, III. 621.
 Palpla, Tho., poi-soning, executed, I. 374.
 PALSgrave, THE, I. * 301; III. 322.
 Pamfara! tantara! II. 601 and *note*.
 Paniter, Patrik, Abbot of Cambuskenneth, Secre-
 tary, I. * 79; Ambassador, * 273.
 Pannel permitted, before conviction, to assign a
 Reversion, I. * 374.
 Pantoun of Pitmedden, Jo., I. * 184;—of Talle-
 maid, Ja., * 170.
 Pantoun, a kind of slipper, III. 512.
 Pantry, the KING'S, I. * 313.
 Pansis of mailge, I. * 317.
 Panmure, Place of, Imprisoning a messenger in,
 I. * 345.
 Papist Lords, proceedings against them. (See
 Angus, Huntlie, Erroll,) I. 306, &c.
 Papists, Resetting, I. 167; trafficking with, to
 alter the Religion, 172, 371.
 PARMA, DUKE OF, I. 327, 328, 329.
 Parliament, Mutilation during sitting of, I. * 26;
 —printing false Act of, II. 2, 14.
 Park, QUEEN'S, Wounding a Keeper of, I. * 381.
 Park of Bagray, Alex., warded, I. * 357, * 451;
 —of Gilbertfield, Ja., * 170; Rob. * 404;—
 Ja. and Wm., Murder, Oppression, &c., III.
 495;—of that Ilk, Walt., I. * 170.
 Pardonne, the, I. * 278.
 Paris, French, *alias* Nicholas Haubert, Murder
 of K. HENRY, (Darnley,) I. * 489; his first
 Deposition, * 502; his second Deposition,
 * 506; Execution at St Andrews, * 489,
 * 510; Letter from Regent Murray to Q.
 ELIZABETH as to, * 511; his head and a leg
 sent to Edr., *ib.*, 152.
 Parkins, Capt. Jo., English Pirate, III. 104.
 Particide, Jo. Diksoun, yr. of Belchester, broken
 on the 'row' or wheel, I. 241; Wm. Mow, II.
 18; Philip Stanfield, III. 196; his father's
 corpse bleeds on being *touch'd* by him, 197;
 notices of the trial, *ib.*, 198; hanged, his
 tongue cut out and burnt, his right hand struck
 off and affixed on the Port of Haddington, and
 his body gibbeted in irous, *ib.*
 'Pas-pennys' found, I. * 18; what they were,
ib.;—concealing, * 32.
 Pasquill's, writing against the KING, F. Tennent
 hanged, II. 332;—forging one against the
 Scottish Nation, III. 445; Mr Tho. Roise's
 right hand and head struck off, &c., 445; il-
 lustrative Papers, 582.
 Pastments of Gold, I. * 302, and Excerpts from
 Treasurer's Books, *passim*.

- 'Patesar,' King's, I. * 313.
- Paterson of Caverhill, Ninian, I. * 87; Bartie, 'wirreit and brunt' for Sorcery, &c., II. 535; Tho., * 421, * 469;—Helen, hanged for coining bawbeis, I. * 365;—Jo., Sh.-clerk of Fyfe, III. 453;—of Leuchrie, And., II. 343.
- 'Patroune' of the King's Ships, I. * 298; silver 'quibissill with ane lang chenze to him,' *ib.*
- PAUL V., POPE, II. 570, *note*.
- Pavier, a French rope-dancer and posture-Master, II. 238.
- Pawtoun, Mr Wm., Minister, Treason, &c., I. 20.
- Pax, cover for the, in PRINCE'S Chapel, I. * 306.
- Peace between England and Scotland solemnly ratified, I. * 283.
- Pearl beads, I. * 307; and Jewels abstracted from the QUEEN, II. 544; from E. Marischall, III. 563, 564.
- Pedder, Alex., scourged 'mother-naikit' with 'surd-beltis and horse-brydillis,' III. 539.
- Peebles, Justice-aire of, I. * 24, * 72.
- Peebles-shire, Barons fail in Bond, I. * 146;—Baron of Findowie, Alex., with Gowrie before his Conspiracy, II. 158, 176; his Deposition, 191;—Justice-aire of, I. * 24, * 172;—Privileges of the Sheriff, * 350;—Marioun, *alias* Pardoun, corpses of Murdered persons bled on being *touch'd* by her and her husband, III. 194;—of Chapelhill, Oliver, I. * 132;—Tho., hanged and quartered for Coining, &c., * 440.
- Peices, a term applied to massive plate, II. 520.
- Peirse, Capt., English Pirate, III. 104.
- Peirsoun, Alsoun, burnt for Witchcraft, &c., I. 163;—of Cairny, Da., II. 103.
- Peistis, lead drops or slugs, III. 120.
- Pellock-bows, I. * 293.
- Pendykillis and frontellis, I. * 320.
- Penkill, House of, besieged, I. * 403.
- Penman, taken prisoner by Buccleuch, I. * 273.
- Penny, Sir Jo., Chaplain, slain, I. * 178.
- Pentland, Captain Jo., Slaughter, banished, I. 46.
- Pennyuke, of that ilk, John, I. * 127, * 143, * 159; acquitted of Mutilation, &c., * 203, * 333, * 424, 11; denounced, 276; his brother 'spuil'd,' 396; Gilb., II. 49, 129, 376, 379.
- Perjury, Arch. Croser hanged, I. 111; Wm. Barclay, II. 348; Alex. Cheyne beheaded, 453; Alex. Wastland hanged, *ib.*; Alex. Croy scourged, *ib.*; Mr Jo. Galbraith stands at the cross, and is Banished for life, 476; III. 76; Da. Donaldsoun hanged, 208; Ro. Grahame of Langboddome, &c., hanged, 358; Alex. Cuik, notary, 416, hanged, 418; And. Turnbull and two others hanged, 538; Da. Turnbull's tongue pierced with 'ane hett boitkyn,' and banished, 538.
- Perrot, Sir Jo., Deputy of Ireland, III. 2.
- Perth, Bailies and community remitted for burning Craigy, I. * 240; exempted from Assises, * 418;—Conflict between E. of Glencairn and Master of Wintoun, III. 579;—Convocation on the South Inch, I. * 451;—EARL OF, Jo., III. 233, 316, 548;—Feud with Laird of Craigy, I. * 432;—Hamesuckin to Keepers of the Gates of, * 219;—Justice-aire of, * 263, * 272;—K. JA. VI. made a burgess, and subscribes Guild-book, II. 247;—Plague in, Housebreaking during the, I. * 219;—Quarrel with Laird of Clackmannan, 276, &c.; conduct as to Gowrie's Conspiracy, 186, &c., 192, &c. See GOWRIE;—Reformation preached at, * 407;—Spey-Tower of, * 177.
- Pestilence, (see Plague), 'that nane mak mercate with Inglis menne,' because of the, I. * 294; the pestilence 'but mercy,' 51, 302; diet deserted on account of, II. 426.
- 'Pets' kept by K. JAMES V., I. * 299.
- Pettigrew of Over Cottis, Walter, I. * 388.
- Phillope, Mr Ro., banished for saying Mass, &c., III. 252;—Ro. Sh. Clerk of Dumfries, III. 452.
- Philosopher's stone, I. * 120.
- Pickery, an aged man banished for, I. * 53, II. 43.
- Pigs, price of, at Justice-aires, I. * 390.
- Pikle neirest the wind, a Witch's nickname, III. 606.
- Pilgate, I. * 291.
- Pilgrimages beyond seas, Lady Glanmis, &c., I. * 244; Earl of Cassillis, &c., * 245;—to Qubithirne, I. * 117;—to Rome, I. * 240;—in Scotland, I. * 371;—to St James in Gal-

- licia, I. * 101;—to St John of Amiens in France, I. * 107;—to St Ninians, I. * 106;—to St Thomas of Canterbury, I. * 107.
- *Pilniewinkis*, an instrument of torture, I. 215.
- Pink, a small slip, III. 100.
- Pinkertonn, Alex. beheaded, I. * 164.
- Pinkie-cleuche, Battle of, I. * 360, * 378, 51, and *note*, &c.
- Pipers, English, I. * 115; of St Johnstoun, tocher given to him, * 279.
- Piracy, Capt. Ja. Cockburn and 5 others hanged, I. * 131; Alex. John Canochson, * 170; * 273; hanged in chains, * 358; Walt. Cowsland, 37, 93;—the English Pirates, III. 99; eight hanged within flood mark, 101; *thirty* Pirates tried by Vice-Admiral, 102; hanged at Leith, 107; Documents as to Piracies by the English, 108. &c.; Jo. Davidson, and Jo. Lewis, English Pirates, hanged within flood-mark, 244;—and Murder under trust, Jo. Brown and three others, 569; hanged, and their heads affixed at Leith and Burntisland, 572. See Pirates.
- Pirated goods, Stouthrief of, I. * 87.
- Pirates, Expedition against, I. * 298; English, * 379. See Piracy.
- Pissane of mailse, I. * 288, * 317.
- Pistoletts, Act ancient bearing, I. 299; shooting with, 371, II. 22; curious legal arguments on this point, 53, &c.; Lockhart of Lee, II, 61, 128, 129; Turnbull of Mynto, II. 370; Maxwell of Cowhill, 485; Wm. Douglas, yr. of Drumlanrig, III. 212, &c. See Wounding, Slaughter, &c.
- Pistuletts, (coins,) forged, II. 99; gilding, 100.
- Pit and gallowes, I. * 396, II. 43.—of Tulliallane, III. 479, of Blair Castle, 491, and persons starved to death there, *ib.*
- Pitblado of that ilk, Alex., I. * 404.
- Piteairn, Rob., Comendator of Dunfermling, I. * 436, 88, 101;—of that ilk, Hen., II. 53;—of Ramsay's Fortbar, Hen., II. 10.
- Pitcur, Tutor of, I. * 406; Sir David Forbes, *knt.*, slain in ward, under his custody, *ib.*
- Pitmedden, place of, Burnt, I. 160.
- Pitscottie of Loncardie, Finlay and David, his great grandson, I. * 258; Jo. Mutilation, III. 363; Colin, yr., *ib.*
- Pittarrow, Laird of. See Wischart.
- Pittencrief, Laird of, I. * 504.
- Pittendreich, Lady, &c. See Douglas.
- PITTENWEEM, LORD, Wm. III. 245; his lands in the Island of Lewis burnt and wasted, &c. *ib.*;—PRIOR of, Violence committed by, I. * 156, 117; Wm., 279;—Magistrates of, assist Earl of Bothwell, 319.
- Plague, in Perth, Housebreaking during the, I. * 219; in Stirling, 'gude rule aenent,' * 262; in Selkirk, * *ib.*; on the English Borders, * 294; that 'na Inglis men be sey cumand be ressaunt,' * *ib.*; in Edr., diet deserted, II. 426, &c.
- Planis, Monsr. de, French Ambassador, I. * 261, * 263.
- Plate. See gold, silver, basin, &c.
- Play-coats, &c., I. * 282, * 299.
- Players, I. * 114, * 115, * 118, * 299.
- Plenishing, insight, what, II. 70, &c.
- Plewghie of paddokis, a curious Witch-charm, III. 603.
- Plumber, King's, I. * 314.
- Plume, de la, French Pursuivant, I. * 296.
- Pluscardin, PRIOR of, Alex., supplying Master of Rothes, I. * 358; invaded, in presence of the Holy Sacrament, * 376.
- Poison, Conspiring the KING'S destruction by, I. * 187;—selling, * 203; purchasing, II. 337; poisoning fowls, *ib.*; banishment for life, *ib.*;—Slaughter by, I. * 368; Helen Colquhoun, 80; Andro Glencorse burnt, 84; Lady Fowlis, 185, 191, &c.; Master of Orkney, 373; Jo. Boyd acquitted, 399; Ro. Erskine, III. 260; beheaded, 264; Helen, Issobel, and Annas, 266; sentenced to be beheaded, 269; Helen banished, *ib.*
- Poisoned bullets, I. 90; Laird of Johnstone slain with two, III. 37.
- Poisoning and treasonable Murder, &c., I. * 419; Mr Adam Colquhoun hanged and burnt, * 420; and Incantation, &c., B. Patersoun 'wirreit' and burnt, II. 535.
- Poison-Ordeal, III. 184.
- Pohnude, Laird of, slain, I. * 106.

- Pollok of that ilk, David, Theftboot, I. * 143 ; Charles, Tutor of, * 384, * 402. See Maxwell.
- Polwort of Rottonraw, Wm., denounced for Forcible Abduction, &c., 345.
- POMER, DUKE OF, I. * 322.
- Poor's-box stolen, II. 387.
- POPE, THE, treasurable correspondence with, II. 568, &c. ; Lord Balmerinoch's Confession, 575 ; King's Letter to Lord Advocate, 577 ; Documents illustrative of, 580, &c. ; his alleged Supremacy, III. 330, &c.
- Popey, attempting to restore, I. * 410, * 427 ; See Reformation, &c.
- Poplicie, (-sciatica, or palsy ?) I. * 422.
- Porquier, John, Frenchman, murdered, I. * 361.
- Portincraig, Raid of, I. * 336.
- Portar of Lag, Ja., Hereschip done to, I. * 90, &c. ; Thomas, beheaded, I. * 92.
- Porterfield of that ilk, Mr Jo., I. * 450, 19 ; Wm., slaughter, 69.
- Porters, King's, I. * 313.
- Portingall-doucattis, III. 178, 563.
- Portuys, (Porteous-roll,) I. * 321.
- Portwise (Porteous) of Gernkirk, (Glenkirk,) Jo., I. * 81 ; Tho., 190 ; II. 467 ; III. 453 ; —of Halkschaw, Pat., I. * 147 ; Wm., * 422, * 424.
- Pott, Richard, hanged, I. * 87.
- Poultryman, King's, I. * 313.
- Poultry, price of, at Justice-aires, I. * 390.
- Power of Silverwood, Jo., I. * 458.
- Pow-aixes, II. 432.
- Pow-penny, at Funeral obsequies, I. * 293, * 297.
- Pow, what, III. 605, &c.
- Powrie, Wm., hanged and quartered for Murder of K. HENRY, I. * 490 ; his Depositions, * 493, &c.
- Poynd-faldis, destroying, I. * 163.
- Prayer, Witches', virtue of, I. 232 ; form of, 234, 237 ; III. 95.
- Praying publicly for the banished Ministers, I. 136.
- Pregnancy, pleaded by a condemned Witch, I. 243 ; II. 29, 52.
- Pregnant women, Murder of two, I. * 344 ; striking and producing abortion, * 412, * 421, 456 ; Murder of, II. 517 ; Pat. Deans hanged, *ib.*
- Prentado, Laird of, I. 166. See Borthwick.
- Prestoun of Craigmillar, I. * 159 ; Geo., * 333 ; Sir Simon, Justice-General, * 477 ; Da., 255 ; Feud with Lord Borthwick, &c., 352 ; Sir Geo., II. 455 ; —Simon, of that ilk, Battery *pendente lite*, Oppression, &c., I. * 73 ; Geo., * 159, * 347, * 381, * 477 ; —Ja., Provost of Edr., Justice-depute, I. * 126, * 129 ; —Jo., Justice-depute, I. * 143 ; —of Valleyfield, Ja., yr., I. 15 ; Sir Jo., II. 456, 555 ; III. 264 ; —Eliz. acquitted of Incest, &c., I. 83 ; —of Hiltrie, Geo., murdered, II. 18 ; —of Fentounbarns, Mr Jo., Collector Gen., II. 274 ; President, III. 78 ; —of Pennycooke, Mr Jo., President, II. 328 ; Collector, 496, 568, 598 ; III. 312.
- 'Preyne,' pin, III. 527 ; used for pricking Witches, to discover Devil's mark, 602, &c.
- Pricking for Witchcraft, to find Devil's mark, III. 599, 602.
- Priests, Jesuite, Resetting, III. 541, &c. See Jesuite ; —Seminary, Resetting them, 167, 172 ; proclamation against, 281.
- PRINCE OF SCOTLAND, Alex., (brother of KING JA. IV.,) I. * 232. See also JAMES.
- Printing a vitiated Act of Parl., II. 2, 14 ; or striking coins with Mint-irons, II. 398 ; Alex. Reid hanged, 399.
- Prisoner freeing from ward, I. * 81 ; English, * 351 ; Magistrates of Edinr. freeing Paterson, * 442, &c. ; —taking, I. * 171, * 437 ; III. 212, 489, 495, 497, 539.
- Privy Council, declining their Jurisdiction, II. 494 ; III. 87 ; Mr And. Creichtoun sentenced to be hanged, 89 ; banished for life, 90 ; they write the KING as to the English Pirates, 108 ; they present Captain of a Dutch Waughter with a silver cup, for escorting two English Pirate vessels to Leith, 111.
- Privy Purse, King's, I. * 305.
- Procession, I. * 116 ; public, for prosperity of the KING, and return of the REGENT, * 270.
- Proclamation to regulate Justice-Aires, I. * 64, * 388.
- Protection, Special, to Tenants of Archbishopric of Glasgow, I. * 41 ; —breaking the King's, I. * 106.

- Prothogoll-buik, (Protocol,) Notary's, I. * 217 ; III. 416, 417, &c.
- Prothonotary, English, at Ratification of Peace with England, I. * 283 ; at his departing to France, * 307, * 321.
- Protestation against the Verdict of an Assise, I. * 449.
- Proof in exculpation on a Trial for Slaughter, by Witnesses, refused, III. 467 ; Assise ordained to take proof of a fact, 574 ; Probation led *after the Jury was enclosed* in the Assise-house, 575.
- Provisions, prices of, at Justice-aires, I. * 389, &c.
- Prynnois, Mr Da., Justice-depute, II. 562.
- Pudrache, of the country of Balquhider, II. 424, 432, &c.
- Purdie, Jo., Herald, slain, I. 362.
- Purgatio Vulpæris*, what, III. 184.
- Purse, Stealing, III. 441, 445 ; Resetting a stolen, &c., 553.
- Pursuivant, mocked, &c., I. * 367.
- Pyker, or petty thief, II. 552, &c.
- Pyle of the Raw, Jok, slaughter, I. 37.
- Pynfalle, what, I. * 58.
- Pyne-doublet, definition of, II. 158, 183. See 'Secreit.'
- Pynouris, employed to transport Artillery, &c., I. * 260.
- Pyote of Fovertie, Alex., I. * 404.

Q.

- Quails, live, I. * 310.
- Quarrel-holes, Convocation at, I. 174.
- Quartering the bodies of Traitors, Forgers, &c., the limbs being placed on Tolbooths, Ports, &c., I. * 410, &c., * 467, * 481, * 484, * 491. See Treason, &c.
- QUEENSBERRY, EARL OF, Wm., III. 381.
- QUEEN'S Chariot, I. * 291, * 293, * 320 ; Coronation, I. * 287, * 299, * 300, * 301 ; Crown and Jewels, I. * 298 ; made of Scottish gold, *ib.*, * 322 ; Household, I. * 314 ; Master of, goes to France, * 317 ; Master Usher, &c., I. * 314 ; Painter, I. * 321, * 322, * 323.
- Querrell, young Laird of, slain, I. * 368.
- Question. See Torture, Rack, &c.
- Quhinzeare, (*pugio*, a whinyard,) a sort of short sword or cutlass, I. * 401, &c. ; III. 90, 467, *et passim*.
- Qubippo of Leyhoussis, Tho., slain, II. 455 ;—Ro., Theft, II. 81 ; hanged, 85.
- Qubissill for 'Patroune' of the King's ships, I. * 298 ;—golden, for the King, I. * 304 ; another with 'ane Dragoun ananulit,' *ib.*
- Qubissillit, exchanged, III. 92.
- Qubitefurde of that ilk, John, I. * 384, 91, 133 ; Adam, *yr.*, *ib.* ;—of Mylnetoun, Jo., I. * 404 ; * Adam, II. 376.
- Qubitelaw of that ilk, Pat., I. * 169, * 364, * 480 ;—of Newgrange, Pat., I. 119.
- Qubithirne, Pilgrimage to, I. * 117 ; trental of Masses for K. J. A. V., * 278 ;—Malcolm, Prior of, attempting to restore Popery, * 427.
- Qubitslaide, Burning Place of, I. * 30.
- Quinta essentia*, I. * 120.
- Qubuslaris, (ifers ?) I. * 292.
- Qwickens, sowmes of, what, III. 603.

R.

- RACHIE, (Rachlin,) Island of, III. 26.
- Rack, punishment of the, torture or question, I. * 401. See Torture.
- Rae, English Pursuivant, I. * 286, * 287 ;—Habbie, and 21 others, Slaughter, III. 472.
- Raeburn of that ilk, Jo., I. 17. See Ryburn.
- Ragment and rhyme, in name of 'Johnne the Commoune-wele,' I. * 15.
- Raid, abiding from the, of Aytoun, I. * 103, &c. ; of Eskdale, * 104 ; of Aytoun, * 110, * 112, * 117 ; against the Border Thieves, * 134 ; of Tamptallon, * 138 ; of West Marches,

- * 161; of Werk, * 240; of Solway, * 241; of Jedburgh, * 256; of East and South Borders, * 259; Border-Raids, * 267; of the Merse, *ib.*; against the Border Thieves, * 271, * 282; of Glasgow, * 331; of Coldinghame, *ib.*; of West Marches, *ib.*; of Ancrum, * 332; of Dumfries, *ib.*; of Dumbarton, * 334; of St Andrews, *ib.*; of Lauder, * 335; of Portinraig, * 337; of Langholme, * 338; of Gladismore, * 331, * 339; of Musselburgh, * 339; of Edgebucklingbrae, * 345; of the Muir of Roslin, *ib.*; of Langholm, Haddington, and Edinburgh, * 356; of Abertarf, * 392; a Warden-Raid or 'Day of Trew,' * 397, &c.; of Lochmahane-stane, *ib.*, * 398; of Duns and Langtome, * 404; of Lauder, *ib.*; of Jedburgh, * 421, &c.; of Stirling, * 467, * 470, &c.; of Crawford-Douglas, * 483; of Brechin, 6; of Hawick, 10; of Linlithgow, 19, &c.; of Leith, 27, &c.; of Ruthven, 111, 113, 116, 119, 130, 132, 139, &c.; of Stirling, 133; of Dumfries, 155; of Aberdeen, 183; against the E. of Huntley, 267; of Falkland, 276; of Woolmot, II. 21; of Stirling, 85; E. of Angus's, at Dumfries, 105, 110, 134; of the Isles, III. 118, 202, 225; of Glenfrwne, (*q. r.*) 223.
- Rait of Hulgrene, Wm., I. 15; II. 362; Da., *fiar. ib.*;—of Tibberta, Ro., I. 17.
- Rallie, Capt., hanged for counterfeiting the Great Seal, I. 361.
- Ralstoune of that ilk, Jo., I. * 43; Tho., * 130; Hugh, * 170.
- Ramsay of Ardbikie, Ja., II. 63;—of Balmaio, Jo., elder, 363;—of Balmonth, yr., fined for invading . . . Ballenden on High Street of Edr., 294, 240;—of Banff, Neische, I. * 88, * 232;—of Clattye, Geo., 28;—of Cockpen, James, remitted, * 241, 10;—of Dalhousie, Nicholas, * 140, * 159; treasonable language against the KING, * 251; in ward, * 336; George, deforcing Messenger, * 356, * 422, * 471, 10, 27; Geo., yr., 244; Sir Geo., III. 264; the Lady of, her Funeral, 601;—of the Forther, Jo., II. 128; Mich., III. 257, 487;—of Halhouse, Jo., imprisoned, I. * 203;—of Hawis, (Lawis,) Hen., * 207; Jo., * 336;—Jean, Lady Warreistoune, 'revised,' (carried off,) 244;—Jo., hanged, and his head fixed on the Nether-bow of Edr., for Murder, &c., II. 404;—Sir Jo., of West Barns, (afterwards Visc. Haddington, &c.) Assault committed within Falkland Palace, 91; saves KING's life at Perth, 150, &c. See Gowrie Conspiracy; gets grant of a sword and bloody dagger added to his Arms, 298, &c.;—of Jordanstoune, Dav., I. 22;—of Kynmont, escheated, * 253;—LADY, (Margt. Carnegie,) her Funeral, III. 601;—of Laweris, Hen., I. * 158;—LORD, of Dalhousie, Jo., II. 91; William, III. 601, *note*;—of Murye, Wm., I. 5, 6;—of Panbride, Hen., * 345;—of Poltoun, Wm., * 423; Oliver, 27;—of Pryour-Lethame, Jolin, Incest and Murder, III. 257;—of Quhytehill, Jo., II. 121, 454;—of the Rinde, Ja., 128.
- Randell, Capt. Wm., and 29 other English Pirates, hanged within flood-mark, III. 99.
- Ranefray, Chase of, III. 112. See Fight of Ben-toich, Clan-Gregor, &c.
- Randolph, English Ambassador, I. 144.
- Ransom, exacting, I. * 18, 31, * 411, &c.
- Rape (Rapt) of Earl of Lennox's daughter, I. * 60. See instances of former misapplication of this term, III. 402, &c.; John Steill (*Kempy*) hanged, I. * 126; of Jonet Creichtoune, Lady Newtoun, * 258; Lady Lefnorse, * 349; of Jonet Auldjoye, * 421; of Lady Warreistoune, 244; Laird of Vrinoch's daughter, II. 394; Ja. Chene of Pennan banished, 400; Hen. Sinclair of Quhytkirk, 405; Jo. Broun acquitted, 463; Wm. Bell hanged, 475; Jo. Errole hanged, 566; Wm. Wischert of Mvretoun, III. 507. See also Ravishing, Forcible Abduction, Forcing, &c.
- Raphaell, a Spaniard. See Cassanzeis.
- РАПНОЕ, BISHOP OF, III. 14.
- Rate, Jo., hanged for breaking Gardens, &c., III. 555.
- Rattray of Balnocard, I. * 232;—of Craighall, II. 85; Geo., his servant, &c., beheaded, *ib.*;—of Kinvaid, I. 25.
- Ratihabition, II. 70, &c.; of Slaughter, I. * 381. 'Raveisching.' See Forcible Abduction, Rape,

- &c.; remarkable instance of the former mis-application of the terms 'Raveisching' and 'Rape,' III. 402.
- Ray, And., bailie of Perth; Deposition in Gowrie's Conspiracy, II. 186.
- Reavaris, what, III. 100, &c.
- Rebellion in Orkney, III. 272 to 327; Band of Association by the Rebels, 293; Depositions of the Rebels, 294, &c.
- Rebels, assisting, I. * 141, * 165;—slain at the horn, * 80.
- Red-book of Miggerny, III. 481, *note*.
- Red-cross, bearing the English, I. * 360.
- Red-hand, what, II. 376; III. 420.
- Redding-straik, what, III. 73, 567.
- Redik, Geo., Sh.-dep. of Kirkeudbright, III. 452.
- Redpath of that ilk. (Laird of,) I. * 147; Wm., * 414, * 477; Wm., yr., 10, 41;—of Grinlaw, Wm., 205.
- Reformation of Religion, commencement of, I. * 209, * 339; Case of Sir James Melville of Raith, *ib.*; Spoilation of Churches, altars, &c., * 353;—preached at Dundee and Montrose, * 406; at Perth and Ayr, * 407; at Kirkoswald, Maybole, Paisley, &c., * 427; a great many individuals warded, *ib.*, &c.; at Holyroodhouse, * 434; tumults, * 435.
- REGENTS of Scotland, ARRAN, I. * 267; returns to Scotland, * 270; Ancrum-Muir, * 360; MURRAY, * 421; MARR, * 423; Murray conspiring his death, * 510, 6; Forgery of his signature, 19; Murder of THE KING (Darnley) and the two Regents, 35; LENNOX, 41; Conspiracy against Regent MORTON, 32, 70, 72; Murder of Regents MURRAY and LENNOX, 57. See under their names, &c.
- Register House, in Castle of Edr., I. -312, * 317, * 323, * 325;—Clerk of, * 315, &c.
- Regrating, I. * 227, &c. See Forestalling.
- Rehabilitation, form of Letters of, I. * 110.
- Reid of Aikenheid, Jo., I. 21;—Alex., hanged for using Mint irons, II. 399;—of Colliestoun, And., I. 382;—of Drumfork, Mungo, III. 57;—of Freyndlasheid, Jo., I. 11, 42;—Ja., 'wirreit and brunt' for Sorcery, &c., II. 421;—Marionne, Incest, I. 41, 42;—of Thirdpart, Da., II. 514;—Thom. See Bessie Dunlop's Trial, I. 49, &c.;—of Turnberry, John, slain, * 220; James, beheaded for this Slaughter, *ib.*
- Reidliche of Airdrie, Geo., II. 490;—of Barnehowrie, Ro., 490.
- Reif of an anchor and cable, I. * 106;—(here-ship) of Summerdail, * 225.
- Reiver, Sanderis the Read, an Evil Spirit, III. 606, 614, &c.
- Reiving, masterful, I. * 155.
- Religion, Protestant. See Reformation, Jesuites, &c.;—trafficking for alteration of, I. 172; the Spanish Blanks, 310.
- Reliques, I. * 278; of St Duthos, * 283; of St Mahago, * 306; of St Andrian of May, *ib.*, &c.
- Remission, General, to Inhabitants of Berwickshire, the Merse, and Lauderdale, I. * 14.
- Renfrew, attempting to restore Popery at, I. * 429.
- Renoune of Bylle, David, I. * 140;—of the Scheillis, Jo., acquitted of Masterful Stouth-reif, &c., II. 442.
- Reoche, Jo., Murder, beheaded, III. 484.
- Replegiation to a Regality, I. * 382, 16, &c.
- Reres, Lady, I. * 509, &c.
- Rescuing a felon, I. * 142.
- Resetting, the Traitors of Levyn, I. 18, 19, &c.; 'Hob the King' and 'Daud the man,' 32; Arm-strangs, 33, 34; Rebels, 36; Border Thieves, * 208; Englishmen, * 346; Seminary Priests, 167; a declared Traitor, II. 124; a stolen purse, III. 552; Rebels, Act auent, I. * 80; Jesuites, III. 371. See Jesuites.
- Restis for culverins, &c., what, III. 205, and *note*.
- Revels, Witch, III. 603, 604, &c. See Witchcraft *passim*.
- 'Revising,' (Forcible Abduction,) I. * 104, * 180, * 182, * 241.
- Rhemish Wine, presented to K. JA. V., I. * 308.
- Rhymes, Witches', III. 607, *et seq.* See also Witch-Trials.
- Riccio, David, (vulgarly Rizzio,) Murdered, I. * 478; Scott of Cambusmichael hanged, drawn, and quartered, * 480; Henry Yair hanged, &c., * 481; remarkable Supplications of persons accused, * 483, * 484, * 485.
- Rice Ordeal, of the East, III. 184.

- Richardson of Smetoun, Ja., 155; II. 10, 343; Sir Ja., III. 601, *note*.
- RICHMOND, DUKE OF, I. * 271, * 272.
- Riddale, Burning the Place of, I. * 34.
- Riddell of that Ilk, (Laird of,) 'Hereschip' of, I. * 34, * 166; Walt., 71; Jo., yr., II. 476; III. 569.
- Riding furth of burgh, in 'Routing,' I. * 95;—with the English, * 359.
- Rig of Carberrie, Ja., I. 72, 84.
- Riglen's horn, what, III. 603.
- Rimbursin, ruptured, I. * 404.
- RINGRAIF, THE COUNTIE, I. * 401.
- Rings, &c. See New-year's gifts.
- Rioting within burgh, choosing a Lord of Inobedience, &c., * 409; to restore Popery, * 416; at High School of Edr. (*q. v.*) 195, *note*, &c.; at the apprehension of Lord Borthwick, 354, &c.
- Rix-dollar, III. 601.
- ROBERT, LORD, (natural son of K. JAMES V.) I. * 305, * 308.
- Robertoun of Ernok, Ja., I. 36, 88, III. 245.
- Robertson of Dulcabene, Pat., Slaughter, I. * 431;—Dunc. scourged for taking wages against MARY Q. of SCOTS, * 467;—of Fascalie, Alex., II. 63, 394; Ro. 433;—of Glengennet, Dunc., II. 394;—of Killischawie, Ja., II. 394;—of Middle Downie, Alex., carrying timber out of Braemar, &c., III. 458;—of Pitcastell, Dunc., II. 394;—Ro., beheaded for Slaughter, III. 415;—of Smythstoune, Jo., II. 105;—of Straloch, Jo., *alias* 'Barrone Reid,' III. 203;—of Strowane, Alex., I. * 107; Ro., II. 391, 433; his *crandocher* married, 437, III. 22. See Duncansoun.
- Robin Hood. See Hood.
- Robson of Barvanes, Jo., II. 515;—of Leipie-leische, Math., III. 568.
- Rochell wines, I. * 349, * 377.
- Roes, killing deer and, I. 48.
- Rogersoun, Jo., Hamesucken and Slaughter, III. 485.
- Roise, (Roiss,) of Ballivot, Jo., burning of Clunie, Murder, houghling cattle, &c., II. 138; put to the torture, *ib. note*, and 144; objections against the Assise. 113;—of Dunskieth, Nich. I. 68; Will. Murder, under trust, &c., II. 481; beheaded and forfeited, 484;—of Glenbeg, Jo., III. 371;—Jo., Provost of Nairn, III. 485;—Kath., Lady Fowlis, Witchcraft, Poisoning, &c., I. 185;—of Kilravock, Hugh, I. 191; Wm., houghling and slaying horses and cattle, &c., II. 67, 130;—of Pitcalany, Nicolas, II. 481;—of Swanstoune, Jo., I. 72;—Mr Tho., writing a Pasquil against the Scots Nation, III. 445; his right hand struck off and then beheaded, 454; Papers illustrating this remarkable case, 582 to 590; his Depositions, 588;—of Thorne-toun, Ro., I. 23. See Ross.
- Roise-nobillis, III. 178.
- Rokkeris and Nurses to K. JAMES V., I. * 263; to the Prince, * 314, &c.
- Rollok of Duncrub, And., Oppressed by Laird of Kely, &c., I. * 240, * 373; Sir Walt., Tutor of, II. 63;—Mr Ro., Principal, superintended the education of E. of Gowrie, and his brother, II. 215, 329;—portioner of Craigie, Geo., II. 540.
- Rolls, Writers of the, I. * 315; Keeper of, * 316.
- Rome, messenger sent to, I. * 281; directions sent to, as to giving benefices to natural sons of K. JAMES V., * 311;—Embassy to, I. * 274.
- Rona, Island of, III. 109.
- Ronald, Barbara, Witch, III. 614, &c.
- Rood of Greenside, Heretics burnt at, I. * 240.
- Rooks, Witches take form of, III. 611, 613, &c.
- Rope-dancer, French, II. 238.
- Rorie, an Evil Spirit, III. 606.
- Roring Lyon, the, an Evil Spirit, III. 606.
- Rosary, golden, I. * 301.
- Roselow, attempting to restore Popery at, I. * 429.
- Roseneath, Burning and Hereschip of, I. * 246. See Burning, Hereschip, &c.
- Roslin, Provost of, Heresy, I. * 255;—Muir, Raid of, I. * 345.
- Ross, (Roiss,) of Auchlossin, Nic., I. * 184;—of Bahagowan, Alex., I. * 352, 191, 192; Sir Da., 195; Geo., 285, II. 483;—of Balmakkie, Donald, I. 201; Hu., II. 484, III. 452;—BISHOP of, Ja., I. * 185, * 211; Ro., I. * 254; Ambassador to England, * 277; to France,

- * 278; assault on treasurer (Mr Gawin Dunbar), in Cathedral of Ross, I. * 328, * 399; Dav., II. 273, 274;—Christian, burnt for Witchcraft, I. 194;—of Craigie, Jo., * 88, * 187; remitted, I. * 219, * 406, * 432, * 451, 25; Treason, I. 30; Mr Ro., II. 394; Jonet burnt for the Murder of her husband, the Laird of Balhoushie, 409, and *note*; plaids stolen, III. 266, 416, 472, 449; Jonet, *ib.*, notices of the Family, 583;—of Drumgrange, Jo., II. 130;—DUKE of, I. * 5; Ja., death and burial, I. * 120, * 233, * 239;—Gilb., Prov. of Maybole, II. 560;—of Halkhead, Sir John, I. * 4, &c.;—of Hanung, Geo., I. * 137; Jo., 6, 89; Mr Math., II. 106, 108;—of Holme, Dav., I. 201;—Herald sent to the EMPEROR, I. * 304, * 307, to the K. of ENGLAND, * 312; waits on French Ambassador, * 322;—Helen, Tochter to her daughter, I. * 312;—Ja., beheaded and quartered, for taking wages against MARY QUEEN OF SCOTS, &c., I. * 467;—LORD, Ninian, I. 150, * 344;—LORD, of HALKHEAD, I. 71;—of Maitland, Tho., I. 27, III. 583;—of Mountgrenane, Jo., Treason, I. * 8;—of Pettieavles, James, Treason, I. 130;—of Prestounne, Tho., I. * 399.
- Rossie of that ilk, Dav., I. 74.
- ROTHERS, Geo., EARL of, Intercommuning with, I. * 110, * 185; remission to him and his accomplices, I. * 249, * 283; dresses to John, his son, * 299; And., * 466, * 478, 91, 114, 304; III. 444;—MASTER of, (Norman Leslie,) I. * 337, supplying him, * 358.
- ROTHERSAY, DUKE of, James, Prince and Steward of Scotland. See Prince James.
- Rothsay, Remission to Inhabitants of, I. * 113; Castle besieged, I. * 240;—Provost of, murdered, III. 199; inhuman barbarities of Argyll's followers, *ib.*;—Herald, I. * 282, * 286, * 287; banquet, Englishmen, * 300, * 304; sent to London, * 301.
- Routing, riding furth of burgh, in, I. * 95.
- Round, to whisper, II. 185, 214, 588.
- Row, breaking on (the wheel,) I. 241, II. 450.
- Rowan of Sandiedub, Nicoll, II. 391, Alex., his son hanged for barbarous cruelty—burning a woman on a red-hot 'girdill,' *ib.*, 393.
- Rowallan, Feud between Laird of, and the Cunninghams, I. * 56; * 428, &c. See Mure.
- Rowmais, King of, III. 590.
- Rowll, John, Prior of Pittenweem, Deforcung, &c., I. * 157.
- Rowne-tree, II. 536. See Charms.
- Roxburgh, Barons of, fail in their Bond, I. * 146;—Castle of, supplying the English in, * 360, * 379;—Justice-aires, expense of, * 317;—LORD, Ro. II. 351.
- ROXBURGH, LORD, Ro., II. 548.
- Roy, red-haired, III. 251.
- Royston's, Lord, MS. Abridgment, I. 257.
- Ruid-day, II. 376.
- Ruid-well, III. 618.
- Rule, Bessie, a Witch's nickname, III. 606;—Robert the, an Evil Spirit, *ib.*, 615, &c.
- Rum, Island, of, III. 20.
- Rungis and batounis, striking a Minister with, II. 416; naked people struck with, and scourged, 454.
- Russell, Hieronymus, burnt for Heresy, I. * 215; Mr Jo., Justice-depute, 169.
- Rutherford, of Auchingorthe and his son respited for 'Revising,' I. * 241;—of Edgarnstoun, Jo., I. * 20; Rich., III. 396;—of Hundoloe, (Hondelye,) Jo., I. * 35; Geo., * 127, * 147, * 208, * 440; Sir Nich., III. 393, 396;—of Hunthill, Jo., I. * 208, 280; Wm., yr., *ib.*; Jo., and Tho., yr., tried for Raids of Falkland, &c., 293; Jo., III. 396;—of that ilk, Helen, Herschip of her tenants, I. * 204;—Jo., hanged, I. * 142; Mr Nicoll, * 440;—Rich., Provost of Edr., 46; of Jedburgh, III. 396, 431; Jo. and Wm. tried for cruel Slaughter, II. 519; Wm. beheaded, 520; And., House-breaking, &c., III. 540;—of Synewallis, Wm., Mutilation, 225.
- Rutherglen, attempt to restore Popery at, I. * 430.
- Ruthven, Mr Alex. See MASTER of;—Alex., Resetting him, III. 72, 202;—of Ballindene, (see also Baudene,) Wm., I. * 342, * 347; funeral of Laird of, II. 473; Wm., III. 437;—of Foreland, (Frieland,) Alex., and Hary, his brother, forfeited in Parl., II. 159; Wm., 241; Alex., III. 203; Intercommuning with his son Alex., 72, 202;—Hary, *alias* Free-

- land, uses treasonable expressions against the King, II. 325; Depositions relative to, *ib.* to 329;—Holy Well of, 538;—of that Ilk, (Laird of,) I. 13; Wm., yr., *alias* Bandene, II. 397;—LORD, Wm., I. * 141, * 177; gift of Laird of Gorthy's escheat, * 248, * 342; Pat., murder of David Riccio, * 479, * 503, &c.; Wm., besieging Place of Dupplin, &c., 25; invaded, 89; tried for Slaughter, 90; and DIRLETON, II. 283;—MASTER OF, Wm., remitted for Besieging Castle of Rothesay and Burning Bute, I. * 240, * 479; Alex., killed at Gowrie's Conspiracy, II. 148, &c. See GOWRIE;—pensioner of Ross, Alex., II. 98;—Raid of, I. 111, 113, 116, and 119 to 130, &c.; Lairds of Mains, Drumquhassill, and Duntreath, executed, 139, &c.;—Surname of, not to come within 10 miles of King's person, &c., II. 239, 240;—Wm., brother of Jo., Earl of Gowrie, &c., forfeited in Parliament, 159.
- Ryburn (Raeburn) of that Ilk, Jo., Adultery and Child-Murder, II. 415.
- Rye-bowt, what, III. 605, 618.
- Ryellis of aucht, what, III. 100.
- Rynd of Kerse, Jo., yr., Slaughter, II. 101; Wm., 130; Pat., his son, slain by the Master of Ogilvie, &c., *ib.*; Harie and Gilb., his sons tried, 135;—Nicol, wounds Provost of Edr., I. * 399; makes public confession at Cross, with bare feet, in linen clothes, &c., *ib.*; II. 235;—Mr Wm., preceptor to Jo., Earl of Gowrie, 158, 176; his Deposition as to Conspiracy, 219; is 'extremely booted,' (put to torture in the boots,) 220, 238, *note*, 319. See GOWRIE'S Conspiracy.

S.

- Sabbati, Dies*, Saturday, I. * 115.
- Sacrament, Holy, abusing the, after the manner of Papistry, I. * 428; receiving, while under Excommunication, I. 365, * 375.
- Sacrilege, hanging an image of St Francis, I. * 286; breaking an image of St Magdalene, * 335; casting down one in Kirk of Air, *ib.*; spoliation of Churches, Altars, &c., * 353; striking a Rector in Cathedral of Aberdeen, &c., * 356; invading Prior of Pluscardin, &c., 376; stealing chalices, &c., * 393; this crime punished by drowning and hanging, *ib.*
- Sadler, King's Master, I. * 315;—Sir Ralph, I. * 286, * 301.
- Saidler, Christian, burnt for Witchcraft, &c., II. 25.
- Saiffer, what, III. 441, *note*.
- Salamauder, the, one of the King's ships, I. * 298, * 316.
- SALISBURY, EARL OF, (Cecil,) Sir Ro., II. 581; his death, *ib.*, *note*; his speech as to L. Balmoroch's Treason, 592.
- Salmon Fishing, in close-time, I. * 40, * 54; destroying, I. * 163.
- SALTOUN, LADY, III. 66; LORD ABERNETHY OF, I. * 177; Wm., besieging Frendraucht, &c., * 329; invaded, * 476; Alex., 116; Jo., II. 273, 572.
- Salutation, singular ceremony at the meeting of Makeoneill and Coll MacGillespie, III. 20.
- Sampsoun, Agnes, (Annie, the wise wife of Keith,) Witch, I. 216; her Trial, 230; her Witch-prayer or conjuration, 234; another, 237; 'wirreit' and 'brunt in assis,' 241.
- Samuelstoun, Laird of, taken by Lord Hamilton, I. 358.
- 'Sanct,' the, John Scott, the celebrated faster, so called, I. * 311.
- Sanctuary. See Holyrood, Torphechin.
- Sanday, Piracy and Murder in the Road-stead of, I. * 171.
- Sandelandis of Calder, Sir Ja., I. * 159, * 237; goes in Pilgrimage to Rome, * 240; remitted, * 256; Jo., yr. of, found caution for L.10,000, licence to go to France, * 333; escapes from ward, *ib.*; Ja., 70; feud with E. of Montrose, 347; feud with Sheriff of Ayr, 352, 359; fights a combat with E. of Montrose, 361;—of Crury, Ja., I. * 156;—of Gilliswallis, Ja., III. 72;—of that Ilk, (Laird of,) Jo., * 147; takes two thieves, I. * 273, * 424;—of Sla-

- manno, Sir Ja., I. 248, 282; feud with E. of Montrose, 347, 348; feud with Sheriff of Ayr, &c., 352; II. 365, 555.
- Sangweleris, (wild boars), I. * 311, * 312.
- Sanguhar, slaughter of inhabitants, I. 305;—Kirk of, attempt to restore Popery at, I. * 430;—**LORD CRICHTON** of, Ro., I. 49, * 53; Wm., * 229, * 232; Feud with Lord Maxwell, I. * 53, * 78, * 85, * 109, * 124; with the Laird of Drumlanrig, * 269; Wm., slain, I. * 353, * 354; Ro., 372, 375; II. 394; III. 115; Wm., 339; banged for killing a fencing-master, 447;—Tutor of, I. * 397, * 398; Wm. II. 71.
- Saphire, for MARY OF GUISE's golden girdle, I. * 299; King's ring, * 323.
- Satin, for dresses, I. * 292, &c., &c.
- Saturday, termed '*dies Sabbati*' in ancient writings, I. * 15;—Black, what, I. 56, *note*.
- Saul-Mess and Derige, &c., I. * 293, * 297; II. 530.
- Saulseat, (*Sedes animarum*), Commendator of, John, Fire-raising, &c., I. 12.
- SAVOY, DUKE OF, Letters to, II. 571.
- Saw, Witch's salve, I. 53; II. 28, &c. See Witchcraft, *passim*.
- Sayneing and croceing, a Witch-charm, II. 479, &c.
- Sceptre, KING'S, I. * 117;—QUEEN'S, I. * 302, &c. See under their names.
- Schafferonis, I. * 299.
- Schalmer, (musicians), I. * 292.
- Schaikill-bane, III. 509, &c.
- Schankis, (hose), I. 51. See also App. to the earlier reigns, III. 265, 478, &c.
- Scharge, scharg, what, III. 538.
- Sharp, Jo., slain, II. 427;—Mr Jo., Minister, tried, II. 494; banished, 503.
- Schaw of Barragane, John, I. * 382;—of Broiche, Jo., I. * 450;—of Cambusmoir, Alex., III. 233, 250;—of Caummymort, Judicial Arbitration, I. * 167;—Elizabeth, (mistress of K. JAMES V.), I. * 277;—of Glenmure, Geo., II. 128; Adam, his brother, tried for shooting hagguts, &c., *ib.*;—of Greenock, Jo., I. 19, 63, 67, 171;—of Grymmet, Jo., I. * 457; Alex., Tutor of, III. 172;—of Haly, Jo., oppression, &c., I. * 57, * 453, * 457;—of Kerise, Jo., slaughter, I. * 58; Quintin, (Tutor of), * 137, * 150, * 457;—of Knokhill, Geo., I. * 167; Mr Ja., III. 233;—of Sanchy, Alex., I. * 167, * 327; Ja., II. 62, 63, 502;—of Sornbeg, I. * 343; Jo., II. 106, 109;—Mr Wm., slain, I. 363;—of Welwood, Adam, I. 19.
- Schaveill, Sir Harie, III. 589.
- Scheilling, (scheill.) what, II. 519.
- Scherand wine, price of, I. * 389.
- Schelopes, small vessels, III. 84.
- Scoir, (scaroch.) buck-toothed, III. 223.
- Scola, Edw., sometime Sheriff of Orkney, III. 250.
- Scoll, (scoll.) drinking a, what, II. 172.
- SCONE, LORD, II. 273; Andro Henderson complains of him, 321; his exculpation, 322, 457, 496, 572; III. 208, 316;—Regality of, I. * 424.
- Scott, of Abbotsford, Sir Walter, Bart., Letter from, as to the name and Clan of Scott, III. 381;—of Abbotshall, Wm., I. 261, 304; Tho., Justice-Clerk to K. JAMES V., singular anecdote of his death, &c., III. 596;—of Al-lauhauche, Ro., I. * 127, * 147, * 400;—of Balbertoune, Ro., I. 28;—of Balwery, Sir Wm., I. * 62, * 78, * 134; Wm., * 425; Sir Ja., 261, 304; subscribes the forfeited Lords' Band, 346; II. 49;—of Bonyntoune, Ro., I. * 400, * 414; Adam, * 450; Jo., II. 339;—of Branxholme, Sir Walter, found caution of 500 merks, I. * 152; caution of 20,000 merks, * 229; Treason, * 272, * 332; to depart this realm, 261, 308, 346; Band or Association between him and 50 of his Clan, III. 381, 390; remarkable penance enjoined on Laird of Cessford, for his murder, 391;—of Bowhill, Ro., II. 339; his three brothers slay Napier of Womnet, *ib.*;—of Bukleuche, Sir Walt., I. * 127; Treason, * 272; takes Penman prisoner, * 273, * 456; Keeper of Liddisdale, 342; takes Will of Kinnmont out of the Castle of Carlisle, with sound of trumpet, &c., 363; QUEEN ELIZ. demands redress, 364; relations of that remarkable event, II. 504; III. 390, 396;—of Burnfoot, Adam, I. * 400;—of Burthauche, Jo., I. * 147;—Capt. of the Airmetage, Roger, III. 220;—of Castlesyde, Geo., III. 458;—Dav., 'callit *Lady*,

I. 27, 33, &c.;—of Deloraine, Jo., Resetting Traitors, &c., I. * 23;—of Deringstoun, Geo., III. 396;—of Dryhope, Adam, his brother, II. 405;—of Edene, Tho., I. * 456;—of Edilstane, Ro., III. 396;—of Edschaw, Walt., I. * 17, 27, 38; Phil., * 69, * 147, * 456;—of Fenwick, Simon, I. * 147;—of Goldielands, Walt., I. 276;—of Harden, Wm., I. * 400; Walt., his houses to be demolished, 276; denounced, *ib.*;—Geo., Walter, and Ingram Scott, hanged for barbarous cruelty, maiming and killing sheep, &c., 380; illustrative Papers, 389; Jok. *alias* the *Sukler*, hanged, 396; Walt., Mutilation, 455;—of Hanyog, Tho., I. * 400, * 456, * 457; Ro., II. 509; Tho., III. 391; Sir Ro., 539;—of Hartwoodmyres, Ro., III. 458;—of Hassindene, Wm., I. * 147; oppressed, I. * 252; Dav. slain, * 456;—Hob, called of *Colyford*; Mr John the Clerk hanged, I. * 450; Mich. scourged for cattle-stealing, * 157; Hercules denounced, 305; Adie, called the *Peck*, hanged, II. 365;—of Howpaslot, Walt., I. * 18, * 71, * 88; Tutor of, (Rob.), * 147; Rob., * 173, * 230, * 400; Lady, III. 381;—of Horsehill, Ro., I. * 434;—Jo., bailie of Mussilburgh, II. 555;—John, 'the *Sanet*,' a celebrated faster, I. * 311;—of Langschaw, Patrick, III. 601, *note*;—of Linfar, Walt., I. * 88;—Margaret, nurse to PRINCE ARTHUR, I. * 309;—Marg., Incest and Adultery with Lord Borthwick, 84;—of Munzie, Pat., I. * 88;—of Newburgh and Gemmilsleuch, Mr Arth., II. 451; Sir Jo., III. 539; his purse stolen, 552;—of Pitgorno, Tho., Justice-depute, I. * 163, * 168;—of Qulitchester, Robert, I. * 19, * 21, * 23, &c.;—Rob., 'callit *Bellit Robin*,' I. * 27;—of Raeburn, Wm., III. 381;—Ro. and Adam, bailies of Hawick, &c., acquitted of slaughter, III. 218, 396; Pa., bailie of Selkirk, 396;—of Robertoun, Jo., I. * 147;—of Sintoune, Ro., slain, I. * 61; Walt., * 127; Walt., yr., * 400;—of Satchells, Lady, III. 381; Capt. Walt., (Author of Metrical Hist. of Name of Scot.) 382; Wm., 383;—of Sundelishope, Jo., III. 442;—Surname of, remarkable Contract betwixt, and the Kerrs,

III. 390;—of Thirlestane, Ro., I. * 400, * 456, 379; Sir Ro., II. 562; III. 301, 393, 539;—Tho., Ambassador to England, &c., I. * 276; Justice-Clerk, * 328;—of Tuschelaw, Walt., I. * 22, &c.; Dav., * 36; Adam, called the *King of Thieves*, * 142, * 144; be-headed, * 145, * 270; Wm., * 433, * 434, * 450, * 456; Walt., 84; III. 396;—Sir Wm. jun., Felony done to him, I. * 60;—Wm., hanged, I. * 206; Dame Grizell, *ib.*

Scougall of that ilk. See Skougall.

Scourging with a bridle, &c., I. * 454; naked people, cutting the backs of Cattle, &c. * 455; naked people with 'ronngis and batounis,' and 'leisching' them with bels, three persons be-headed, hanged, and scourged, II. 454; Messenger scourged and deprived, *ib.*: with a belt and murdering, 531; with sword-belts and horse-bridles, &c., III. 539;—punishment of, I. * 157, * 206, * 458, * 467; II. 94, 417, 455; for following Gypsies, III. 99; for 'vnreverent speiches' against the KING, &c., 220; for Theft, 443, 445.

Scrabister, House of, detaining, I. 337.

SCROPE, LORD, Warden of England, I. 365.

Scrymgeour, Constable of Dundee, (of Dudhope) Ja., I. * 177, * 268, * 269, * 324, * 347, 41, 178; to bear a Cornet Blanche and the King's Banner and Standard, 342; Sir Ja., 392, 413; III. 134; Ja. yr., *ib.*;—of Balbegys, Alex., his houses, Jonet his daughter, &c., burnt, I. * 334;—of Balbouchtie, Ja., I. * 404;—of Ballinscho, Jo., III. 471;—of Glaswell, Ja., I. 27, 75.

SEAFORTH, EARL OF, III. 19.

Seal, great, Counterfeiting, Captain Rallie hanged, I. 361.

Seanis, (Sciennes,) near Edinburgh, III. 572.

Seatoun-thorne, a Witch trysting-place, II. 543.

Secretit, a pyne doublett, or chain mail worn under the dress, II. 84, 149, 158, 183, 185; III. 204, *et passim*.

Secret members, cutting off, putting hot ashes and live embers in the *scrotum*, &c., II. 393; Pat. Stewart beheaded for these crimes, 394;—stroke upon, with the foot, III. 542.

Secret Council, declining the Jurisdiction of the,

- &c., II. 494; Case of Ministers holding an unlawful General Assembly, &c., *ib.*
- Sedition, in burgh of Ayr, I. * 204; in Edinburgh, bearing a banner called the Haly Gaist, &c., * 330.
- Selbie of Bittildane, Ro., II. 515.
- Selkirk, Barons of the shire fail in Bond, I. * 147; Justice-aire of, * 22, * 38, * 71;—Pot-Loch of, * 19;—Town of, burnt, * 35; ‘herreit be Thevis and Pestilence,’ * 262.
- Seminary Priests, III. 372. See Papists, Jesuits, &c.
- Sempill of Beltrees, Jo., 70; convicted of Treason, in Conspiring the REGENT'S Slaughter, I. 72; Sir Ja., II. 309;—of Blenescheillis, Jo., I. * 176;—of Cathcart, Wm., * 388; Gabriel, yr., 66;—Colonel, Wm., 173, 327;—of Craigbait, Gabriel, excommunicated, &c., * 365; Ro., 66;—of Ernok, 67;—of Fulwood, John, * 163, * 170, * 382, * 385, 141, 183; II. 439; Wm., III. 237;—LADY, (Dame Mariota Montgomery,) Imprisoning, &c., I. * 381;—of Ludymure, Gabriel, * 163;—LORD, John, * 163; Wm., * 161, * 166; unjustly denounced a rebel, * 170, * 190; remitted, * 256; Treason, * 271, * 381; Ro., * 385, * 421, * 426, * 476, 141, 265; Hew, III. 316; Feud with Earls of Eglington and Glencairn, &c., 580;—MASTER of, Ro., I. * 163, * 166; found caution not to resort to France or Scotland, * 226, * 256, * 343; invaded, * 343; slays Lord Creichtoun of Sanquhar, * 353; pardoned, * 354; found caution for 20,000 merks; And., 66, 67, 133;—Mathew beheaded, * 165;—of Noblistoun, Ro., * 361;—of Thirdpart, Wm., * 388, * 429.
- Sempills, Feud with the Cunynghames, I. * 164, * 166, &c., * 282; Parcis, Horse-stealing, * 476.
- Serat, Q. Mary of Guise's Fool, (a female,) I. * 293, * 294, * 301, * 307, * 322.
- Serjeant of Justiciary, I. * 2.
- Servitour, domestic, original signification of, II. 67.
- Session, Signet made for the Court of, I. * 256.
- Setlington of Auchinskeiche, Jo., I. * 456;—of Stanchouse, Jo., * 140.
- Sewers, who served up the King's meats, I. * 312.
- Sewing gold, I. * 296; silver *ib.*, 319.
- Sey-Revaris, Pirates. (*q. v.* and Piracy.) I. * 273.
- Seytoun of Auchinhuif, Jo., I. * 454;—of Caraldston, Jo., * 465;—of Gargunnoch, Mr Alexander, III. 552;—of Kylesnuore, Sir Wm., II. 509;—LADY, Dame Mary le Pyeris, I. 14;—of Lathreise, John, yr., * 404, * 465;—LORD Geo., * 78; Justice depute, * 85, * 199; Licence to, * 111; abiding from Solway, * 243, * 338, * 381, *note*, * 387; mutilation of Laird of Borg, * 465, 114; Ro., 154, 178;—of Lumford, Jo., * 48;—MASTER of, 94;—of Meldrum, Alexander, slain, * 119, * 175, * 183; feud with Earl Marischall, 353; Geo., Tutor of, his cofler with writings stolen, II. 93; Alex., fiar, slain, III. 379; Jo., *ib.*;—of Mony, James, 478;—of Northrig, Tho., I. 169; Geo., III. 134;—of Parbroath, Da., I. 270; Comptroller, 347;—of Pitmedie, (Pitmedden,) Jo., 59;—of Pitvady, Jo., 64;—of Rungway, Wm., * 387; Dav., 28;—of Touche, * 421; Ja., 64;—of Tulliebody, Sir Ninian, * 147, * 167; Ro., * 453; Walt., * 465, * 466; Ja., II. 62.
- Sharpe, Archbishop, notice of the Trial of Mitchell, for firing a pistol at him and Bishop of Orkney, III. 195, *note*, &c.
- Sheep, barbarous cruelty in maiming and killing, III. 380; George, Ingram, and Walter Scott hanged, 389; illustrative Papers, *ib.*; Jok Scot, alias *the Sauter*, hanged, 396;—selling sheep to the English, I. * 179, * 181;—stealing, (see also *Stouthreif*, &c.) * 22, * 87; from Queen's Park, * 388; Hob Scott and four others hanged, * 450; Achilles Henderson scourged and banished, &c., 7; Adie Usher hanged, III. 568; Will Usher banished, 569;—stealing wool from live sheep, I. * 206.
- Sheriff, bribe taken to discharge a Murderer, I. * 63; Invasion of, in a fenced Court, * 136, * 456. See Jurisdiction, &c.
- Ship of gold, &c., I. * 295.
- Ships of War, KING JAMES V.'s, Salamander, I. * 298, * 316; Little Bark, *ib.*; Unicorn, *ib.*, 317; Expedition against the Pirates, * 298;

- wood for, * 300; victualling for the Isles, * 303, (see *Isles*); ensigns, standards, &c., for ships, *ib.*; Ovens for, *ib.*; silver plate, &c., * 304; keeping the Ships, * 316; the Lion, * 317.
- Shirts, King's, embroidered with gold and silver work, * 301, &c.
- Shooting near the KING's person, 98, 100; with-in KING's Palace, punished by Banishment for life, 187, &c. See Holyrood;—with Pistolets, 371. See Pistolets, &c.
- Sib, of kin, &c., III. 96.
- Sibbett, (Sibbald,) of Cair, Dav., I. 16, 17;—of Lethome, Dav. * 426;—of Rankelour-over, Alex. 60; Tho., Tutor of, III. 9.
- Siege of Newark, I. * 139; of Makkanes House by Donald of the Isles, * 262; of Blackadder by the English, * 269; of Palace of Glasgow by Earl of Lennox, * 269, &c. See Battle-Field, &c.
- Signet, three new ones made, I. * 256.
- Signet-Letters, interlining, I. * 346;—Forging, a Notary and his servant hanged, 85, 87; Messenger scourged and deprived, II. 453.
- Silver Mines, I. * 302;—'pece', (plate,) stolen, * 179; boy of K. J. A. V., 302; 6 great and 4 small, * 323; two lavers, *ib.*; dish stolen, * 386;—Vessels, Master of the King's, * 313;—work, King's, three cases of, taken with him to the Isles, * 302, * 303; cases for, * 323.
- Simson of Craighous, Laur., III. 72;—Sir Duncan, burnt for Heresy, I. * 210, * 211, &c.
- Sinclare, (Sinclair, St Clare,) of Auchinfranko, William, I. * 85; Slaughter, * 151; slain, * 327;—of Blause, William, III. 134;—of Burgh, Hew, I. 375;—Captain Geo., III. 32;—Da., imprisoned by his brother, E. of Caithness, I. * 395;—of Drydane, Edward, * 166, * 336;—of Dyn, Ja., slain, III. 235; Geo., (his brother,) *ib.*;—of Etha, Wm., 82;—of Galdwalmore, with William, Edward and George, his sons, slain, I. 299;—of Hiefield, George, * 169;—of Hirdmanstoun, William, Slaughter, * 468; Witch consulted to allay his lady's birth-pains, 237;—of Ley, James, his son Adam drowned for Sacrilege, * 393; Wm., III. 303;—of Little Blair, Robert, I. * 347;—of Longformacus, Math., * 477;—of Loquhoy, Hen., 387;—LORD, Henry, * 78, 60, 310;—Margaret, Lady, * 182; remitted, * 249;—MASTER OF, servant slain at Dysart, * 408, 3;—of Mey, (May,) Sir Wm., 195; Wm., yr., III. 9, 291;—of Myreside, Wm., I. * 347;—of Murchill, Ja., III. 285;—of Pitcairus, Oliver, I. * 252; Captain of Tampallan, * 254; Protection to, *ib.*; gift, * 256; Lease of Orkney and Shetland, &c., for Rent of 3000 merks, * 257, * 258; gift, *ib.*; Keepership of Castle of Kirkwall, *ib.*; found caution to answer for all crimes, &c., * 329;—of Ratter, John, (brother to Earl of Caithness,) III. 286; Justice and Sheriff depute of Orkney, *ib.*, 304;—of Ravinsnuk, Oliver, II. 476;—of Rosling, Sir Wm., I. * 159; Respited for Abiding from the Raid of Solway, * 241; remitted, * 242, 33; Witch consulted for recovery of his Lady's health, 232; II. 10; Wm., 467;—of Strone, Henry, &c., pursued for Slaughter, I. * 413;—of Stirrco, Jo., slain, III. 235;—of Tenquhie, Hen., 82;—of Tullope, Wm., 280;—of Whitekirk, Hen., I. 155; Hamesucken, Rapt and Forcing, II. 405;—William, Resetting Jesuites, &c., III. 371; banished, 376.
- Singers, I. * 115. See also Minstrels, &c.
- Singular Combat, (see Duel,) trial for Slaughter in France, II. 382; in Flanders, III. 502; illustrative Papers, 504.
- Sinton, (Robert Scott,) Laird of, slain, I. * 61. Skaith, III. 612, &c.
- Skatt, (a sort of black mail,) levying, II. 528.
- Skellingtoun, (Skerringtoun,) Laird of, Remitted for Slaughter, I. * 82.
- Skene of Curriehill, Sir Jo., Justice Clerk, II. 3; Lord Clerk Register, 273, 568; Sir James, III. 418.
- Skin-coats, to K. JAMES V., I. * 305.
- Skirling, Elspet, and two others 'wirreit and brunt in assis,' for forging and uttering base money, II. 74. See Uttering, &c.
- Skirving of that ilk, Harie, II. 534;—of Plewlandhill, Wm., I. 55.
- Skoll, (skoill,) meaning of drinking scoills, II. 172 and *note*, 312.

Skowgall of that ilk, yr., I. * 143; Jo., * 361, 155.
 Skrukned, what, III. 612.
 Skye, Isle of, I. * 225.
 Skyir-Thursiday, (Farisday,) I. * 40.
 Skynner of Balzordye, George, I. 27.
 Slack, what, II. 519.
 Slaines, Letters of, II. 486, 604, *note*; pannel made to satisfy private party, notwithstanding of Remission, &c., III. 234.
 Slandering and calumniating the King, Jo. Dikson, Englishman, hanged, I. 385. See K. JAMES VI.
 Slanes, house of, to be cast down, I. 342.
 SLAUGHTER.—ACHESOUN of Gosford, Alex., I. 2;—Adam, Geo., beheaded, 95;—Agnew, Sheriff of Wigton, And., remitted, * 252;—Allan, Jok, beheaded, 10;—Angus, Geo., notary, II. 480;—Angussone, (M. Leod,) Neill, beheaded, I. 69;—Armstrang. See under that name;—ARGYLE, EARL OF, Arch., * 247;—Arnauld, Mr Gilb., III. 379;—Arnnot of Woodmylne, Jo., yr., II. 53; arguments as to shooting with Pistolets, &c., *ib.*, &c.;—Attiquane, Laird of, slain, I. * 86;—Auchincraw, William and Hary, II. 98;—Auchinfranko, Laird of, slain, I. * 327;—Auchinhervy, Laird of, slain, * 132, * 237;—BAILLIE of Howgait, Arch., slain, * 257; Tho., 38;—Bailzie, Mr Ja., III. 498;—Baird, Hen., beheaded, 499;—Bairdis, Jo., 119;—Ballindroicht, Laird of, slain, I. * 204, * 257;—Balluny, Lady, (Marg. Douglas,) slain, * 343;—Bannatyne of Corehouse, John, * 179; of Stenhouse, Sir Pat., 393; of Gairsey, Wm., *ib.*; acquitted, 397; of Kames, Hector, II. 131; in Chapell Donald, Ja., 461, &c. See Muir of Auchinrain;—Bardowy, (Perdowy,) Laird of, slain, I. * 204;—Barclay, Rob., sentenced to be beheaded, * 396; banished, *ib.*; of Towie, slays a Messenger, 381; acquitted, 385; Ja., slays Laird of Earlsmyln's son, II. 72, 80;—Bastie, Sir Anthony d'Arcy de la, slain, I. * 235;—Battiesoune, *Jok of the Scoir, Prikit up Archie*, and Adie, hanged, II. 442;—Bek, Jo., 523;—Bell of Curre, Slaughter of Laird of Mousewaid, I. * 41;—Bellenden, Jo., III.

497;—Bickerton, John, of Casche, I. * 60;—Bissate, Tho., yr. of Querrell, slain, * 368;—Blacater, Andro, of that ilk, * 100; Jo., * 379; of Tullyallan, beheaded, * 151, * 271, * 275;—Black, Hen., and II others, III. 53;—Blair of Balthayok, Tho., I. * 343, * 424; Patrick, beheaded, * 374; Peter, III. 443; Tutor of Balmyll, Alex., I. * 424;—Blak-hall, Wm., of that ilk, * 100;—Bog, Ja., * 476;—Bonkle, Tho., beheaded, 158; Jos., beheaded, II. 417;—Borthwick of Cruikstoune, Wm., respited, I. * 235, * 241, * 266;—Bowman, Christian, Lady of Brux, slain, * 208;—Boyd of Banhaith, Ro., 171; Jo., 399; of the Kypis, Ja., 171; Lord, Robert, *ib.*; MASTER OF, Thomas, *ib.*;—Brothersyde, Wm., beheaded, * 160;—Brand, John, student, beheaded, III. 360;—Broune, Tho., beheaded, I. * 15; of Carslench, Jo., 81; Jo., beheaded, III. 493;—Bruce of Culmalundie, Laur, yr., &c., 443; of Fyngask, Pat., II. 427; Capt. Harie, III. 502;—Bruntfield, Geo., alias *Cullug*, beheaded, I. 77; Alex., of Hardakeris, II. 480; Adam, 506;—Brytschele, Jo., beheaded, I. * 164; Pat., 63;—Buchanan, Geo., and 8 others, III. 546;—Butter of Gormock, John, I. * 367, * 371;—CAIRNS, Wm., of Orcharhtoun, * 131; Wm., yr., remitted, * 252;—CAITNESS, EARL OF, John, slain, * 253; George, * 394;—Campbell of Ardkinlas, acquitted, 363;—of Auchinhowie, Colin, * 204; hanged, * 251; his escheat granted to the Laird of Keir, *ib.*; of Bargour, Charles, his estate escheated, * 250; Hew, II. 507; Robert, III. 466; of Kethick, Pat., II. 80; of Lowdown, slaughter of Earl of Cassillis, I. * 136; of Pofortour, John, slain, * 251; of Skerringtoun, Cha., respited, * 257;—Canochson, Alex. John, * 246;—Carkettill of Marle, Jo., 10;—Carrutheris, Jo., of Warrambie, II. 475; Jo., in Netholme, III. 115;—CASSILLIS, Gilbert, EARL OF, I. * 130; slain, * 136; Gilb., respited, * 236;—Castleary, Laird of, slain, * 149;—Cesfard, Laird of, slain, * 133;—Chalmer of Seggydene, David, * 334; of Drumlochty, Wm., * 374;—Chamrone, Jo. and Dunc,

beheaded, III. 537;—Chancellor, Wm., of Quodquene, I. * 175;—Charteris of Cuthilgurdy, John, slain, * 343; of Kinlevin, John, * 334; of Kinfawnis, Tho., and his brothers, * 334; * 343; of Lochtoun, Robert, remitted, * 254;—Clan Cameron, slaughter by the, * 355;—Clark, Janet, burnt, 206; Cochrane of Pitfour, John, yr., * 334; of that Ilk, Wm., 133;—Cokburne, Sir Wm., of Scraling, * 26;—Colquhoun, Pat., and Mr Adam, * 170; Jo., beheaded, 359;—Colville, Sir Wm., of Vchiltree, slain, * 65, * 68, &c., * 112; Sir David, Priest, * 405;—Gongiltoun, Hen., Tutor of, 5; Jo., II. 401; Hen., I. * 368; Patrick, *ib.*; Oliver, young Laird of, poisoned, * 369;—Corsintoune, Laird of, slain, * 82;—Cranstoun of Doddo, Sir Wm., 20;—Craig of Craigistoun, Wm., II. 105;—Craiganis, Laird of, slain, I. * 163, * 164, &c.;—Craigtoune, Laird of, slain, * 343;—Crawford, Tho., of Auchnemes, * 205;—EARL OF, David, slays the Lord Chancellor Glamis, 79, 85; Laird of Balgawis, III. 248;—Creichtoun, Robert, of Kirkpatrick, slain at the horn, * 77, * 78, &c.; of Ruthvennis, Adam, banished for life, 165; of Scottistoun, Wm., slain, * 254, * 257; of Craufurdton, John, &c., II. 71; of Cluny, Sir Ro., 76; LORD, Wm., slain, I. * 340; of Quarter, Jo., 190; And., *ib.*;—Culros, Abbot of, slain, * 151;—Cumyng of Altyre, Alex., * 374; James, II. 427;—Cuninghame, John, of Capringtoun, I. * 148; Ja., of Glegarnock, II. 389; of Auchinharvy, Edward, slain, I. * 237; of Aiket, William, 17;—DAVIDSON, Alex., beheaded, III. 362;—‘Deill amang us,’ (Robert Henry,) beheaded, I. * 368;—Dekesoune, Jo., beheaded, * 81; Wm., beheaded, * 87;—Dempster, Sir Henry, Chaplain, slain, * 247;—Dingvale of Kildun, slain, * 247;—Dischingtoun of Ardross, &c., * 156;—Dougal, Ro., beheaded, * 15;—Douglas of Annatrobe, Wm., III. 443; of Drumlanrig, Wm., Slaughter, I. * 78; Ja., slays Rector of Kirkbride, * 329; Jo., his brother, * 387; of Garschigill, Arch., * 256; Geo., II. 1; of Mouswall, Ja., and 5 others,

III. 472; of Pinzerie, Wm., beheaded, III. 95; Mr Ro., Burning, &c., I. * 201, 167; Mr Tho., Minister, III. 473; Wm., &c., 500;—Donne, Ja. Stewart, Captain of, slain, I. * 352;—Drummond of Coquhalzie, Jo., II. 80;—Duffus, Laird of, slain, I. * 149;—Dunbar of Cummoock, Pat., yr., * 370; Alex., *ib.*; of Kilboyak, Alex., and his brother, III. 200, 339; of Mochrum, Jo., Slaughter of, I. * 112; Pat., II. 95; Ro., Ja., &c., III. 200;—Duncan, Jo., beheaded, III. 484;—Dunlop of that Ilk, Alexander, I. * 402;—Dunwedy, Pat., Slaughter of Laird of Glendinning, &c., hanged, * 60;—EDINBURGH, Treasurer of, slain, * 126;—Edzare of Ingloustoun, Jo., II. 71;—EGLINTOUN, EARL OF, Hugh, I. * 132;—Eldmere, Laird of, slain, * 17;—Elisoune, Sir Alex., Chaplain, respited, * 257;—Elliot of Horslehill, Wm., sentenced to be beheaded, * 456; sentence of Banishment for life recalled, * 466; Ninian and Wm., their right hands struck off, and then hanged, II. 559;—Elphinstoun, Geo., respited, I. * 249;—Erskine of Auchterforfare, Arth., II. 101;—Ewmond, Sir Martin, Chaplain, slain, I. * 332;—FALCONER of Inuerlochtie, Hew, III. 435; Hew, his son, *ib.*;—Farquharson of Inverchald, Jo., &c., 203;—Fentom of that Ilk, slain, I. * 61, * 106, * 121; of Ogill, Ja., * 408;—Fergusoune of Bracansyde, Ro., slain, * 232;—FLEMING, LORD, John, slain, * 61, *note*, * 131, * 141, * 144, * 236; of Moness, Alex., III. 443, 542;—FORBES, MASTER OF, Jo., I. * 149, * 175, * 183; Arth., 40; of Monynusk, Wm., III. 204; Ro., 227; of Reres, Arth., 89; Jo., beheaded, II. 532;—Forrester of Newtowne, John, remission to Alex., his son, I. * 250;—Forsythe of Nyde, Ja., respited, * 251;—Fotheringhame of Powry, Wm., remitted, * 248;—Frenche, Alex., Tutor of Thornydykis, beheaded, III. 222;—Fullarton of Crago, Wm., jun., I. 79;—GALBRAITH, Mr Ro., * 172;—Gardin, David, slain, * 270; John, beheaded, * 404; Tho., of Bandoch, 372; of Legat-toun, Tho., II. 103; Da., his brother, *ib.*;—Gladstanes of Coklaw, Jo., I. * 414; of that Ilk, Ja.

472; Jo., Herald, beheaded, 362;—GLAMMERS, LORD, Pat., II. 386;—Glendoning of Drumrasche, Jo., 601;—Gordon of Crauchlaw, Wm., remitted, I. * 252; of Golspitour, Jo., yr., III. 235; of Kenmure, Sir Alex., I. * 231; of Lochinvar, James, remitted, * 252;—Gorthy of that Ilk, Geo., I. * 28, 255;—Gourlay of Kincaig, Wm., respited, * 253;—Gothrasoune, James, publicly flogged for Slaughter, committed in his *eighth* year, * 16;—Gowdie, Geo., III. 544;—Grahame, Alex., 483; of Craig, Da., II. 100, 480; of Gillesbe, Ro., I. * 85; Ja., II. 97; of Knockdolian, Ro., I. * 386; of Thornok, Ro., remitted, * 248; of Westhall, John, slain, * 179;—Grant of Ballindalloch, John, * 175; of Culcabok, John, *ib.*; of Frenchy, James, *ib.*; of Glenmoristoun, Jo., III. 552; Jonet, burnt, I. 206; Tho. and Jo., III. 435;—Gray of Banderirane, Gilb., &c. II. 514;—Greerston (Greiftoun,) Laird of, slain, I. * 81, * 87;—Guthrie, Mr Hugh, slain, * 343; Laird of, slain, 372; of Kincauldram, Alex., &c., II. 101; Wm. of Ravenshie, 528; III. 77, 80;—HAITLIE, Alex., I. * 451;—Halkhede of Petfurane, Jo., remitted, * 237;—Hall of Foulbar, Ja., III. 236;—Hamilton of Bardowy, Allan, slain, I. * 204, * 250, * 257; of Crawfordjohn, Sir Ja., * 414; of Hairshaw, Jo., his sons, &c., III. 119; of Stanehouse, Ja., I. * 179;—Harkness, Malye, Agnes, and Jo., * 442;—Hay, Jo., III. 241; acquitted, 243;—Henry, Jo. and Ja., I. * 453; Ro., (*Deill anang us.*) beheaded, * 368;—Hepburn of Elstanefurd, Geo., and 77 others, * 1; of Kingstoun, Adam, I, 3; of Wachtoune, Sir Pat., III. 271;—Hereis, Andro, respited, * 242;—Hering of Little Blair, And., 262;—Heronn of Keerochtrie, Pat., III. 460;—Hervie, Alex., 444;—Holyrood, Slaughter committed within the *Girih*, (sanctuary,) I. * 258;—Horne, Gawin, and his mother, III. 224;—Houston, Pet., &c., I. * 350; Arch., beheaded, *ib.*; Rob., 69; Sir Pat., 182, 183;—Howdene, Sir Jo., * 365;—Hume of Ballieass, Wm., II. 336; of Coldingknows, I. * 377; of Manderstoun, Alex., 30; of Wed-

derburne, Da., I. * 102; Mark, &c. 2;—Hunter, And., hanged, * 366; of Ballagane, * 369; of Polnude, Edw., slain, * 106;—Hyvie-soune, John, beheaded, * 388;—INNES, Sir Alex., Chaplain, slain, * 332; Mr Alex., Minister of Birnay, II. 557; Jo., 41;—JAK, Rich., beheaded, I. * 27; Tho., beheaded, * 384; Issobel, III. 224;—Jameson, Wm., (*Wanton Will*) beheaded, I. * 219;—Jardine of Apilgith, Alex., yr., 184; Tho., of Birnok, II. 491; beheaded with Vmphra, his son, III. 58;—Jarding, Jo., Slaughter of Laird of Dunwedy, I. * 40; Cha., * 442; Da., &c., II. 485; Wm., and 6 others, 492;—Johnnestoune of Gratto, Tho., * 85; of that Ilk, Ja., 184; of Kellobank, Wm., Wm., yr., and Jo., his sons, 489; of Loch-house, Jo., beheaded, II. 425; of Lockerbie, Wm., &c., III. 432; of Thornik, Capt. Ja., 501; of Tunnergathe, &c., Slaughter at a Funeral, 438, 439;—Jollie, Alisou, I. 397; acquitted, 399;—KEITH, Alex., beheaded, II. 539; of Ludquhairn, Sir Wm., III. 539;—Kennedy of Baliarrak, Alex., II. 400; of Bargany, Tho., I. * 86; Alex. and 74 others, * 138; of Blairquhan, Jo., III. 119; of Corse, Da., II. 480; of Culzeane, John, slain, I. * 334. See Kennedy; of Girvanmains, and 230 others, respited for Slaughter of a Dutchman, * 236, * 238;—Kere, John, beheaded, * 149;—Kerr of Ancrum, Wm., 36; of Gateschaw, * 68; Mr Mark, 377;—Kincaid, Tho., 355;—King of Barro, Ja., III. 379; Da., in Hoy, *ib.*;—Kinnaird of that Ilk, John, fiar, II. 427;—Kirkpatrick, Alex., III. 123; Jo., 429;—Kirkwood, Ja., beheaded, I. * 165;—Knowis, Ro., * 399;—LATHREIS, Tho., beheaded, II. 85;—Lauder, Gilb., * 467; of that Ilk, Rich., yr., *ib.*; Jasper, (alleged madman,) beheaded, * 363; William, * 487;—Leidereif, Laird of, slain, * 367, * 371;—Leighton of Ullishavin, Tho., remitted, * 252, 261;—Leslie of Kynnwald, Walt., yr., remitted, * 255;—Lettir, Laird of, slain, * 204;—Levingstoun, Ro., * 399; of Warranehill, Ja., Remission to Jo., his son, * 257;—Lindesay of Barnyards, Dav., * 28; of Blariefadden, Harie,

III. 248; of Dunrod, Alex., and Jo., his brother-natural, 493; of Colbuntoun, John, repited, I. * 238; of Edzell, Da., far, &c., slay LORD SPYNE, II. 529; tried, III. 61; notice relative to, *ib.*; documents, 64; Mr Alex., his son, 63, &c.; Mr George, slain, I. * 250; Marg., Lady Kersbank, 83; Rolland, beheaded, * 159;—Linkhop, Robert, 185;—Lochland, Laird of, slain, * 130;—Lockhart of Lee, Alan, beheaded, * 159; remitted, * 257; of Wikkitschaw, Alexander, remitted, * 253;—Logan, Sir Ro., of Restalrig, * 176;—Lokie, Ja., writer, 393; acquitted, 397;—Loudoun, Lady, (Dame Isobell Wallace,) * 136;—Louthian, Sir Wm., beheaded, * 151, * 275;—Lufe, (Love,) And., * 334;—LYLE, LORD John, * 178; MASTER OF, William, * 178;—Lyddell of Haikerstoun, John, III. 482;—Lymne, Walter, beheaded, I. * 203;—Lyon of Eister Ogill, James, * 408; II. 62; Alexander, I. * 470;—MACALESTAR, Donald Mole, hanged, * 51; Allaster MacPhatrick, &c., III. 554;—MacAllane, Donald Darg, and two others, hanged, 251;—MacAngus of Glengarrie, Donald, and thirteen others, II. 413; III. 540;—MacArthur, Gilb., beheaded, I. * 63;—MacBrair of Almagill, Ro., 166; of that ilk, Arch., beheaded, 158;—MacCaig, David, beheaded, * 396; MacClellan of Bomby, Tho., slain, * 237, * 244, * 252; of Gilestoun, Pat., * 61, * 95; Tho., * 215;—MacCondachie of Ballemannach, Allan MacGillespik, respited, * 252;—MacCulloch of Kilasere, Henry, * 244; of Torhouse, Geo., remitted, * 252;—MacDonald, Eugenius, Captain of Clan Cameron, * 355; Coill MacGillespik, and five others, III. 553;—MakDowell of Freuche, Fergus, I. * 218, * 219; Jo., &c., II. 515; III. 477; of Garthland, Vthred, 84;—MacEwin, John, and four MacGregors hanged, 112;—MacFarlane, Jo. Roy, and eight others hanged, 565;—MacGillebreid, Jo. MacEwin, &c., I. * 225;—MacGregor, Jo., &c., beheaded, II. 419; Allaster of Glenstra, 432; beheaded and quartered, with severals of his Clan, 433; Papers relative to him and the Field of the Len-

nox, &c., *ib.*; Jo. Dow MacEwin, and ten others, hanged, 436; Neill, and four others, hanged, 438; Malc., and four others, hanged, 439; Dougall, &c., III. 223;—MacHischok, Gilb., and 3 others, hanged, II. 418;—MacIntosh, Angus Williamsoun, and five others, II. 96; of Esseich, Wm., &c., 102, 507; Wm., son to Laird of, &c., 507;—MacKane, John, III. 483;—MacKie of Far, Don., I. * 352; Don., fiar of, III. 235;—MacLean of Doward, Hector, I. * 246; Allan, his son, * 247;—MacMurquhe, Donald MacAlex., respited, * 246;—MacNaicht, Matho, of Dungeuche, * 231; of Kilquhannite, John, * 327;—MacRannald of Easter Leyis, Allan, II. 98;—Machetema, Cornelius de, Dutchman, slain in time of Parl., I. * 236, * 238;—Marshell, David, II. 493;—Maxwell, yr. of Conhathie, slain, * 151; of Cowstanes, slain, 157; of Calderwood, Sir Ja., 493; of Newark, Geo., 133; Pat. III. 122; Arch., I. 157; John, ‘callit *Achilles Johnnie*,’ beheaded, III. 327; Ja., 493; of Dunwiddie, Sir Rob., slain, I. 167; II. 492; of Dalquharne, Pat., slain, 71; of Cowhill, Arch. and Wm., yr., 485, 492;—Meldrum, Laird of, slain, I. * 149, * 175; of Moncoffer, slain, II. 76; of Ordley, Jo., III. 461;—Melville of Hervistoun, Ro., remitted, I. * 250;—Merser, Ja., and three others, 39;—Middleton, Ja., III. 237; sentenced to be beheaded, 241; banished for life, *ib.*, note, 458;—MONTGOMERY, MASTER OF, Jo., Slaughter of Laird of Craiganis, I. * 44; of Skelmourlie, Ro., and Wm., yr., his son, slain, I. 133; III. 122; MONTROSE, E. OF, Wm., remitted, I. * 239;—Mosman, Wm., beheaded, * 159;—Mowe of that ilk, John, * 256;—Muir, Jo. and Ja., yr. (See Muir of Auchindrain;) Ja. beheaded, III. 492;—Muirtrare of Markinche, Tho., slain, I. * 105;—Muney of Balluny, Jo., * 343; Marg. Douglas, Lady Balluny, slain, *ib.*; of Slanis, And., remitted, * 250; Jo., 41;—Murray of Balvaird, And., slays Laird of Gorthie’s son, II. 112; of Broughton, Geo., 539; of Drumdewan, Ro., slain, I. * 255; of Newhall, Wm., * 26; of Newraw, Ro., slain, * 248; of Romannos, Wm.,

yr., I. * 332;—MYLLAR, Jo., 167;—NESBET of that Ilk, Adam, slain, * 244;—NESBIT, Ed. and Tho., II. 517; Wm., 562; Gawin, III. 458;—NEWLANDS, Walter, of that Ilk, slain, I. * 236;—OCHILTREE, LORD, And., III. 66;—OGLIVIE of AIRLIE, LORD, James, remitted, I. * 213, * 270; MASTER OF, and his accomplices, II. 130, 146;—OISTILLARE, Sir Ro., I. * 343;—OLIPHANT of GASK, Wm., III. 413; Laur., his brother, *ib.*; William, 542; LORD, Laur., 44, 88, 92; II. 512;—OR, Ja., beheaded, III. 358;—ORKNEY, MASTER OF, Jo., conspiring death of his brother the Earl, I. 373; slaughter of the Parson of Urquhart, 392;—PACOCK, Gilbert, beheaded, 386;—PARK, Ja. and Geo., III. 495;—PATERSON, Ro., I. * 452;—PEIRSON, John, cook, a minor, * 396;—PENTLAND, Captain, Jo., 46;—PERDOWY, (Bardowy,) Laird of, slain, * 204;—POLLOCK, Ro., II. 21;—PORTAR, Tho., beheaded, I. * 92;—PORTEOUS of Glenkirk, Thomas, 190;—PORTERFIELD of that Ilk, William, 69;—PURVES, Sir Rich., Chaplain, * 257;—PYNCARTOUNE, Alex., beheaded, * 164;—QUHITEFURD of that Ilk, Jo., 133; Adam, yr., *ib.*;—RAE, Habbie, and 21 others, III. 472;—RAEBURN of that Ilk, Jo., I. 17;—RAMSAY of Dalhousy, remitted for slaying his brother, * 239;—of Kynmont, Alex., escheated, * 253; Nicholas, beheaded, * 374; Wm., beheaded;—RATTRAY, George, beheaded, II. 85; of Kinballoch, Pat., slain, I. * 255;—REID, Ja., beheaded, * 220; of Turnberry, John, slain, * 220;—REIDPETH of Deringtoun, Andrew, slain, * 248;—REWILL, And., beheaded for slaying his son, II. 21;—ROBERTSON of Dulcabene, Pat., I. * 431; Robert, beheaded, III. 415; of Straloch, Jo., 203;—ROGERSOUN, Jo., 485;—ROSS of Craigtoun, James, slain, I. * 343;—ROTHUENE, Friar William, * 229;—RUTHERFORD, William, beheaded, II. 519;—RUTHVEN, LORD, William, I. 90;—RYLAND, Laird of, slain, * 126;—RYND of Kerse, Jo., II. 101;—SALTOON, LORD ABERNETHY of, I. * 329;—SANDLANDIS of Calder, Sir Ja., respited, * 237; slays Sir Alex. Stewart, &c., 359;—SANGHAR, L. CREICHTOUN of, Ro.,

slain, I. * 353;—SCHAW, David, * 327; of Kerse, Jo., * 158;—SCHORISWOD and 12 others, * 350;—SCOTT, Adie, called the *Peck*, hanged, II. 365; of Bransholm, Sir Walt., I. * 144; of Cambusmichaell, Tho., hanged, drawn, and quartered for Murder of David Riccio, * 478; Ro., and 7 others, acquitted, III. 218; Walter, &c., II. 339;—SCOTTISTOUNE, Laird of, slain, I. * 172;—SCRYMGOUR, Ja., * 405;—SEMPILL, LORD, Ro., * 353;—SETOUN, Alex., of Meldrum, slain, * 149, * 173, &c.;—SIBBETT, (Sibbald.) Jo., * 425;—SINCLAIR, And., * 441; of Auchinfranko, Wm., * 151; slain, 327; George, remitted, * 254; Mr Hector, Parson of Kilbride, slain, * 256, * 329; of Hirdmanstoun, * 468; Alex. and Olipher, his brothers, *ib.*; James, * 257; of Strome, Edw., and 30 others, respited for Slaughter of EARL OF CAITHNESS, &c., * 253; Wm., a school-boy, shoots a Bailie of Edr., 195, *note*, &c., 349, 362;—SKIRVING, Geo., &c., 4;—SLOSE of that Ilk, Ja., 171;—SLOUNE, Friar Alexander, slain, * 229;—SMYTH, Ro., alias Henry, beheaded, * 374;—SOMERVILLE of Drum, Hew. III. 259;—SPOTTISWODE, James, jr., remitted, I. * 15; Jo., of that Ilk, II. 455;—SPYNE, L., Alex., 135, 146;—STEVENSON, Sir William, Chaplain, slain, I. * 256;—STEWART, Capt. of Doune, James, slain, * 332; Christian, burnt, 399; of Dowellie, Mr Jo., and Tho., his brother, III. 536; Dutho, beheaded, I. * 350; Eufame, * 382; Harie, III. 248; Ja., II. 413; Ja., beheaded, III. 441; Ja. and Dunc., &c., 554; Jo., beheaded, I. 165; of Porterstoun, Wm., * 163, * 175; Robert, brother of Earl of Orkney, II. 76; hanged, &c., III. 283; Mr Thomas, I. * 149; Wm. and Harie, 79; William, brother of Lord Orchilre, &c., II. 109, 415;—STIRLING of Baldorane, Luke, I. 97; of Ballazan, Walt., 97; of Ballindroicht, Andrew, slain, * 204, * 257; of Bankeir, Andrew, slain, * 250, * 257; of Craighernat, Jo., yr., 97; of Glorat, Walter, his brother, slain, * 332; Jo., 97; Helen, Lady Ullishaven, slain, * 344, * 350, * 411; of Keir, Sir Jo., knt, slain, * 258, * 327; of Letter, Ro., slain, * 204;—STOBY, Sir William, Chaplain,

- I. * 248 ;—Stonebyres, Laird of, slain, * 126, *note*, * 132, * 238 ;—Strathachin of Lethinurk, Jo., yr., * 175, * 200 ; remitted, * 246 ; Tho., 79 ;—Sutherland of Duffus, Wm., slain, * 149 ;—Swyne, Jo., beheaded, III. 471 ;—Symmer, Robert, beheaded, 437 ;—Sympill, of Foulwod, John, I. * 163, * 166, * 333 ; Math., beheaded, * 165 ; of Nobilstoun, Ro., * 333 ;—TAIT, James, II. 475 ;—Tennant, Arch., of Lenenax, (Linhouse), slain, I. * 180 ;—Thief, Slaughter of a common, * 72 ;—Thomson, George, Minister, 133 ;—Thrisle, Wm., and four others, 77 ;—Tulliallan, Laird of, beheaded, I. * 151, * 271, * 275 ; (see Blackadder) ;—Tulloch of Tannoqnheis, Robert, and Alexander, yr., II. 110 ; Alexander, and Ja. his brother, 563 ; and William Cuik, 565 ;—Tullymet, Baron of, slain, I. * 334 ;—Turnberry, Laird of, slain, * 219 ;—Turnbull, Tho. and Walter, 77 ; Thomas, apparent of Mynto, and 11 others, II. 370 ; And., beheaded, 377 ; Hector of Stanyledge, and 3 others, 442 ; Hector of Lylsie, 445 ; Hector of Wauchope, 511 ; acquitted, *ib.* ;—Twyed of Dravay, Adam, I. 190 ; of Drummel;eare, Jo., * 141 ; Ja., his son, remitted, * 249 ; James, 190 ; Gilb., Slaughter of Laird of Polmude, * 39 ; Ja., and four others, 34 ; of the Wrae, Wm., 190 ;—Twenty men, women, and children, slain, * 175 ;—VAUSE of Many, John, respited, * 250 ;—Veitch, Andrew, 204 ; of North Syntoune, Ja., yr., 204 ;—Vic Kewyn, John Dow MacKewyne, and above 30 others, 33 ;—WALLACE, Dame Isab., Lady Loudoune, * 136 ;—Wallanche of Pittedy, John, slain, * 244 ;—Wast, Andrew, III. 467 ;—Wauchope, Geo., II. 52 ;—of Nudrie, Arch., I. 168 ; Ro. ? Wm., his son, 403 ; Banished, 410 ;—Weir of Blakwod, Tho., * 180 ; Jo., baillie of Lanark, 184 ; of Quhytecluch, Jo., and Mungo, his brother, beheaded, III. 247 ; Ralph, slain, I. 159 ; of Stonebyres, William, slain, * 126, *note*, * 132, * 159, * 238 ;—Williamsoun of Termet, Ang., II. 507 ;—Winrame, Mr Ro., I. 23 ;—Wood of Banblane, II. 72 ; of Bonyngtoun, James, I. * 343, * 433 ;—YOUNG, Alexander, II. 20.
- Sled, what, II. 531.
- Sleep, Witches 'waked' and prevented from, I. 50 ; a Jesuite 'waked' *ad delirium* ! III. 332.
- Sleich, Pat., hanged for Assisting the Earl of Bothwell, &c., II. 21.
- Sleuth-fouund, III. 548.
- Slogan, slughorn, II. 504.
- Slose of that Ilk, Ja., Slaughter, I. 171.
- Slowane, (A-slowane,) of Garroche, Jo., I. * 55 ; II. 490.
- Small, Sir Tho., Chaplain, slain, I. * 405.
- Small, Niniane, an Egyptian, Respite for his Slaughter, III. 594.
- Smeatoun, hanged for breaking Ward, I. 360.
- Smith, Donald, hanged, III. 265 ;—King's smith and 'knok' (clock) maker, I. * 305, * 313 ;—Sir Tho., Clerk of the English Council, II. 590 ;—William, *alias* Chesman, Fomenting jealousies between the KING and his Barons, I. * 329.
- Smollett, Tobias, murdered by the MacGregors, II. 432.
- Smore, to smother, or suffocate, III. 131, 430.
- Snowdoun, Herald, Justice-depute, I. * 366.
- Snow-storm, I. 362.
- Society and company of the Boyes, II. 532 ; Jo. Forbes, beheaded, 535 ; III. 581.
- Sodomy, John Swan and John Lister burnt, II. 491, *note*.
- Softlaw, Tho., slain, III. 90.
- Soir-liewit horse, what, I. 8.
- Soir-bassoned meir, what, III. 265.
- Soiry-staig, what, III. 98.
- Solway, Battle of, I. * 329 ;—Raid of, * 241, * 242, * 244, * 254, * 256.
- Somer of Bal;ordie, Geo., I. 74, 90.
- Somer-scheill, what, II. 519.
- SOMERSET, DUKE OF, I. * 117 ;—EARL OF, (Sir Ro. Carr,) II. 600, and *note*.
- Somerville of Cambusnethan, Sir Jo., I. * 62, * 78 ; * 167, * 388, * 404, * 451, 35, 63 ; II. 105 ;—of Drum. Hew, Slaughter, III. 259 ;—of Garidwoid, Ja., II. 555 ;—of Humby, Ja., I. 4, 23, 255 ;—Ja., slain, II. 567 ;—LORD, Hugh, * 167 ; Oppression, &c., * 169, * 175, * 185, * 199 ; John, * 369 ; James, invaded, * 382 ; Feud with the Lindsays, * 383, * 438 ;

- Hugh, I. 94, 114, 116, 178; Gilb., Feud with Laird of Lee, II. 61;—of Plane, Da., *ib.*;—of Pole, Wm., III. 268;—of Smailholmes, Ro., 436;—of Spittal, Ja., 268.
- Soothsaying, III. 508. See Sorcery, Witchcraft, &c.; curious pleadings, 517, &c.
- Sorcery, to be enquired into at Justice-Aires, I. * 66; Sir Wm. Stewart, Lion King of Arms, executed, * 510; Bessie Dunlop, 49, &c., (see Witchcraft,) 101, 161; Lady Fowlis, 185, 191, &c.; Monro of Fowlis, 201; Bessie Roy, 207; John Feane, 209, &c.; Agnes Sampsoun, 230; Commission for examining Witches, &c., 261; Captain Pat. Hering, II. 23; Jonet Stewart and three others, 'wirreit and brunt in assis,' 25; Ja. Reid, *do.*, 421; Pat. Lowrie 'wirreit and brunt,' 477; Bartie Patersoun, *do.*, 535; Beigis Tod, *do.*, 542; Margaret Wallace, a remarkable case, 508; burnt, 536; Tho. Greave, burnt, 555. See Witchcraft, Incantation, Charming, &c.
- Sorley-Buy, III. 2.
- Sorners, what, I. 264; H. 70, 432. See Egyptians.
- Sorning, I. * 225; Messengers hanged, * 356; II. 415; III. 201, 250, &c.
- Souter, Gordie the, hanged, III. 389.
- SOUTHAMPTON, E. OF, II. 581. (See Howard.)
- Souls of persons shot by Witches, III. 604.
- Sound, a fainting-fit or swoon, III. 468, &c.
- Soutter of Mylnetoun of Fornoct, Ja., III. 536.
- SOWDEN, EARL OF, Dav., III. 601, *note*
- Sowmes of quwickens, what, III. 603.
- Sowtare, Jo., hanged for 'falsing of evidents,' I. 85; Kath. burnt for Witchcraft, III. 618.
- SPAIN, KING OF, protects Argyle, Sir J. Mac-Donald, &c., on their flight thither, III. 3.
- Spald, what, II. 525; III. 384, 485.
- Spalding of Essintullie, Da., III. 72; Resetting Alex. Ruthven after Gowrie's Consp., *ib.*, 202; cutting timber, &c., 458;—of Innerry-dray, Jo., III. 203.
- Spaniard, Cassanzeis, the, I. * 315.
- Spaniards, Proclamation anent their arrival, &c., I. 267; 30,000 to be enlisted for altering the Religion, 311, &c.; anent their 'arryvaill,' 349; lieges to be in readiness, 355, &c.
- Spanish Armada, I. 228, &c.;—Blanks, Conspira-
racy, &c., I. 310;—merchants, three murder-
ed under trust, III. 569.
- Speeches, 'vnererent,' against the King and Council, III. 220; Wm. Tweedio, scourged and banished, 222; 'blasphemous,' &c., Jo. Flemyng hanged, 359. See K. JAMES VI. &c.
- 'Spelair,' English, (rope-dancer, &c.) I. * 118.
- Spens of Bodom, Wm., I. * 148;—of Condie, Jo., Queen's Advocate, * 373; III. 391;—of Wester Kames, Jo., slain by Laird of Kames, II. 131; Ninian, *ib.*;—of Kilspindie, Tho., I. * 88;—of Lathmald, Ja., I. * 401;—of Maristoun, Jo., I. * 201;—Rich., servant to the E. of Cassillis, slain, II. 400, 461, &c. (See Mure of Auchindrain,) 480, 493;—of Wolmerstoun, David, I. * 201.
- Spey-Tower of Perth, I. * 177.
- Spice-house, King's, Yeoman of, I. * 313; Groom of, * *ib.*
- Spirits, Evil, nick-names of, III. 606.
- Spittale, Hereschip of the Place of, I. * 17.
- Spittell of Lewchat, Wm., I. * 404.
- Spott, Laird of, I. * 413, &c. See Hume and Douglas.
- Spottiswode of that Ilk, (Laird of.) jr., slaughter, Forethought Felony, I. * 15; George, * 15; Felony, &c., * 16; David, * 413; Ninian, 107; feud with Sheriff of Ayr, &c., 352; his brother George slain, II. 401; Wm., 402; Jo., slaughter of the Laird of Leyhoussis, 455; Da., III. 393.
- Sprache, (sprache) hue and cry, II. 463, 519; III. 3, &c.
- Sprewle of Cowdoun, Tho., I. * 402; Jo., 169; Ja., fiar, II. 438; Ja., III. 365;—of Lady-mure, Jo., I. 60.
- Sprott, Geo., Trial for concealment of Gowrie's Conspiracy, II. 256; hanged and quartered, 259; his Deposition upon the scaffold, 260 Account of Trial and Execution by Archbishop of Canterbury, (Abbot,) 262; Sprott's Examinations, 272; Narrative of his Execution, 275; is tortured in 'the boots,' *ib.*
- Spuilzie, (See Hereschip,) I. * 57, * 59; of Keyme, * 112; E. of Caitness, &c., * 394; of Laird of Pennycuik's brother, 391;—of Teind sheaves, * 104, * 208.

- SPYNE, LORD, Alex., warded for Raid of Falkland, I. 278; repomed. 280; denounced, 305, 307, 375; deadly feud with the Master of Ogilvie; is wounded, II. 130; tried for slaughter, shooting pistols, &c., 135; fined L.5000, &c., 146, 235; slain, 529; Sir Da. Lindsay of Edzell, &c., tried, III. 61; notice relative to, *ib.*; Documents illustrating do., 64;—MASTER OF, Alex., II. 529;—LADY, Jean, II. 529.
- ST ANDREW'S, ARCHBISHOP OF, (James Duke of Ross,) I. * 120; Ja., (Beatoun,) doors of his lodging forced, * 257; Chancellor, * 269, * 353; Jo., attempting to restore Popery, * 427; Geo., III. 96, 621; Letter to King as to Gowrie's Conspiracy, *ib.*;—Castle of, to be delivered up, I. * 283; assisting rebels, * 337, * 338;—Court of Justiciary held there, II. 568;—Magistrates assist E. of Bothwell, I. 310;—Prior of, Jo., * 79;—Raid of, I. * 334.
- St Andrian of May, relique of, I. * 306.
- St Barnaby's Day, Battle of, I. * 100.
- St Colmis-Inch, Commendator of, (Tutor of Murray,) I. 289, 291; Hary, 393; III. 72.
- St COLME, LORD, Harie, III. 72; Jo., his brother, beheaded for Murder under trust, 74.
- St Colmes-Mess, III. 251.
- St Duthos, reliet (*relique*) of, I. * 283.
- St Francis' Altar, I. * 252.
- St Gele, (Giles of Edinr.,) I. * 252; tomult, &c., in the city of Edinburgh, * 417.
- St James in Galicia, Pilgrimages to, I. * 101.
- St John of Ameas, in France, Pilgrimages to, I. * 107.
- ST JOHN, LORD, Geo., I. * 151; Walt., * 185; Sir Wm., English Admiral, III. 367.
- St Leonard's, Chaplain of, I. * 314; Chapel, III. 178.
- St Magdalene, breaking image of, I. * 334.
- St Malago, relique of, I. * 306.
- St Mary de Foresta, I. * 400.
- St Mary of the Lewis, Kirk of, sacrifice, I. 400.
- St Michael, order of, I. * 283.
- St Niniane, Pilgrimages to, I. * 106.
- St Thomas of Canterbury, Pilgrimages to, I. * 107.
- St Thomas-evin, III. 569.
- Stable, King's, Squire of, I. * 313; Yeomau of, *ib.*
- Stag-hounds, I. * 312.
- Staig and naig, what, III. 98; a soirdy staig, *ib.*
- Stake, Witches 'wirreit' (strangled) before being burnt, I. 186, &c. See Witchcraft, Sorcery and Burning, &c.
- Stalforde, Captain Hilbert, and 28 other Englishmen, Piracy, I. * 379. See Piracy.
- Stalls, choral, demolished, I. * 353, &c. See Reformation.
- Stamp, Forging the King's, I. 157.
- Standard, Royal, I. * 114.
- Standard-bearer, heritable, I. * 268.
- Stanfield, Philip, Parricide, III. 196; his father's corpse bleeds on his touch, 197; curious notices of this case, *ib.*, 198.
- Stanhope of Stanhope-mill, Jo., II. 124, 355.
- Starving to death, III. 479, 491.
- Steel of Houstoun, Jo., II. 506;—*Kempy*, hanged, I. * 126.
- Steel-bonnet, the King's, I. * 273, * 283; typpet to, * 283, * 320; II. 70.
- Steelbow goods, what, I. * 162.
- Steelbow tenant, what, I. * 162, * 471.
- Steel-saddles, I. * 290, * 295, * 300, * 312, * 321.
- Steeple, prisoners confined there, where no toll-booths or prisons, III. 219, and *note*.
- Steming of bluid, Jasp-stane for, III. 564.
- Stercovius, a Pole, put to death *in Poland*, at the instance of K. JA. VI., for writing a Legend of reproaches against the Scots, III. 448.
- Steward of the King's Household, I. * 313.
- Stevenson of Hirdmanscheillis, Ja., I. * 393, * 424, * 469, 155, Jo., 156, II. 128;—of Hirdmestoun, Male, Tutor of, III. 487;—of that Ill, Jo., I. 35.
- Stewart, Arch., Captain of Dunnyvaiz, I. * 258;—of Appyn, Jo., III. 252;—Allane, Capt. of Dalkeith, III. 248; Ja., his son, Adultery and Incest, 'wirreit' and 'brunt,' 249;—of Ard-goware, Ja., I. * 170;—of Ardinculye (Arntulbe,) Geo., I. 25; Jo., yr., II. 80;—Sir Alex., slain, I. 359;—of Auchmadies, Sir Ja., II. 63;—of Brig, Ja., I. * 454;—of Balquhadder, Allan, I. * 319;—Commission of fire and sword against, 282;—of Barscube, John, I. * 163;—Mathew, * 382;—of Bogtoun, Jo., I. * 402;—of Blairgarrie, And., III. 554;

Ro., his son, Slaughter, *ib.* ;—of Bonskeid, Jo., slain, II. 528; Jo., his son slain, *ib.* ;—of Baithie (Beith.) Pat., III. 134;—of Bonningtoun, Josias, II. 461;—of Bothwell-Muir, (Earl of Arran, &c.) Capt. Ja., I. 91, 91; slain, III. 66;—of Ballieachan, Sir Ja., II. 63; Pat., III. 250;—of Bodinschawes, Ja., II. 63;—of Barclaw, Math., I. 136, 137, 159;—of Barskimming, Hary, II. 106;—of Carstairs, Sir Wm., II. 109, 445; Wm. his son, *ib.* ;—of Craigyhall, Ja., I. * 143; respited, * 247; Harie, 348, II. 37, 502;—Christian, burnt for Witchcraft, &c., 399;—of Cragyhall, Jo., and Geillis Seitone his sponse, Forcible Abduction. I. * 421;—Commissary of Dunkeld, Mr Ja., III. 478; Ja., Stewart-depute of Monteith, &c.; Slaughter, 554;—of Castelnmylk, I. * 40, (A Tutor of,) I. * 480;—of Cardonald, Allan, I. * 42; Ja., 98;—of Culleony, Alex., II. 63;—of Daldowy, Adam, I. * 130;—of Dowellie, Mr Jo., and Tho. his brother, Slaughter, III. 536;—Downe-Machreif, George, III. 256;—of Dunduff, Wm., I. * 405, II. 10; Math., 35; shooting at the Laird of Culzeane, 37; banished Scotland, England, and Ireland, and all their Isles, and fined 1000 merks, 40, 106, 461; Geo. his brother slain, 604; Wm., *ib.*, III. 121;—of Facastell, Robert, II. 63;—of Fintillache, Arch., III. 328;—of Flaswood, Tho., I. 58;—of Flatt, Alexander, III. 299;—of Foulage, John, I. 268;—of Foulbar, Jo., I. * 382;—of Force (Fors, Foss,) Ja., II. 63;—Alex. of Garlies, Wilful Error, I. * 219; Alex. yr., * 366, * 398, * 414, * 455, 304, 467. See Lord Gairdies;—of Gaus-toune, Tho., I. * 230, * 405, 63, 166;—of Garnetullie (Grantully,) Sir Tho., I. 141, II. 433, 528; Sir William, III. 318;—of Gramsly (Gramesay,) Ja., (brother to the Earl of Orkney,) I. 387, III. 84, 88; two of his sons kill several English Pirates, and take two ships, 111;—of Hawrig, (Halthrig,) John, I. * 130, * 402;—of Heildonne, Walt., III. 465;—of Hulreid, Jo., III. 492;—Hercules, hanged, I. 362;—of Houston, Sir Wm., I. 375, II. 110;—John beheaded, I. * 165;—Jo. son of Ja. L. Down, beheaded for Murder under trust,

III. 71;—Ja., 'of Jerusalem,' banished for hearing Mass, &c., III. 252, 352;—of Innermeith, Wm., I. 306;—Josias, denounced, I. 306, III. 144; Jonet and three others 'wirreit and bruet in assis,' for Witchcraft, &c., II. 25;—of Killeith, Sir Ja., Chamberlain of Orkney and Zetland, III. 273, 284, (See Lord Ochiltreie;) Sheriff of, 285;—of Kilpatrick, Jo., III. 440; Ja., his son, beheaded for Slaughter, *ib.* ;—of Kynnaid, Wm., II. 528;—of Kirkhill, Sir Lud., his MS. Collections, I. * 478;—of Kilechattan, Nim., *ib.*, II. 131;—of Latheris (Lathrisk,) Rob., I. * 126;—of Lekpreveck, Ja., II. 445;—of Ladywall, Mr Ja., III. 485;—Lady Marg., Rape of, I. * 60;—LORD JAMES (afterwards REGENT,) I. * 421;—LORD of Newtown, Ja., III. 248; Harie his son, Slaughter, *ib.* ;—of Minto, Ro., respited, I. * 239; Math., 98; Sir Walt., bailie of Regality of Glasgow, III. 508, 513;—of Newtown, Ja., slain, II. I., 107;—of Pitfowrie, Jo., III. 250;—of Porterstoun, I. * 163, * 175;—Pat. beheaded for atrocious cruelty and murder, 393;—Quhytlaw, Hercules, I. 270;—Robert, natural son of Pat. Earl of Orkney, Treason, Rebellion in Orkney, &c., III. 272; hanged along with five others, and forfeited, 283; illustrative Papers, *ib.* to 307. See Trial of his father, 308, &c.; tears the 'Band' for the Rebels, 304; his Deposition, 306;—Ro., bailie of Lintilghow, II. 559;—of Rossythe, Hen., I. 135;—of Roisland, Jo., I. 276;—Ro., (brother of the E. of Orkney,) Slaughter of Laird of Moncoffer, II. 76;—of Schawtoun, Adam, I. * 148;—Sheriff of Bute, Nimian, I. * 170;—of Schuittingleis, Alex., slain, I. 89;—of Seytoun, Wm., II. 110;—of Todlaw, Wm., remitted, I. * 256;—of Tulliemett, Wm., I. 306;—of Traquair, Wm., I. * 147, * 166, * 177, * 230; John, * 406, * 426; Sir Jo., 89; Wm., 276, II. 379, III. 394;—of Torbolton, Jo., I. * 83;—of Tenandrie, Jo., Dow MacGilliechallum, II. 528; Allaster, his brother, hanged, 529;—of Tuedy, Ja., I. * 130;—of Tynneis, Ja., I. 270; his house demolished, 276;—of Tullich, Wm., II. 393;—of Vchiltreie, LORD,

- Andrew, I. * 428, &c. See Oculitric;—
Walter (brother of Lord Oculitric,) I. * 335;
Ja., his son, 19; Wm., (do.) II. 109, 445;
—Sir Wm., (Lion King at Arms,) executed
for Sorcery, and Conspiring death of Regent
Murray, I. * 510;—Wm., brother to Lord
Oculitric, Slaughter, II. 109, 445;—Wm.,
Capt., of Dumbarton, II. 433.
- Stik, to stab, II. 30, &c.
- Stikle, stubble, III. 612.
- Stilberry, Tho., English skipper, Piracy, hanged,
I. * 381.
- Stinkand-style, in Edr., what, II. 416, 462.
- Stirling of Auchyle, Ja., I. 15; Wm., III. 233;
—of Baldorane, Luke, I. 97, 355;—of Bal-
lagane, Luke, I. * 451; Walt, 22; Here-
schlip of Horses and cattle, by MacGregors,
III. 249;—of Bankeir, And., I. * 150;—of
Breakky, Dav., I. * 158;—Besieging Castle
of, I. * 238. * 242;—of Craighernard, Jo.,
Feud with the Kincaids, I. * 458;—Field of,
I. * 100, &c.;—of Glorat, Wm., I. * 150;
Geo., * 227;—of Keir, Sir John, I. * 130,
* 155, * 167, * 177, * 199; I. * 251; slain,
* 258; one of the Guardians of K. JAMES V.,
in his infancy, * 259; sent to relief of Makkane
against Donald of the Isles, * 262, * 477,
71; Sir Ja., 114; Sir Arch., 299, II. 502,
III. 377, 554;—Raid of, I. * 467, * 470;
abiding from, Forfeiture, &c., II. 85;—
Town and Castle of, withholding against the
King, I. 112, 116, 133.
- Stodart of Sheilgreen, Jo., II. 35.
- Stolps, King's silver, I. * 282; to bring in his col-
lation, * 298, &c. See Gold and Silver-plate.
- Stomacher, I. * 307.
- Stouthrief, William Cockburne, I. * 15;—Symon
Furde, *ib.*;—remarkable enumeration, I. * 20;
—of Earl of Angus's Horses, I. * 23; his lance,
25;—Robert Dunwedy, I. * 41;—by way of
'Mummyn,' I. * 50, 51;—of Pirated goods,
I. * 88;—from Bishop of Galloway, I. * 94;
—of King's Artillery, I. * 132;—Capt. Ja.
Guthry, I. * 143;—Bikkerton, beheaded, I.
* 162;—Haglb, Lord Somerville, I. * 169;—
Alex. Jo. Canochsonn, &c., I. * 170, * 176,
* 203; John Hendersson, hanged, * 206;
during Plague, * I. 219; from Tower of Ern-
side, * 223; Sir Ja., Thrift, &c., * 334;
Gilb. MacTeyr, beheaded, * 351;—of the
pay of the French Troops at Brouchty, * 361;
of Horses, &c., 393, II. 385;—and Murders
by the Macgregors, 414, 415; several hanged,
ib.;—Johnstone of Lochhose, beheaded,
425; Tho. Hardie, hanged, 441; Roise of
Dungkellie, beheaded, 481; Allaster Stewart,
hanged, 528; Ja. Hunter of Hagburne, II.
567; Wm. Douglas of Pinzerie, beheaded,
III. 95, 205, 252; Jo. Murray, hanged, 478;
Jo. Grant of Davachmoir, 490; Countess of
Marischall, and Sir Alex. Strathachane, her
husband, &c., 562; Ja. Keith of Benholme, 563.
- Story, And., hanged, I. * 87.
- Strabogie, Mass celebrated, II. 530.
- Straitone of Lowriestoun, Sir Alex., II. 495.
- Strakned, what, III. 605.
- Strang, Capt. Geo., I. 309;—of Balcasky, John,
yr., I. * 141, 60;—of Kildrymmie, Ro., I. 60.
- Strangling at the stake and burning, a capital
punishment, for Witchcraft, &c., *q. v.* (See
also Burning;—at the stake, I. * 393. See
Witchcraft;—a child, 371; taking captive and,
III. 553.
- Strathachin of Balwissie, I. * 345;—of Brig-
toun, Alex., I. * 207;—of Claypottis, John,
I. 27;—of Lethinturk, Jo., yr., Slaughter, I.
* 175; Concealing the Master of, Forbes's Con-
spiracy, warded, * 200; Da., * 206; remitted,
* 246;—of Monboddo, Jo., I. 28;—of Thorn-
toun, John, I. 17; Sir Alex., and his wife
Dame Marg. Ogilvie, (Countess of Marischall,)
Masterful Stouthrief, &c., III. 562.
- Strathbogie, house of, to be cast down, I. 343, 344.
- Strathnaver, Inhabitants respited, I. * 248.
- Stratoun, David, burnt for Heresy, I. * 210, &c.;
—of Craigy, Dav. I. 29.
- Strauchane, Wm., Messenger, scourged and de-
prived, for signeting false Letters, &c., II.
455; Mr Alex., Minister, tried, 494; banished,
503; Mr Ro. Masterful Stouthrief, &c., 562.
- Straws, Witches ride on, superstition, III. 604, &c.
- Streamers for the King's ship, I. * 303.
- Strechin, House of, besieged, I. 65.
- Striking a person, whilst the King was sitting in

- judgment, II. 358; fined 1750 merks, 359;—a Minister, 416; Walt. Gralam scorged, and his right hand struck off, 417;—During sitting of the Lords of Session, III. 73.
- Stralgeoun of Myllerland, Adam, II. 490;—of Towerce, Harb., II. 190.
- Stud, Royal, I. * 301, &c., * 306; the King's Brood-mares, * 316.
- Study, K. JAMES V.'s, I. 284.
- Stug-taillit, what, III. 265.
- Stymeis, bats, III. 588.
- Suborning of Witnesses, III. 354; several persons beheaded, hanged, scorged, and branded, 358; And. Turnbull and 2 others hanged, 539; Da. Turnbull's tongue pierced with 'ane hett boitkyn,' and he banished, *ib.*
- Substancious man, 'quhat is,' I. * 161.
- Suckler, Jok the, III. 382, 389; hanged, 396.
- SUFFOLK, EARL OF, Tho., II. 589.
- Suffrages for Q. MAGDALENE, I. * 297, &c. See Obsequies, Funeral ceremonies, &c.
- Summerdaill, House of, besieged, I. * 225.
- Sumpterman, King's, I. * 313.
- Superstitions. See Witchcraft, Charms, &c.;—touching the Corpse of a Murdered person, as a test of guilt or innocence, III. 143, 165, 182, &c.
- Supplications, remarkable, of persons charged as Conspirators at David Riccio's Murder, I. * 483, * 484, * 485.
- Supremacy of the Pope, maintaining the, III. 330, &c. See Balmerinoch.
- Surgeons provided for the Army of the Borders, I. * 325; Report of, in case of Mutilation, &c., 7;—two sit on an Assise, III. 574.
- SURREY, COUNTESS OF, I. * 18;—EARL OF, * 187, * 270.
- SUSSEX, EARL OF, L. Lieut. of Ireland, III. 2.
- Sutherland of Clyne, And., yr., Resetting him, I. * 395;—COUNTESS OF, Dame Jean Gordon, 318, 530;—of Duffus, Wm., slain, * 149; Oppression, &c., * 222; Alex., * 391; Wm., II. 143. See Duffus;—EARL OF, I. * 149, *note*; John, * 336, * 370, * 391, * 411; Alex., * 462, *note*, 94; Hugh, 114; Jo., Submission between, and E. of Caithness, III. 231;—of Evelik, Wm., I. 68;—of Greifschip, And., * 391;—of Kinsterrie, Wm., III. 616.
- Swan, Jo., burnt for Sodomy, II. 491, *note*.
- Swarf, swooning, I. 251, &c.
- Swasche, an alarm drum, &c., II. 30.
- Swascheris (Swescheouris,) what, II. 245.
- Swearing fealty to English Protector, I. * 378.
- Swearing upon swords, III. 275.
- Sweetmeats brought to K. JAMES V., I. * 308.
- Swein, an Evil Spirit, III. 606.
- Swesche-talburne, I. * 311, &c. See Swasch.
- Swimming, singular dexterity displayed by the Laird of MacGregor, II. 431.
- Swintoun of that Ilk, Jo., I. * 147, * 159; gift of his escheat for willful error to his 8 daughters, * 253; Warden-depute of the East Marches, * 323, * 414; Ro., 282.
- Sword-belt, scourging with, II. 454.
- Sword, decapitation with a, I. * 425; great, * 289; of Honour, * 260; a case to it, * 296; two-handed, * 289; II. 70. See Gowrie's Conspiracy, III. 245.
- Sword-slipper, King's, I. * 315.
- Swyne, Jo., beheaded for Slaughter at a bridal, III. 471.
- Swyngill-trie, Murder of a pregnant woman and her child with, II. 517; Pat. Deanis hanged, *ib.*
- Sydeserf of that Ilk, Pat., I. * 143, * 386; Pat., yr., Slaughter, 4; Jo., 10, 155;—of Ruchlaw, II. 467; Wm., 534; III. 560.
- Sydney, Sir Ro., II. 318.
- Symbolical mode by which Witches took the fruits of the ground, &c., III. 603, and *note*. See also Witchcraft, *passim*, for similar instances.
- Symmer of Balzordie, III. 437; Ro., his son, Slaughter, *ib.*; beheaded, *ib.*;—David, Bailie of Edinburgh, freeing a Prisoner, I. * 442 to * 450; Protestation against the Verdict, * 449.
- Symontoune of Hardingtonne, I. * 455;—of that Ilk, Jo., forging and making False money, * 76; Wm., * 382; Jo., yr., III. 539.
- Symsounne of Bannans, Jo., I. 200;—Edw., hanged for Stouthreif by way of 'Munnyn,' * 51.

T.

- TABLETS, I. * 295, * 299, &c. See New-year's gifts.
- Talkin, what, II. 470.
- Tailor, King's, in the Wardrobe, I. * 313; Master, * 315; Queen's Master, *ib.*
- Tailzeour, Wm., murdered at Kirk of Field with K. HENRY, (Darnley,) I. * 479, * 492.
- Tailziefeir of Herklaw, Wm., III. 493.
- Tait of Adamehill, Cha. yr., II. 95;—of Bairese, Geo., 475; James, his brother, acquitted of Slaughter, 476;—of Barnbarrache, Tho., I. * 85;—of Cherritreis, Wm., II. 475; Ja., his son, slain, *ib.*;—of Pirne, Alex., I. * 147, * 332; Geo., * 424, * 469.
- Talbonaris, I. * 267, * 273, * 292; Swische, * 314.
- Tale-teller, the King's, I. * 116, * 123.
- Tamptalloun, Raid of, I. * 138, * 140, * 243, * 244, * 263, * 274; the works at, * 298; withheld against the King, 96.
- Tantara ! pamfara ! II. 601, and *note*.
- Tapestry. See Arras werk;—new Tapescherye brocht furth of Flanders, I. * 298, * 300.
- Tarbert, Ja., writer, hanged for falsifying a Charter, II. 104.
- Target or targe, an ornament generally worn in the bonnet, I. * 292, * 293, * 321. See also New-year's gifts.
- Tarlasoune of Moinsyeis, Jo., yr., II. 394.
- Tasker, III. 526, &c.
- Tax remitted to Town of Selkirk, it being 'hereit be Thevis and Pestilence,' I. * 262.
- Taylor, Jo., Warlock, III. 614, &c.
- Taymouth, Buik of, III. 232.
- Tearing the King's Letters, I. * 53, * 271, * 334.
- Tears, superstition that Witches could shed none, I. 211.
- Tedder, a halter, III. 474, &c.
- Teind sheaves. See Spuilzie.
- Tennent, Francis, writing Pasquils against the King, hanged, II. 332; his tongue ordered to be cut out, before his execution, *ib.*; afterwards dispensed with, *ib.*;—of Kairnes, Ja., II. 430; Jo., 467;—of Leuenax, (Linhouse,) Arch., slain, * 180; Ja., 155; II. 21, 259, 455; III. 9, 565;—Mungo and Francis, Sedition, &c., * 330;—of Williamstoune, Arch., I. 27.
- Tennis, game of. See Cache-puill.
- Ten-shilling pieces forged, II. 99.
- Testament, New, persons burnt for using it. See Heresy.
- Testanis, striking false, I. * 394, * 440; three women 'wirreit and brunt in assis,' II. 74.
- Testicles, Demembration of, I. * 253; putting hot ashes and live embers in the *scrotum*, &c., II. 393; Pat. Stewart beheaded, 394; cruelty in trampling, &c., III. 496.
- Tests of guilt or innocence of suspected Murderers, popular, III. 184, &c.
- Titles paid to the Devil, superstition of Witches, being annually decimated, 'paying kane (or 'teynd') to hell,' I. 164, &c.
- Theft, from the Abbot of Dundrennan, I. * 73;—Common, Johnston, Story, and Gillespie, hanged, I. * 87; Douglas, &c., hanged, I. * 151, * 159; Turnbull, (*Blak-Sowc*;) hanged, * 169; Arnstrong, &c., * 173; John Elwald, (*Jok Unhappy*;) hanged, * 176; Young Laird of Tulydury, hanged, * 358; John Robsoune, alias *Paulis Jok*, hanged, * 381; of a silver dish of QUEEN REGENT'S, * 386; from the QUEEN Dowager's chief Cook, * 406; by an alleged Idiot, * 415; Armstrangs and Elliots, 93; barbarous torture of a girl, to detect alleged Theft, II. 44;—masterful, &c., 74; treasonable and masterful, Countess of Marischall, &c., III. 562; Keith of Benholme, 563, &c. See Stouthrief, Hereschip, Reiving, Stealing, &c.
- Theftboot, taking, I. * 143, * 427.
- Theses publicly defended, III. 447, and *note*; Thesis and *annexa* by Mr Thomas Ross, 451, 586. See Ross.
- 'Thief of Hell wait wpon hir selfe!' an Evil Spirit, III. 606, 614.
- 'Thief!' a Witch call, 607.
- Thieves, assisting, I. * 144;—letting escape from justice, I. * 149, * 223;—taking Theftboot,

- * 427 ;—Raid against the Border Thieves, I. * 134, * 152, * 271.
- THILLENTANE, LORD, (Lord Chancellor,) I. 172, 267, 304; dies, III. 66.
- Thistles, embroidered on the King's Coronation Robes, &c., I. * 301.
- Thomesone, Agnes, Witch, I. 216; Alex., hanged and forfeited for importing and uttering base coin, II. 404; Alex., banished for Adultery, III. 429; Gilb., hanged for stealing during the Burning of the Town of Dumfries, I. * 39; Issob., Child-Murderer, hanged, II. 540.
- Thornetonne, Laird of, I. 281.
- Thorns, ancient Witch's and lover's trysting-places, I. 52, 58. See also Imp-Tree, II. 543 ;—Maxwell's, where Lord M. was slain, III. 30.
- Thornsyde of East Nesbit, Ninian, I. * 147.
- Thraive of corn, &c., what, I. * 58.
- Threads, Witch-charm with, III. 605, &c.
- Thrift, Sir James, Chaplain, &c., Fire-raising, Stoutbreif, &c., I. * 331.
- Throche, a sheet of writing paper, III. 148.
- 'Throw the Corne-yaird,' a Witch's nickname, III. 606.
- Threstoune, Place of, burnt, I. * 99.
- Thurso, Fishings of, violently occupied, I. * 395.
- Tiberis, burnt, I. * 348.
- Tildar, Sir William, Englishman, I. * 4.
- Tindall, *alias* Tinwall, Margt., tried for Oker (Usury,) II. 101.
- Tirring, what, III. 432, 518, &c.
- Title-deeds, Theft of, II. 340; Ja. Wod, fiar of Boningtoun, tried, *ib.*; hanged, 347; III. 265; Pat. Eviot hanged, *ib.*
- Toads used in Witch-charms, I. 218, 245.
- Tobacco, pipe of, said to be *drunk* or quaffed, III. 11.
- Tochers given by the King, I. * 272, * 279, * 312, * 317; to Barbara Falconer, * 324.
- Tod of Screschaw, Sir Tho., I. * 5.
- Tok, Wm., scourged and banished for Perjury, III. 339.
- Tomb-stones, stealing, I. 48.
- Tongs, red-hot, used for torturing a girl, for the purpose of detecting alleged Theft, II. 45.
- Tongue, cut out by the root before execution, II. 335, and burnt, III. 198 ;—pierced with 'ane hett boitkyn,' 539;—a gentleman's throat cut, his tongue taken out, the tongue of one of his dogs put in his mouth, &c., a case of extreme barbarity, 548.
- Tooth-powder, silver clam-shell for holding K. JA. V's, I. * 320, * 322; his 'pyke-teithe,' * 321.
- Torches. See Funeral-ceremonies, &c. ;—at the Baptism of PRINCE JAMES, * 302.
- Torphechin, LORD, I. 27; Ja., III. 316 ;—Preceptor of, I. * 2 ;—Sanctuary of, * 151.
- Torsensie, the Lady, goes mad, after a Witch consultation, I. 236.
- TORTHORWALD, LORD, Ja., slain, III. 65; notice of facts, *ib.*; Lord Stewart of Ochiltrie tried, 66. See Stewart, &c.
- Torture, the rack, or question, I. * 401; wrenching the head with cords, 215; mode of torturing Witches, 217, &c. See Witches ;—barbarous, inflicted on Feane, 219, &c.; Alison Balfour and Tho. Palpla, 375, 376; the young Laird of Auchindrane tortured, III. 170, 196; Mr Ja. Mitchell, *ib.*; Peter Aroy, a Highland robber, *ib.*;—instruments of, the 'Pilmewinkis,' 215, 376, 377; 'boots' or 'bootikins,' 219, 222, 376, 377; Mr Wm. Rynd 'extremely booted,' 220, 238, *note*; Sprout *booted*, 275; 'turkas,' (*torquois*,) pin-cers to tear off the nails, 222; needles thrust under the nails, *ib.*; 'easchielawis,' or 'caspicawis,' 375, 376, 377; the 'lang irnis,' of 50 stone weight, 376; scourging with 'towis,' (ropes,) *ib.*; a 'harrow-bore' used, II. 46;—most barbarous torture and savage Murder, III. 545 ;—inhuman, inflicted on a girl, to detect alleged Theft, II. 44 ;—'waking' *i. e.* systematically preventing sleep, to extort confession, in the case of Witches, I. 50; a Jesuite 'waked' *ad delirium!* III. 332.
- Tortus, Math., II. 570.
- Torwoodlee, Place of, harried, and the Laird Murdered, &c., II. 520.
- Toscheuch, And., Lion King at Arms, violence committed on him by Lord Drummond, I. * 268 ;—of Monyvaird, And., 28; II. 383; Edw., III. 443; Da., yr., slain, *ib.*, 465; Annas Grahaime, Lady M., *ib.*; Offers for

- reconciling the Fend betwixt him and the Laird of Culmalundie, III. 480, 542.
- Touching murdered corpses, a popular mode of detecting the guilt or innocence of the suspected criminal, III. 143, 165; illustrations relative to this superstitious practice, 182, &c.; form of the ceremonial, 184; remarkable Trials where *touching* was founded on, &c., 191; K. DUFFUS'S murderers, *ib.*; K. HENRY II. of England, 192; Johan Norkott, *ib.*; Marioum Peebles, *alias* Pardoun, 194; Mr Ja. Mitchell, 195; Mary Mure, 196; Da. Munroe, *ib.*; Mr Ja. Guthrie, *ib.*; Philip Stanfield, *ib.*; Marquis of Argyll, 199, &c.
- Tournament, I. * 118, * 123, * 293, * 300, * 317, * 320, * 321, * 323, &c.
- Towers of Bristo, Geo., I. * 513;—of Inverleith, Sir Ja., * 140, * 159, * 190, * 199, * 421; Jo., 72; II. 60, 74; Sir Geo., 513.
- Towis. (ropes.) scourging with. to extort Confession, I. 376.
- Trafficking with Seminary Priests, Jesuites, &c., I. 172.
- Traill of Blebo, Jo., II. 60, 397.
- Traitor, Judicial Challenge of a, I. * 183; Armorial bearings of forfeited Traitors publicly defaced, * 490; II. 241; their quarters exposed on the tops of Tolbooths, Ports, &c., I. * 440, * 491, &c. See Quartering;—their dead bodies produced in Court, at forfeiture, II. 241, 277, &c.
- Translation of 'the Cronyklus' and 'Titus Livius' at the expense of K. JAMES V. See Bellenden.
- Transporting Cattle to England, I. * 60.
- Traquair, Lady, I. * 161, * 177; Assise on, * 280. See Stewart.
- Treason, High, (Field of Stirling.) Ja., E. OF BUCHAN, I. * 2;—Jo., L. BOTHWELL, * 4; Jo. Ross of Mountgreenan, * 8; Cuthb. Murray of Cokpule, * 11; Don. MacRanald Bane, * 45; Torquill Makcloide of the Lewis, *ib.*; Jo. Lindsay of Wauchope, * 48; Jo. Makklane of Loehboy, * 50; Ja. Elwald hanged, * 133; LORD LINDSAY, *ib.*; Crechtoun of Craufurdroun, *ib.*; Cokburne of Henderland beheaded, * 144; Jo. MASTER OF FORBES beheaded, * 183; LADY GLAMMIS burnt, I. * 187, &c.; Alex. Hume beheaded, * 201; E. OF ARRAN'S Treason, * 233, * 246; Sir Ja. Hamilton of Finnart, * 227; beheaded, * 228, &c.; Sir Ja. Colville of East Wemyss, * 255, * 257; Alex. LORD HOME, Chamberlain, * 261, * 262; And. Heriot of Trabroune, *ib.*; George Home of Wedderburn, * 267; E. OF CRAWFORD, L. LINDSAY, &c., * 271; E. OF CASSILLIS, L. SEMPILL, *ib.*; Laird of Bukleuche, * 272; Jo. Wallace of Carno, * 274; men of the Isles, * 275; Ja. Douglas of Parkhead, * 307; Sir Ja. Melville of Raith beheaded, * 339; Rich. Latymer of that ilk hanged, * 348; Wm. Newtoun of that ilk, * 349; Ja. EARL BOTHWELL conspiring to seize the person of MARY Q. OF SCOTS, * 460; Murderers of KING HENRY, (Darnley,) tried, and illustrations, &c., * 488 to * 513; Dav. Hamilton hanged, 31; Conspiracy against the REGENT, 32, 40; Intercommuning with Rebels in Town and Castle of Edr., 33; Mr Ja. Kirkaldy and Ja. Cokkie hanged, 45; Conspiring REGENT MORTON'S death, 70; Jo. Sempill of Beltreis for ditto, 72; Geo. Balfour, Prior of Charterhouse, 86; Arth. Hamilton, Murder of REGENTS MURRAY and LENNOX, 87; Jo. Byrning hanged and quartered for K. HENRY (Darnley's) Murder, 95; Arch., E. OF ANGUS, 96; Geo. Hume of Spott, 101; acquitted, 107; Ja. EARL OF MORTON, 114; Wm. E. OF GOWRIE, 116; Forfeiture of the EARLS OF ANGUS and MAR, 119; RAID OF RUTHVEN, from 111 to 132, 139; Lairds of Mains, Drumquhassill, and Duntreath, hanged and quartered, *ib.*; K. HENRY (Darnley's) Murder, Mr Arch. Douglas, 142; acquitted, 154; Pat. MASTER OF GRAY, tried for counterfeiting King's stamp, 157; EARLS OF HUNTLE CRAWFORD, and BOTHWELL, 171; Angus McConcill of Dinnivaig and L. M'Lean of Dowart, 224; COUNTESS OF BOTHWELL, &c., 268; convicted, 274; E. OF BOTHWELL, &c., tried for Raids of Falkland and Holyrood, 293; forfeited, 297; EARLS OF ANGUS, HUNTLE, and ERROL, &c., for Conspiring against the Protestant Religion, &c., 310;

- summons, I. 314; doom, 316; Tract as to 'the Spanish Blanks,' 317; Convocation of an unlawful Assembly of the Kirk, II. 3; Pat. Sleich hanged, 21; Besieging the KING, &c., in Edr. Tolbooth, Edward Johnstoun fined 3500 merks, 29; GOWRIE'S CONSPIRACY, 146, &c. See GOWRIE; Mr Tho. Cranstoun, Geo. Craingelt, and Jo. McDuff, hanged, 148; Forfeiture of Lord Gowrie's brothers, 159; Wm. Cuninghame of Towerlands, 366; forfeited and beheaded, 369; Geo. Meldrum, yr. of Dumbrek, beheaded and forfeited, 428; Ja., L. BALMERINCHI, Corresponding with THE POPE, &c., in King's name, 567, &c.; Sir Ja. Makeoneill, III. I; Pat., E. OF ORKNEY, 81; declining Jurisdiction of the King and Privy Council, 87; Mr And. Creichtoun sentenced to be *hangyd*, 89; banished for life, 90; Ro. Stewart, (natural son of E. of Orkney,) Rebellion in Orkney, &c., 272; hanged and forfeited along with 5 others, 283; illustrative Papers, *ib.*; Trial of Pat., E. OF ORKNEY, 308; beheaded and forfeited, 318; illustrative Papers, 319; Angus Og M'Conneill 363; hanged, 365; illustrative Papers, *ib.*, &c. See also treasonable Fire-raising, Murder, Theft, &c.
- Treasonable Murder, Fire-raising, &c. See under Murder, Theft, &c.
- Treasurer's, Lord High, Accounts of Reign of K. JAMES IV., I. * 114, * 124; Reign of JAMES V., * 259 to * 325; and notices from these Records, quoted in illustration, *passim*.
- Tred, following the, III. 548.
- Treif, Castle of, keepership, I. * 232.
- Trew, day of, or Warden Raid, I. * 397, &c.
- Trinkets given by KINGS of Scotland to favourites and courtiers, I. * 295, &c. See New-year's gifts, Gold, and under names of Jewels, &c.
- Trotter of Prentonene, Geo., I. * 413.
- Troup of Begihill, Alex., I. * 150.
- Trouternes, 'Hereship' of, I. * 256.
- Trows, or trolls, what, III. 607, *note*.
- Trump (Jew's harp) played on at Witches' convocations, I. 217, 246.
- Trumpets, Banners to the, I. * 308; War, * 314.
- Trust, breach of, pleadings relative to, II. 549, &c.;—Murder under, III. 71, &c. See also Murder.
- Tuilgies and 'cummeris' in the streets of Edr., &c., I. * 362.
- Tulliallane, Pit of, a man fished to death in. III. 479.
- TULLIBARDIN, EARL OF, Jo., II. 572, Wm., III. 14, *note*, 18;—MASTER of, William, II. 297, *note*, (See Murray of T., &c.,) 572, III. 248, 370.
- Tullo, (Tulloch,) of Moncoffer, Tho., I. * 150;—of Tannachie, Ro., II. 72, 80; his son Alex. slays the Laird of Earlsmyln's son, *ib.*, 110; Alex. and Ja., tried for Slaughter, 563, 565.
- Tumults within burgh, Robin Hood, &c., I. * 409, * 410; to restore Property, * 416, &c.; at Holyroodhouse, * 434; to alter the Religion, * 435, &c. See Edr., Holyroodhouse, &c.
- Tung-schot, what, II. 536.
- Tunnergarte, Parson of, slain, II. 441.
- Tureas-ring, III. 564, and *note*.
- Turing of Foverne, Gilb., remitted for Abiding from the Raid of Solway, &c., * I. 242.
- Turk, the Little, dress to, I. * 308, * 319.
- Turkas, (*turquois*), pincers used in torture, for pulling off the nails, I. 222.
- Turnberry, Laird of, slain, I. * 219.
- Turnbroches, in King's Kitchen, I. * 313.
- Turnbull of Airdrie, Wm., II. 259, III. 9, 75;—And., beheaded, II. 377; And. and two others hanged for Perjury, &c., III. 538;—of Apotesyde, Lady (Marg.) II. 510;—Place of, set on fire, *ib.*;—of Barnehills, Hector, Slaughter of the Grameslaws, II. 441; Geo., his brother and Gavin, his uncle, *ib.*;—of Bedrule, Walt., I. 265; Tho., III. 396;—of Belsis, George, Slaughter, Unmerciful Oppression, &c., II. 419; sentenced to be hanged, and his right hand to be struck off, 421; tried for Incest, Adultery, &c., hanged and forfeited, 425; Hector, 442, 445;—of Bewlie, Ro., slain, II. 372, 378;—of Blindhauche, Ro., I. * 88;—Adam of Chamberlain, Newton, slain, I. * 61; David, tongue pierced with 'ane heit boitkyn,' and banished, *ib.*;—of Clarielaw, Hect., II. 511, III. 396;—of the Firth, Hector, Slaughter, &c., II. 370;—of Hallrule, Geo., I. * 35;

- of Hoppisburne, Tho., II. 509, 510; —of Howay, Walter, I. * 144; —of Howdene, Jo., III. 457; —of Huttril-burne, Ro., III. 457; —Jo., one of King's Guard, sits as Assisor, II. 559; —of Lylsie, (Lilliesleat,) Hector, Slaughterer of Laird of Craling, II. 445; —of Minto, Wm., I. * 147; Tho. apparent of, &c., Slaughterer, wearing dags and pistols, II. 370; Tho. 445; Hect. Tutor of, III. 396; —Peter, * *callit the Monk*, banged, I. * 413; —of Philipbanche, Adam, I. * 43; Rob., Tutor of, * 148; Wm., III. 569; —of Quhitehope, I. * 22. &c. —of Ravflat, Tho., Oppression, &c., I. * 252; Walt., II. 419, 424; Wm., his son, slain, 419; Adam, his servant, hung in irons, by the feet and shoulders over a beam for 12 days! *ib.*; Walt., remitted, III. 116; —of Stanyledge, Hector, Slaughterer of Laird of Little Newton's six sons, II. 441; —of Tofts, John I. * 34; —of Wauchope, Hect., II. 473; Tho., *yr.*, *ib.*, 509, 510; acquitted of Slaughter, 512.
- Turner, Jo., Sh. clerk of Wigton, III. 328.
- Turnour of Ardwell, Jo., II. 490.
- Turnepyke, a circular stair-case, III. 129, &c.
- Turnit ale, what, II. 525.
- Turquois stone in the Coronation Ring, I. * 300.
- Twa-handit-swordis, I. * 289; II. 70, 432; III. 245. (See Gowrie's Conspiracy.)
- Twa-mark pieces forged, II. 99.
- Tweddale of Bankhead, Ro., I. 35.
- Tweedy, of Draway, Adam, Cutting off a man's ears, I. * 475; Slaughter, 190; —of Drummelzeare, John, I. * 43, * 88, * 141, * 147; Ja., * 229; Oppression, I. * 24, * 76; James * 384; Wm., * 475; Ja., 135; Slaughter, 190; —John, Tutor of, slain, 204; Ja., feud, 353; Geo., slain, 541, 562; —of Frude, Ja., murdered, I. * 426; Ja., * *ib.*; —Jo., in Linton, I. * 205; —of Southwood, Jo., slain, III. 54; the Laird of Birnock and his son beheaded, 58; —Wm., scourged and banished for 'vnerverent speeches' against the King and Council, III. 220; —of the Wrae, Wm., Slaughter, 190, II. 467.
- Tympanes, (timbrels,) I. * 119.
- Tynnakillis of Tanny velvet, what, I. * 301.
- Tynneis, house of, to be destroyed, I. 276.
- Tynto of Crymperamp, Rob. I. 5.
- Typpet to Steel bonnet, I. * 283; riding, *ib.*
- Tyree, Island of, burnt, &c., I. * 247.
- Tyrannical Oppression of the Inhabitants of Orkney and Zetland, III. 81, 312. See also Orkney, Ro. Stewart, &c.
- Tyrement. See Funeral Ceremonies, Obsequies, Suffrages, &c.
- Tyrie of Drunkilbo slain, I. 165, 325; Thomas, Tutor of, *ib.*, 332; Remission to, III. 116.
- TYRREWNE, (TYRONE,) EARL OF, Irish rebel, I. 348; III. 2.
- Tyrwit, Sir Wm., and 16 Englishmen, go on a Pilgrimage to the Shrine of St Niniane, I. * 106.

U.

- UCHILTRE, LORD STEWART OF. See Ochiltre.
- Udny of Kethik, Jo., III. 437.
- Ugstone of Foddercarne, (Fettercairn?) Alex., I. 28.
- Ullishavin, Murder of Lady, I. * 344, * 350, * 411. See Murder, &c.
- Unbesetting the hie-gait, I. * 169, * 182, * 200, * 204, * 356, * 412, * 432, * 450, * 469; to Lord Oliphant, * 488, 58; Ewing, 380; Mure of Auchindrane, II. 35, 37; and Theft, &c., 74, 103; III. 224, and *note*, &c. See also Stouthreif, Hurting, Wounding, &c.
- Uncouth, strange, III. 521, &c.
- Underfute, what, II. 27.
- Undergore, what, II. 27.
- Unfriend, enemy, III. 588, &c.
- Unhappy Jok, hanged, I. * 176.
- Unicorn, the Great, King's Ship of War, I. * 298; sent to France with the Cardinal, * 323; —Pursuivant (Robert Fraser) slain, II. 72.
- Unicorns, two, the supporters of the Arms of Scotland, (*temp.* JAC. V.,) I. * 308.
- Unlaw, what, III. 140.
- Ureason, Abbot of, I. * 116, * 121, * 123; In-

- surrection in Edr., I. * 409; in the Mearns, &c., 15, 81. See Lord of Inobedience, Misrule, Robin Hood, &c.
 Uphaly-day, what, I. * 115. * 299.
 Urie, Ro., Resotting Jesuites, III. 376.
 Urquhart of Aulderne, Ja. I. * 224;—of Burrisgardis, Alex., I. * 336, * 357, * 391;—of Craig-Fintrie, Jo., III. 379;—Tutor of Cromartie, Jo., I. 285;—Ja., Warrant for him to deliver up or slay his two brothers, * 391;—LORD, Adam, 293;—Parson of, slain, 386; Gilb. Pacok beheaded, 388, (see Colville);—Tho., Sheriff of Cromarty, * 169; Walt., 193.
 Urquhill, Laird of, present at Gowrie's Conspiracy, in the King's suite, II. 172. See Grahame.
 Usher, Adie, hanged for Sheep and Cattle-stealing, III. 568; Will banished, 569.
 Usher of the Chekkar-hous door, I. 316;—of the King's Inner Chamber-door, * 313;—of Outer do., *ib.*;—Prince's Master, * 314;—Queen's Master, *ib.*
 Usurping King's authority, I. * 159, * 208; and Murder under colour of law, III. 399, 418; and Hamesucken, 431, 497, 552.
 Usmy, (Oker,) II. 101.
 Uttering forged money, I. * 137; Kelman and Gardin hanged, 385; Arneil, II. 17; three women * wirreit and brunt in assis, 74; Rauff Wallace burnt, 79; Walt. Murray and two others burnt, 100; Macalexander and three others * wirreit, and two mere hanged, II. 353; Geo. Drummond, 365, and Pat. D., 383, * wirreit and brunt; Allan Napier, do., 403; Alex. Thomson hanged and forfeited, 401; Dow and MacClaren, do., 418. See also under Coining, Forgery, &c.

V.

- VAGABOND, and follower of Gypsies, scourged and banished, III. 99; four Faws hanged, 201. See Egyptianis, Fa, &c.
 VAISON, BISHOP OF. (Wm. Chisholme,) II. 569; account of his Family, &c., *ib.*, note; attempts to make him a Cardinal, 570.
 Vallem of Woodwrae, Dav. II. 385; James and Geo., his sons, hanged, 386. See Wallein.
 Vandyke, Sir Anth., II. 297, note, and 319, note.
 Vane-organ, what, I. 4, 7; II. 21, 449, 512.
 Vause (Vans) of Barnbarroch, I. 373; Jo., II. 539;—of Blause, Da., III. 539;—of Campfurd, Ro., 328;—of Irsalk, Pat., Stouthrief, &c., I. * 94;—of Lochslin. (Lochslum,) Jasper, * 376; Jo., 204, 284;—of Lybrek, Pat. III. 328;—(Wans) of Many, respited, I. * 250; remitted, * 251, * 470;—of Ruthvennis, Alex., 94.
 Veadge, III. 572.
 Veils, mourning, I. * 287.
 Veitch, (Vaiche or Weche,) of Dawik, Wm., I. * 147, * 166, * 469; his son Pat. slain, 190; Jo., II. 130;—of that Ilk, James, I. 155;—of Kingside, Jo., I. * 141, * 144; Wm., * 424;—of North Syntoune, Ja., jr., 204; II. 368; of Syntoun, Walt., III. 391;—of Tourhope, Ja., I. 204.
 Velvet, I. * 301, &c. See App. to Reigns of K. JA. IV. and K. JA. V.
 Verdict, Protestation against one, for Wilful Error, I. * 449. See Assise, Error, &c.
 Vere of Stonebyres, I. * 126; murdered, * 132, * 159, * 238. See Weir.
 Vernour of Auchindinny, Tho., I. * 143; Robert, II. 21.
 Vessels, grooms of the King's, I. * 313; Silver, *ib.*, &c. See Silver, Gold, Plate, &c.
Vaticum, what, III. 588.
 Victual, ginnalling, I. * 181;—selling to the English, * 379, * 476; to Rebels in Edr., 30, 34.
 Violers, the King's, (Min-trels,) I. * 314, * 316.
 Viols for the King, (musical instruments,) I. * 285.
Vulgaris purgatio, popular Ordeals for the detection of Murderers, III. 184, &c. See Touching, &c.

W.

- WADDELL, Jo.**, Parson of Flisk, I. * 472.
Waff, (vaff.) a signal, II. 287.
Waith-naig, what, III. 98, 610.
Waking (Walking) of Witches, what, I. 50; a Jesuite waked *ad delirium!* III. 332.
Walcar, Sir Jo., Umbesetting, &c., I. * 204.
Waldegrave, Ro., Printing a vitiated Act of Parliament, II. 2, 7, 14.
WALEN, PRINCE OF, Cha., III. 502.
Walk, to wake or watch, III. 527.
Walker, Hen., Spuilzie, I. 390.
Wallace of Bughheid, Hew, II. 130;—James, III. 57;—of Carnyre, Hugh, I. 36;—of Carno, (Carnell,) James, * 137; John, Treason, * 273; Hew, * 428, * 457, * 486, * 491, 36; John, II. 106; Sir John, III. 68;—of Cragy, John, I. * 251; Pension to his widow, *ib.*, 244;—Tutor of Craigy, Wm., * 137; How respited, * 237;—of Ellerslie, Wm., * 344, * 382, 141;—of Holmestoun, Ro., II. 130;—Ja., hanged, III. 265;—of Johnstoun, Wm., I. * 314, 35, 159, 169; Ja., III. 237;—Marg., Witchcraft, Sorcery, &c., III. 508, 'wirreit and brunt,' 536; proof allowed in this case, 525, &c.;—of Maryford, Hew, I. * 420;—of Newtoun, Adam, * 137;—Rauiff, Coining and uttering base money, II. 75, 77; 'wirreit and brunt in assis,' 79;—of Seweltonne, Edw., 106;—of Wallace-toun, Wm., III. 57.
Wallein of Wodvra, Alex., I. * 347. See Vallem.
Walpynnis, anent (lang) in buithis, I. * 362.
Wambe, what, II. 417.
Wamebrasis, (belly-bands or girths,) I. * 290.
Wame-ill, what, I. 51.
Wand of Peace, ceremony of breaking, on occasion of a Messenger's Deformement, &c., I. * 75, * 157, * 437, * 484; III. 469.
Wantonness and 'her marrowis,' I. * 124.
Wantoun-Pyuntill, I. * 181; slain, * 201.
Wantonn Will, beheaded, I. * 219.
Wapenschawing, I. * 309, * 311, 349; general, 354.
Warbeck, Perkin, I. * 5, 116.
Ward, breaking, I. * 331, 108, 135, 297, 305, &c.;—Free, granted to William, Master of Forbes, * 187.
Warden Raid, or 'Day of Trew,' I. * 397.
Wardens of Marches, hindering them from taking Rebels, I. * 165; their fees, * 315; Lord Maxwell slain, 360; Sir Jo. Carmichael slain, II. 363, 504.
Warding MARY Q. OF SCOTS, in her Palace of Holyrood, &c., I. * 482.
Wardlaw of Curryhill, Alex., I. 1, 34, 107;—Hen., Queen's Chamberlain of Dunfermline, II. 555;—Mr Ja., Justice depute, I. 159, &c.;—of Kilbairtoun, Hen., * 158; imprisoned for Wilful Error, * 203; Alex., * 424; Ro., yr., 64;—of Torry, Jo., * 136.
Wardrobe, Yeomen of King's, I. * 313; Grooms in, *ib.*; Tailor in, *ib.*
Wark, Raid of, I. * 240, * 242, * 257.
Warristoun, Laird of, I. * 62; House of, besieged, 81, 83; Lady 'raveisched,' (carried off by violence,) 244;—Laird of, Murdered by his wife, &c. See Kincaid and Levingstoun.
War trumpets, I. * 314.
WARWICK, EARL OF, I. * 379.
Wasche, strang or stark, (urine,) used in Witches' charms, I. 245.
Wast, And., Slaughter, III. 466.
Wastland, Alex., hanged for Perjury, Oppression, &c., II. 453.
Wat, Geo., hanged for Suborning Witnesses, III. 356.
Water-Ordeal, III. 184, 187.
Watsoun, Ja., Murder under trust, hanged, II. 540; James, drowned for lamb-stealing, III. 208;—Jonet, her Confession of Witchcraft, 601;—Patrick, Warlock, pricked for Devil's mark, 599;—of Saughtonhall, Mr Ja., portioner, II. 105.
Wauch of Hoip, Ro., III. 396;—of Keip, Ro., II. 474;—of Schawis, Tho., III. 387, 485; Tho., his son, *ib.*
Wauchope of Caikmure, Adam, I. * 468, 27, 6, 156;—of Cleghorne, Geo., II. 113; his son

- Ja. slain in a 'singular combat' or duel, *ib.*; his antagonist beheaded, *ib.*, *note*, 124;—Fend, I. * 143, * 144;—Geo., swearing fealty to Protector of England, &c., * 378; Slaughter, II. 52;—Gilb., slain, 562;—of Nudry-Marscheall, Gilb. I. * 113, * 114; waylaid, * 169, * 176; Geo., * 388; Wm., yr., killing game, * 395; Gilbert, *ib.*; Wm., 72, 107; Arch., yr., 168, 270, 305, 358; II. 52; Arch., (Ro.?) 29, 403; Wm., his son, slays Laird of Wownett, *ib.*; Banished, 410;—of Stottin-cleuch, Wm., II. 562; his brother Gilb. slain, *ib.*;—Wm., beheaded for Slaughter, 402.
- Wachtonne, Castle of, besieged, Hereschip, &c. I. 8.
- Wangler, Capt. of a Dutch, brings two English Pirate vessels to Leith, and is 'propyned with a (silver) coup of lx vnce weight,' III. 111.
- Waylaying, (see Umbesetting, &c.) I. * 169; Lady Luss, &c. * 178.
- Weath-horse, what, III. 98, 610, 613, *et seq.*
- Weche. See Veitch.
- Wedderat, Geo., slain, I. * 467, * 487.
- Wedderburn, Castle of, recovering, I. * 237; victuals furnished to, * 272;—Mr Dav. Forcing (Rape) and shamefully abusing, III. 439;—Lady, Assise on her and Lady Traquair, I. * 280.
- Wedonypha, ('wyten-on-fa,') what, II. 27.
- Weights, false, II. 88.
- Weir, (Vere, Were,) of Auchtyefardell, Wm., I. 35; II. 376; Jo., his brother, 506; Da., III. 134;—Beatrix, III. 68;—Bessie, beheaded for Child-Murder, 472;—of Blackwood, Tho., Slaughter and Rape, I. * 180; Ja., 36, 71; Geo. III. 227;—of Clowburne, Jo., II. 453; of Haleraig, Alex., I. 36;—of Howburne, Henry, I. 72;—of Kirktonne, Tho., 36;—of Newtown, William, * 87;—of Quhyte-cleuch, Jo., and Mungo, his brother, beheaded, III. 217;—Ro., broken on the wheel, &c., for Murder of Laird of Warristoun, II. 445;—Tho., Forcing, (Rape,) III. 499;—Wm., beheaded, 123.
- Wells, holy, Superstitions practised at, II. 538, &c.
- Welsche of Colliestoune, Da. III. 475;—Mr Jo., Minister, tried, II. 494; banished, 503.
- Wemyss of Bogie, Ja., Deposition as to Gowrie's Conspiracy, II. 218; Sir Ja., Vice Admiral, III. 102;—of Craigtonn, Mr Jo., 508;—of that Ilk, Dav., I. 233, 310;—of Logie, 280;—of Pittencrieff, Sir John, married Dorothea Ruthven, II. 297, *note*;—of Vuthank, Tho., I. * 157.
- Westhall, Laird of, slain, I. * 179.
- West Marches, Raid of, I. * 331; Commission to rule, &c., 301.
- WESTMORELAND, EARL OF, I. * 271.
- Westraw, Laird of, slain, I. 36.
- Weyne, Burning Place of, I. * 103, * 107, * 110.
- Wharton, Sir Henry, I. * 318; burns Durisdeer, Amisfield, &c., *ib.*; LORD, * 401; treasonable Letter, addressed to him, *ib.*;—Tho., * 273;—Sir Tho., * 101.
- Wheat, exporting to Flanders, I. * 365.
- Wheel, breaking on the, I. 241; II. 450, and *note*.
- Whirlwind, superstition relative to, I. 164; that Devil carried off a Witch in a, III. 602; that Witches shoot people who do not 'sain' or 'sanctifie' themselves, 604.
- Whistle, silver, in common use before room-bells, I. * 396. See Quibissil.
- Whitefurde of that Ilk, John, I. * 381, 91;—of Mylton, Jo. 70; Adam, yr., conspiring Murder of REGENT MORTON, *ib.*
- WHITEHORN, BISHOP OF, (*i. e.* Galloway,) I. * 163.
- Whitelaw of that Ilk, I. * 169; Patrick, * 364, * 480;—of Newgrange, Pat., 119.
- Whyte, Rowland, II. 318.
- Widderschynnes, what, III. 557, 605.
- Wigtoun, burgh of, oppressed, I. * 93;—EARL OF, Jo., II. 572, 596; III. 512;—Justice-Aire of, I. * 56, * 74, * 88; expenses, * 317;—Provost of, II. 540; slain, III. 119;—Sheriff of, takes bribe to discharge a Murderer, I. * 63; Oppression and Hereschip, * 89; Prevents a Court from being held, * 91.
- Wild-boars brought from France, ('sangweleris' Fr. *sangliers*.) I. * 311, * 312.
- Wild-fowl, killing, I. * 395.
- Wild horses and mares, stealing, I. * 247.
- Wilful Error on Assise, See Error and Assise.
- Wilfurd, (Wolford,) Sir Ja., (English General of

- Hadington.) I. * 319; burns the towns of Dalkeith and Newbottle, *ib.*, 353.
- Wilkie, Ro., banished for Resetting Jesuites, III. 371;—of Saughton, Tho., portioner, II. 128.
- Wilkin, nickname for Wm., I. * 190, &c.
- Will, declared by the KING, in person, I. 247.
- Williamson of Termet, Angus, Slaughter, II. 507; Lach., yr., *ib.*; Angus, 528;—Wm., Oker, (Usury,) II. 101.
- Willock, Jo., the Reformer, Heresy, &c., I. * 407, * 417, *note*. See Reformation.
- Willoughby, Sir Hugh, I. * 345;—LORD, II. 320.
- Wilman, Capt., English Pirate, III. 110.
- Wilson of Cruglin, (Croglene,) Jo., I. * 140; III. 501.
- Wilson, Christian, *alias* 'the Lanthorne,' a murdered corpse bleeds at her touch, III. 195; her Confession of Witchcraft, 601; carried off by the Devil in a whirlwind, 602;—Bessie, a Witch, 606, &c.;—Margaret, a Witch, *ib.*
- Wind, blast of evil, I. 233;—Witch-charm for raising, III. 607.
- Windows, glazed Church, destroyed, I. * 253. See Reformation.
- Wine, Rhenish, presented to K. JA. V., I. * 509;—prices of, at Justice-aires, * 64, * 389;—purchasing high-priced, * 349, * 377, * 458.
- Wine-cellar, King's, Yeomen of, I. * 313; grooms of, *ib.* See Yeomen, &c.
- Winrahame, Ro., Isla Herald, taken prisoner in Orkney, his coat of arms torn, &c., III. 278, 283, 317.
- Winterclenche, Hereschip of, I. * 398.
- WINTOUNE, EARL of, Geo., III. 316;—MASTER of, Conflict at St John-stoun with E. of Glencairn, III. 579;—of Strichtmartyne, Tho., I. * 177.
- 'Wirreit at ane stake,' Witches strangled before being burnt, 186, &c.
- Wischart of that Ilk, James, I. * 404;—of Mvretoun, And., 'Forceing and Defloiring' a girl of 11 years old, III. 507;—of Pittarrow, Mr Ja., Gift to his widow and children, I. * 235, * 496, 178; Jo., 284; Sir Jo., II. 363; young Laird and his friends fight young Edzell at the Salt tron of Edr., III. 61.
- Wissillit, exchanged, III. 92.
- Witchcraft, to be enquired into at Justice-aires, I. * 66; Agnes Mullikine, *alias* Bessie Boswell, banished, * 432; Jonet Boyman, burnt, 38; remarkable case of Bessie Dunlop, 49; burnt, 58; using and seeking Enchantments, &c., 70; Violet Mar, 76; Wm., Gilmour, 101; Alesoun Peirsoun, 161; Jo. Myllar, 167; Lady Fowlis, 185, 191, &c.; Mr Hector Munro of Fowles, 201; Meg Dow, burnt, 186; Jonet Grant and Jonet Clark, burnt, 206; Bessie Roy, acquitted, 207; William Leslie of Crechie, and his wife, 209; John Feane, *alias* Cuninghame, 'Secretar to the Devil,' &c., burnt, 209; Agnes Sampsonne, 230; Barbara Napier, 242; Evfaune Mac-Algeane, 247; Fra. E. of BOTHWELL, 258; forfeited, 259; Nin. Chirneside, his servant, 259; Commission for examining Witches, &c., 261; Kath. Muirhead, burnt, 359; Jo., MASTER OF ORKNEY, 373; Alison Balfour, her husband, son and daughter suffer unheard of tortures, 375, 376; Alison Jollie, 397, acquitted, 399; Christian Stewart, burnt, 399; Capt. Pat. Hering, II. 23; Jonet Stewart and three others 'wirreit' and 'brunt in assis,' 25; Bessie Aikin, banished for life, 52; Pat. Lowrie, 'wirreit' and 'brunt,' 477; Issobell Greirsonne, 523; 'wirreit' and 'brunt in assis,' 526; Bartie Paterson, do., 535; Issobell Haldane's Depositions, 537; Beigis Tod, 'wirreit' and 'brunt,' 542; Ja. Mure, III. 68; Grissell Gairdner, 'wirreit' and 'brunt,' 95; Marioun Peebles, *alias* Pardoun, burnt, 194; corpses of Murdered persons bleed on her touch, *ib.*; Christian Wilson, *alias* the Lanthorne, *ib.*; a corpse bleeds on her touch, 195; and Poisoning, &c.; Ro. Erskine, beheaded, 260; his sisters Issobell and Annas, beheaded, 267; Helen, banished, *ib.*; Margt. Wallace, (a remarkable case, with pleadings,) 508; proof allowed, 505; 'wirreit,' and 'brunt,' 536; Christian Grahame, 509, &c.; Tho. Greave, burnt, 555; Remarkable Examinations of persons accused, 596; barbarous treatment of Witches at their execution at Broughton, 598; pricking and finding Devil's mark, 599; Confession of Manie Haliburton, *ib.*; Geillis

- Johnstone, III. 600; Confessions of Janet Watson, &c., 601; remarkable Confessions of Issobel Gowdie, 602, and of Janet Breadheid, 616;—pleading (*quibus medijs, modis, et malis artibus*,) as to how it was accomplished, III. 512, &c.
- Witches consulted by ladies of rank, I. 51, 55; by the Archb. of St Andrews, 164; pay *tegal* to the Devil, *ib.*; 'wirreit' (strangled at a stake) and burnt to death, 186, &c. See Witchcraft; Great Sabbath, or Convocation at Northberwick Kirk, 212, 217, 239, 245; they 'junt' dead bodies, for making Witch-charms, 218, 233, 237, 239; initiation of Witches, 234. &c.; carouse with the Devil in a ship and then destroy it, 235; baptize a cat, 218; a singularly curious charm, 237; restoring bewitched horses and cattle, 238; form of homage done to the Devil, 210, 217, 239; III. 609, &c. —Witch in a state of pregnancy respited, 243;—Convention at Aitchison's haven, 215;—Commission for examining, 261;—Master of Orkney consults Witches for the death of the Earl, 373;—burnt *quick*, (alive,) who in their despair blasphemed and renounced their baptism, &c., III. 598;—pricking to find Devil's mark, 599, 602. See Witchcraft, &c.;—their Covens consisted of 13 each, 603;—symbolical mode of taking the fruits of the ground, dairy, &c., *ib.* and *note*, 614, &c.;—their dances, 603;—their revels and feasting, 604, &c.;—they set 'heesomes,' (brooms,) in bed with their husbands in their place, *ib.*, 608; or 'thrie leggit stooles,' *ib.*;—clay figures to take away life, 605;—took furnis of 'keas,' hares, cats, &c., *ib.*;—grand Meetings, 606, 613;—remarkable nicknames of Witches, *ib.*;—how they shot with elf-arrows, 609;—form of homage to the Devil, *ib.*, *et seq.*
- Witches-bridle, a collar for extorting confession, I. 50; modes of torturing, 217.
- Witch-dances, III. 603;—Gillartypes, (a dance,) 606, &c. See also Witch trials, *passim*.
- Witch-grace to the Devil, before meat, III. 612;—after meat, *ib.*
- Witch-prayer, charm, or conjuration, for healing diseases, &c., I. 234, 237, III. 95.
- Witness, famous, what, III. 73.
- Witnesses, Smborning, III. 352; several persons beheaded, hanged, scourged, and branded, 354; proof in exculpation of slaughter, by, refused, III. 467; And. Turnbull, and two others, hanged, 539; Da. Turnbull's tongue pierced with 'ane hett boikyn,' *ib.*
- Woods-pyne of Brighous, Ja., found Caution, I. * 487, 27; Umbesetting, &c., 58.
- Wode, (Woid, Wood,) Mr Alex. Vicar of Northberwick, Invasion, &c., I. * 347;—of Balbegnocht, Walt., I. 28, II. 73, 128, 454;—of Bonyngton, Ja., I. * 343, * 347, * 433; Ja., yr., 'fear' of, tried for breaking into Bonyngton, and stealing title-deeds, II. 340; is hanged, 347; Pat., 340;—of Colpna, Jo., slain, I. * 469; Alex., 382;—of Craig, Dav., I. * 347, 371; Sir Dav., striking Ministers, and Obstructing the designation of a Manse and glebe, &c., II. 360; acquitted, 363; III. 134;—of Galestoun, Jo., I. * 451;—of Lammielethan, Alex., II. 397;—of Latonne, (or Banblane,) Wm., II. 63, Slays Unicorn Pursuivant, 72; tried for breaking into Bonyngton, stealing title-deeds, &c., 340; condemned to be hanged, 347; is remitted, *ib.*, *note*;—of Largo, Sir Andro, I. * 121; remission to, * 250; he redeems lands for the KING, * 322. * 424;—of Stonyside, Jo., I. * 437;—of Wodstoun, Arch., I. 29.
- Wolves, mention made of, I. * 116.
- Woodbine, used in Witches' charms, II. 26, 27, 28; Woman, burnt on a red-hot 'girdill,' II. 391.
- Woman-house, III. 540.
- Women, capital punishment, by drowning and burning, I. * 162, * 190, &c. (See Burning, Drowning, Females, &c.);—pregnant, Murder of, I. * 344; striking, * 412, &c. See Pregnant, hurting, * 121;—married, liability to punishment for crimes, argued, I. 42, &c.
- Woods, destroying, I. * 71.
- Wool, stealing, from live sheep, I. * 206.
- Woolmot, Raid of, II. 21; Laird of, slain, 52; 'Gudeman' of, slain, 339. See Edmonstone.
- Worle, King's, Master of, I. * 315.
- Wormestoun, Laird of, III. 245; his lands, &c. in Lewis, burnt and wasted, *ib.*

- Worsome, bluid and, what, II. 478; III. 95.
 Worsted, clews of, used in Witchcraft, I. 253.
 Woulf of Wadelie, Jo., I. 155.
 Wounding in the King's Chamber, I. * 85.
 Wounding, I. * 159; Judicial Arbitration, * 167;
 —Comtess of Craufurd, * 180, * 181, * 201;
 Mr Gawin Dunbar, * 328, * 401; a Bailie of
 Leith, * 403, * 410, * 412; an Officer,
 * 437; in Perth, * 451; females, * 454;
 Auchincraw, 381; Frenche, III. 69, 72.
 Woux, a watch, I. 386.
- Wraw, Witch's cries, while in the shape of cats,
 III. 611. See also Witchcraft.
 Wright, (carpenter,) King's master, I. * 314.
 Writer, of the Casualties, King's, I. * 315; hang-
 ed for falsifying a Charter, II. 104.
 Writing Pasquils against the King, F. Tennent
 hanged, II. * 332.
 Wylie of Bonytone, Jo., I. * 81, Tho., * 87, * 470.
 Wynd, Henry, beheaded, ' *ex gratia*,' I. * 393.
 Wyndis, Alex., of that ilk, I. * 37.
 Wyot, Henry, Englishman, I. * 3, 6.

Y.

- Yarn, hesp of, Witch-charm with, &c., III. 556.
 605.
 Ycolmkill, Jo., Commendator of, I. * 105.
 Year, first day of, regulated, II. 102.
 Yeomen of the King's Ale-cellar, Avery, Bread-
 house, Great Lardner, Petty Lardner, Spice-
 house, Stable, Wardrobe, and Wine-cellar, I.
 * 313, &c.
 YESTER, JO., LORD HAY of, I. * 149, * 265;
 his Assise, * 274, * 321.
 YORK, DUKE OF. See Perkin Warbeck;—
 Council of, I. * 295, * 323, * 324.
 Young, Gilb., Incest, 42; Ja., hanged for Per-
 jury, &c., III. 539; Jo., Warlock, Officer to
 a Witch-coven, 614, &c.;—Nicoll, slain, I.
 * 442; Magistrates of Edr. tried for setting the
 Murderer to liberty, *ib.* to * 450; Protestation
 against the Verdict, * 449, * 452;—Oliver,
 bailie of Perth, II. 187; his Dep. as to Gow-
 ric's Consp., 188;—Sir Peter, King's Almo-
 ner, II. 544.
 Youth, slaughter committed by a boy of *eight*
 years old, I. * 16; by a lad 14 years old, III.
 237; sentenced to be beheaded, 241; banish-
 ed for life, *ib.*, *note*.
 Yule of Garmiltoune, Jo., I. 27;—Ja., banished
 for Intercommuning with the English, I. * 406.
 See Treason, Intercommuning, &c.

Z.

- Zetland, Inhabitants of, barbarously oppressed by
 the Earl of Orkney, III. 81.
 Zow, an ewe, III. 396, &c.
- Zule, And., scourged and banished for Theft, III.
 270;—Christmas, III. 389, &c., *passim*.
 See under Letter Y, for all similar words.

